

HONORABLE RICHARD A. JONES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILD FISH CONSERVANCY

Plaintiff,

v.

SCOTT RUMSEY, *et al.*,

Defendants,

and

ALASKA TROLLERS ASSOCIATION  
and STATE OF ALASKA,

Defendants.

Case No. 20-cv-417-RAJ

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of the Honorable Michelle L. Peterson, United States Magistrate Judge, any objections thereto, and the remaining record, hereby finds and ORDERS as follows:

- (1) The Report and Recommendation is approved and adopted;
- (2) Plaintiff’s Motion for “Final Order on Relief and for a Temporary Restraining Order and/or a Preliminary Injunction Pending Entry of a Final Order on Relief” (dkt. # 127) is GRANTED in part and DENIED in part. Specifically, the Court ORDERS:
  - (a) that the 2019 Southeast Alaska Biological Opinion (“2019 SEAK BiOp”) is REMANDED to the National Marine Fisheries Service (“NMFS”) to remedy the Endangered Species Act (“ESA”) and National Environmental Policy Act (“NEPA”)

1 violations previously found by this Court (see dkt. ## 111, 122);

2 (b) that portions of the 2019 SEAK BiOp concerning the incidental take statement  
3 that authorizes “take” of the Southern Resident Killer Whale and Chinook salmon  
4 resulting from commercial harvests of Chinook salmon during the winter and summer  
5 seasons (excluding the spring season) of the troll fisheries is VACATED; and

6 (c) Plaintiff’s request that portions of the 2019 SEAK BiOp that adopt, and consult  
7 under Section 7 of the ESA on NMFS’s prey increase program be vacated and/or  
8 enjoined is DENIED; and

9 (3) The Clerk is directed to send copies of this Order to the parties.

10 DATED this 2nd day of May, 2023.

11  
12   
13

14 The Honorable Richard A. Jones  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27