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ATTORNEYS AT LAW

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February 6, 2025

Via Certified Mail – Return Receipt Requested

Acting Secretary Jeremy Pelter
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Acting Assistant Administrator Emily Menashes
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910

RE: Notice of Intent to Sue for Failing to Issue Findings on Petition to List Alaskan Chinook Salmon as an Endangered or Threatened Species

Dear Honorable Civil Servants,

This letter provides 60-days advance notice of Wild Fish Conservancy’s (the “Conservancy”) intent to sue the U.S. Department of Commerce and Jeremy Pelter, in his official capacity as the Acting Secretary of the U.S. Department of Commerce (collectively, “Commerce”), and the National Marine Fisheries Service and Emily Menashes, in her official capacity as the Acting Assistant Administer for Fisheries for the National Marine Fisheries Service (collectively, “NMFS”), for violations of the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531–44, resulting from their failure to issue a 12-month finding on the Conservancy’s petition to list the Alaskan Chinook salmon as a threatened or endangered species. This notice is provided under section 11(g)(2)(A)(i) of the ESA, 16 U.S.C. § 1540(g)(2)(C).

Commerce’s and NMFS’s ESA Violations

In response to a petition to list a species under the ESA, section 4 of the statute requires Commerce and NMFS to determine within 90 days, to the maximum extent practicable, whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. 16 U.S.C. § 1533(b)(3)(A). If Commerce and NMFS make a positive 90-day finding, they must then determine within 12 months of receiving the petition whether the listing is warranted, not warranted, or warranted but precluded by higher-priority actions (“12-month finding”). *Id.* § 1533(b)(3)(B). If Commerce and NMFS determine that listing is warranted, they must publish that finding in the Federal Register along with the text of a proposed regulation to list the species as endangered or threatened and take public comments on the proposed listing rule. *Id.* § 1533(b)(3)(B)(ii). Within one year of publication of the proposed listing rule, Commerce and NMFS must publish in the Federal Register the final rule implementing their determination to list the species. *Id.* § 1533(b)(6)(A).

The Conservancy submitted the Petition to List Alaskan Chinook Salmon as a Threatened or Endangered Species and to Designate Critical Habitat Under the ESA (the “Petition”) to Commerce and NMFS on January 11, 2024. NMFS received the Petition on January 11, 2024. 89 Fed. Reg. 45,815 (May 24, 2024). On May 24, 2024, NMFS announced its 90-day finding that listing may be warranted, providing:

We find that the [P]etition, viewed in the context of information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted.

Id. Accordingly, Commerce and NMFS were required to issue their 12-month finding within twelve months of receipt of the Petition—by January 11, 2025. 16 U.S.C. § 1533(b)(3)(B). Commerce and NMFS have failed to make the required finding, which is now past due. Commerce and NMFS are therefore in violation of section 4 of the ESA for failing to issue a 12-month finding on the Petition within the time required under the ESA.

On January 8, 2025, NMFS informed The Conservancy via email that the agency expects to require an additional four months to finalize the 12-month finding on the Petition. However, in light of NMFS’s pattern and history of not issuing timely 12-month findings, The Conservancy is formally notifying you of its intent to take legal action to ensure that this species is promptly afforded protections necessary for its continued survival.

Party Giving Notice of Intent to Sue

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

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

Attorney Representing Wild Fish Conservancy

The attorney representing Wild Fish Conservancy in this matter is:

Brian A. Knutsen
Kampmeier & Knutsen, PLLC
1300 SE Stark Street, Suite 202
Portland, Oregon 97214
Tel: (503) 841-6515
brian@kampmeierknutsen.com

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

Very truly yours,

KAMPMEIER & KNUTSEN, PLLC

By: 

Brian A. Knutsen

CERTIFICATE OF SERVICE

I, Brian Knutsen, declare under penalty of perjury of the laws of the United States that I am counsel for Wild Fish Conservancy and that on February 6, 2025, I caused copies of the foregoing Notice of Intent to Sue for Failing to Issue Findings on Petition to List Alaskan Chinook Salmon as an Endangered or Threatened Species to be served on the following by depositing it with the U.S. Postal Service, postage prepaid, via certified mail, return receipt requested:

Acting Secretary Jeremy Pelter
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Acting Assistant Administrator Emily Menashes
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910

EXECUTED this 6th day of February, 2025 in Portland, Oregon.

By: 

Brian Knutsen