

Save the orcas: Regulate whale watching

By Calvin Sandborn And Rose Keates, Special to the Sun December 29, 2010

The courts are finally losing patience with Ottawa's continuing subversion of the Species at Risk Act. Earlier this month, Federal Court Justice James Russell ruled that Ottawa acted illegally when it refused to protect orcas from pollution, boats and lack of salmon. The decision was remarkably critical of the federal government, citing its "highly evasive" response to those who questioned government policy.

This case is just the latest in a series of stinging court judgments. For example, last year Justice Douglas Campbell nullified the fisheries minister's order that scientists remove critical habitat maps from the recovery strategy for the endangered Nooksack dace. Campbell described that case as "a story about the creation and application of policy by the minister in clear contravention of the law ... this is a case about rule of law."

Russell's new decision will now require the government to follow the law -- and create rules to address the three main threats to the 87 southern resident orcas:

- Lack of salmon;
- Toxic contamination;
- Disturbance by boats.

To deal with the salmon issue, we must redouble salmon conservation and enhancement efforts - and adjust fishing openings to meet orca needs.

Orcas are among the most contaminated mammals in the world, so we must clean up coastal waters. Adopting the Washington state law that requires "green" storm water management would be an inexpensive start; storm water is the leading source of urban water pollution.

Finally, Ottawa must regulate whale watching. All summer long, from morning until night, 76 commercial whale watching boats chase 87 orcas around Haro Strait. Scouts on land, air and water ensure that the thundering zodiacs track down the whales. Unfortunately, these commercial boats then act as magnets for all the other boats nearby. As a result, up to 100 boats can surround half a dozen whales. Federal documents cite a summertime average of 19 to 22 vessels near the orcas in Haro Strait.

The movement and noise from all these boats interfere with the whales' ability to hunt for food, to communicate with each other, and to rest. For example, one study found that sleep patterns of

the orcas have changed -- they've stopped sleeping during the day. Another study showed that when boats approach, orcas change their dive patterns and swim faster and farther. This may increase their energy use by three per cent annually. The researcher explained the potential danger of this increased energy demand:

Once food becomes limited as it is today, even a couple of per cent over the course of a year can be a matter of life or death.

Clearly, if we want the endangered southern resident orcas to survive for another generation, we must regulate whale watching. Recently the Liferforce Foundation retained the University of Victoria Environmental Law Clinic to develop a proposed set of whale watching regulations. After reviewing the laws and guidelines from over 30 countries, the law clinic has recommended that the following rules be applied to whale watching boats:

- Prohibit them from approaching within 500 metres of a whale;
- Limit the allowable viewing time to 30 minutes;
- Require boats to utilize quiet engines and reduce speed near whales;
- Establish "no-go" zones and weekly "days of rest," to allow whales to rest, free from boat interference;
- Prohibit the practice of radioing the location of whales to other vessels;
- Prohibit encircling of whales;
- Mandate training of operators and education of the public about the needs of whales;
- Enhance enforcement efforts by giving non-government monitors half of the fines imposed as a result of their monitoring efforts.

The fact is that the 87 southern resident orcas teeter on the brink of extinction.

We cannot afford to lose them.

Their extinction would not only mark loss of a key species and ecosystem collapse, it would also be a shattering blow to B.C. culture, identity and way of life.

To the world, and to ourselves, we are the land of the orca. They are the premier symbol of Supernatural British Columbia.

We must ensure that resident orcas do not disappear from our coast.

To save them, Ottawa must stop flouting the law. Government needs to immediately implement strong regulations for the whale watching industry.

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