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## MEDIA RELEASE

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### **Killer whale decision offers hope for at-risk species**

*Federal Court rules DFO failed to protect B.C. resident killer whale critical habitat*

**VANCOUVER** — Conservation groups, represented by Ecojustice, have won a landmark decision in the Federal Court which ruled today that the Department of Fisheries and Oceans (DFO) has failed to adequately protect critical habitat of B.C.'s resident killer whales, whose numbers continue to decline.

The win ensures stronger legal protection for all of Canada's marine endangered species.

"This is a victory not just for the resident killer whales, but for the more than 90 other marine species listed under the federal *Species at Risk Act*," said Margot Venton, Ecojustice staff lawyer. "The court has confirmed that the government must legally protect all aspects of critical habitat from destruction. Now DFO needs to obey its own law."

The conservation coalition, made up of nine leading environmental groups, alleged that DFO failed to legally protect important aspects of critical habitat for southern and northern resident killer whales — such as availability of salmon and the quality of the marine environment.

"The abundance of salmon, chemical pollution and physical and acoustic disturbance have all been identified as key threats to the critical habitat of resident killer whales," said Misty MacDuffee of Raincoast Conservation. "The court has confirmed that DFO is legally required to protect these features. Considering the whales in fishing plans is a first step toward this implementation."

Critical habitat is defined as the habitat endangered or threatened species need to survive and recover.

"It remains to be seen what steps DFO will take to protect killer whale habitat, but immediate action is necessary," said Stephanie Goodwin of Greenpeace. "With the Canadian government currently considering a proposal for oil supertankers through critical habitat, B.C.'s killer whales need the government to take action today to ensure they have salmon to eat, clean water to live in, and protection from noise pollution and physical disturbance."

The resident killer whales are made up of two distinct populations that live in B.C. waters year-round. The southern resident killer whales are listed as "endangered" with only about 85 members remaining, while approximately 220 "threatened" northern residents survive. Both species are listed under Canada's *Species at Risk Act*, which requires DFO to create plans for their recovery and protection.

In 2008, DFO issued a Protection Statement that sought to legally protect critical habitat using voluntary guidelines and non-binding laws and policies. In 2009, Ottawa issued a

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Protection Order for Resident killer whale critical habitat that ignored the biological aspects of critical habitat, including water quality, noise pollution and food supply. The lawsuit challenged the lawfulness of both the Protection Statement and the Protection Order.

Ecojustice represented David Suzuki Foundation, Dogwood Initiative, Environmental Defence, Greenpeace, Georgia Strait Alliance, International Fund for Animal Welfare, Raincoast Conservation, Sierra Club of BC, and the Wilderness Committee during the proceedings.

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