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The Honourable Steven Guilbeault  
Minister of Environment and Climate Change

The Honourable Diane Lebouthillier  
Minister of Fisheries, Oceans and the Canadian Coast Guard

January 31, 2025

**Re: Recommend an emergency protection order under section 80 of SARA to protect Southern Resident whales**

Dear Ministers,

I am writing on behalf of many constituents who are deeply concerned about the Southern Resident killer whale (SRKW) population. I am asking you to recommend an emergency protection order to the Governor in Council under section 80 of the Species at Risk Act to protect this species from imminent threats to its survival and recovery.

This species faces a wide range of threats and is projected to go extinct by 2050 without significant changes to their living conditions. An increasing rate of SRKW calves are dying shortly after birth, such as in a tragic recent case where J35, named "Tahlequah", was filmed carrying her deceased calf. The population size is nearly the lowest ever-recorded, with at least 14 of the surviving whales being reported as emaciated and in generally poor health.



A threat assessment was completed in 2018 by DFO, ECCC, TC and PCA. It found that “threats to the survival of the SRKW population could be considered imminent,”<sup>1</sup> such as reduced prey availability, physical and acoustic disturbance and environmental contaminants. The report also noted that both of your ministries are responsible for the protection of this species under SARA. As well, it is noted in the report that “given the long life-span of the species, recovery is a long-term goal and effects of reducing the threats...to ensure survival and advance recovery would not occur over the short term.”

While the threats are chronic, they absolutely must be considered imminent. The approval of Roberts Bank Terminal 2 and the increase in Aframax tankers loaded with dilbit as a result of the TransMountain expansion opening substantially increase the imminent threat level to SRKWs. Action is needed now to ensure these threats are abated over the coming years and decades.

I urge you to recommend an emergency order under section 80 of SARA and enact stronger protections to ensure the survival and recovery of SRKWs. Below are recommendations for protections that were put forward in a 2024 petition by the David Suzuki Foundation, the Georgia Strait Alliance, Living Oceans Society, Natural Resources Defense Council, Raincoast Conservation Foundation, World Wildlife Fund Canada, and Ecojustice.<sup>2</sup> I am grateful for their advocacy and detailed recommendations, which I fully support:

1. Measures to avoid physical and acoustic disturbance:
  - a. Prohibit vessels from approaching within 1,000 metres of a killer whale within the habitat of the Southern Residents, as vessels and habitat are defined in the Minister of Transport’s 2024 Interim Order for the Protection of the Killer Whale in the Waters of Southern British Columbia.
  - b. Within six months, establish and operationalize a pilot program for underwater noise management planning for vessels using the Salish Sea, to implement the noise output targets for individual vessel classes identified in the report of Transport Canada’s national advisory committee on Underwater Vessel Noise Reduction Targets.
  - c. Require that, within one year, all vessels associated with Trans Mountain and using the Westridge Marine Terminal will have received a quiet vessel notation from an IACS-member ship classification society.
  - d. Limit development approvals until long-overdue measures to address cumulative effects of shipping including noise in the Salish Sea are in place.

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<sup>1</sup> [https://wildlife-species.canada.ca/species-risk-registry/virtual\\_sara/files/Ri-Ita-SthnResidentKillerWhale-v00-2018Jul-Eng.pdf](https://wildlife-species.canada.ca/species-risk-registry/virtual_sara/files/Ri-Ita-SthnResidentKillerWhale-v00-2018Jul-Eng.pdf)

<sup>2</sup> <https://ecojustice.ca/wp-content/uploads/2024/06/2024-06-07-Petition-for-SRKW-Emergency-Order-corrected.pdf>



- i. Prohibit further increases in shipping from existing and new federally-approved industrial development projects that would increase vessel traffic within the critical habitat of the Southern Residents until a regional cumulative effects management plan has been adopted, consistent with Recommendation 1 of the 2019 Trans Mountain Expansion Project Reconsideration Report.
  - ii. Require that DFO, in collaboration with Transport Canada and with government and non-government stakeholders, and building on the effort facilitated by the Port of Vancouver's ECHO Program under the 2019 and 2024 Conservation Agreements for the recovery of the Southern Residents, develop and adopt within 18 months a set of underwater noise targets for the Salish Sea that are consistent with Southern Resident survival and recovery; and put in place measures to implement and assess progress toward those targets.
2. Measures to increase availability of preferred prey in critical habitat.
    - a. Limit the total fishing-related mortality of at-risk stream-type Fraser River Chinook salmon to less than 5% consistent with the Chinook harvest reduction objective set by the Minister of Fisheries and Oceans in 2019. This includes summer 52 Chinook salmon, which have yet to reach mortality below 10%.
    - b. Within six months, establish an emergency management plan for Chinook fisheries with minimum thresholds for Chinook abundance or Southern Resident body condition that trigger Chinook fishing closures in areas 1, 2, 11-21, and 102-127.
    - c. Initiate a transition for marine mixed-stock Chinook fisheries that occur on the migration routes and rearing grounds of Chinook salmon, to river-based terminal areas. Such a transition would apply commercial and recreational fisheries that intercept migrating Chinook returning to Southern BC.
    - d. Extend the period of existing fishing closures. To increase prey accessibility of Chinook in critical habitat, fishing closures of priority Southern Resident foraging areas within critical habitat should occur from March 1 to November 30.
    - e. In addition to the DFO's considerations for Environmental Conditions and Drought Management outlined in the 2024/25 Salmon Integrated Fisheries Management Plans, the Federal Government must establish an emergency management plan that addresses drought in spawning and freshwater rearing grounds of threatened and endangered Fraser stream-type Chinook.
  3. Measures relating to contaminants.
    - a. Prohibit the release of scrubber wastewater, and the discharge of bilge and greywater, from cruise ship vessels in inland waters, including in and adjacent to the Southern Residents' critical habitat.



- b. Prohibit the release of scrubber wastewater in internal waters and the territorial sea, including in and adjacent to the Southern Residents' critical habitat.
- c. Prohibit operational discharges from all vessels in Southern Resident critical habitat or in the territorial sea.

Thank you for your time and consideration. I look forward to hearing from you.

Sincerely,



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

