

San Juan County Council

350 Court Street No. 1
Friday Harbor, WA 98250
(360) 378 - 2898

District 1, Lovel Pratt
District 2, Rich Peterson
District 3, Howard Rosenfeld

District 4, Richard Fralick
District 5, Gene Knapp
District 6, Bob Myhr

January 5, 2010

Barry Thom, Acting Regional Administrator
Protected Resources Division
Northwest Regional Office
National Marine Fisheries Service
7600 Sand Point Way NE
Seattle, WA 98115

Re: Input to the National Oceanic and Atmospheric Administration on Proposed Regulations to Protect Killer Whales from Vessel Effects in the Inland waters of Washington

Dear Mr. Thom:

San Juan County is strongly in favor of the protection of the Southern Resident Killer Whales. These magnificent animals are the unofficial symbol of our islands and reflect the strength and character of our people.

As you are aware, in 2007 the San Juan County Council enacted a law requiring boaters to maintain a distance of at least 100 yards and take additional step to avoid interfering with the whales. Several restrictions were placed on boaters to give the whales room to maneuver – and, literally, to breathe. Subsequently, we successfully lobbied the Washington State Legislature to adopt similar legislation.

The San Juan County Council now welcomes NOAA's involvement and the addition of federal resources to actively protect the whales, and it is pleased to have this opportunity to provide input into the design of its protection plan.

The key lesson learned in San Juan County's efforts to protect the whales that frequent our waters is the importance of enforcement.

1) The Council urges NOAA to consider enforcement of regulations protecting whales to be its top priority, and strongly urges that enforcement resources be based in San Juan County.

- When it enacted its ordinance, San Juan County appropriated several thousand dollars for enforcement; however it did not have the resources to adequately keep watch over the whales, nor to respond quickly to reports of problems.
- The State does not have a marine law enforcement unit based in San Juan County, which affects its response time and the amount of time it can patrol our marine waters.

2) The Council encourages NOAA to include a strong educational component in its protection plan to insure that all boaters who come into proximity to the whales understand the importance of staying clear and the consequences of failing to comply with the law.

3) The Council opposes the establishment of the “No Go” zone as proposed for the west side of San Juan Island.

- The marine waters surrounding San Juan Island are an integral part of the environment in which its people live, work and recreate. The island’s residents and visitors should be free to access and use them responsibly.
- The Council opposes the proposed restrictions on kayaks and other non-motorized vessels in light of the lack of evidence that non-motorized vessels interfere with the ability of whales to maneuver, breathe, or locate and capture food.
 - *The loss of kayaking access on the west side of San Juan Island would not only diminish the quality of life for our local kayakers, it would be a devastating, \$6.5 million blow to the island’s economy.*
- San Juan County Park is not only the primary public departure point for kayaks on the island, it is the location of one of the few places where trailered boats can be put into the water. The Council urges NOAA to ensure that the public can continue to use this access point. *(Please note the letter from the Washington Recreation and Conservation Office which indicates that closing this boat ramp could place a significant financial liability on the County)*
- The Council believes that traditional non-commercial access to and use of the marine waters by owners of shoreline properties and the owners of access rights should not be restricted.
- The Council also asks that NOAA review the (attached) September 23, 2009 letter from San Juan County Prosecutor Randall Gaylord to U.S. Rep. Rick Larsen which raises questions about whether the agency has the legal authority to declare and enforce a “No Go” zone under existing international treaties.

4) The Council supports a “Go Slow” rule.

- To reduce noise interference and potential contact between whales and motorized vessels, the Council urges NOAA to incorporate a 7 knot speed limit for boats within 400 yards of killer whales anywhere within the inland waters of the state.

5) The Council questions whether doubling the current 100 yard buffer zone between boats and whales would be necessary if current regulations were adequately enforced.

- Operators of whale watching vessels are among the strongest advocates for protection of the species and the largest providers of public education about this endangered species. Some whale watch boat operators have told the Council that a 200 yard buffer requirement would basically destroy a business that serves tens of thousands of people each year and generates \$64 million in revenue statewide.


6) The Council urges NOAA to include a provision requiring periodic review of the regulations

- The Council asks that NOAA schedule formal reviews to measure results against goals, to ensure that measures taken to protect killer whales are effective and to provide an opportunity to revise and update them.

Finally, the Council expresses its strong support for efforts to protect the whales' food supply, particularly Chinook salmon, and to eliminate the sources of toxins that are accumulating in alarming concentrations in the whales' blubber. The Council encourages and supports NOAA's efforts in these areas and would welcome informational updates and an opportunity to provide input into their development.

Respectfully submitted,


**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**



Lovel Pratt, Member
District No. 1



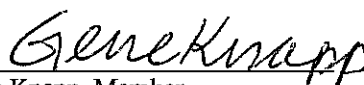
Richard Peterson, Chair
District No. 2



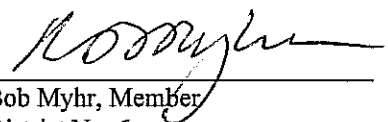
Howard Rosenfeld, Member
District No. 3



Richard Fralick, Vice Chair
District No. 4



Gene Knapp, Member
District No. 5



Bob Myhr, Member
District No. 6

Cc:

U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Rick Larsen

Donna Darm, Assistant Regional Administrator
Protected Resources Division, Northwest Regional Office
National Marine Fisheries Service

