

MEDIA BACKGROUNDER

Feds sued over refusal to protect killer whale habitat

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Killer Whale Facts

- Killer whales, also known as orcas, are long-lived members of the dolphin family and top predators in the marine food web
- Biologists classify orcas in the Northeast Pacific Ocean into three morphologically, genetically, geographically and culturally distinct groups, or assemblages: resident, transient, and offshore killer whales
- Resident killer whales feed on fish, particularly salmon, while transient killer whales eat marine mammals, such as seals and porpoises
- Resident killer whales live in matriarchal units comprised of a mother and her offspring, which congregate into larger social groups. Both males and females remain with their mother for life, an unusual characteristic among mammals. Females calve only once every 5 years on average.
- There are two populations of resident killer whales in British Columbia: the Southern Residents and the Northern Residents. These populations are genetically and culturally distinct, and have a unique acoustic repertoire.
- Between 1993-2003, the Southern Resident Killer Whale population fell by about 20%. In the mid-1990s, there were approximately 95 individuals, while now the population numbers in the mid-80s.
- Killer whales are an integral part of the Pacific Ocean ecosystem and are a sentinel species – whose health is an indicator for the overall ecological health of the marine environment

Resident Killer Whales under the Species at Risk Act

- Canada's *Species at Risk Act* (SARA) came fully into legal force on June 1, 2004. SARA lists the Southern Residents as an endangered species and the Northern Residents as a threatened species.
- Defined under SARA, 'critical habitat' is *the habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified as the species' critical habitat in the recovery strategy or in an action plan for the species.*
- The Final Recovery Strategy for the Northern and Southern Resident Killer Whales was released by Fisheries and Oceans Canada (DFO) on March 14, 2008. It identified and mapped some areas that are critical habitat for resident killer whales, and suggested other areas that, with further research, may also be identified as critical habitat
- The critical habitat of the Southern Resident Killer Whale population includes the waters around the San Juan and Gulf Islands, and up Georgia Strait about mid-way up Vancouver Island. The occurrence of Southern Residents in this area is strongly correlated with the timing of salmon migration through these waters. Within this area, locations that are particularly important for foraging are the near shore waters along the west and southwest

sides of San Juan Island, the southern tip of Vancouver Island, Swanson Channel off North Pender Island, and off the mouth of the Fraser River.

- The critical habitat of the Northern Resident Killer Whale population includes the waters of Johnstone Strait and south-eastern Queen Charlotte Strait, and the channels connecting these straits. Ninety percent of Northern Resident Killer Whales in Johnstone Strait visit the rubbing beaches in Robson Bight. During this time they are very sensitive to disturbance.

Threats to Killer Whales and to their Critical Habitat

- Resident Killer Whales face many serious threats to their survival, including declining salmon stocks, physical and acoustic disturbance, and toxic contamination.
- Wild salmon are an important part of the killer whale diet. Resident killer whales tend to be found in concentrated areas during the period when salmon are returning to rivers to spawn. Unfortunately, BC salmon stocks have been declining since the early 1990s.
- Killer whales are vulnerable to accumulating high levels of persistent organic pollutants (POPs) because they are long-lived animals that feed high in the food web. British Columbia's resident and transient orcas are among the most contaminated marine mammals in the world.
- All cetaceans, including Resident Killer Whales, face increasing amounts of disturbance from vessels, aircraft, and anthropogenic noise. Both private and commercial boat traffic have increased dramatically in recent years, and killer whales must navigate and communicate in increasingly busy and noisy waters.
- Industrial activities such as dredging, drilling, construction, seismic surveys, and low and mid-frequency military sonar also impact the acoustic environment. The Canadian and American navies conduct military active sonar testing near Nanoose Bay in Georgia Strait, and off the west coast of Vancouver Island. There is growing evidence that underwater noise can disrupt behaviours, cause physical injury and render habitat unsuitable for marine mammals.

Over two years, DFO bureaucrats delay and try to weaken the Recovery Strategy

- The Resident Killer Whale Recovery Team is a team of independent and government scientific and conservation experts tasked with creating a Recovery Strategy for the Resident Killer Whales. The Co-Chair of the Recovery Team is Dr. Lance Barrett Lennard, one of Canada's leading scientific experts on killer whales.
- The Recovery Team finished its *Draft* Recovery Strategy in May 2006 – a science-based plan that identifies an endangered species' needs, critical habitat, threats, and a broad conservation strategy to address those threats
- SARA legally required that a *Proposed* Recovery Strategy for the Southern Resident Killer Whales be published by June 2006,
- However, the *Proposed* Recovery Strategy was delayed by senior DFO bureaucrats, in 2006, who attempted remove the scientists' references to critical habitat from the document. In June 2006, a DFO senior official directed that critical habitat be removed from *all* recovery strategies being prepared at that time – which included the Resident Killer Whales.
- The *Proposed* Recovery Strategy was further delayed by consultations with the Department of National Defence (DND). In May 2007, DND asked DFO to revise the recovery strategy to better accommodate the use of military active sonar

- The *Proposed* Recovery Strategy was posted to the SARA Registry in June 2007, a year past its legal deadline.
- Under SARA, DFO was legally required to release the *Final* Recovery Strategy for the Resident Killer Whales in September 2007.
- However, DFO did not release the *Final* Recovery Strategy on time. Delay was caused by DFO senior bureaucrats' efforts to again remove the Recovery Team's scientific conclusions from the recovery strategy. DFO bureaucrats attempted to cut out information about threats to critical habitat, specifically about acoustic disturbance from military testing, and about declining abundance of salmon, the principal prey species of resident killer whales.
- On March 14, 2008, the *Final* Recovery Strategy was posted, with scientific information about threats to critical habitat largely intact.
- On September 10, 2008, without consulting the Recovery Team, DFO issued a Statement purporting to claim that Resident Killer Whale Critical Habitat is protected by existing laws and policies. DFO failed to issue an Order under SARA protecting resident killer whale habitat from destruction.