



March 31, 2021

*Via Electronic and Certified Mail*

Gina Raimondo, Secretary  
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Dr. Paul Doremus, Acting Assistant Administrator  
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Barry Thom  
Regional Administrator  
NOAA Fisheries, West Coast Region  
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RE: 60-day Notice of Intent to Sue for Violations of the Endangered Species Act Relating to the Service's Late Finding on a Petition to List the Oregon Coast ESU of Spring-Run Chinook Salmon (*Oncorhynchus tshawytscha*) as an Endangered Species

Dear Secretary Raimondo, Dr. Doremus, and Mr. Thom,

On behalf of the undersigned groups, the Center for Biological Diversity provides this 60-day notice of intent to sue the Secretary of the U.S. Department of Commerce and the National Oceanic and Atmospheric Administration ("NOAA") National Marine Fisheries Service ("Service") for violations of the Endangered Species Act, 16 U.S.C. §§ 1531-1544, resulting from the agency's failure to make required findings on a petition to list an "evolutionary significant unit" ("ESU") of spring-run Chinook salmon (*Oncorhynchus tshawytscha*) on the Oregon coast as an endangered species under the Act. The undersigned groups provide this letter according to the 60-day notice requirement of the citizen suit provision of the Act, to the extent that such notice is deemed necessary by a court. *Id.* § 1540(g)(2)(C).

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of species hovering on the brink of extinction, including Oregon coast spring Chinook. The Native Fish

Society is a nonprofit conservation organization that cultivates a groundswell of public support for reviving abundant wild fish, free-flowing rivers, and thriving local communities across the Pacific Northwest. Umpqua Watersheds is dedicated to the protection and restoration of the ecosystems of the Umpqua watershed and beyond through education, training, advocacy and ecologically sound stewardship.

## BACKGROUND

Like other anadromous salmonids, Oregon Coast spring Chinook migrate from the ocean upstream to reproduce in natal freshwater streams. However, the timing of their migration differs from other salmonids as they enter freshwater streams and migrate upstream in the spring and remain in river until they spawn in early fall. New genetic research shows that spring Chinook have a unique evolutionary history, are genetically distinct from fall-run salmon found in the same watersheds, and, if extirpated, are unlikely to re-evolve within any kind of human timeframe. Thus, the spring Chinook in the Oregon coast qualify as an ESU distinct from fall-run Chinook by virtue of their adult migration, life history, and genetics.

The range of spring Chinook in the Oregon coast range includes nine river systems: Tillamook, Nestucca, Siletz, Alsea, Siuslaw, North Umpqua, South Umpqua, Coos, and Coquille.<sup>1</sup> The Coos and Siuslaw populations, as well as a former population in the Salmon River, have been extirpated. Most Oregon coast spring Chinook populations were severely depressed or extirpated by the 1950s due to impacts from habitat degradation, commercial fisheries, and negative impacts of artificial propagation through hatcheries. From the 1950s to the present, Oregon coast spring Chinook populations have faced significant declines, and spawning runs now are only a very small fraction of historical abundance. Small, very depressed populations remain in the Tillamook, Nestucca, Siletz, Alsea, and Coquille. The North Umpqua supports the only large spring Chinook population remaining in the Oregon coast ESU, with variable returns of 2,500 to 16,000 spawners annually. By contrast the South Umpqua run is severely depleted, with only 51 adults and 5 jacks returning in 2019. Below is a summary of spring-run population trends, by basin:

Tillamook River:	Declining (extirpated from Miami River tributary)
Nestucca River:	Declining
Salmon River:	Extirpated
Siletz River:	Declining
Alsea River:	Declining
Siuslaw River:	Extirpated
North Umpqua River:	Stable
South Umpqua River:	Declining, near extinction
Coos River:	Extirpated
Coquille River:	Declining, near extinction

Oregon coast spring Chinook face numerous threats. Dams, water diversions and migration barriers block suitable riverine habitat, impede migration, and reduce water quality and

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<sup>1</sup> The Nehalem River spring Chinook is the subject of conflicting information among ODFW documents. More information is needed to resolve the question of the status and origins of Nehalem River early-migrating Chinook.

quantity. Logging and roads in Oregon's Coast Range have degraded habitat by reducing stream shade, increasing fine sediment loads, reducing large woody debris instream, and altering watershed hydrology—depleting flows that support spring Chinook migration, holding, and spawning. Other ongoing habitat degradation results from gravel mining, pollutants, and stream channelization. Fish hatcheries increase competition between hatchery and wild fish, increase mixed-stock fisheries that disproportionately harm wild fish, and promote hybridization between spring and fall Chinook. Take of spring Chinook in commercial and recreational ocean fisheries may also be a threat, but no data are available to directly estimate ocean harvest rates on any wild population of spring Chinook in coastal Oregon. In-river sport fisheries for hatchery-propagated spring Chinook cause incidental take of wild spring Chinook. Other threats include introduced predators such as smallmouth bass, poor ocean conditions, and climate change.

Endangered Species Act protection is essential to prevent the extinction of the Oregon coast ESU of spring-run Chinook salmon and implement crucial recovery actions.

#### ENDANGERED SPECIES ACT VIOLATION

In response to a petition to list a species under the Endangered Species Act, Section 4 of the Act requires the Secretary to determine within 90 days whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted (“90-day finding”) and to determine within 12 months whether the listing is warranted, not warranted, or warranted but precluded (“12-month finding”). 16 U.S.C. § 1533(b)(3)(A), (B). On September 24, 2019, the undersigned groups petitioned to list the Oregon coast ESU of spring-run Chinook salmon and requested that critical habitat be designated concurrent with listing. On April 10, 2020, the Service issued a positive 90-day finding that it would consider whether to list Oregon coast spring Chinook under the Act.

A 12-month finding for the Oregon coast spring Chinook was due September 24, 2020. To date, the Service has failed to determine whether listing the Oregon coast spring Chinook is warranted. In failing to issue this required finding, the Service has abrogated its duty to ensure that an endangered species is protected in a timely manner to avoid further decline and an increased risk of extinction, in violation of Section 4 of the Endangered Species Act.

If the Secretary does not make the required finding for the Oregon coast spring Chinook or contact us to develop a timeline for making this finding within the next 60 days, the undersigned groups intend to file suit to enforce the Act.

Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,



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