



Wild Fish Conservancy  
N O R T H W E S T  
S C I E N C E   E D U C A T I O N   A D V O C A C Y

## **After a decade of litigation, NOAA Fisheries and EPA make the 11th hour decision to prepare a biological opinion on harm caused by Atlantic salmon net pens to ESA- listed salmon and steelhead**

*The agencies have finally begun formal consultation under the Endangered Species Act (ESA) to evaluate the potential harm caused by Atlantic salmon net pens in Puget Sound*

**October 11th, 2018**

**Duvall, WA** - On the eve of court proceedings over a legal battle Wild Fish Conservancy initiated in 2015, NOAA Fisheries and EPA have entered into formal consultation under the Endangered Species Act, consultation that will lead to the issuance of a biological opinion.

Under the Endangered Species Act, a biological opinion evaluates the extent of harm a proposed action will have on threatened or endangered species and whether such harm could jeopardize the continued existence of the species. Biological opinions also include conditions for monitoring and reducing harmful impacts to protected species.

Considering the abundant scientific evidence that open-water Atlantic salmon aquaculture may harm threatened and endangered salmonid species, Wild Fish Conservancy first argued that formal consultation and a biological opinion was necessary back in 2008, when we argued against the agencies' decision that Atlantic salmon net pens were 'not likely to adversely affect' threatened and endangered species. We won that case in 2010, with the court ruling that NOAA and EPA had failed to use the best available science when making their decision and must reconsider whether a biological opinion is necessary.

Less than one year later, after a brief consultation, NOAA and EPA again decided that a biological opinion was unnecessary. This decision was shortly followed by a large-scale disease outbreak in Atlantic salmon net pens off the coast in Bainbridge Island in 2012, which killed over 1 million pounds of farmed Atlantic salmon during a time when juvenile wild salmon were out-migrating through Puget Sound.

Wild Fish Conservancy again challenged the agencies' decision to avoid a biological opinion in 2015, a case that prompted NOAA and EPA last week to announce their intention to re-initiate consultation and finally prepare a biological opinion. That decision came only after the Court soundly rejected the agencies' efforts to dismiss the case and ruled that the duty under the Endangered Species Act to re-initiate consultation does apply to EPA's underlying action.

Since the case was filed in 2015, we have learned far more about the potential for harm the Atlantic salmon net pen industry presents to wild salmon and steelhead. In 2017, a collapsed net pen off the coast of Cypress Island released over 260,000 farmed Atlantic salmon into Puget Sound, nearly all of which are estimated to have been infected with *Piscine Reovirus*, a highly contagious and potentially lethal virus that may infect wild salmon. A study in 2018

demonstrated that PRV leads to debilitating disease in Chinook salmon, the primary food source of endangered Southern Resident killer whales.

This case comes at a time when key provisions of the Endangered Species Act are under threat in the United States Congress and underscores the monumental importance of the ESA, an act that has been critical in providing key protections to over one thousand threatened and endangered species across the country.

“While it shouldn’t have taken ten years of litigation for our agencies to realize the necessity of a biological opinion,” said Kurt Beardslee, Wild Fish Conservancy’s Executive Director, “I am glad to hear they have decided to change course, and I am hopeful that a biological opinion will lead to conditions and terms that will limit and monitor the harm caused by net pens to ESA-listed salmon and steelhead.

“Taking the utmost precaution is necessary to avoid the extinction of imperiled Pacific salmon and steelhead species, especially when considering the dire plight of Chinook salmon and the Southern Resident killer whales that are starving due to their struggling population.”

### **Contact**

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### **About**

Wild Fish Conservancy is a science & research conservation non-profit dedicated to the preservation, protection & restoration of wild fish ecosystems in the Pacific Northwest. We are headquartered in Duvall, WA. Learn more at [wildfishconservancy.org](http://wildfishconservancy.org)

**Wild Fish Conservancy is represented in this matter by the law firm of Kampmeier & Knutsen, PLLC, with offices in Portland, Oregon and Seattle, Washington.**