

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

WHALE AND DOLPHIN CONSERVATION;
DEFENDERS OF WILDLIFE; CONSERVATION
LAW FOUNDATION; CENTER FOR
BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES SERVICE;
GINA RAIMONDO, in her official capacity as
Secretary of Commerce,

Defendants.

Civ. No. 1:21-cv-00112-APM

ORAL ARGUMENT REQUESTED

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56(a) and Local Civil Rule 7(h), Plaintiffs Whale and Dolphin Conservation, Defenders of Wildlife, Conservation Law Foundation, and Center for Biological Diversity (collectively, "Plaintiffs") hereby move for summary judgment.

Defendants have unreasonably delayed taking final action on Plaintiffs' August 2020 rulemaking petition to expand the Final Rule to Implement Speed Restrictions to Reduce the Threat of Ship Collisions With North Atlantic Right Whales, 73 Fed. Reg. 60,173 (Oct. 10, 2008) (codified at 50 C.F.R. § 224.105), in violation of the Administrative Procedure Act, 5 U.S.C. §§ 555(b), 706(1).

Plaintiffs have standing to challenge Defendants' inaction. This Court has subject matter jurisdiction over Plaintiffs' claim pursuant to 28 U.S.C. § 1331 because Plaintiffs' civil claim asserts a federal question arising under the Administrative Procedure Act.

Summary judgment is warranted because "there is no genuine dispute as to any

material fact” and, as described in the Memorandum in Support of this Motion included below pursuant to Local Civil Rule 7(a), Plaintiffs “are entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). As required by Local Civil Rule 7(h)(1), Plaintiffs attach a Statement of Undisputed Material Facts.

The Court should grant Plaintiffs’ motion for summary judgment and order declaratory and other relief as described in the Memorandum and in the Proposed Order submitted pursuant to Local Civil Rule 7(c).

Respectfully submitted this 4th day of February, 2022,

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
INTRODUCTION	1
STATUTORY FRAMEWORK.....	2
I. Endangered Species Act	2
II. Marine Mammal Protection Act	4
III. Administrative Procedure Act.....	6
FACTUAL BACKGROUND.....	7
I. Vessel Strikes Are an Existential Threat to the Critically Endangered Right Whale	7
II. NMFS’s 2008 Vessel Speed Rule and Plaintiffs’ Rulemaking Petitions	11
A. 1999–2008: NMFS’s Nearly Decade-Long Rulemaking, Two Petitions, and Two Lawsuits	11
B. 2008–2003: Vessel Speed Rule, Plaintiffs’ 2012 Petition, and Rulemaking to Eliminate Five-Year Sunset Clause.....	12
C. 2013–2020: Continuing Vessel Strikes, Unusual Mortality Event, and Plaintiffs’ 2020 Petition	15
D. 2021–present: More Vessel Strikes and Vessel Speed Rule Assessment Report.....	17
STANDING	19
SCOPE AND STANDARD OF REVIEW	22
ARGUMENT	24
I. NMFS’S 18-Month (and Counting) Delay on the 2020 Petition is Unreasonable	24
II. The Agency’s Delay Undermines Congress’ Intent in Enacting the MMPA and ESA	26
III. The Consequences of Delay Are Severe Because the Right Whale is Spiraling Toward Extinction	28

IV. Conserving the Critically Endangered Right Whale Is and Must Be an Agency Priority	29
REMEDY	30
CONCLUSION	32



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