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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILD SALMON RIVERS d/b/a THE
CONSERVATION ANGLER; and WILD FISH
CONSERVANCY,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES SERVICE;
and UNITED STATES DEPARTMENT OF
COMMERCE,

Defendants.

Civil Case No. 2:25-cv-00116

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiffs The Conservation Angler and Wild Fish Conservancy bring this action under the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531–1544, against Defendants the National Marine Fisheries Service and the United States Department of Commerce (collectively, “the Service”) for failing to make the statutorily required 12-month finding on Plaintiffs’ August 2022 petition to list Olympic Peninsula steelhead as a threatened or endangered species under the

1 ESA (“Petition”). *See* 16 U.S.C. § 1533(b)(3)(B). The Service’s ongoing failure places Olympic
2 Peninsula steelhead at greater risk of extinction.

3 2. Olympic Peninsula steelhead are a distinct population segment of steelhead
4 (*Oncorhynchus mykiss*) that occur on the Olympic Peninsula in the State of Washington.
5 Steelhead are the anadromous form of *Oncorhynchus mykiss* (rainbow trout are the non-
6 anadromous form).

7 3. Various factors have depleted Olympic Peninsula steelhead, including but not
8 limited to commercial and recreational fisheries, steelhead hatchery operations, degraded
9 freshwater habitat caused by logging and other human activities, and climate change impacts on
10 freshwater and marine conditions.

11 4. Plaintiffs submitted the Petition to list Olympic Peninsula steelhead under the
12 ESA to the Service on August 1, 2022. In response to Plaintiffs’ Petition highlighting the threats
13 to the species, the Service issued a 90-day finding that listing Olympic Peninsula steelhead under
14 the ESA “may be warranted.” 88 Fed. Reg. 8774–85 (Feb. 10, 2023). That finding triggered the
15 requirement for the Service to determine whether listing of the species under the ESA is
16 warranted or not warranted within 12 months of the Petition—by August 1, 2023.

17 5. After issuing the 90-day finding, the Service initiated a status review of Olympic
18 Peninsula steelhead. The Service issued a report on the status of Olympic Peninsula steelhead
19 dated October 2024, which found that the species is at moderate risk of extinction, suggesting
20 that the species should be protected under the ESA.

21 6. Despite the status review’s finding and the Service’s nondiscretionary duty to
22 publish a 12-month finding within one year of the date it received the Petition, the Service still
23 has not issued the required 12-month finding, which is now **more than 17 months late**.
24 Accordingly, Plaintiffs seek a declaration that the Service is in violation of its mandatory ESA
25 obligation to make a 12-month finding on the Petition and an order requiring the Service to issue
26 a 12-month finding on the Petition by a date certain.

JURISDICTION AND VENUE

1
2 7. This Court has jurisdiction over this matter under 16 U.S.C. § 1540(g) (ESA
3 citizen suit provision) and 28 U.S.C. § 1331 (federal question). An actual, justiciable controversy
4 now exists between Plaintiffs and the Service and the requested relief is proper under 16 U.S.C.
5 § 1540(g) (ESA citizen suit provision) and 28 U.S.C. §§ 2201–02 (declaratory and injunctive
6 relief);

7 8. As required by the ESA citizen suit provision, 16 U.S.C. § 1540(g)(2)(C),
8 Plaintiffs provided the Service with notice of its violation of the ESA and of Plaintiffs’ intent to
9 sue over the allegations in this Complaint more than sixty days prior to the filing of this
10 Complaint through a letter dated and postmarked November 7, 2024 (“Notice Letter”). A copy of
11 the Notice Letter is attached as **Exhibit 1** to this Complaint and incorporated herein by this
12 reference. The Service has not remedied these violations of law.

13 9. Plaintiffs and their members are adversely affected and/or aggrieved by the
14 Service’s violations of the ESA. The Service’s failure to make the statutorily required 12-month
15 finding on the Petition prevents the completion of the listing process and the implementation of
16 substantive measures pursuant to the ESA to protect Olympic Peninsula steelhead. Without the
17 protections of the ESA, Olympic Peninsula steelhead are more likely to continue to decline
18 toward extinction. Plaintiffs are therefore injured because their scientific, professional,
19 educational, recreational, aesthetic, moral, spiritual, and other interests in Olympic Peninsula
20 steelhead, as described below, are threatened by the Service’s failure to act. The Service’s failure
21 to respond to the Petition has also resulted in informational and procedural injury to Plaintiffs,
22 because Plaintiffs have been deprived of a timely opportunity to submit additional information
23 and otherwise participate in the listing process in order to secure protective measures for the
24 species. Plaintiffs have also been deprived of scientific data and information that would be
25 generated by the Service’s through its ESA-listing process and through the development of a
26 recovery plan as required for listed species, which injuries Plaintiffs by depriving them of
information and data that they would otherwise use to protect imperiled species and to otherwise

1 advance their interests and those of their members and supporters. These are actual, concrete
2 injuries to Plaintiffs caused by the Service's failure to comply with the ESA and its
3 implementing regulations. The relief requested will redress those injuries.

4 10. The Western District of Washington is the proper venue under 16 U.S.C. §
5 1540(g)(3)(A) and 28 U.S.C. § 1391(e) because the violations alleged, and/or substantial parts of
6 the events and omissions giving rise to the claim, occurred and are occurring within such
7 District. The Seattle Division of this District is the appropriate forum because the Service's
8 offices are located in Seattle, Washington.

9 **PARTIES**

10 **Plaintiffs**

11 11. Plaintiff Wild Salmon Rivers, d/b/a The Conservation Angler, is a 501(c)(3)
12 nonprofit organization incorporated in the State of Washington with its principal place of
13 business in Edmonds, Washington. The Conservation Angler uses science and law to protect and
14 restore wild salmon and steelhead throughout their Pacific range, including the State of
15 Washington. The Conservation Angler educates the public about matters affecting wild
16 salmonids, conducts scientific research on these species, advocates for policies that protect these
17 fish, comments on federal and state actions related to salmon and steelhead and their habitat and,
18 when necessary, pursues litigation to ensure that salmonids receive protections afforded to them
19 under federal and state law.

20 12. Plaintiff Wild Fish Conservancy is a membership-based 501(c)(3) nonprofit
21 organization incorporated in the State of Washington with its principal place of business in
22 Duvall, Washington. Wild Fish Conservancy is dedicated to the preservation and recovery of the
23 Pacific Northwest's native fish species and the ecosystems upon which those species depend
24 throughout the Pacific Northwest. Wild Fish Conservancy brings this action on behalf of itself
25 and its approximately 2,400 members. As an environmental watchdog, Wild Fish Conservancy
26 actively informs the public on matters affecting water quality, fish, and fish habitat in the Pacific
Northwest through publications, commentary to the press, and sponsorship of educational

1 programs. Wild Fish Conservancy also conducts field research on wild fish populations and has
2 designed and implemented habitat restoration projects. Wild Fish Conservancy advocates and
3 publicly comments on federal and state actions that affect the region's native fish and
4 ecosystems. Wild Fish Conservancy routinely seeks to compel government agencies to follow
5 the laws designed to protect native fish species, particularly threatened and endangered species.

6 13. The Conservation Angler and Wild Fish Conservancy each have organizational
7 standing to bring this lawsuit. Each organization has been actively engaged in efforts to ensure
8 that Olympic Peninsula steelhead and their habitat is protected. For example, The Conservation
9 Angler regularly reviews and comments on state fishing regulations that impact Olympic
10 Peninsula steelhead. Plaintiffs filed the Petition, in part, to ensure that Olympic Peninsula
11 steelhead are listed under the ESA and thereafter afforded ESA protections related to fisheries
12 management, which includes but is not limited to federal review of state fishery management and
13 enhancement plans. 50 C.F.R. § 223.203(b)(4)(i). Because the Service has failed to issue a 12-
14 month finding on the Petition, Olympic Peninsula steelhead have not been afforded these
15 protections. The lack of protections for Olympic Peninsula steelhead frustrates Plaintiffs'
16 missions to preserve, protect, and restore wild fish and their ecosystems. For example, due to the
17 lack of federal oversight on fisheries management, Plaintiffs must spend staff time and resources
18 on reviewing and commenting on state fishing regulations to ensure Olympic Peninsula steelhead
19 are protected. As a result, Plaintiffs spend less time on other mission-related work, including but
20 not limited to studying and publishing scientific literature on steelhead biology. Similarly, by
21 failing to make the required 12-month finding, the Service has deprived Plaintiffs of scientific
22 data and information that would be generated and made available through the Service's ESA
23 listing process and through the Service's development of a recovery plan that would be required
24 once the species is listed. That information and data would be used by Plaintiffs to further their
25 missions of protecting salmonids and their ecosystems. That deprivation of data and information
26 has injured Plaintiffs by requiring that they expend resources to obtain such data and information
elsewhere, thereby diverting resources away from other objectives.

1 14. The Conservation Angler and Wild Fish Conservancy each have representational
2 standing. Each organization has members, supporters, and/or board members who regularly
3 spend time in and around the Olympic Peninsula and its rivers. These members and/or
4 constituents intend to continue to visit these areas on a regular basis. These members and/or
5 constituents observe, study, photograph, and otherwise enjoy fish, including Olympic Peninsula
6 steelhead, and wildlife habitat in and around these waters. The members and/or constituents also
7 fish for Olympic Peninsula steelhead in and around these waters. The members and/or
8 constituents would like to continue fishing in these waters for, and otherwise enjoying, Olympic
9 Peninsula steelhead and to increase fishing opportunities for this species, provided the species is
10 able to recover to a point where such activities would not impede the species' conservation and
11 recovery.

12 15. The Conservation Angler's and Wild Fish Conservancy's members, supporters,
13 and/or board members derive recreational, scientific, educational, conservation, spiritual, and
14 aesthetic benefits from the Olympic Peninsula and its rivers, from the surrounding areas, from
15 wild native fish species in those waters, including Olympic Peninsula steelhead, and from the
16 existence of natural, wild, and healthy ecosystems.

17 16. The past, present, and future enjoyment of The Conservation Angler's and Wild
18 Fish Conservancy's interests and those of their members, supporters, and/or constituents,
19 including their recreational, scientific, aesthetic, and spiritual interests, have been, are being, and
20 will continue to be harmed by the Service's failure to comply with the ESA as described herein
21 and by the members', supporters', and/or constituents' reasonable concerns related to the
22 Service's violations. These injuries include reduced interactions with Olympic Peninsula
23 steelhead and therefore reduced enjoyment of time spent in and around the Olympic Peninsula
24 and its waters, fewer visits to those areas than would otherwise occur, and refraining from
25 engaging in certain activities while visiting these areas, such as fishing, than would otherwise
26 occur. These injuries also include an inability to fish for Olympic Peninsula steelhead due to
their depressed status.

1 17. The Conservation Angler's and Wild Fish Conservancy's injuries and those of
2 their members, supporters, and constituents are actual, concrete and/or imminent, and are fairly
3 traceable to the Service's violations of the ESA as described herein that the Court may remedy
4 by declaring that the Service's omissions and actions are illegal and/or issuing injunctive relief
5 requiring the Service to comply with its statutory obligations. The Conservation Angler's and
6 Wild Fish Conservancy's members, supporters, and/or constituents will benefit from increased
7 enjoyment of time spent in and around the waters described above and/or will visit the areas
8 more frequently if the Service is required by the Court to comply with the ESA.

9 18. For example, one member lives in Edmonds, Washington and has recreationally
10 fished for Olympic Peninsula steelhead since at least 1969. This member has founded several
11 environmental organizations aimed at conserving wild salmon and steelhead. This member
12 historically fished the Sol Duc, Calawah, Bogachiel, Hoh, Queets, Clearwater, and other
13 Olympic Peninsula rivers for steelhead, but he has significantly reduced how often he fishes for
14 Olympic Peninsula steelhead based on their declining populations. If Olympic Peninsula
15 steelhead are recovered, this member would be able to fish more frequently in these rivers again.

16 19. As another example, a different member lives in Concrete, Washington and
17 started fishing for Olympic Peninsula steelhead in 1968. This member has been a founder or co-
18 founder of several environmental organizations aimed at native fish conservation and has led
19 petitions to list various wild salmonids under the ESA. This member historically fished the Sol
20 Duc, Calawah, Bogachiel, Hoh, Queets, Clearwater, and other Olympic Peninsula rivers for
21 steelhead, and performed juvenile fish sampling research in several of these rivers' tributaries.
22 Recently, he has replaced fishing for Olympic Peninsula steelhead—in part because of the
23 species' decline and his interest in ensuring their survival—with photographing their habitat and
24 spawning behavior. If populations of Olympic Peninsula steelhead recovered, this member's
25 concern for the species would decrease, and his enjoyment of the species and photographing
26 their habitat and spawning activity would increase.

1 20. The above-described interests of Plaintiffs’ members and/or constituents in
2 Olympic Peninsula steelhead and their habitat depend on the conservation of the species. To
3 protect those interests and Olympic Peninsula steelhead, Plaintiffs filed the Petition to list the
4 species as threatened or endangered under the ESA. Defendants’ failure to comply with their
5 nondiscretionary duty under the ESA to issue a 12-month finding puts Olympic Peninsula
6 steelhead at greater risk of extinction.

7 **Defendants**

8 21. Defendant the United States Department of Commerce is an agency of the United
9 States. The Secretary of the U.S. Department of Commerce is charged with implementing the
10 ESA for anadromous fish species, including steelhead, and is responsible for making ESA listing
11 decisions and promulgating regulations required by and in accordance with the ESA.

12 22. Defendant National Marine Fisheries Service, also known as NOAA Fisheries, is
13 an agency within the U.S. Department of Commerce. The U.S. Department of Commerce has
14 delegated certain responsibilities and authorities under the ESA to the National Marine Fisheries
15 Service, including the authority to implement the ESA for steelhead. The National Marine
16 Fisheries Service is required to comply with the ESA, including its mandatory listing deadlines.

17 **STATUTORY BACKGROUND**

18 **Endangered Species Act**

19 23. The ESA is a federal statute enacted to provide a program to conserve threatened
20 and endangered species and to protect the ecosystems upon which those species depend. 16
21 U.S.C. § 1531(b). The ESA defines “conserve” to mean “to use all methods and procedures
22 which are necessary to bring any endangered species or threatened species to the point at which
23 the measures provided pursuant to [the ESA] are no longer necessary.” *Id.* § 1532(3).

24 24. To that end, Section 4 of the ESA requires the Service to determine whether a
25 species is threatened or endangered. *Id.* § 1533(c). The ESA defines “species” to include “any
26 subspecies of fish or wildlife or plants, and any distinct population segment of any species of
vertebrate fish or wildlife which interbreeds when mature.” *Id.* § 1532(16). A species is

1 “endangered” if it is “in danger of extinction throughout all or a significant portion of its range.”
2 *Id.* § 1532(6). A species is “threatened” if it is “likely to become an endangered species within
3 the foreseeable future throughout all or a significant portion of its range.” *Id.* § 1532(20).

4 25. The Service must list a species as threatened or endangered based on one or more
5 of the following factors: “(A) the present or threatened destruction, modification, or curtailment
6 of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational
7 purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E)
8 other natural or manmade factors affecting its continued existence.” *Id.* § 1533(a)(1). The
9 Service must base its listing determinations “solely on the basis of the best scientific and
10 commercial data available . . . after conducting a review of the status of the species.” *Id.* §
11 1533(b)(1)(A); 50 C.F.R. § 424.11(b).

12 26. The ESA’s substantive protections apply to a species after it is listed as threatened
13 or endangered. For example, Section 4 of the ESA requires the Service to designate “critical
14 habitat” for listed species, 16 U.S.C. § 1533(a)(3)(A), and to “develop and implement” recovery
15 plans for listed species, *Id.* § 1533(f).

16 27. Section 7 of the ESA requires that federal agencies “insure that any action
17 authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued
18 existence of any endangered . . . or threatened species or result in the destruction or adverse
19 modification” of such species’ critical habitat. *Id.* § 1536(a)(2); *Pyramid Lake Paiute Tribe of*
20 *Indians v. U.S. Dep’t of the Navy*, 898 F.2d 1410, 1415 (9th Cir. 1990).

21 28. Section 9 of the ESA prohibits any person from causing “take” of species listed
22 under the statute as “endangered.” 16 U.S.C. § 1538(a)(1). The take prohibition has been applied
23 to certain species listed as “threatened” under the ESA through regulations promulgated under
24 section 4(d) of the ESA, *id.* § 1533(d). 50 C.F.R. §§ 17.21, 17.31(a), 223.102, 223.203(a).
25 Section 9 of the ESA prohibits violations of those regulations. 16 U.S.C. § 1538(a)(1)(G).

26 29. The ESA includes a process whereby interested persons may submit petitions to
the Service to list a species as endangered or threatened.

1 30. Within 90 days of receiving a petition to list a species under the ESA, the Service
2 must make a “finding as to whether the petition presents substantial scientific or commercial
3 information indicating that the petitioned action may be warranted.” *Id.* § 1533(b)(3)(A). This
4 finding is referred to as a “90-day finding.”

5 31. If the Service determines that the petitioned listing may be warranted, it must
6 conduct a scientific review of the species’ status. *Id.* This process is known as a “status review.”

7 32. Within 12 months of the date that the Service received the Petition, the Service
8 must make one of the following three determinations: (1) the listing is “warranted”; (2) the
9 listing is “not warranted”; or (3) the listing is “warranted but precluded,” provided certain
10 conditions are met. *Id.* § 1533(b)(3)(B). This finding is referred to as a “12-month finding.”

11 33. If the Service determines that listing is warranted, the Service must promptly
12 publish notice in the Federal Register of a proposed regulation to list the species as endangered
13 or threatened and take public comment on the proposed listing determination. *Id.* §
14 1533(b)(3)(B)(ii).

15 34. Within one year of publication of the proposed listing rule, the Service must
16 publish in the Federal Register the “final listing determination.” *Id.* § 1533(b)(6)(A).
17 Specifically, the Service must publish one of the following: (1) a final regulation to list the
18 species; (2) withdraw the proposed listing regulation; or (3) if there is substantial disagreement
19 about the sufficiency or accuracy of the available data relevant to the listing determination, delay
20 a final listing determination for no more than six months to solicit additional scientific
21 information. *Id.* §§ 1533(b)(6)(A)(i), 1533(b)(6)(B)(i).

22 **FACTUAL BACKGROUND**

23 **Threats to the Survival of Olympic Peninsula Steelhead**

24 35. Olympic Peninsula steelhead occur in multiple rivers and streams on the Olympic
25 Peninsula, including but not limited to the following waters: Hoko, Pysht, Clallam, West Twin,
26 East Twin, Lyre, Sekiu, Sail, Tsoo-Yess, Ozette, Quillayute, Dickey, Sol Duc, Calawah,

1 Bogachiel, Hoh, Queets, Clearwater, Quinault, Moclips, Raft, and Copalis Rivers and Salt,
2 Goodman, Mosquito, and Kalaloch Creeks.

3 36. Olympic Peninsula steelhead begin their life cycle in freshwater, migrate to the
4 ocean, and return to freshwater to spawn. Some Olympic Peninsula steelhead begin their adult
5 spawning migrations during the winter and are referred to as “winter-run” steelhead. Other
6 Olympic Peninsula steelhead begin their adult spawning migrations during the summer and are
7 referred to as “summer-run” steelhead.

8 37. Olympic Peninsula steelhead populations are at risk of extinction. Almost every
9 population of winter-run steelhead on the Olympic Peninsula is in long-term decline over their
10 period of record, and summer-run steelhead have declined to critically low levels of abundance.
11 The species’ diversity has been altered by harvest and hatchery operations that have modified
12 their run timing, which threatens their ability to adapt to ecological changes, including those
13 resulting from climate change. Productivity data indicates that Olympic Peninsula steelhead
14 populations are declining, and numerous stream blockages have truncated the spatial distribution
15 of the species.

16 38. Winter-run steelhead on the Olympic Peninsula are subjected to intensive
17 recreational and commercial fisheries, and they experience the highest harvest levels of any
18 steelhead populations in the State of Washington. These fisheries have resulted in reduced
19 spawning abundance and depletion of early returning winter steelhead.

20 39. Hatchery operations exert a range of genetic and ecological impacts on Olympic
21 Peninsula steelhead. Each year, large numbers of hatchery steelhead are released into multiple
22 rivers on the Olympic Peninsula.

23 40. The depleted populations of Olympic Peninsula steelhead are also threatened with
24 a myriad of environmental challenges, including degraded freshwater habitat, climate change
25 impacts, and changing ocean conditions.
26

The Service’s Failure to Publish a 12-Month Finding

1
2 41. On August 1, 2022, the Service received Plaintiffs’ Petition to list Olympic
3 Peninsula steelhead as threatened or endangered and to concurrently designate critical habitat for
4 the species. *See* 88 Fed. Reg. 8774–85 (Feb. 10, 2023).

5 42. The Service issued a positive 90-day finding for Olympic Peninsula steelhead on
6 February 10, 2023, finding that the petition presented substantial scientific and commercial
7 information indicating that listing may be warranted. *Id.*

8 43. The 90-day finding triggered the Service’s obligation under the ESA to
9 commence a status review of Olympic Peninsula steelhead and issue a 12-month finding within
10 one year of the date the Service received the Petition (i.e., by August 1, 2023).

11 44. The Service published a report dated October 2024 on the biological status of
12 Olympic Peninsula steelhead, which found that the species is at moderate risk of extinction for
13 multiple reasons, including those identified in the Petition.

14 45. On November 7, 2024, Plaintiffs sent the Notice Letter notifying the Service that
15 it has violated Section 4 of the ESA, 16 U.S.C. § 1533(b)(3)(B), by failing to make the required
16 12-month finding on the Petition. Plaintiffs notified the Service in the Notice Letter of Plaintiffs’
17 intent to file this suit to enforce the ESA if the Service failed to issue a 12-month finding within
18 60 days of receiving the letter. The Service has failed to issue that 12-month finding, even
19 though this finding was due over 17 months ago and the status review found that Olympic
20 Peninsula steelhead are at moderate risk of extinction.

21 46. Upon information and belief, this lawsuit will have been a catalyst to the
22 Service’s completion of the 12-month finding on the Petition if that occurs during the pendency
23 of this matter.

24 47. Notably, the 12-month finding on the Petition is now more than seventeen months
25 late.

26 48. The Service has not provided Plaintiffs with an estimated completion date for the
12-month finding on the Petition.

1 49. Upon information and belief, the Service has not committed to a completion date
2 for the 12-month finding on the Petition as of the filing of this Complaint.

3 50. The delays at issue in this matter are unreasonable.

4 51. This lawsuit is necessary to compel the Service to promptly make the required 12-
5 month finding on the Petition.

6 **CLAIM FOR RELIEF**

7 **Violation of Section 4 of the ESA**

8 52. Plaintiffs re-allege and reincorporate, as if fully set forth herein, each and every
9 allegation in the preceding paragraphs of this Complaint.

10 53. The Service's protracted and ongoing failure to make the statutorily required 12-
11 month finding on Plaintiffs' Petition to list Olympic Peninsula steelhead under the ESA violates
12 the statute, *Id.* § 1533(b)(3)(B), and its implementing regulations, 50 C.F.R. § 424.14(h)(2).

13 54. That violation constitutes a failure by the Service to perform a nondiscretionary
14 duty under the ESA that is reviewable under the ESA citizen suit provision. 16 U.S.C. §
15 1540(g)(1)(C).

16 55. Plaintiffs and their members and/or constituents are injured by the Service's
17 continued failure to issue the required 12-month finding, and their injuries would be redressed if
18 this Court grants Plaintiffs' requested relief.

19 **REQUEST FOR RELIEF**

20 For the reasons stated above, Plaintiffs respectfully request that this Court:

21 A. Declare that the Service has violated and is violating the ESA by failing to timely
22 issue a 12-month finding on Plaintiff's Petition to list Olympic Peninsula steelhead, 16 U.S.C. §
23 1533(b)(3)(B);

24 B. Order the Service to promptly issue a 12-month finding on Plaintiffs' Petition to
25 list Olympic Peninsula steelhead by a reasonable date certain under the ESA;

26 C. Grant such preliminary and/or permanent injunctive relief as Plaintiffs may from
time to time request during the pendency of this case;

1 D. Award Plaintiffs their reasonable litigation expenses, including attorney's fees,
2 expert witness fees, Court costs, and other expenses necessary for the preparation and litigation
3 of this case under the citizen suit provision of the ESA, *id.* § 1540(g)(4), the Equal Access to
4 Justice Act, 28 U.S.C. § 2412, and/or as otherwise authorized by law; and

5 E. Provide such other relief as may be just and proper.

6 DATED this 17th day of January 2025.

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14 *Attorneys for Plaintiffs The Conservation*
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EXHIBIT 1



November 7, 2024

Via Certified Mail – Return Receipt Requested (and email where indicated)

Secretary Gina Raimondo
United States Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230
Email: GRaimondo@doc.gov

Assistant Administrator Janet Coit
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910
Email: Janet.Coit@noaa.gov

Regional Administrator Jennifer Quan
National Marine Fisheries Service
West Coast Region
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802

RE: Sixty-Day Notice of Intent to Sue for Violations of Section 4 of the Endangered Species Act Associated with the Petition to List Olympic Peninsula Steelhead

Dear Secretary Raimondo, Assistant Administrator Coit, and Regional Administrator Quan:

Wild Salmon Rivers, d/b/a The Conservation Angler (“TCA”), and Wild Fish Conservancy (“WFC”) provide this 60-day notice of intent to sue the U.S. Department of Commerce and National Marine Fisheries Service (“NMFS”) for violating the Endangered Species Act, 16 U.S.C. §§ 1531-1544 (“ESA”), by failing to issue a required 12-month finding on TCA and WFC’s petition to list the Olympic Peninsula steelhead distinct population segment (“Olympic Peninsula steelhead”) as threatened or endangered. We provide this letter in accordance with the 60-day notice requirement of the ESA’s citizen suit provision. *Id.* § 1540(g)(2)(C).

TCA and WFC are both 501(c)(3) nonprofit organizations incorporated in the State of Washington with missions to protect wild fish.

OLYMPIC PENINSULA STEELHEAD

Olympic Peninsula steelhead are a distinct population segment (“DPS”) of steelhead (*Oncorhynchus mykiss*) that occur on Washington’s Olympic Peninsula. The best available

scientific data demonstrate that Olympic Peninsula steelhead are in long-term decline and at serious risk of losing a major life history component: summer-run steelhead. The data also show that Olympic Peninsula steelhead are threatened by harvest, hatchery operations, habitat destruction, and climate change. Therefore, Olympic Peninsula steelhead should be listed as threatened or endangered under the ESA.

ENDANGERED SPECIES ACT VIOLATIONS

Within 90 days of receiving a petition to list a species under the ESA, NMFS must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. *Id.* § 1533(b)(3)(A). Within 12 months of receiving a petition that NMFS finds to present such information, NMFS must determine whether the petitioned action is warranted, not warranted, or warranted but precluded by higher-priority actions. *Id.* § 1533(b)(3)(B). If NMFS determines that listing is warranted, NMFS must promptly publish that finding in the Federal Register with a complete text of a proposed regulation to list the species as threatened or endangered. *Id.* § 1533(b)(3)(B)(ii).

On or around August 1, 2022, the Secretary of Commerce received TCA and WFC's petition to list Olympic Peninsula steelhead as threatened or endangered. On February 10, 2023, NMFS found that Olympic Peninsula steelhead may warrant listing. Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Olympic Peninsula Steelhead as Threatened or Endangered Under the Endangered Species Act, 88 Fed. Reg. 8774-8785 (Feb. 10, 2023). Therefore, NMFS was required to issue a 12-month finding within one year of the date it received the petition—on or around August 1, 2023.

NMFS has not issued a 12-month finding on the Olympic Peninsula steelhead petition and, therefore, it is violating its duty under Section 4 of the ESA to ensure that the species receives timely protection under the Act. If the Secretary does not make the required findings and designations within 60 days, TCA and WFC will file suit to enforce the ESA.

PARTIES GIVING NOTICE OF INTENT TO SUE

The full name, address, and telephone number of the party giving notice is:

Wild Salmon Rivers, d/b/a The Conservation Angler
P.O. Box 1321
Portland, Oregon 97213
(971) 235-8953

Wild Fish Conservancy
15629 Main Street N.E.
Duvall, Washington 98019
Tel: (425) 788-1167

ATTORNEYS REPRESENTING TCA & WFC

The attorneys representing TCA and WFC in this matter are:

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Please contact us if you have any questions or would like to discuss this matter.

Sincerely,



Rob Kirschner
Legal and Policy Director
The Conservation Angler
P.O. Box 13121
Portland, OR 97213
(503) 894-0439
rob@theconservationangler.org



Emma Helverson
Executive Director
Wild Fish Conservancy
P.O. Box 402
Duvall, WA 98019
(425) 788-1167
emma@wildfishconservancy.org

CERTIFICATE OF SERVICE


I, Rob Kirschner, declare under penalty of perjury of the laws of the United States that on November 7, 2024, I caused copies of the foregoing Sixty-Day Notice of Intent to Sue for Violations of Section 4 of the Endangered Species Act Associated with the Petition to List Olympic Peninsula Steelhead to be served on the following by depositing it with the U.S. Postal Service, postage prepaid, via certified mail, return receipt requested:

Secretary Gina Raimondo
United States Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230
Email: GRaimondo@doc.gov

Assistant Administrator Janet Coit
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910
Email: Janet.Coit@noaa.gov

Regional Administrator Jennifer Quan
National Marine Fisheries Service
West Coast Region
501 West Ocean Boulevard, Suite 4200
Long Beach, CA 90802

EXECUTED this 7th day of November 2024 in Portland, Oregon.

By: 

Rob Kirschner