

Judge Says NMFS Correct in Closing Fisheries

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Alexandra Gutierrez and Stephanie Joyce/KUCB

A federal judge has upheld the National Marine Fisheries Service's decision to restrict fishing in the western Aleutians in order to protect an endangered stock of marine mammals.

The decision is the product of a year-long litigation process in which the State of Alaska, industry groups, and Aleut Enterprise sued NMFS over their efforts to stop the decline of the Steller sea lion population. They say that the closures of the Atka mackerel and Pacific cod fisheries are estimated to cost the industry over \$80 million annually and that NMFS' science doesn't justify the restrictions. The plaintiffs also argue that NMFS failed to adequately consult the public in this process.

In his opinion, Judge Timothy Burgess states that he sympathizes with plaintiffs, but that ultimately "judges are not scientists" and the court has to defer to the agency's technical expertise. He concluded that while the scientific evidence used wasn't unequivocal, NMFS was still justified in its actions and its biological opinion on the Steller sea lion should be upheld.

However, the court concludes that NMFS was in violation of the National Environmental Protection Act by "failing to prepare an environmental impact statement and provide the public with a sufficient opportunity to weigh in on its decision-making process." As a result, Judge Burgess is ordering NMFS to draft an environmental impact statement, but without vacating its Steller sea lion BiOp or the final rule to keep fishing closed.

Attorney for the Freezer Longline Coalition Ryan Steen says his clients are pleased that Judge Burgess concluded NFMS did not fulfill its obligation to prepare an environmental impact statement. But he says they're disappointed with the other findings.

Steen was not willing to comment on the Judge's suggestions regarding the environmental impact statement.

Alaska Assistant Attorney General Brad Meyen agrees with Steen, saying the state is pleased with the Environmental Protection Act decision, but disappointed that the Court did not throw out the biological opinion.

Attorneys for the National Marine Fisheries Service could not offer comment at this time.

The parties involved have until February 8th to submit briefs responding to the court's proposed remedy.