

## U.S. to review endangered status of whales that ply B.C. and Washington waters

By Camille Bains, The Canadian Press

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VANCOUVER - Farmers in California want killer whales that ply the waters between British Columbia and the U.S. to be removed from the endangered-species list, saying regulations to protect salmon the mammals eat are creating a huge economic burden.

The agricultural industry is being represented by the Pacific Legal Foundation, which has persuaded the National Oceanic and Atmospheric Administration to review whether southern resident killer whales should be delisted.

NOAA said a petition filed on behalf of two farms and the Center for Environmental Science Accuracy and Reliability presents new information from scientific journals that claim the whales are genetically linked to a much larger population and therefore, are not in danger of extinction.

Damien Schiff, a lawyer for the legal foundation, said southern resident killer whales are no different from orcas around the world but U.S. government regulators invented a new sub-category of orca in the Pacific Northwest in order to label them endangered.

Scientists believe there are about 86 southern resident killer whales, which were listed as endangered by the U.S. in 2005 when there were 89 of them, according to NOAA.

"The federal government should continue to look at the killer whale as a single worldwide species," Schiff said.

He said listing the whales as endangered under the federal Endangered Species Act meant cutbacks in irrigation to protect fish but farmers are finding it difficult to expand operations because of the lack of water.

"The most significant reduction was in 2009 and those water deliveries were reduced in part because of the endangered-species protection for this particular population of orca whales," he said.

"At this point, (the farmers) are concerned about their financial future, which is dependent principally on water they've already contracted for."

Southern resident killer whales spend much of the year in the Strait of Georgia, the Strait of Juan de Fuca and Puget Sound in Washington and also feed on salmon in California rivers in winter.

Schiff said that while there are biological and behavioural differences in whales such as hunting practices and vocalizations, the southern resident killer whales should not be protected as an "alleged subspecies of North Pacific killer whales."

One 2010 study, in the *Journal of Evolutionary Biology* by researchers from the University of Durham in the UK, the Museum and Institute of Zoology in Poland and the National Marine Mammal Laboratory in Seattle, said gene flow occurs within and among resident, transient and offshore killer whale ecotypes or genetically distinct varieties within a species.

Arne Mooers, professor of biodiversity in the Department of Biological Sciences at Simon Fraser University, said the study suggests there are reasons for NOAA to conduct a review, but he doesn't expect it to change the endangered status of southern resident killer whales.

"The resident populations are more alike genetically than you have expected based only on the female part of the genome," he said.

"The bits of the genome that only are passed from mothers to daughters are very different up and down

the coast but the bits of the genome that are passed down by the males is less different up and down the coast."

Sarah Uhlemann, a Seattle-based lawyer at the Center for Biological Diversity, said in the end, nothing has changed in the science since the orcas were listed as endangered to suggest they no longer deserve to be protected.

"A lot of the threats that the species faces still exist," she said. "This is a distinct population that is separate from other populations of killer whales," she said.

"It's not about pitting whales against human beings," Schiff said of the petition. "Rather, it's about a balanced environmental regulation because even if the killer whale is removed from the endangered species list, it will continue to be protected under other federal laws."

The Marine Mammal Protection Act, for example, makes it illegal to harm, capture or kill whales.

Michael Healey, a retired marine biologist and professor emeritus at the University of British Columbia, said the petition appears to be part of the long history of limited water supply issues in California.

"About 75 per cent of the available supply is used for agriculture and there are continual and never-ending battles about who's going to get the water," he said.

"There have been numerous law cases concerning the protection of aquatic species and in recent years, decisions by the courts to demand that more water be left in rivers for fish and other aquatic organisms. So this is a much bigger issue, particularly in California, than it is (in British Columbia)."

NOAA has until August 2013 to decide whether the southern resident killer whale will be delisted but public hearings would be held before any final decisions to change the mammal's status.

Canada listed the southern resident killer whale as endangered under the Species At Risk Act in 2003.