



By Email

January 10, 2017

Lynne Barre
Protected Resources Division
NMFS West Coast Region
7600 Sand Point Way NE
Seattle, WA 98115
Lynne.Barre@noaa.gov

Re: Support for a Whale Protection Zone

Dear Ms. Barre:

I am writing on behalf of Friends of the San Juans (“Friends”) to support the designation of an area along the shores of San Juan Island for protecting Southern Resident Killer Whales (“SRKWs”) from excessive vessel noise. We urge you to take immediate action to address the petition (“Petition”) submitted on November 4, 2016 by Orca Relief Citizens’ Alliance, the Center for Biological Diversity, and Project Seawolf. Since even that recent date, the SRKW population has declined by two more whales, one purportedly due to a vessel strike and the other of unknown cause. Indeed, since their listing under the Endangered Species Act in 2005, the SRKWs have declined by more than 10% from 88 whales to 78 whales, an unsustainable decline that obliges the National Oceanic and Atmospheric Administration (“NOAA”) to take every action within its broad authority to recover the whales. To do that, NOAA must address all of the current threats facing the SRKWs, including lack of salmon, contaminants and pollutants, and the increasing risk of oil spill from marine shipping, and it must immediately begin the process to reserve an orca protection zone (“OPZ”) that would bring needed auditory relief to the SRKWs.

The protection of an OPZ is the next logical step in the process to address vessel noise and disturbance in the effort to save the SRKWs. NOAA has been considering a binding protected area since at least its January 2008 Recover Plan. ¹ In addressing the Threats Criteria, the Recovery Plan states at criterion A4 that “[r]egulations and/or

¹ National Marine Fisheries Service, Recovery Plan for Southern Resident Killer Whales (*Orcinus orca*), v, I-4, II-74, IV-6, IV-7, V-14, V-15 (Jan. 2008) (“Recovery Plan”).

protected areas should have been considered and put in place if it is determined that they will provide additional reduction in vessel effects.”² And in April 2011, when NOAA established vessel regulations that prohibit vessels from approaching within 200 yards of the SRKWs or parking within 400 yards ahead of the whales, the agency again identified the benefit of a protected area.³ In that rulemaking, NOAA affirmed that “the best available information indicates there would be a significant conservation benefit to the whales if they were free of all vessel disturbance in their core foraging area.”⁴ At that time, NOAA considered adopting an OPZ but believed that additional information was warranted before protecting the SRKW with such a designation. As explained in detail in the Petition, research conducted since 2011 demonstrates the benefit that a well-sited and well-governed OPZ would provide the southern residents.

A binding OPZ is also necessary to address insufficiencies in the existing voluntary protection zones. In 1996, a 1/2-mile-deep zone was established adjacent to a 3 kilometer stretch of shoreline centered around the Lime Kiln Lighthouse.⁵ In 1999, a second zone was established, extending 1/4 out from the shoreline extending from Eagle Point to Mitchell Point.⁶ While these zones may benefit the orcas, they are not observed consistently and do not cover a sufficient amount of the SRKWs’ core foraging habitat to recover the species.

Friends thus urges NOAA to take immediate action to convene a discussion about an OPZ that addresses the following features: (1) geographic limits; (2) activities permitted and excluded; (3) speed or other limitations; (4) temporal dimensions; and (5) any other considerations.

Thank you for your time and careful consideration.

Respectfully submitted,



Kyle A. Loring
Staff Attorney

² *Id.* at IV-6.

³ Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act, 76 FR 20878 (April 14, 2011).

⁴ *Id.*

⁵ Recovery Plan, at II-109.

⁶ *Id.*