



Wild Fish Conservancy

N O R T H W E S T

SCIENCE EDUCATION AWARENESS



Southern Resident Killer Whale J19 "Sachi" leaping in Puget Sound, August 2022 (Wild Orca, Taken under NMFS permit # 26288, wildorca.org)

Landmark Legal Victory Ending Overharvest Marks Turning Point for Southern Resident Orcas & Wild Chinook Recovery

For Immediate Release

Press Contacts:

Emma Helverson, Executive Director, Wild Fish Conservancy, 484-788-1174, emma@wildfishconservancy.org

Kurt Beardslee, Director of Special Projects, Wild Fish Conservancy, 206-310-9301, kurt@wildfishconservancy.org

Brian A. Knutsen, Kampmeier & Knutsen, PLLC, 503-841-6515, brian@kampmeierknutsen.com

May 3, 2023— Yesterday, in an international, coastwide environmental victory, Seattle federal Court issued a landmark order halting the overharvest of Chinook salmon in Southeast Alaska that has persisted for decades, jeopardizing the survival of federally-protected Southern Resident killer whales (SRKW) and wild Chinook populations coastwide. This significant decision will immediately allow the starving Southern Resident population far greater access to these Chinook which are the whale's primary prey, marking a turning point for their recovery.

“This Court decision is the largest victory for Southern Resident killer whale recovery in decades and will be celebrated internationally. After years of inaction by our federal government to address the prey crisis facing the Southern Residents, Judge Jones’ decision will finally provide starving orcas immediate access to their primary prey,” says Emma Helverson, Executive Director of Wild Fish Conservancy. “What’s more, by allowing far more wild Chinook to return home to their spawning grounds, this action is also helping to recover and restore wild Chinook from rivers throughout Oregon, Washington, and British Columbia, essential to rebuilding both populations in the long-term.”

On Tuesday, U.S. District Judge Richard A. Jones issued a [final ruling](#) in Wild Fish Conservancy’s [lawsuit](#) agreeing that halting the summer and winter seasons of the Southeast Alaska Chinook troll fishery is the most appropriate remedy. The Court subsequently remanded NOAA Fisheries’ inadequate biological opinion in order for the agency to address the serious underlying violations of environmental law previously found by the Court.

In that [biological opinion](#) evaluating the fishery’s impact on threatened and endangered species, NOAA admitted that over the last decade and persisting today, Chinook harvest is occurring at levels that are unsustainable for the long-term survival and reproductive success of both threatened wild Chinook populations and endangered Southern Resident killer whales. Still, NOAA authorized the harvest to continue at these levels relying on proposed mitigation they claimed would offset this serious harm. In [summary judgement](#) in August, the Court overwhelmingly found the mitigation was insufficient and violated the Endangered Species Act (ESA) and that NOAA failed to conduct legally required environmental review of the mitigation, which would include opportunities for public input and an evaluation of alternatives, such as reductions in harvest.

Southern Resident killer whales were listed as Endangered in 2005. Currently, there are only 73 individuals in the population, an alarming decrease from nearly 100 only 25-years ago. Reduced prey availability, specifically large and abundant wild Chinook, has been identified by killer whale experts and NOAA as the primary cause of their decline. Research has shown an alarming 69% of Southern Resident killer whale pregnancies are aborted due to insufficient Chinook salmon and inbreeding depression has been identified as a growing threat to the population's survival and recovery.

“This is unbelievable news, yet so long in coming,” said Wild Orca’s Science and Research Director, Dr. Deborah Giles. “The high pregnancy failure rate within the Southern Resident killer whale population is linked to poor nutrition, so having more fish returning to their home waters in British Columbia, Washington, and Oregon, will increase the whales’ prey base and improve their chances of giving birth to healthy calves.”

In an [expert declaration](#) evaluating the effect of the troll fishery’s harvest on the Southern Resident population, modeling by Dr. Robert E. Lacy projected closing the fishery would increase prey availability by approximately 6%, which would be enough to stabilize the population and stop their decline toward extinction, though additional actions would be required to begin to grow the population. The Court stated: “Though there is uncertainty as to how much prey would ultimately reach the SRKW, the record before the Court suggests that closure of the fisheries meaningfully improves prey available to the SRKW, as well as SRKW population stability and growth, under any scenario.” As a result of yesterday’s decision, approximately 172,000 Chinook that would have been harvested or indirectly killed in the 2023 summer and winter seasons of the Southeast Alaska troll fishery will now be able to continue their historical migration south to home spawning grounds and into the whale’s key foraging areas.

“Dr. Lacy’s findings suggest that the single action of closing this fishery would increase prey availability enough to stabilize the Southern Resident population. Stopping the precipitous decline of the whales toward extinction is the highest priority toward recovery efforts. These findings clearly demonstrate that Chinook harvest in Southeast Alaska’s troll fishery is contributing to the decline of the whales, validating why the Court’s decision is so critically important to the survival of this population,” says Helverson.

While the fishery occurs in Southeast Alaska marine waters, most people are unaware that up to 97% of all Chinook harvested in the Southeast Alaska troll fishery migrate from rivers throughout British Columbia, Washington, and Oregon. Roughly half of the fish harvested originate from the Columbia River, and many come from populations listed as Threatened under the ESA. Currently, these Chinook are harvested in their ocean rearing habitats preventing them from migrating back into southern waters where the Southern Resident killer whales encounter them. Majority of stocks harvested in the fishery are identified as priority stocks for the Southern Residents.

“Alaskan fishers should not be blamed for NOAA’s chronic mismanagement of this fishery, and we are sincerely sympathetic to the burden this decision will pose to Southeast Alaskan communities,” says Helverson. “However, this decision will finally address decades of harm and lost opportunity this overharvest has caused to fishing communities throughout British Columbia, Oregon, and Washington who depend on these fish, particularly Tribal and First Nations. In addition to the unparalleled benefits to killer whale and Chinook recovery, the Court’s decision is addressing this historic inequity and restoring control to coastal communities of the destiny of salmon recovery in their home watersheds.”

“The underlying harvest issues in this case are not an anomaly, but rather just one example that demonstrates the problems caused when harvest occurs in the ocean where it is impossible to avoid unintentionally harming threatened and endangered populations or intercepting high proportions of salmon from rivers coastwide,” says Kurt Beardslee, Director of Special Projects. “Scientists are increasingly calling for harvest reform measures that shift harvest out of the ocean and into fisheries in or near each river of origin where salmon return, providing fisheries managers and coastal communities the ability to manage recovery with far greater accuracy and success.”

###

Wild Fish Conservancy is represented in this matter by Kampmeier & Knutsen, PLLC, of Portland, Oregon and Seattle, Washington and by Corr Cronin, LLP of Seattle, Washington
kampmeierknutsen.com | corrchronin.com

Additional Information: [Comments on the Alaska Troller Association’s White Paper \(“AWP”\) concerning Wild Fish Conservancy’s lawsuit affecting the Southeast Alaska Chinook Salmon Troll Fishery](#)