

Alaska Trollers Association:

Wild Fish Conservancy v. Thom, et al., USDC Western District of Washington Case No. 2:20-cv-00417

January 3, 2023 Update and Funding Request

Background legal summary provided by ATA attorney Douglas Steding of Northwest Resource Law

“On March 18, 2020, the Wild Fish Conservancy (“WFC”), a Seattle-based anti-hatchery organization, filed a complaint against the National Marine Fisheries Service (“NMFS”) seeking to invalidate the 2019 Biological Opinion that governed the delegation of management authority for Southeast Alaska fisheries from the Federal Government to the State of Alaska. WFC sought to halt the production of Chinook salmon by Columbia River (Washington) hatcheries that were intended to increase prey availability to the Southern Resident Killer Whales. WFC also sought to invalidate the Incidental Take Statement (“ITS”) that covered the Southeast Alaska (“SEAK”) troll fishery.

The Alaska Trollers Association intervened in the lawsuit to protect its members’ interests in the SEAK troll fishery. With limited funds, the Trollers participated in summary judgment briefing on the merits of WFC’s claims in 2021.

In September 2021, Magistrate Judge Michelle Peterson issued a Report and Recommendation finding that the analysis governing the Columbia River (Washington) prey increase program was flawed under federal law, and that the ITS governing the SEAK troll fishery was therefor also legally deficient. Judge Richard Jones adopted Magistrate Peterson’s Report and Recommendation on August 8, 2022.

Since the adoption of that Report and Recommendation, the parties engaged in briefing on what the remedy for NMFS’s violations should be. Judge Peterson issued a second Report and Recommendation on December 13, 2022. That Report and Recommendation would invalidate the ITS for the SEAK troll fishery with respect to the winter and summer fisheries, putting those seasons in jeopardy.”

Without the ITS, the Endangered Species Act is violated, and fishing is prohibited.

ATA has covered over \$96,000 in legal fees to date, and we are not done fighting WFC. Next steps include:

- Preparing and filing objections to Judge Peterson’s December 13, 2022 Report and Recommendation. The ATA and our lawyers are working on these objections now; they are due on January 10, 2023.
- Coordinating with the State of Alaska, NMFS, and Alaska’s federal delegation to ensure that the troll fishery is not closed as a result of WFC’s litigation.
- Working on getting the word out regarding WFC’s actions against the selective, sustainable troll fishery and developing broader public support for keeping that fishery open.

ATA has been working on a very limited budget. Our law firm has done the work at significantly discounted rates and has often written off fees when the ATA does not have the money to pay these fees. WFC is a sophisticated, well-funded litigant, using hired experts, the deep pockets of its donors, and its law firm in its attempt to shut down the troll fishery. We are requesting funding for our legal defense to help even that playing field. Legal fees are anticipated to exceed an additional \$100,000 and ATA is actively engaged in raising funds. Please help us keep our boats on the water.