

Local Orcas Listed As 'Endangered'

The powerful Endangered Species Act could force changes to protect Puget Sound's killer whales.

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Puget Sound's killer whales were declared "endangered" Tuesday, and environmental leaders said the federal action could bolster efforts to avoid oil spills, reduce pollution and clean up sediments in inland waters.

"Endangered" is the highest level of protection under the powerful Endangered Species Act, which allows the federal government to not only protect the orcas but also their habitat.

The announcement came as a pleasant surprise to environmentalists, because the National Marine Fisheries Service originally proposed a "threatened" designation. "Threatened" means a species is at risk of becoming "endangered," whereas "endangered" means a species is at risk of becoming extinct.

"Endangered" carries an ominous connotation and a heavier responsibility, said Fred Felleman, a longtime advocate for Puget Sound's orcas.

"This is a very sobering decision," Felleman said. "The fact that NMFS is willing to put that label on these animals is an appropriate, but sobering, decision."

Bob Lohn, regional administrator for the fisheries service, said analysis following the "threatened" proposal revealed that "endangered" was the more appropriate listing. The risk of extinction has always centered around the small population (now 89 animals) and the whales' close-knit social patterns.

"By giving it protection under the ESA, we have a better chance of keeping this population alive for future generations," Lohn said.

The population of the three Puget Sound pods, also known as Southern Residents, declined from 97 to 79 animals in just five years. The orcas were found to contain some of the highest levels of toxic chemicals of any marine mammals in the world.

Patti Goldman, an attorney with Earthjustice, said international guidelines on extinction risk clearly placed the animals in an "endangered" category.

The effect of the listing is not certain, but the agency must designate "critical habitat" for the orcas and complete a "recovery plan" that spells out risks to the whales and actions to reduce their vulnerability. Unlike a "threatened" listing, "endangered" includes no blanket exemptions for "take," which means killing, injuring or seriously disrupting the behavior of the animals.

Recent reports list the primary threats as availability of prey, including salmon; contaminants and pollution; and disturbance by vessels, including noise.

Listing under the Endangered Species Act requires all federal agencies to consider the effects of their actions, Goldman said. The Coast Guard will need to consider how and where it directs ships; the Environmental Protection Agency will need to look at pollution discharges; and fisheries agencies will need to consider how they manage salmon.

"The threats are varied and not completely known," Goldman said. "This will put more emphasis on research that needs to be done."

Where an agency is not acting appropriately, any citizen can file a lawsuit.

Felleman said greater scrutiny needs to be given to avoiding a "single catastrophic event," such as an oil spill, toxic algae bloom or a deadly virus, that could lead to extinction.

It is not encouraging, he said, that Congress is considering eliminating the Magnuson Act, which outlaws supertankers in the narrow confines of Puget Sound.

Felleman said the Navy should be encouraged to help with the research, particularly if Navy ships continue to use sonar in inland waters. Studies have shown that sonar can injure or disrupt the behavior of whales.

Brent Plater of the Center for Biological Diversity said he is pleased with the listing. "The only reason that my excitement and hope for the species is tempered is that Congress is working to get rid of the Endangered Species Act," he said. "No matter how good this proposal is for the Southern Residents, it won't mean much if the underlying statute itself goes extinct."



Center for whale research

An orca calf, J-41, swims with its mother, J-19, in Puget Sound in July. The federal government on Tuesday listed Puget Sound's killer whales as an endangered species, giving the animals the highest protection available under the law.