

## **PLF asks NOAA to de-list southern resident killer whale**

**Updated:** Friday, August 03, 2012 5:09 PM

By TIM HEARDEN

Capital Press

SACRAMENTO - Property-rights attorneys here want the federal government to lift endangered species protections for a class of killer whales, arguing they could lead to further water cutbacks for Central Valley farmers.

The Pacific Legal Foundation filed a petition Aug. 2 with the U.S. Department of Commerce and the National Oceanic and Atmospheric Administration's Fisheries Service, asking that the southern resident killer whale be de-listed.

PLF attorneys say the whale, which swims in the marine waters of the Pacific Northwest, is not biologically different from other orcas that are found in oceans all over the world.

The PLF and the Fresno-based Center for Environmental Science, Accuracy and Reliability (CESAR) enlisted the help of Rob Roy Ramey, a biologist who specializes in endangered species scientific issues.

"What has happened in this particular case is the service has essentially backed into its conclusion to come up with a listing of a subspecies, and they created the subspecies with the stroke of a pen," Ramey told reporters during a conference call.

"This is part of a larger problem with agencies parsing species into smaller and smaller sub-units, each with a smaller range and each with a smaller number of individuals so they seem to be more imperiled when in fact the species is doing quite well," he said.

The PLF asserts the whale's continued listing puts farmers at risk because salmon and steelhead found in the Sacramento-San Joaquin River Delta are part of the orca's food supply.

Joe Del Bosque, whose 2,200-acre Empresas Del Bosque farm in Firebaugh, Calif., raises cantaloupes, almonds, asparagus, cherries, wheat and processing tomatoes, said he's concerned about future water cutbacks because of the whale and other listed fish.

"It seems almost outrageous that a killer whale out in the ocean is reducing our water," Del Bosque said. "I'm not a biologist, but it seems incredible that we could lose water because of a species that's in the ocean and is free to swim anywhere ... We're being impacted economically by this."

The government has 90 days to review the petition. If it finds the petition has merit, it has a year to consider the de-listing. If the petitioner disagrees with the decision, it has the option of filing a lawsuit, said Damien Schiff, the PLF's lead attorney.

The southern resident whale has been listed under the Endangered Species Act since 2005, and there are currently 86 whales in the population, said Brian Gorman, a NOAA Fisheries spokesman in Seattle.

Ironically, the agency came to the same conclusion as PLF about the whale - that taxonomists found no difference in it from other orcas - in initially deciding not to list it, Gorman said. But a court ordered the agency to reconsider. After the whale was listed, a similar petition to de-list it failed in 2006.

The Tucson, Ariz.-based Center for Biological Diversity, an environmental group, originally sought the whale's listing. Noah Greenwald, the center's endangered species director, said the whales are the only ones that feed almost exclusively on fish, have a different dialect among whales and are genetically distinct.

"Southern resident orcas are very clearly endangered," Greenwald said. "They're also highly valued by Puget Sound residents. This is an iconic species for Puget Sound, and to suggest it would be fine if they went extinct ... is offensive."