



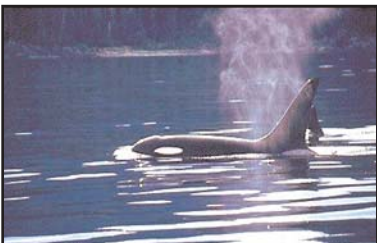
PUGET SOUND ORCAS

Giants in Peril

ORCAS (*ORCINUS ORCA*), ALSO KNOWN AS KILLER WHALES, ARE ONE OF THE MOST RECOGNIZED AND TREASURED MARINE MAMMALS ON EARTH. THEY ARE AN INTEGRAL PART OF THE NATURAL AND CULTURAL HERITAGE OF BOTH NATIVE AND WESTERN CULTURES, AND HAVE BEEN INTERTWINED WITH HUMAN SOCIETIES FOR THOUSANDS OF YEARS. IN PUGET SOUND AND THE SURROUNDING WATERS, THE POPULATION OF ORCAS HAS BEEN IN DECLINE SINCE THE 1960S. EARTHJUSTICE ATTORNEYS ARE NOW WORKING TO HALT THE DECLINE OF THESE MAJESTIC ANIMALS.

Orcas have one of the most complex social systems of all marine mammals. As social predators, orcas work cooperatively to feed upon a variety of marine organisms. Orcas live in social groups (called pods) of matriarchal family units. Several pods comprise a population and breeding occurs between these pods. Different orca populations, however, rarely interact.

In the eastern north Pacific ocean, biologists classify orca whales into three forms that differ markedly in genetics, physical characteristics, and behavior: residents, transients, and offshores. The differences are pronounced. Transient orcas, for example, feed on marine mammals, while resident orcas feed on fish—primarily salmon. While resident pods tend to be larger in number, transient pods tend to have larger home ranges. Offshore whales live in the open ocean, while resident whales occupy coastal fjords.



Resident orcas live in coastal fjords rather than open oceans (Photo courtesy of NOAA).

PUGET SOUND ORCAS

There are several resident orca populations in the eastern north Pacific ocean. The Southern Residents occupy Puget Sound, Haro Strait, and the Strait of Juan de Fuca from late spring through early fall. The



Puget Sound orcas inhabit the waters of Puget Sound, the Strait of Juan de Fuca, and Haro Strait.

Northern Residents live off northern Vancouver Island during the summer, and two resident populations live in Alaskan waters. These populations have been reproductively isolated from each other for thousands of years.

GRADUAL DECLINE

The Southern Residents are believed to have numbered over 100 individuals in the mid-1960s. Since that time, three major declines have occurred in the population. The first decline occurred between 1967 and 1973, and was caused by live-capture operations for public display. Approximately three to four dozen Southern Resident killer whales were taken during this period, reducing the population by about 30%. The second decline occurred between 1980 and 1984, when the population declined by 12%. Both of these declines were followed by periods

of limited population growth. The third recorded decline began in 1996 and continues today. During this time, the Southern Residents have declined from 99 adults and juveniles at the beginning of 1996 to 79 by July of 2002—nearly a 20% decline.

The latest decline is driven by an inexplicable increase in mortality of young adults and juveniles, without substantial reduction of calving. Scientific evidence attributes the current decline to high levels of



Photo courtesy of NOAA.

bioaccumulative toxins in the Sound and in whale tissues, a population decline in their preferred salmon prey, and human disturbance from vessel traffic and noise.

FIGHTING FOR PROTECTION

In May 2001, the Center for Biological Diversity and others filed a petition to list the Southern orca population under the Endangered Species Act. The National Marine Fisheries Service (NMFS) reviewed the petition and on July 1, 2002 determined that this population of orcas was indeed a discrete population. NMFS also found that they were in danger of extinction. However, the agency denied these whales protection because it concluded that the whales are not “significant” enough to warrant protection.

Instead of listing these resident whales as endangered, the Fisheries Service began considering if the population should be deemed “depleted” under a different statute, the Marine Mammal Protection Act (MMPA). Although the MMPA provides some limited protection to the orcas, the act does not address the specific threats that are endangering this particular population. The Marine Mammal Protection Act addresses threats such as unsustainable harvest and bycatch in commercial fisheries, but neither of these threaten the survival of the Southern Residents. The Act does not contain provisions to address the more important concerns of

toxic contamination, habitat degradation, or the loss of prey. These three issues need to be tackled if the Puget Sound orcas are to recover to their historic levels. Although the MMPA allows NMFS to regulate activities that harass orcas, NMFS already has that agency jurisdiction (and has had it for 30 years), and can apply measures to reduce harassment at any time.

THE LAWSUIT

In December 2002, a coalition of environmental groups filed suit in federal district court in Seattle challenging the National Marine Fisheries Service's decision not to list Puget Sound orcas under the Endangered Species Act. The lawsuit was filed by Earthjustice and the Center for Biological Diversity on behalf of the Center, Ocean Advocates, Orca Conservancy, Friends of the San Juans, People for Puget Sound, former Secretary of State Ralph Munro, Karen Munro, and Earth Island Institute.

The lawsuit contends that once the agency determined that this orca population is discrete and in danger of extinction, it had a legal duty to extend ESA protection to the whales. The agency acted illegally by superimposing its own value judgment and deciding that the Southern Residents are insignificant.

Earthjustice recognizes the importance of protecting these distinct populations of whales from extinction. Through litigation, Earthjustice hopes to restore the declining population to its historic levels and preserve the prominence of these magnificent animals in the natural and cultural history of the north eastern Pacific.



Orcas are highly social animals, traveling in matriarchal units known as “pods” (Photo courtesy of NOAA).