

UNITED STATES DISTRICT COURT
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; UNITED STATES
DEPARTMENT OF COMMERCE,

Defendants.

Civil Case No. 2:25-cv-00116-JHC

STIPULATED SETTLEMENT
AGREEMENT AND ORDER OF
DISMISSAL

STIPULATED SETTLEMENT AGREEMENT

Plaintiffs, Wild Salmon Rivers d/b/a/ The Conservation Angler and Wild Fish
Conservancy (collectively, the “Plaintiffs”) and Federal Defendants the U.S. Department of
Commerce and National Marine Fisheries Service (collectively, “the Service”), by and through
their undersigned representatives, enter into the following Stipulated Settlement Agreement
 (“Agreement”) for the purpose of resolving the above-captioned matter, and state as follows:

WHEREAS, Plaintiffs’ complaint alleges a failure to make a 12-month finding on
Plaintiffs’ August 2022 petition (“Petition”) to list the distinct population segment of steelhead
(*Oncorhynchus mykiss*) that occur on the Olympic Peninsula in the State of Washington

1 (hereafter “Olympic Peninsula steelhead”) as a threatened or endangered species under the
2 Endangered Species Act (“ESA”), 16 U.S.C. § 1533(b)(3)(B);

3 WHEREAS, in response to Plaintiffs’ Petition, the Service concluded that listing
4 Olympic Peninsula steelhead under the ESA “may be warranted.” 88 Fed. Reg. 8774–85 (Feb.
5 10, 2023);

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7 WHEREAS, the Service has not yet issued a 12-month finding on Plaintiffs’ Petition. 16
8 U.S.C. § 1533(b)(3)(B);

9 WHEREAS, the Court granted Defendants’ unopposed motions for extensions of time to
10 respond to Plaintiffs’ Complaint. Dkts. 10, 15, 23;

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12 WHEREAS, the Court granted the parties’ joint stipulated motions for extensions of time
13 to file initial deadlines set by the Court’s Order Regarding Initial Disclosures, Joint Status
14 Report, and Early Settlement, Dkt. 11. Dkts. 13, 17, 22, 25;

15 WHEREAS, Plaintiffs and the Service (collectively, the “Parties”) believe that settlement
16 in the manner described below is in the public interest and is an appropriate and efficient way to
17 resolve the claims in the above-captioned case;

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19 WHEREAS, the Service intends to provide Plaintiffs notice of the publication date in the
20 Federal Register referenced in Paragraph 1 on or before the date of publication;

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22 NOW THEREFORE, the Parties desire to compromise and settle Plaintiffs’ case
23 according to the terms set forth below, and thus agree to this Stipulated Settlement Agreement:

- 24 1. On or before December 1, 2025, the Service will submit to the Federal Register for
25 publication a 12-month finding pursuant to 16 U.S.C. § 1533(b)(3)(B) on Plaintiffs’ August
26 2022 Petition to list Olympic Peninsula steelhead.
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- 1 2. Plaintiffs agree that, upon approval of this Agreement by the Court, Plaintiffs' Complaint
2 shall be dismissed with prejudice. To challenge any final 12-month finding issued pursuant to
3 Paragraph 1, Plaintiffs will be required to file a separate action. The Service reserves the
4 right to raise any applicable claims or defenses to such challenges.
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- 6 3. Future Modifications of this Agreement: The Dismissal Order entering this Stipulated
7 Settlement Agreement ("Order") may only be modified by the Court. The Order may be
8 modified upon good cause shown by stipulated motion of both the Parties filed with and
9 approved by the Court, or upon written motion filed by one of the Parties and as granted by
10 the Court after appropriate briefing. In the event that either Plaintiffs or the Service seek to
11 modify the terms of this Agreement, they will first provide written notice of the proposed
12 modification and the reasons for such modification to the other Party. The Parties will then
13 meet and confer (virtually, telephonically, or in person) at the earliest possible time before
14 any Party seeks this Court's approval for modification.
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- 16 4. Dispute Resolution:
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- 18 A. If any Party believes another Party has failed to comply with any term of this
19 Agreement, the Party asserting noncompliance shall provide the other(s) with written
20 notice and the basis for the alleged noncompliance. The Parties shall meet and confer
21 (virtually, telephonically, or in person) to attempt to resolve the dispute within 14
22 calendar days of the written notice or such time thereafter as is mutually agreed upon.
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- 24 B. After the initial meet and confer, the Parties will have 30 days, or such time thereafter
25 as is mutually agreed upon, to resolve the dispute. If the Parties are unable to resolve
26 the dispute within that time, then either Party may file a motion to enforce the Order.
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1 C. If any Party fails to meet any of its obligations under paragraphs 1 through 4 of this
2 Agreement, the other Party's first remedy shall be by motion to enforce the terms of
3 this Agreement, after following the dispute resolution procedures described above.

4 This Agreement shall not, in the first instance, be enforceable through a proceeding
5 for contempt of court.
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7 5. Attorneys' Fees and Costs:

8 A. The Service shall pay Plaintiffs a total of \$20,000.00 for attorneys' fees, costs, and other
9 litigation expenses for this lawsuit.

10 B. The Service shall make the payment by electronic funds transfer.

11 C. Plaintiffs will provide the Service with the account information necessary to effectuate
12 the payment. The Service will submit all necessary paperwork for the processing of the
13 attorneys' fees award within 10 business days of the Court's entry of the Order approving
14 this Agreement or the receipt of the information described in this paragraph, whichever is
15 later.
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17 D. Plaintiffs agree to accept the Service's payment of \$20,000.00 in full satisfaction of all
18 claims for attorneys' fees and costs of litigation incurred in this matter to date. Plaintiffs
19 agree that receipt of this payment from the Service shall operate as a release of Plaintiffs'
20 claims for attorney's fees and costs in this matter to date.
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22 E. Plaintiffs also acknowledge that under 31 U.S.C. §§ 3711, 3716, 26 U.S.C. § 6402(d), 31
23 C.F.R. §§ 285.5, 901.3, and other authorities, the United States will offset against the
24 award of attorneys' fees and costs Plaintiffs' delinquent debts to the United States, if any.
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26 *See Astrne v. Ratliff*, 560 U.S. 586 (2010).
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- 1 6. Representative Authority: The undersigned representatives of Plaintiffs and the Service
2 certify that they are fully authorized by the party or parties whom they represent to enter into
3 the terms and conditions of this Agreement and to legally bind those parties to it.
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- 5 7. Compliance with Other Laws: Nothing in this Agreement shall be interpreted as, or shall
6 constitute, a commitment or requirement that the Service obligates or pays funds, or take any
7 other actions, in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, the ESA, the
8 Administrative Procedure Act (“APA”), or any other applicable law or regulation, either
9 substantive or procedural. Nothing in this Agreement is intended to, or shall be construed to,
10 waive any obligation to exhaust administrative remedies; to constitute an independent waiver
11 of the United States’ sovereign immunity; to change the standard of judicial review of federal
12 agency actions under the APA; to otherwise extend or grant the Court jurisdiction to hear any
13 matter, except as expressly provided in the Agreement; or to limit or modify the discretion
14 accorded to the Services by the ESA, the APA, or general principles of administrative law
15 with respect to the procedures to be followed in making any finding required herein, or as to
16 the substance of any finding.
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- 18 8. Mutual Drafting and Other Provisions:
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- 20 A. It is hereby expressly understood and agreed that this Agreement was jointly drafted
21 by Plaintiffs and the Service. Accordingly, the Parties hereby agree that any rule of
22 construction to the effect that ambiguity is construed against the drafting party shall
23 be inapplicable in any dispute concerning the terms, meaning, or interpretation of the
24 Agreement.
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- 26 B. This Agreement contains all of the agreements between Plaintiffs and the Service and
27 is intended to be and is the final and sole agreement between Plaintiffs and the
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1 Service concerning the complete and final resolution of Plaintiffs' complaint.

2 Plaintiffs and the Service agree that any other prior or contemporaneous
3 representations or understandings not explicitly contained in this Agreement, whether
4 written or oral, are of no further legal or equitable force or effect. Any subsequent
5 modifications to this Agreement must be in writing and approved by this Court.
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7 C. This Agreement is the result of compromise and settlement, and does not constitute
8 an admission, implied or otherwise, by Plaintiffs or the Service to any fact, claim,
9 defense, or issue of law. No part of this Agreement shall have precedential value in
10 any pending or future litigation, representations before any court, administrative
11 action, forum, or any public setting. Except as expressly provided in this Agreement,
12 none of the Parties waives or relinquishes any legal rights, claims or defenses it may
13 have.
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15 9. Continued Jurisdiction: Notwithstanding the dismissal of this action, the Parties hereby
16 stipulate and respectfully request that the Court retain jurisdiction to oversee compliance with
17 the terms of this Agreement and to resolve any motions to modify the terms of this
18 Agreement, subject to the dispute resolution procedures specified in paragraph 4 above. *See*
19 *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375 (1994).
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23 DATED: June 30, 2025

24 Respectfully submitted,

25 ADAM R.F. GUSTAFSON
26 Acting Assistant Attorney General
27 NICOLE SMITH, Assistant Section Chief

28 By: s/ Kieran F. O'Neil
KIERAN F. O'NEIL, Trial Attorney

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*Attorneys for Plaintiffs The Conservation
Angler & Wild Fish Conservancy*

1 PURSUANT TO STIPULATED SETTLEMENT AGREEMENT, IT IS SO ORDERED.

2 The Stipulated Settlement Agreement executed by the Parties is hereby incorporated into
3 this Order.

4 IT IS FURTHER ORDERED that this Court shall have continuing jurisdiction to enforce
5 this Order and the terms of the Stipulated Settlement Agreement consistent with the terms of the
6 Stipulated Settlement Agreement. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375
7 (1994).
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9 IT IS FURTHER ORDERED that this case is hereby DISMISSED with prejudice.
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12 DATED this 1st day of July, 2025
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16 JOHN H. CHUN
17 United States District Judge
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