

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**

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