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Fight to protect endangered killer whales far from over

'Trial and error' approach leaves whales vulnerable claim environmental groups

VANCOUVER, BC – A lawsuit to protect Canada's two populations of resident fish-eating killer whales is back in court today as environmental groups fight for legal protection of their critical habitat.

The Department of Fisheries and Oceans (DFO) is seeking to have the case thrown out of court claiming that the Order filed in February will protect the orcas' critical habitat. Environmental groups will argue the case needs to be heard to ensure the government applies Canada's Species At Risk Act (SARA) to protect all aspects of critical habitat for the benefit of all endangered and threatened aquatic species, large or small.

While the groups welcomed the precedent-setting order they are concerned that it focuses on protecting the geophysical features of critical habitat only, and does not address the threats to salmon populations, the main food source for resident killer whales, as well as from pollution, vessel traffic and acoustic disturbances.

DFO refuses to clarify what aspect of critical habitat the Order is intended to protect saying that the nature and scope of the Order will be determined over time through trial and error.

"Endangered orcas have no time for a 'trial and error' approach. Until the Government of Canada publicly clarifies how the killer whale habitat will be legally protected, this case is not resolved," said Ecojustice lawyer Margot Venton.

Venton will be arguing to keep the case alive on behalf of the David Suzuki Foundation, Dogwood Initiative, Environmental Defence, Georgia Strait Alliance, Greenpeace, International Fund for Animal Welfare, Raincoast Conservation Society, Western Canada Wilderness Committee and the Sierra Club of BC.

"The protection of killer whales' critical habitat is an enormous task but it is one the federal government is entrusted to do and they are failing," said Will Horter of the Dogwood Initiative.

“It is clear that we need to do a much better job of managing our fisheries and reducing our impacts on the marine environment,” said Christianne Wilhelmson of the Georgia Strait Alliance.

Today’s hearing could have far-reaching impacts on endangered species across Canada. The applicants are asking the Court to clarify how SARA should be applied not just to killer whale critical habitat, but how it applies to all aquatic and marine species and their habitats.

“We don’t have the resources to launch a lawsuit for every species the government neglects. This case must continue to ensure the government takes a consistent approach to species protection in the future,” said Gwen Barlee with the Wilderness Committee.

“If the government of Canada is unwilling to apply the critical habitat provisions of the Species at Risk Act for the west coast’s most iconic and well-studied animal, what does that imply for lesser known aquatic species?” said Scott Wallace of the David Suzuki Foundation.

The hearing will take place in Vancouver at 11 a.m. in Federal Court located at 701 Georgia Street West.

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