



April 13, 2017

Dear Lynne,

Thank you for the opportunity to comment on the petition to establish a Whale Protection Zone (WPZ) on the west side of San Juan Island. The Whale Trail wholeheartedly supports this petition, and encourages you to undertake the suggested rulemaking as soon as possible, for the reasons described below.

The Whale Trail is a nonprofit organization headquartered in Seattle. Our mission is to promote awareness and stewardship of orcas and other marine mammals by establishing a network of viewing sites along the whales' trails throughout the Salish Sea and along the Pacific Coast. From 16 inaugural sites there are now more than 90, spanning the west coast from California to British Columbia.

The Whale Trail is rooted in a rare conservation success – the rescue, return and reunion of the orphaned orca Springer. Our founding and overarching goal is to ensure that the Southern Resident Killer Whales (SRKW) recover from the threat of extinction.

We appreciate and support the scientific analyses in the comments provided by the Sea Doc Society and Tim Ragen, former executive director of the Marine Mammal Commission. We offer our comments as an educational organization dedicated to the recovery of the SRKW, and as partners with NOAA in the Springer project and The Whale Trail.

1. The advisability of and need for regulations to establish a whale protection zone.

The issues that have brought J, K and L pods to the edge of extinction are all human-caused: lack of prey, toxin accumulations and stress and noise from vessels. *It is not one of these things, but all.*

- Disturbance and noise from boats makes it harder for the orcas to forage, rest and communicate.
- Stress may stimulate the release of stored toxins, and make the whales more susceptible to disease.
- The effects of limited prey availability are exacerbated by vessel impacts and toxin accumulations.

Multi-faceted problems require multi-pronged solutions.

- The WPZ will be part of a comprehensive strategy to recover the orcas.
- The WPZ does not displace or threaten concurrent activities to restore salmon or reduce toxin inputs throughout the orcas' range.
- Rather, the WPZ is one small piece of a complex puzzle. It is something we can do **now** that will immediately benefit the whales.

Giving the whales more acoustic space in this critical part of their range is necessary, timely and long overdue. We can only wonder how many more whales would be alive today if the No Go Zone first proposed by NOAA had been adopted when it was originally proposed.

The WPZ is necessary above all because the the status quo is not working.

In 2005, Gary Wiles wrote that if the current population trends continue or worsen, J, K and L pods could go extinct in as few as 100 years (WDFW 2005). That is as unthinkable to me as I know it is to you, and everyone who cares about these whales.

Unfortunately, the trend **is** worsening. Comprised of just 78 individuals, the southern resident population size is at a near historical low. Despite a decade of federal protection, the whales are disappearing before our eyes—dying younger than expected, and from causes that are preventable. Last year J-34, an 18-yr old male orca, died from blunt force trauma in the heart of the Salish Sea.

While the whales continue to decline, the number of whale-watching boats continues to grow. The fleet has expanded its numbers, its seasons, and its range. Whale-watching boats and the recreational vessels they attract now follow the whales year-round from Seattle to Saturna and beyond.

What hope there is to recover the southern residents must begin with a clear-eyed assessment of the issues that are impacting them, and the willingness to address these issues with the courage, urgency and resolve they demand. The WPZ is a critical first step in the right direction to safeguard this population from vessel impacts.

2. The geographic scope of regulations.

The west side of San Juan Island is in the heart of SRKW range. The boundaries for the proposed WPZ are a good starting place for rule making. We encourage you to consider expanding the boundaries north and south during the rulemaking process.

The WPZ is important for its own sake, and as a model that can be adopted throughout the orcas' range. We envision and support a series of acoustic sanctuaries throughout the Salish Sea. This WPZ is a small, manageable, and welcome start.

3. Alternative management options for regulating vessel interactions with killer whales, including but not limited to the option in the petition.

NOAA's current management approach is to limit vessel interactions based on distance. These guidelines, to the extent that they are followed, are not working, as evidenced by the decline in the population and the failure to reach or even near recovery goals for the SRKW.

We recommend considering alternative or additional management measures that could be tied to the recovery of the southern residents. These measures could be adopted and reconsidered when and if the orcas reach recovery thresholds. These could include the following:

- Establish a series of acoustic sanctuaries throughout the Salish Sea. The sanctuaries would be designed to reduce or eliminate boat noise in at least one third of SRKW habitat and for one third of their time.
- Implement proactive notification to shipping traffic that whales are in the area through Whale Alert or other technology. Line Puget Sound with hydrophones to collect and transmit data when visual observation is limited.
- Train shore-based observers how to accurately measure and document distance between boats and whales. Better trained observers will encourage boat operators to follow the Be Whale Wise guidelines.
- Institute a permitting system to limit the number of commercial boats that are around the whales; the amount of time they are allowed to spend with the whales; and the length of the whale-watching day.
- Manage research vessel interactions more closely. Limit the number of close approaches or takes based on actual need.
- End invasive research done from boats. From incidental takes to actual deaths, the cost to the SRKW is too high. We encourage passive collection of data through hydrophones, drones, and conservation canines.

The preponderance of evidence keeps pointing to the same issues. The impetus now is to act on what the research shows. Where there are questions, *act on the precautionary principle*.

4. Scientific and commercial information regarding the effects of vessels on killer whales and their habitat;

Research has consistently shown that stress and noise from boats makes it harder for whale to hunt and communicate each other. Their behaviors change when boats are present.

5. Information regarding potential economic effects of regulating vessel interactions

Whatever short-term economic hardships are introduced by these regulations, pale in comparison to the long-term economic, cultural, social and spiritual impacts of this population going extinct.

6. Any additional relevant information that NMFS should consider should it accept the petition.

Fifty years ago, NMFS permitted the capture and removal of more than 60 orcas from the Pacific Northwest resident populations. Of those, only two are alive today: Corky and Lolita.

By the time the captures were halted in 1976, more than 50 members of the SRKW had been removed or died during the attempts. The captures removed an entire generation of orcas, and is one of the reasons the SRKW are endangered today.

Fifteen years ago, NMFS made the courageous decision to rescue, rehabilitate and reunite an orphaned orca, Springer, with her northern resident family. With strong support from the community, NOAA and its partners undertook the risky and precedent-setting action to return the whale to her pod, 300 miles away. At the heart of that effort was a decision: NOAA leadership decided that they must act—that they could not stand by and let the little whale die on their watch.

As you well know, the risk bore out. Springer is safely home, reintegrated with her extended family, tending her four-year-old calf. It's the only successful orca reunion in history. And it happened because NOAA, DFO, the Vancouver Aquarium, the Orphan Orca Fund and the wider community committed to do the right thing for the whale, when it mattered.

In deciding what to do with this petition, we encourage NOAA leadership to show the same courage and resolve for the SRKW as it did for Springer.

Give these whales the acoustic space they need to forage, rest and socialize. Put their best interest—their very right to exist—ahead of any human commercial need, financial self-interest or pressure.

We can and must do everything in our power to recover these whales. Establishing a Whale Protection Zone is an important piece of the recovery strategy. We must not let these whales disappear on our watch.

As with Springer, we commit to support you in this effort, and would welcome the chance to participate in the rulemaking process, along with other stakeholders.

The clock is ticking for the southern residents. We encourage you to move boldly, and do everything in your considerable power to give these beloved and iconic pods the chance to recover, and thrive, for generations to come.

Thank you,

Donna

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