

Wild Fish Conservancy Seeks Legalized Thievery of Alaskan Kings?

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Did you know that Southeast Alaska commercial trollers are under imminent threat of having both their summer and winter Chinook fishery stolen from them? Total shut-down. No summer or winter king salmon harvest for SE Alaska trollers. At all. Wait ... *what?*

At issue: Southern Resident killer whale (SRKW) populations and their ability to feed on their preferred forage: Chinook salmon.

The upshot: The Wild Fish Conservancy (WFC), a radical, so-called “conservation-advocacy” NGO based in the Seattle area, latched like a virulent pathogen onto a National Marine Fisheries Service (NMFS) procedural oversight. Yeah, so? Rather than politely requesting that NMFS simply correct the oversight, with no changes to Chinook fisheries, for anyone, the WFC went nuclear. Against Southeast Alaska trollers.

Leveraging a legal technicality and wielding it as a bludgeon, the WFC sued NMFS – with the Alaska Trollers Association (ATA) and the State of Alaska acting as defendant-intervenor – seeking to coerce an immediate and indefinite closure of SE Alaska trollers’ summer and winter Chinook fishery. ATA already has spent over \$96K battling this frivolous but (so far) effective lawsuit from the WFC, a well-funded serial litigant against NMFS.

The final decision – the fate of SE Alaska trollers (85% of whom are Alaskan residents) and the families and the businesses in SE coastal communities who depend upon them – rests with U.S. District Judge Richard A. Jones in Seattle, who will make a final ruling at his discretion.

That’s ... some ballsy, WFC. And alarming. And infuriating. But is the WFC lawsuit – in any way – justified? No. Why not?

WFC: Fishing for Scapegoat

The WFC lawsuit is frivolous, hypocritical, dangerous, and unjust. As you read the justifications below, I ask that you entertain one overarching thought: SE Alaska trollers are being blamed. We are being targeted. We are being scapegoated. Solely and exclusively. Unfairly and unjustly. Here’s why.

WFC LAWSUIT: THE CASE

AGAINST

AK Trollers: Not the Problem

The most salient fact that damns the hypocrisy and dishonesty of WFC’s complaint: SE Alaska trollers are the *least* impactful element affecting SR killer whales’ ability to prey upon Chinook salmon. Least by a lot. WFC fails to acknowledge (much less admit) that SE Alaska trollers harvest the *fewest* number of any Pacific Salmon Treaty (PST) Chinook fishery presently affecting SR killer whales’ Chinook forage in Puget Sound and the Salish Sea. The Chinook stock of highest priority for SRKWs (Puget Sound Chinook) accounts for less than .5% of SE Alaska’s annual commercial troll Chinook fishery. Less than one-half percent. In aggregate, the *other* Chinook stocks SRKWs depend upon in Puget Sound and the Salish Sea also comprise a vanishingly small percentage of the Alaskan commercial troll harvest.

How to Tell the WFC

Scapegoating Fix Is In

If WFC actually meant what they claim, that Chinook abundance was so *dire* for SR killer whales that the panic-button must be hit by recklessly shutting down all Chinook harvest *somewhere*, you can be damn sure the WFC would NOT act like eco-terrorists in attacking a small-boat fishery 1,000 miles away that harvests only a *miniscule* portion of the Chinook that SRKWs are dependent upon.

Guess who harvests *hundreds* of times more of these same Chinook stocks that the WFC self-righteously pretends to care about, Chinook that the WFC *claims* must be protected at any cost? Washington and British Columbia marine fishers. Not SE Alaskan trollers, 1,000 miles away, but the folks in Seattle-area WFC’s own homewaters, predominantly in Puget Sound and the Salish Sea, where SRKWs spend the vast majority of their time annually.

WA/BC Chinook Fishers: ALSO NOT the Problem

This next point cannot be stressed strongly enough: SE Alaska trollers stand in *solidarity* with WA and BC marine fishers’ right to harvest their full share of PST Chinook. SE Alaska trollers are being legally bullied by unreasonable WFC zealots, true, but we do not begrudge WA and BC fishers’ their rightful share of Chinook. Know why?

Because the PST, which uses science, not feelings, to guide the apportionment of Chinook harvest share, says that the WA and BC Chinook harvests are *sustainable* and *justified*. Just as the PST says that the SE Alaska commercial troll fishery is sustainable and justified. As does more than 100 years of continuous, successful, Chinook resource management in the waters of Alaska and fellow PST jurisdictions, providing sustainable Chinook harvests for all.

So let me state this again, so even the carnival barkers at the WFC cannot fail to understand it: SE Alaska trollers DO NOT wish to shift the target onto WA’s and BC’s back. The WA and BC Chinook harvest share is their *right* as determined by the Pacific Salmon Treaty, just as our commercial Chi-

nook harvest is *SE Alaska trollers’ right* – by the exact same authority.

“But Yer Fishing Our Fish!”

One of the perpetual laments of some folks, including the WFC, is that SE Alaska trollers intercept Chinook that are destined for streams to our south. This is true, up to a point. But consider: King salmon spend the vast majority of their lives getting fat, happy and healthy living and feeding in Alaskan waters. That are not contaminated by DDT and PCBs, as in, say, Puget Sound and the Salish Sea. These Chinook, which spend the majority of their lives in Alaskan waters, would be hard-pressed to make it back to their natal streams to the south were it not for the bountiful uncontaminated waters to the north where they live and thrive.

If a Chinook lives the *vast majority* of its life feeding in waters not your own, is it yours? If that were so, then the State of Alaska should be charging exorbitant grazing fees to the tune of hundreds of millions of dollars for enabling southern fisheries to exist and thrive.

The PST recognizes this reality, even if the WFC does not. The PST signatories are the U.S. (comprising AK, WA, OR, ID, and Pacific Northwest tribes) and Canada. All interested parties within each jurisdiction (commercial, sport, tribal) hash it out during treaty negotiations, and, based upon and guided by the science, not feelings, each party is apportioned their share of the king salmon harvest.

And Chinook *abundance* is not the problem. In fact, Chinook abundance is higher today than it was in the pre-Treaty base-period years of 1979-82. Nor is Chinook *harvest* the problem. That is precisely what the PST is designed to assess and address: the fair, sustainable apportionment of the Chinook harvest based upon abundance.

WFC: “Let Them Eat Hake!”

But somehow, the WFC thinks that they, not professional fisheries scientists, knows more and better what should be done. Humility, not a strong suit at WFC.

Rather than saying NMFS made a redressable mistake, the WFC is effectively saying that NMFS is criminally negligent. And, worse: That SE Alaska trollers and coastal communities, *solely*, must bear the brunt of WFC’s wrath by suffering economic devastation – for, effectively, nothing? To make a futile vindictive point? To keep the fund-raising grift flowing? To establish a dangerous precedent against all fisheries using extremist judicial activism? God knows?

The good people of the Pacific Northwest are being deliberately misled by emotional appeals from the WFC about “starving” killer whales so that the WFC can (conveniently and dishonestly) blame SE Alaska trollers for a complex problem – occurring in the WFC’s homewaters – that is emphatically not our fault. This all seems ... problematic.

WFC: “You’re Next!”

Radical ideologues who are indifferent to the economic misery they unfeelingly inflict, especially when invoking “duty” for spurious reasons and using dishonest methods to attain them, are more than prepared to go after WA and BC Chinook fishers next. Depression-era bank robber Willie Sutton was asked why he robbed banks. Sutton replied: “Because that’s where the money is.”

Puget Sound and the Salish Sea is “where the money is” for the WFC, i.e. the Chinook stocks that SR killer whales depend upon most, stocks that SE Alaska trollers catch vanishingly small numbers of. SE Alaska trollers are being aggressively scapegoated. That really sucks. It’s insulting and infuriating to be unfairly slandered. But if you fish Chinook, anywhere, I encourage you to consider the proverb: “There but for the grace of God go I.”

Say, you fish Chinook in WA or BC. Ask yourself: If the WFC is willing to dishonestly attack SE Alaska trollers – if the WFC is not just *willing* but *excited* about the prospect of shutting down SE Alaska’s commercial troll fleet to Chinook harvest and thereby inflicting economic ruin on a small-boat fishery 1,000 miles away – what does that tell you?

It means you’re next. This obscene travesty from the WFC is but the start. Is it reasonable that the WFC will be satisfied with just one scalp? From the lowest hanging fruit? A 1,000 miles away? Who catch negligible numbers of the Chinook that affect SRKWs in their homewaters?

No. This dangerous madness must stop. Here. And now. Before it spreads. And consumes others. Fishermen and persons of good sense *everywhere* must stand united against this reactionary insanity, or it’s never going to end.

WFC: “We Have Met the Enemy, and He Is Us!”

Assailing a very complex problem with all the subtlety of a carpenter whose only tool is a hammer, the WFC is deliberately, and dishonestly, scapegoating the least impactful element on SRKW Chinook forage, SE Alaskan trollers. Why?

One reason springs immediately to mind:

So the WFC can avoid looking in the mirror.

WFC: HOMEWATER HYPOCRISY Haunted Legacy: Orca Capture in Puget Sound

In the WFC’s homewaters in the years between 1962-76, more than 270 orcas were captured in the Pacific Northwest, some more than once. Of this aggregate number, at least 12 orcas died as a direct result of capture attempts, and 50 were shipped to aquariums – the majority

from guess where? Yep. At least 27 *orcas* from Southern Resident killer whale populations were ripped from their family pods to perform like circus monkeys in captive aquariums, predominantly from the Puget Sound area. Google Penn Cove orca capture. Or Budd Inlet. Scarring memories for many still.

Did you know female orcas can live 90 years plus? As of 2018, when the article in the Seattle Times first appeared, all of those 27 captive orcas had died but one. Question: Over the span of nearly 50 years, would SR killer whale populations be doing better (*possibly much better*) if this orca abduction travesty had not occurred? Many more breeding females in the SRKW population, no psychic trauma from close-knit families being rent apart? Undoubtedly.

But let’s not dwell upon an embarrassing past. Let’s look to the future. Apart from the SR killer whales, orca populations in the entire North Pacific are presently thriving. Thriving. The Northern Resident (NR) orcas have *nearly tripled* their numbers in the last 40 years. In fact, apart from the SR killer whales, *all other orca populations* in the Northern Pacific have increased significantly over the same time span. Even the SR killer whales, while admittedly a cause for concern, are not faring as poorly as the WFC would have you believe.

SR killer whale numbers are down slightly from their historical highs, true, but (see graph) the SR killer whale population has fluctuated both up and down over time since 1976. An accurate, non-hyperbolic assessment would indicate that SR orcas may not have flourished like all of the other orca populations in the Northern Pacific, but nor are their numbers wildly variable to their baseline average over that span. More importantly, SR killer whales are not starving from lack of Chinook forage. To the extent SRKWs are faring less well than all other (thriving) orca populations, it’s from being unduly stressed – by the endemic problems of the WFC’s homewaters.

“We Love You to Death!”

SR killer whales are not suffering from a lack of Chinook abundance but rather from *accessibility* to prey in the Puget Sound and Salish Sea watersheds. What does that mean?

It means SR killer whales are being loved to death. Instead of harassing and abducting orcas to enslave them away from their families and ship them in appalling numbers to tourist aquariums as in days of yore (like the despicable practice of tearing families apart during the era of chattel slavery), now a burgeoning whale-watching (harassment) industry has exploded in both Puget Sound and the Salish Sea.

Were you aware that, since the ‘80s, the tourist industry that harasses and hounds and displaces orcas all day long has quintupled? One simple principle: conservation of energy. A trout in a stream will conserve its energy by resting in safe, slow water and exerts itself only to feed when it is maximally advantageous. Imagine if trout were forced like SR killer whales to constantly move and move and move all day long just to avoid the constant harassment of well-intentioned but wrong-headed people?

Imagine the energy reserves that are daily expended (wasted) by SR killer whales just in avoiding the clamoring masses? One study suggested the SR orcas spend as much as 5 ½ hours per day just avoiding vessel traffic and underwater noise. It’s like killer whales are celebrities and whale-watchers are paparazzi.

Underwater Acoustic Chaos

Another unsightly mirror image the WFC might reflect upon: noise pollution. That might strike you as trite and unfair. It isn’t. Puget Sound and the Salish Sea are two of the busiest bodies of water in the world. All orcas prey by using echolocation (fish sonar, basically). Ever try to focus and concentrate in a tumultuous uproar? Isn’t easy.

Imagine a ship’s alarm (or several) blaring all day long. SR orcas, during their time spent in Puget Sound and the Salish Sea, must contend with what at times must amount to a cacophonous torture chamber. Which compels them to (once again) expend precious energy to avoid the worst noise and traffic excesses to prey successfully. Or even simply to communicate with each other.

And it’s not just the daily hounding from whale-watchers. Far from it. Frenetic, chaotic, overwhelming ships’ traffic in Puget Sound and the Salish Sea – all using sonar at frequencies and decibels that intrude upon and interfere with SR killer whales’ echolocation – keeps SR killer whales often on the move searching for a place to feed in peace. And to just be. As a family. Vessel strikes have killed at least four SR killer whales in the period from 2004-2013, according to a pathology study.

And the vessel traffic just gets more intense. The Port of Vancouver has more than 11K giant commercial vessel contacts per year (about 30 per day). And Puget Sound? More than 250K giant commercial vessel contacts per year (about 685 per day); 3.7 million containers were offloaded in 2022. Ferries run non-stop on Puget Sound. Watercraft abounds: everything from small pleasure craft zipping about in every direction to an armada of cruise ships to enormous cargo ships roaring by at 18 knots to naval vessels conducting war-game exercises. These anthropogenic (human-caused) riots of waterborne commotion are a lotta things, but underwater quiet for orcas ain’t one. Nor are the pitfalls of rampant urbanization the fault of SE Alaskan trollers.

A Witches’ Brew of Toxins

Did I mention the toxins that inhibit the growth and reproductive abilities of SR killer whales? Old saw: Pollution never goes away, it just goes somewhere else.

Did you know that, despite being banned for roughly 50 years, DDT and PCBs are each excessively present in both Puget Sound and the Salish Sea watersheds, and that these toxins are suffused in SR killer whales? Did you know, being apex predators, SR killer whales have the highest incidences of DDT and PCB toxins in their bodies of any animals in the ocean?

An insidious witches’ brew of toxins sluiced its way into Puget Sound and the Salish Sea watersheds from stormwater pollution many years ago. Sins of the fathers. These toxins now migrate from fat-soluble compounds in the water that are chemically attracted to molecules produced by living organisms, so: the anthropogenic toxins pass from phytoplankton to zooplankton to herring to Chinook to, alas, SR killer whales.

The hell of it is: Concentrations of toxins become increasingly more pronounced through the process of bioaccumulation the further up the food chain you go, and these toxins are now endemic to SR killer whale populations – *because of where they live and where they feed* in Puget Sound and the Salish Sea.

The toxins are predominantly stored in the fat reserves of SR killer whales; mothers lactate and pass the contaminants on to their calves via their fat-rich milk. And being stressed, not starved, exacerbates this problem. And while I can sympathize from afar with the plight of having one’s beloved wonderland tainted by toxic chemicals – neither is this the fault of SE Alaskan trollers.

Pinnipeds Swum Wild

The thought that sea lions and seals might have an adverse (even causative) impact upon Chinook stocks that affect SRKWs might strike some as silly. Until you consider: Sea lions and seals are at historical highs in abundance all along the West Coast, and they are *extremely* effective hunters of king salmon, adults *and* juveniles. And pinnipeds are *extremely* plentiful in Puget Sound and the Salish Sea.

Consider: Killer whales roaming U.S. and Canadian waters consume significantly more Chinook (about 2.5 million total in a 2019 estimate) than all commercial, sport, tribal and subsistence Chinook fisheries combined. But know what eats *even* more Chinook than orcas? Pinnipeds. By a lot. A *whole* lot.

Sea lions and seals in Puget Sound, according to a study conducted in 2019, consume *twice* as many Chinook as SR killer whales and *six times* as many Chinook as sport and commercial fishers combined. These ratios might fluctuate by region, but the principle adheres: pinnipeds consume far more Chinook than orcas, and far, far more Chinook than fishers.

So if the WFC really wishes to file suit in their homewaters against the

biggest predator of Chinook forage for SRKWs, by heaps, they need to get a certified letter out to Mr. Whiskers asap. The WFC’s (and the entire regions’) lack of a plan to control or balance pinniped populations in Puget Sound and the Salish Sea is also – not the fault of SE Alaskan trollers.

WFC: “Avowedly With Them”

In Abraham Lincoln’s Cooper Union Address, delivered on the early eve of Civil War, he told this parable about the South’s intractable, ferocious desire to vanquish anti-slavery sentiment in the nation, endeavoring to compel the North to not just “tolerate” slavery but to be “avowedly with them”. Lincoln said: “A highwayman holds a pistol to my ear, and mutters through his teeth, ‘Stand and deliver, or I shall kill you, and then *you* will be a murderer!’”

The WFC wishes to wrest by legal force from SE Alaska trollers what is not theirs to take. Not morally. Not scientifically. Not legally. Not justly. And the WFC cares not a whit who they harm in the process, apart from pro-forma boilerplate “sympathy”. To read the breathless WFC press releases on this topic is reminiscent of the Twain quote: “Noise proves nothing. Often a hen will lay an egg and then cackles as if she had laid an asteroid.”

I have been highly critical of the WFC and its methods. And it pains me, because despite how vociferously I disagree with the tack the WFC has taken in this vindictive and misleading lawsuit, I suspect that the vast majority of people who donate money to WFC are well-intentioned. *Everyone* wants the SR killer whales to thrive. I do. Who doesn’t? But there’s a complex problem afoot here, and the WFC promises a sockdolager solution – simple, elegant and wrong.

Perhaps the most insulting aspect of this absurd lawsuit is: Every commercial troller I know is a strong advocate for the conservation of the Chinook resource. SE Alaskan trollers have agreed to many cuts to their harvest share during PST negotiations over the years, deep and painful cuts, precisely in the interests of rebuilding Chinook stocks. Our state fisheries managers work diligently to determine where, when and how they can best avoid intercepting certain stocks with targeted in-season management.

And yet SE Alaska trollers are being painted by WFC as rapacious plunderers irresponsibly set loose by NMFS who must be stopped at any cost. We are not the problem here. One-hundred-years-plus of successful Chinook harvest by SE Alaska trollers resoundingly refutes the WFC’s ridiculous claim that our SE troll fishery is “unsustainable”.

End the Scapegoating: Two Appeals

And so I’d like to close with a pair of appeals. First, to our federal legislative representatives in Alaska: Sen. Lisa Murkowski, Sen. Dan Sullivan, and newly-elected Representative, Mary Peltola. And also to Alaska Governor Mike Dunleavy and our dedicated officials and biologists at the AK Depart-

ment of Fish and Game. We need you. Entire Southeast Alaska fishing communities are threatened with economic devastation from the WFC’s attempt to legally steal our Chinook fishery. We need your engagement, your energy, your commitment, your influence, your grit, your support.

Alaskan commercial trollers are the second-largest fisheries fleet in the state, and the AK Chinook harvest accounted for 44% of trollers’ income last year, with an ex-vessel value north of \$12 million. In Sitka alone, the overall economic impact of trollers losing our Chinook fishery (including multiplier effects) is pegged at \$34 million annually; the SE coastwide impact is estimated at \$85 million. Fairly sure WFC isn’t going to pony up \$85 million in cash, nor do we have \$85 million hiding in our couch cushions here in SE Alaska, so I hope you’ll forgive my saying the WFC’s “sympathy” rings rather hollow.

And last, an appeal to Senior Judge Jones, who will be deciding the outcome of this misbegotten lawsuit. Judge Jones will be indirectly deciding – unwelcome burden, no doubt – the fate of entire coastal fishing communities in Southeast Alaska with the tremendous outcome borne by his decision. Will we proceed on the same tack, or will we see a halt to this seeming madness?

On a purely personal note, Judge Jones, may I say: It sometimes feels, here in the far north, 1,000 miles away, that perhaps the technical letter of the law is attempting to be adhered to but – perhaps not its spirit? Almost as if the full portent and ramifications of this potential action – the informal “law of unintended consequences” – haven’t been fully considered yet? Almost as if the law is an unfeeling thing, and that the legal response to a seemingly correctable oversight by NMFS has engendered a wildly disproportionate, unfair, even cruel, potential response from the WFC?

I trust that is not your intent, Judge Jones, nor that of your colleagues. Nor am I trying to impute that it is. Just that: Here at our end of the world, people are shocked, bewildered, angry – and those reactions are oft the outcome of simply being frightened.

And while many rough-hewn sorts might not be inclined to admit it, I will confess it freely without shame or embarrassment: I am frightened for the future of our livelihoods and, by extension, a way of life we all treasure, my own, my friends, my colleagues, my neighbors, my fellow citizens of Southeast Alaska.

The decision is yours to make, I realize that. I guess I would only wish to impart this: If the law is durable enough to honor the exigencies of a proportional response to a correctable NMFS infraction, and if the law is supple enough to permit one to employ the discretion of one’s conscience in seeking fairness, I very much hope that it is, and that you follow yours.

Thanks for listening, one and all.

