

Endangered whale may be safer in an aquarium

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A female orca leaps from the water while breaching in Puget Sound west of Seattle, Washington. Photo: AP Photo/Elaine Thompson

SEATTLE — Lolita the orca was taken from Puget Sound here in the Pacific Northwest many years ago, and has been kept at Miami's Seaquarium ever since. On Wednesday, she was officially declared to still be one of the Puget Sound orcas.

Because the Puget Sound orcas are listed as endangered, she will now gain the protection of the federal Endangered Species Act. The change is expected to lead to a lawsuit from those seeking the killer whale's release.

The National Oceanic and Atmospheric Administration (NOAA) was responsible for the reclassification.

Seaquarium Says She Is Family

Whale activists have long campaigned for Lolita's return to Puget Sound. They hope the new designation will provide a stronger legal case to release Lolita than did a previous lawsuit. The earlier challenge centered on alleged violations of the federal Animal Welfare Act.

"This gives leverage under a much stronger law," said Howard Garrett of the Orca Network. His group hopes a San Juan Island cove near Washington state will one day serve as the site for Lolita to re-enter the wild.

NOAA Fisheries officials said their decision does not address whether Lolita should be released from the Seaquarium. "This is a listing decision," NOAA official Will Stelle said. "It is not a decision to free Lolita."

Aquarium officials have repeatedly said they have no intention of releasing the orca.

"Lolita has been part of the Miami Seaquarium family for 44 years," said Andrew Hertz, Seaquarium's general manager. "Lolita is healthy and thriving. There is no scientific evidence that ... Lolita could survive in a sea pen or the open waters of the Pacific Northwest, and we are not willing to treat her life as an experiment," he said.

Whale Numbers Are Slipping

Orcas, also known as killer whales, are found in many of the world's oceans. The so-called southern resident population spends several months each year in Puget Sound. It is the only group of whales in the United States listed under the Endangered Species Act.

Between 1965 and 1975, captures by marine parks reduced the southern resident population. Among those captures was a roundup in Penn Cove in which seven whales were seized, including Lolita.

The southern resident population now consists of fewer than 80 orcas. Possible causes for the decline are reduced prey, pollutants that could cause reproductive problems and oil spills.

Releases Are Not Always Successful

Under the Endangered Species Act, it is against the law to harm or mistreat a protected orca.

NOAA officials said on Wednesday that holding an animal captive is not, in and of itself, mistreatment.

Orca activists are expected to argue in their lawsuit that Lolita's cramped conditions are a form of mistreatment. They also believe it is inhumane to force her to perform in shows.

There is "rising public scorn for the whole idea of performing orcas," Garrett said. He added that he hopes Seaquarium will decide to release Lolita without a court order.

NOAA officials still have concerns about releasing captive whales, however. Any plan to move or release Lolita would require a thorough scientific review, the agency said in a statement.

Among the agency's concerns are the spread of disease and the ability of a newly released orca to find food.

NOAA said previous attempts to release captive orcas have often been unsuccessful. Some have ended in death.

Garrett said the plan for Lolita calls for her to be taken to a netted area of the cove, which could be enlarged later. She would be accompanied by familiar trainers, who would "reassure her every bit of the way," he said.

Keiko As An Example

Some who oppose a release point to the experience of an orca named Keiko. A captive orca, Keiko starred in the 1993 movie "Free Willy," about a boy who pushed for the release of a whale.

In 1998, Keiko was brought back to his native waters off Iceland in an attempt to reintroduce him to life in the wild. He was released into the ocean in 2002 and died in a Norwegian fjord in 2003.

Garrett, who visited Keiko in Iceland in 1999, said he was impressed by the reintroduction effort. He believes there was plenty of evidence that Keiko was able to catch fish on his own.

"The naysayers predicted that as soon as he got into the (Icelandic) waters he would die, and wild orcas would kill him," Garrett said. "He proved that 180-degrees wrong. He loved it."

Mark Simmons, who took part in the Keiko-release effort, has a different view. He says Keiko never was able to catch fish on his own, and that he continued to seek out human contact at every opportunity.

Simmons wrote a book called "Killing Keiko," which accuses the release effort of leading to a long slow death for the orca. Keiko, he says, lacked food and then died from an infection.

"It's not really the fact that Keiko died, but how he died," Garrett said.