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## To protect wild steelhead, salmon, orcas, environmental groups appeal approval of Puget Sound commercial net pen aquaculture to Washington's Supreme Court

For Immediate Release

**November 23, 2020**—Cooke Aquaculture, the company responsible for the 2017 release of over 250,000 nonnative Atlantic salmon into Washington's Puget Sound, will face a new challenge to their proposal to raise domesticated steelhead in their Puget Sound net pens. Today, conservation and environmental groups [filed an appeal directly to the Washington Supreme Court](#) challenging [a ruling by a lower court](#) that would allow Cooke's new project to move forward without adequate environmental review.

In February, Wild Fish Conservancy and co-counsel at the Center for Biological Diversity, Center for Food Safety, and Friends of the Earth, [filed a lawsuit](#) challenging the Washington Department of Fish and Wildlife's (WDFW) decision to permit Cooke to stock steelhead in their Puget Sound net pens. The lawsuit argued that WDFW violated state law by issuing the permit without conducting an environmental impact statement (EIS), a comprehensive scientific review that fully analyzes the environmental impacts to threatened and endangered species, water quality, and the overall health of Puget Sound's ecosystem.

"In filing this lawsuit and the appeal, we are simply asking Washington Fish and Wildlife to do their due diligence and fully analyze potential environmental impacts before making a decision on whether or not to permit this new project," **commented Kurt Beardslee, Executive Director of Wild Fish Conservancy.** "The current inadequate review sets an unacceptably low bar for what level of risk and uncertainty are acceptable when it comes to making decisions with the potential to endanger the health of Puget Sound's wild fish."

In early November, a Superior Court Judge ruled the Court owes deference to the agency's interpretation of the law and science because the Court does not have the scientific expertise necessary to overrule the agency's findings. As a result, the Court upheld WDFW's analysis and review of the science that determined Cooke's project will not pose significant environmental impacts and therefore does not require an EIS.

"The question at the heart of this lawsuit is whether or not the agency's environmental review of the science sufficiently considered the risks posed by Cooke's new project," **says Beardslee.** "The Court's decision to rely on the expertise of the very agency being challenged means the scientific merits of this case have not been considered. The health of our Sound is far too important, we will appeal this case directly to the Supreme Court."

During the public comment period reviewing WDFW's environmental review process, the agency reported unprecedented participation, with over 3,500 comments submitted by the public, including fishery and killer whale experts, conservation

organizations, commercial and recreational fishing groups, and six Tribal Nations. These comments overwhelmingly called for the agency to withdraw their initial decision and conduct a full EIS before permitting Cooke's new project. Even the Department of Natural Resources (DNR), a jurisdictional agency to the review process, submitted comments expressing concerns that were never addressed by WDFW in their environmental review process.

The risks and environmental harm posed by marine finfish net pen aquaculture are well-documented in the evidentiary and scientific record. In May 2020, the U.S. Environmental Protection Agency (EPA) made a new Endangered Species Act (ESA) determination finding that Puget Sound net pens "are likely to adversely affect" ESA-listed salmon, steelhead, and rockfish in Puget Sound. The National Marine Fisheries Service is currently preparing a biological opinion to further analyze this initial finding. In trial, WDFW argued there was no agency record of environmental harm in Puget Sound posed by commercial marine finfish aquaculture.

Wild Fish Conservancy and partners' arguments were supported by the Swinomish Tribal Nation who submitted an amicus brief in the case in August. In an attempt to silence the Tribe, a legal co-manager, from participating in the lawsuit, Cooke and WDFW joined together in calling for the Judge to dismiss the amicus entirely. In their legal filings, the Tribe expressed their concerns over the impacts Cooke's Hope Island net pen facility poses to the Tribe's treaty rights, Skagit River salmon runs, and other fishery resources.

Additional Quotes:

"Fish factory farming has no place in Puget Sound," said **Sophia Ressler, an attorney at the Center for Biological Diversity**. "Doing the work to fully understand how this project could harm our waters and endangered wildlife is absolutely vital to protecting our state waters, and the failure to require this will be destructive."

"Net-pen farming in Puget Sound promotes private profit over public resource preservation," said **Amy van Saun, senior attorney at Center for Food Safety**. "We will continue fighting this harmful practice to help to protect our endangered salmon and orca for future generations."

"We are disappointed that the lower court has upheld WDFW's inadequate environmental review of Cooke's destructive net pens," said **Hallie Templeton, senior oceans campaigner and deputy legal director at Friends of the Earth**. "We will appeal the flawed decision that allows Cooke's floating factory farms to persist in Puget Sound, further destroying water quality and our endangered salmon and orcas."

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*Wild Fish Conservancy is a nonprofit conservation ecology organization dedicated to preserving, protecting, and restoring the northwest's wild fish and the ecosystems they depend on, through science, education, and advocacy.*

*The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places.*

*Center for Food Safety's mission is to empower people, support farmers, and protect the earth from the harmful impacts of industrial agriculture, including aquaculture. Through groundbreaking legal, scientific, and grassroots action, we protect and promote your right to safe food and a healthy resilient environment.*

*Friends of the Earth fights to create a more healthy and just world. Our current campaigns focus on promoting clean energy and solutions to climate change, ensuring the food we eat and products we use are safe and sustainable, and protecting marine ecosystems and the people who live and work near them.*

*The conservation and environmental groups bringing this challenge are represented by Kampmeier & Knutsen, PLLC and by attorneys at the Center for Food Safety and the Center for Biological Diversity.*