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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GREENPEACE, AMERICAN OCEANS
CAMPAIGN, and SIERRA CLUB,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES SERVICE,
and WILLIAM M. DALEY, in his official capacity
as Secretary of the Department of Commerce,

Defendants.

NO. C98-492Z

ORDER

The Court has reviewed the Biological Opinion on the Alaskan groundfish fisheries (BiOp) issued by the National Marine Fisheries Service (NMFS) on November 30, 2000, pursuant to Section 7 of the Endangered Species Act, docket no. 485.

By prior Order dated August 7, 2000 this Court enjoined all commercial groundfish trawl fishing within the waters of the Steller sea lion critical habitat within the Bering Sea/Aleutian Islands and the Gulf of Alaska region west of 144 degrees longitude. See Order, docket no. 428. This injunction became effective on August 8, 2000 at noon Pacific time. Id.

By prior Minute Order, this Court directed the parties to file supplemental briefing discussing the "legal basis for the timing and procedure this Court should implement for dissolving the injunction." See Minute Order, docket no. 445. The Court has reviewed these

ORDER - 1

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1 briefs. See Federal Defendants' Supplemental Brief, docket no. 469; Defendant-Intervenor's
2 Supplemental Memorandum, docket no. 470; Plaintiffs' Supplemental Memorandum, docket
3 no. 471. Federal defendants and defendant-intervenor urged the Court to dissolve the
4 injunction immediately upon filing of the new BiOp. Plaintiffs urged the Court to leave the
5 injunction in place until the Court can review and resolve any dispute as to the adequacy of
6 the BiOp.

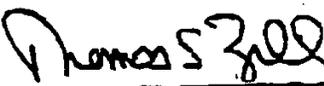
7 The decision on whether to dissolve or modify an injunction is within the sound
8 discretion of the trial Court. See e.g. Tracer Research v. National Environmental Services
9 Co., 42 F.3d 1292, 1294 (9th Cir. 1994). The law presumes the BiOp filed on November 30,
10 2000 is valid. 5 U.S.C. § 706(2). See also Washington Crab Producers, Inc. v. Mosbacher,
11 924 F.2d 1438, 1441 (9th Cir. 1991).

12 Accordingly, IT IS HEREBY ORDERED:

- 13 (1) The injunction issued by this Court on August 7, 2000 prohibiting all
- 14 commercial groundfish trawl fishing authorized by the Fishery Management
- 15 Plans for the Bering Sea/Aleutian Islands and Gulf of Alaska and within the
- 16 waters of Steller sea lion critical habitat, docket no. 428, is hereby
- 17 DISSOLVED immediately,
- 18 (2) A telephonic status conference is scheduled for Friday, December 8, 2000 at
- 19 1:00 p.m.

20 IT IS SO ORDERED.

21
22 DATED this 5th day of December, 2000.

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25 _____
26 THOMAS S. ZILLY
27 UNITED STATES DISTRICT JUDGE