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Elizabeth May

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November 2, 2018

Via e-mail: SARA Directorate

SARA/LEP.XNCR@dfp-mpo.gc.ca

Re: External review of the critical habitat section of the draft amended recovery strategy for Resident Killer Whales

Thank you for the opportunity to comment on the Draft Recovery Strategy for the Northern and Southern Resident Killer Whales (*Orcinus orca*) in Canada.

I support extending the critical habitat of these species as proposed by the government. I would also like to associate myself with the comments submitted by Ecojustice on behalf of the David Suzuki Foundation, Georgia Strait Alliance, Natural Resources Defense Council, Raincoast Conservation Foundation and World Wildlife Fund Canada.

This past month, the Commissioner for the Environment and Sustainable Development, within the Office of the Auditor General, Julie Gelfand, found that the federal government had failed in its statutory obligations toward marine mammals, including the resident killer whales. Her report noted that it was fourteen years between the SRKW being listed as a species at risk and the preparation of a recovery plan. The Northern Resident Killer Whales have made an impressive recovery. But the Southern Resident Killer Whales (SRKW) are declining at an alarming rate.

On August 30, 2018, the Federal Court of Appeal ruled that the Governor in Council made a serious legal error in accepting the National Energy Board review as an adequate basis for decision. The Federal Court of Appeal found that the NEB utterly



failed to produce a report on which the Governor in Council could rely due to the NEB decision to define the project as one excluding marine shipping. As a result, the NEB failed to assess the impacts of marine shipping, and failed to consider its obligations to the whales under s. 79 of SARA. It is abundantly clear that we must do more to protect the southern resident killer whales.

As scientists and advocates have already pointed out, there is substantial evidence that feeding by resident killer whales in these areas is extensive; it is clearly important to their survival. This habitat provides a key food resource when other sites may be lacking in food availability – a particularly important factor as chinook availability and habitat quality is compromised in the Southern Strait of Georgia (Salish Sea).

While I am grateful that the recovery plan is being amended to expand the critical habitat for these whales, it is clear that swift action is required to help these populations. An international, [peer-reviewed study](#) recently published in Scientific Reports found that the southern resident killer whales are “balancing on a knife-edge” and have a 25 per cent of chance of extinction over the one-hundred years under current conditions.

In 2019, Fisheries and Oceans must enhance resources for enforcement of the various regulations and restrictions announced as part of the recovery strategy for the SRKW. Over the course of the summer of 2018, over 400 complaints were made to the DFO enforcement office in Nanaimo BC, primarily about fishing chinook in contravention of the orders to protect chinook to make it available for starving SRKW. Of those complaints, the DFO office was only able to investigate five.

We urgently need a long-term DFO Marine Enforcement Division of at least six additional fisheries officers that will be dedicated toward the goal of providing marine-based SRKW protection. We must enforce regulations for mandatory set-backs, particularly from the whale watching tourist industry. Enforcement and effective ticketing and fines of whale-watch vessels harassing whales are urgently needed. So is full funding of the Strait Watch project of the Cetus Foundation.

The most comprehensive recovery and conservation plans will be for naught if the Northern and Southern Resident Killer Whales’ ecosystems are not protected. I support the extension of their critical habitat in their recovery plan, but remain hopeful that the government will establish an Emergency Order under SARA to enact the necessary actions for recovery.



Thank you again for the opportunity to participate in this consultation.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth May". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Elizabeth May, O.C.
Member of Parliament
Saanich-Gulf Islands
Leader of the Green Party of Canada

