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January 8, 2023

Dear Honorable Members of the Alaska Congressional Delegation,

The Alaska Trollers Association (ATA) and the Alaska Longline Fishermen's Association (ALFA) are contacting you with the utmost urgency regarding a misguided lawsuit unfairly targeting a Southeast Alaska salmon fishery.

The Southeast Alaska troll fishery has been targeted in litigation by a Washington State NGO known as the Wild Fish Conservancy (WFC). The plaintiff claims that the National Marine Fisheries Service (NMFS) did not sufficiently protect the Southern Resident Killer Whale (SRKW) population's food source, the Chinook, in their Biological Opinion (BiOP) for the Southeast Alaska fisheries governed by the Pacific Salmon Treaty. WFC's lawsuit targets the Southeast troll fishery for closure, arguing that will help the SRKW, even though science identifies industrial toxins, noise disruption, and habitat loss as the true threats to the SRKW population.¹ In short, the lawsuit is a fundraising stunt, with no real agenda to help the whales.

We ask your assistance to keep our fleet fishing and to ensure the agencies working to defend our fishery are successful.

A few weeks ago, the Magistrate Judge in the U.S. Western District Court of Washington unbelievably and in poor judgement recommended vacating the Incidental Take Statement (ITS) that is part of the BiOp for the upcoming winter and summer troll fisheries. If adopted by the Judge, this action could shut down our troll fishery and may jeopardize Marine Stewardship Council certification for Alaska's salmon fisheries. Prior to that ruling, we understood that lawsuit compliance would demand NMFS revise the BiOp and complete additional analysis under the National Environmental Policy Act. Now, with the ITS potentially in jeopardy, the ramifications of the lawsuit could be far more severe.

Threats to the SRKW

The SRKW spend most of their lives in the heavily polluted and densely trafficked waters of Puget Sound. The SRKW carry one of the highest levels of industrial toxins of any marine mammal in the world. These marine toxins compromise the whales' health and ability to reproduce. The whales also suffer from vessel strikes in Puget Sound, noise disturbance, and relentless levels of whale watching. In fact, readily available data documents that the whales are not food limited, and their decline is not correlated with Chinook abundance or scarcity.² Nevertheless, the WFC's lawsuit threatens to close our fishery, which operates under strict limits 1000 miles away from the whales' territory.

¹ Kim, J.J., Delisle, K., Brown, T.M., Bishay, F., Ross, P.S. and Noël, M., 2022. Characterization and Interpolation of Sediment Polychlorinated Biphenyls and Polybrominated Diphenyl Ethers in Resident Killer Whale Habitat along the Coast of British Columbia, Canada. *Environmental Toxicology and Chemistry*, 41(9), pp.2139-2151; Houghton, J. et al. 2015; Siegle, M.R. 2018; Wiles, G.J. 2016; Southern Resident Orca Task Force. 2018; 2018 BiOp at 90, 311. See: ALFA.ATA White Paper Orca, Chinook, and Troll Fishery. Page 5

² Rice, J. 2019. Are the Orcas Starving? Scientists say it's not that simple. August 9, 2019. Available at: <https://www.pugetsoundinstitute.org/2019/08/are-the-orcas-starving-scientists-say-its-not-that-simple/>; for more references, see ALFA.ATA White Paper Orca, Chinook, and Troll Fishery. Page 14

While we recognize that the SRKW are in trouble, this lawsuit will do nothing to help the whales; in fact, it distracts from meaningful efforts to improve the whales' health and recovery. Other killer whale populations are increasing; SRKW populations are the exception. The whales are not food limited; again, they are suffering from environmental toxins, noise disruption, vessel strikes and other human population pressure in their home waters of Puget Sound.

We recognize that the "science" put forth by the WFC is easily proven inaccurate, and we have worked hard to compile the evidence to support our position. We requested an evidentiary hearing some months ago so the Magistrate hearing the case could weigh the credibility of WFC's experts, but that request was denied. Attached is a white paper co-authored by ATA and ALFA that summarizes research and data on threats to the SRKW. Also attached is a lawsuit update prepared by Pacific Salmon Treaty Coordinator Dani Evenson of ADFG, a description of our troll fishery, and a visual description of the areas being discussed. We hope you find this information helpful in understanding the illogical nature of this lawsuit.

The WFC Agenda

There is a troubling and transparent agenda here. The WFC is a recurring litigant. They fundraise around lawsuits and, under the Equal Access to Justice Act, they have time and again padded their lawyers' pockets through litigation. The WFC also receives federal funding, including Pacific Salmon Treaty mitigation money. In fact, in 2021 the WFC received \$927,984 in federal funds—then sued NMFS to close our Alaska fishery and Chinook hatchery production in the Puget Sound area (documentation included in packet). The fallacy of the lawsuit and WFC disingenuous agenda should be publicly repudiated.

Our Request

We hope that you will consider issuing a statement in support of our Alaska fishing families that calls out the fallacy of the WFC lawsuit. Your commitment to a positive outcome will underscore for both NMFS and ADFG the urgency of this work to defend our fishery, and the importance of completing the necessary BiOp and NEPA documents before the summer fishery is scheduled to start. We believe additional resources for research, analysis, and legal preparation are crucial, and ask for your ongoing investment in this essential work. Finally, we ask that you evaluate the appropriateness of the federal government funding an NGO that files misleading and highly destructive lawsuits.

The communities of Southeast Alaska depend on the troll fishery and cannot withstand a year without fishing—nor should they have to. The troll fishery is a low volume/low impact hook and line fishery that sustainably supports Southeast Alaska families and rural communities. On behalf of our combined membership, we respectfully request that you work with our fleet and the parties involved to protect our fisheries and to secure a positive outcome to this lawsuit.

Thank you for your relentless work on behalf of Alaska's fishermen and fishing communities. We look forward to hearing from you.

Respectfully,



Amy Daugherty
Executive Director, ATA



Linda Behnken
Executive Director, ALFA

cc: Commissioner Vincent-Lange
Ms. Janet Coit, NOAA Assistant Administrator
Mr. Jon Kurland, NOAA Regional Director