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10 Attorneys for Plaintiff Natural Resources Defense Council, Inc.

11 **UNITED STATES DISTRICT COURT**  
 12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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13 )  
 14 NATURAL RESOURCES DEFENSE COUNCIL, INC., ) Case No. C 01-0421 JL  
 )  
 15 Plaintiff, ) **[PROPOSED] ORDER**  
 ) **ON REMEDY**  
 16 )  
 v. )  
 17 )  
 18 GARY LOCKE, Secretary of Commerce, et al., )  
 )  
 19 Defendants. )  
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1 After consideration of the parties' cross-motions for summary judgment (Dkt. Nos. 302,  
2 312), the memoranda of the parties and amici, supporting declarations and exhibits, and the  
3 administrative record, and for the reasons set forth in its April 23, 2010 Order (Dkt. No. 340), the  
4 Court hereby declares and orders:

5 1. Defendants violated National Standard 2 of the Magnuson-Stevens Fishery  
6 Management and Conservation Act ("MSA"), 16 U.S.C. § 1851(a)(2), by failing to use the best  
7 scientific information available on the economic status of fishing communities in their 2009-  
8 2010 Biennial Specifications and Management Measures for the Pacific Coast Groundfish  
9 Fishery ("2009-2010 Specifications").

10 2. Defendants violated Section 304(e)(4)(A)(i) of the MSA, 16 U.S.C.  
11 § 1854(e)(4)(A)(i), by establishing rebuilding plans for darkblotched rockfish, cowcod and  
12 yelloweye rockfish in the 2009-2010 Specifications that do not rebuild those species in time  
13 periods that are "as short as possible" within the meaning of Section 304(e)(4)(A)(i).

14 3. The 2009-2010 Specifications are hereby REMANDED to Defendant National  
15 Marine Fisheries Service ("NMFS").

16 4. The 2009-2010 Specifications for darkblotched rockfish, cowcod and yelloweye  
17 rockfish are VACATED. As a result of the vacatur, and for the remainder of 2010, the most  
18 recent annual harvest levels (also known as optimum yields, or "OYs") that NMFS specified for  
19 darkblotched rockfish, cowcod and yelloweye rockfish in its 2007-2008 Biennial Specifications  
20 and Management Measures for the Pacific Coast Groundfish Fishery are in effect. For  
21 yelloweye rockfish, the OY in 2010 is 14 metric tons.


22 5. NMFS, within one year of the date of issuance of this Order on Remedy, shall  
23 establish new Specifications for the Pacific Coast Groundfish Fishery that:

- 24 a. are based on the "best scientific information available" within the meaning of  
25 MSA National Standard 2, 16 U.S.C. § 1851(a)(2); and
- 26 b. establish rebuilding periods for darkblotched rockfish, cowcod and yelloweye  
27 rockfish that are "as short as possible" within the meaning of MSA Section  
28 304(e)(4)(A)(i), 16 U.S.C. § 1854(e)(4)(A)(i).

1 6. The Court retains jurisdiction over Defendants' actions on remand.  
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3 IT IS SO ORDERED.

4 DATED: April 29, 2010

  
The Hon. James Larson  
United States Magistrate Judge

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