May 20, 2024

Office of Planning & Community Development
Seattle City Hall
600 4th Ave.
Floor 5
Seattle, WA 98104

RE: The One Seattle Plan

Thank you for giving Orca Conservancy the opportunity to make a comment on the One Seattle Plan and please add the following to the public record.

Orca Conservancy is a 501(c)3 Washington State non-profit organization, established in 1996, with the mission of working on behalf of *Orcinus orca*, the killer whale, and protecting the wild places on which it depends. Orca Conservancy currently represents over 70,000+ members and supporters and collaborates with some of the world's top research institutions and environmental groups to address the most critical issues now facing wild orcas. The organization's urgent attention remains focused on the 74 remaining members of the critically endangered Southern Resident killer whale (SRKW) population including the wild salmon populations SRKWs rely on for survival.

In 2001, Orca Conservancy was a co-petitioner for the federal listing to include the SRKW distinct population segment (DPS) under the Endangered Species Act (ESA). On November 18, 2005, after evaluating the five listing factors of the Endangered Species Act, 16 U.S.C. §§ 1531-1544, National Marine Fisheries Service (NMFS) issued a final ruling listing the SRKW, a distinct population segment (DPS), as endangered under the Act.

Congress enacted the ESA, in part, to provide a "means whereby the ecosystems upon which endangered species and threatened species depend may be conserved...[and] a program for the conservation of such endangered species and threatened species."[1] Section 2(c) of the ESA establishes that it is "the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act."[2] The ESA defines "conservation" to mean "the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary."[3] Similarly, Section 7(a)(1) of the ESA directs that federal agencies shall use their programs and authorities to conserve endangered and

[1] 16 U.S.C. § 1531(b).
[2] Id. at § 1531(c)(1).
[3] Id. at § 1532(3).

threatened species.[4] To fulfill the purposes of the ESA, Section 9 of the ESA prohibits any person, including any federal agency, from "taking" an endangered species without proper authorization.[5] The term "take" is statutorily defined broadly as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."[6] The definition of "harm" has been defined broadly by regulation as "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering."[7],[8]

Additionally, Seattle, Washington is experiencing continued onset of climate change, which currently include:

1. Warmer air. Since 1900, the average annual air temperature in the Puget Sound region has increased by 1.3 degrees Fahrenheit. Seattle is likely to have hotter-than-usual summers
2. Heavier rain. Seattle's annual precipitation is projected to increase from about 35.4 inches to about 38.0 inches. Warmer air can hold more water vapor, which increases the potential for extreme rainfall or snowfall
3. Sea level rise. Sea levels in Puget Sound have risen by nine inches since 1900 and are expected to rise by another two to five feet by 2100. This means more coastal flooding, storm surge, and high tide inundation
4. Ocean acidification. Ocean chemistry is changing in ways that are harmful to marine species

While we applaud and acknowledge One Seattle Plans' vision towards a future that aligns with …"City's core values to make Seattle more equitable, livable, sustainable, and resilient for today's residents and generations to come…" however, it is vital the One Seattle Plan includes definitive planning (and funding) for the following:

1. Ensuring all wild salmon -- which depend on water quality for growth and survival -- have guaranteed accessibility to cold water, which includes protecting and preserving the mature trees on all city lots, which ultimately reduce sediment and contaminants from flowing into Puget Sound
2. Ensuring impervious surfaces do not exceed 10% of a watershed because salmon populations begin to decline unless aggressive action is taken to protect them. Such actions include requiring low-impact development techniques, protecting riparian buffers, protecting healthy habitat, and restoring degraded habitat
3. Ensuring measures are put into place to combat and/or eliminate brake dust, specifically, 6PPD-Q, a chemical that causes Urban Mortality Syndrome and is highly detrimental to salmon
    a. Adult fish show signs of suffocation, including apparent efforts to breathe air and disorientation
    b. Death generally occurs within hours, which prevents adults from spawning and contributing to subsequent generations
    c. Juveniles are also killed, preventing them from going out to sea where they can become prey for the whales
    d. Other chemicals include copper, which causes brain damage leading to failure to recognize predators and reduces the ability to navigate

[4] Id. at § 1536(a)(1).
[5] Id. at § 1538(a)(1)(B).
[6] Id. at § 1532(19).
[7] 50 C.F.R. § 222.102; see also Babbitt v. Sweet Home Chapter of Cmtys. for a Great Or., 515 U.S. 687 (1995) (upholding same regulatory definition of harm in 50 C.F.R. § 17.3).
[8] 2018. Center for Biological Diversity and Wild Fish Conservancy's 60-day notice of intent to sue the U.S. Department of Commerce, the Secretary of Commerce, the National Marine Fisheries Service (also known as NOAA Fisheries), and the Northwest Regional Administrator for the National Marine Fisheries Service (collectively "NMFS") for violations of the Endangered Species Act (ESA), 16 U.S.C. §§ 1531, et seq.

e. An estimated 7-million quarts of petroleum products, such as motor oil and brake fluid, reach Puget Sound each year. These lead to developmental abnormalities and early deaths in salmon populations

4. Ensuring riparian buffers, which play an important role in removing chemicals from stormwater, have a continuous stream of funding. Meaning: riparian vegetation forms a filter to remove toxic chemicals from stormwater before it reaches a stream. It can also facilitate surface water becoming ground water so it will mix surface water during the warm and dry summer months. It can also limit erosion to prevent sediment from interfering with fish trying to breathe and burying eggs where they won't survive

Sincerely,

Shari L. Tarantino

Shari Tarantino
Executive Director
Orca Conservancy