

Wild Fish Conservancy v. Rumsey

Decided May 2, 2023

20-cv-417-RAJ

05-02-2023

WILD FISH CONSERVANCY Plaintiff, v.
SCOTT RUMSEY, et al., Defendants, and
ALASKA TROLLERS ASSOCIATION and
STATE OF ALASKA, Defendants.

2

Honorable Richard A. Jones United States District
Judge

ORDER ADOPTING REPORT AND RECOMMENDATION

Honorable Richard A. Jones United States District
Judge

The Court, having reviewed the Report and
Recommendation of the Honorable Michelle L.
Peterson, United States Magistrate Judge, any
objections thereto, and the remaining record,
hereby finds and ORDERS as follows:

(1) The Report and Recommendation is approved
and adopted;

(2) Plaintiff's Motion for "Final Order on Relief
and for a Temporary Restraining Order and/or a
Preliminary Injunction Pending Entry of a Final
Order on Relief" (dkt. # 127) is GRANTED in
part and DENIED in part. Specifically, the Court
ORDERS:

(a) that the 2019 Southeast Alaska
Biological Opinion ("2019 SEAK BiOp")
is REMANDED to the National Marine
Fisheries Service ("NMFS") to remedy the
Endangered Species Act ("ESA") and
National Environmental Policy Act
("NEPA")

*2

violations previously found by this Court
(see dkt. ## 111, 122);

(b) that portions of the 2019 SEAK BiOp
concerning the incidental take statement
that authorizes "take" of the Southern
Resident Killer Whale and Chinook
salmon resulting from commercial harvests
of Chinook salmon during the winter and
summer seasons (excluding the spring
season) of the troll fisheries is VACATED;
and

(c) Plaintiff's request that portions of the
2019 SEAK BiOp that adopt, and consult
under Section 7 of the ESA on NMFS's
prey increase program be vacated and/or
enjoined is DENIED; and

(3) The Clerk is directed to send copies of this
Order to the parties.