

JOINT MEDIA RELEASE

The Institute of Cetacean Research / Kyodo Senpaku Kaisha

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Appeal Filed in Legal Action against Sea Shepherd

The Institute of Cetacean Research (ICR) and Kyodo Senpaku today filed a Notice of Appeal seeking review by the 9th Circuit Court of Appeals of the March 19 Order entered by the District of Washington Federal Court in the safety at sea case against Sea Shepherd and Paul Watson.

ICR and Kyodo Senpaku filed their original complaint in Seattle on 8 December 2011 seeking injunctive relief from violent behavior it believed threatened the safety and lives of its researchers and crews. This followed several years of increasingly dangerous physical attacks on the High Seas in which Sea Shepherd attempted to sabotage research activity by ramming vessels, dragging ropes to damage propellers and throwing and firing glass projectiles from close quarters. Some minor injuries have occurred, although these have been kept to a minimum by the use of protective netting and by limiting the number of personnel on deck during the encounters.

In summary, the court's conclusions in at least three primary areas are at issue.

First, ICR and Kyodo Senpaku believe that injunctive relief is in the public interest because it stops mariners from being put at risk by willful acts of violence. Since the research activity is recognized as a Treaty right under the International Convention on the Regulation of Whaling and, since this Treaty has been ratified by the United States, the public interest lies in upholding the Treaty and in not condoning dangerous activities that could cause harm to others. ICR and Kyodo Senpaku believe that views on the overall benefit or desirability of the research are not relevant in these particular proceedings. Since the research is recognized, valued and permitted under an international Treaty signed by the United States, the Plaintiffs believe that it is not for the court to take account of the impact of the research on individual whales as part of its consideration of the public interest. In the same way, courts do not assess the desirability or otherwise of lawful activity carried out on land when they rule on trespassing, sabotage or violence complaints (such as attacks on animal research laboratories). In any event, the research take has been maintained at levels that ensure no threat to the whale stocks.

Secondly, ICR and Kyodo Senpaku feel that the court failed to give proper weight to the potential for irreparable harm posed by Sea Shepherd's activities. ICR and Kyodo Senpaku believe that the risk of harm and the nature of the actions justify an injunction against the acts of sabotage.

Thirdly, ICR and Kyodo Senpaku feel that it was inappropriate for the court to defer to an order made by an Australian court that relies on disputed claims to international waters. The

United States (like most of the world, including Japan) specifically does not recognize Australia's territorial claims in the Antarctic, and therefore does not recognize Australia's authority to establish an Australian Whaling Sanctuary in these waters. If the United States is now to defer to all orders that rely on disputed territorial claims, the impact on wider world commerce and politics for American citizens would be substantial. The court should not therefore have deferred to the Australian order in this case.

In short, ICR and Kyodo Senpaku believe that the order denying the preliminary injunction should be set aside and that the appellate court should clarify how the standard for a preliminary injunction is to be applied in this case. They believe that when the standard is correctly applied, injunctive relief is appropriate. The plaintiffs do not take issue with the court's assertion that the whaling dispute is a matter for nations to resolve. But they came to the court with an entirely different purpose in mind, namely to ensure safety at sea in light of the dangers and risks that have as their origin an organization and individual who fall within the court's jurisdiction.

ICR conducts its Antarctic whale research program under a permit issued by the Government of Japan in accordance with Article VIII of the International Convention for the Regulation of Whaling. Kyodo Senpaku provides the vessels and crews for the research program.

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