

# Friends of the San Juans

**Protect this Place**

June 3, 2026

Michael Sabia  
Clerk of the Privy Council and Secretary to the Cabinet of Canada  
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Submitted via email: [engagement@pco-bcp.gc.ca](mailto:engagement@pco-bcp.gc.ca) and [info@pco-bcp.gc.ca](mailto:info@pco-bcp.gc.ca)

RE: Supporting timely-decision-making for major projects

Dear Mr. Sabia,

Thank you for the opportunity to provide comments on the potential legislative initiatives addressed in Canada's recent announcement "[Supporting timely-decision-making for major projects](#)".

Friends of the San Juans is a U.S.-based environmental nongovernmental organization established in 1979 and located in Friday Harbor, Washington. Our mission is to bring people and nature together to protect the San Juan Islands and the transboundary Salish Sea through education, science, policy, and law. [Southern Resident killer whales are one of the most at-risk marine mammals in the world](#). We were a co-petitioner in the successful effort to [list Southern Resident killer whales as endangered under the U.S. Endangered Species Act](#). Southern Residents are also listed under [Canada's Species at Risk Act \(S.C. 2002, c. 29\)](#) (SARA). The protection and recovery of the Southern Residents remain a top priority for our organization, as is true for many organizations and residents in the Salish Sea region. [Washington State is making significant investments](#) in their protection and recovery.

While we support efforts to improve regulatory efficiency and enable timely decision-making, this must not come at the expense of Canada's legal obligations to protect species at risk. Friends of the San Juans strongly opposes [Canada's proposal to "exempt specific projects from the application of the jeopardy test for species at risk."](#) This proposal would undermine core legal protections under SARA, weaken science-based decision-making, and pose unacceptable risks to Southern Resident killer whales, one of the most imperiled marine species in North America.

Below are our responses to the consultation questions.

**1. What opportunities do you see emerging from these proposals to improve the assessments and permitting processes related to building major projects?**

Canada can significantly improve efficiency without weakening statutory protections, including:

- a) **Strengthening early planning:** Integrating SARA recovery strategies ([SARA ss. 37–46](#)) and critical habitat identification into early project design can reduce late-stage conflicts. Strategic or regional assessments can identify areas where impacts are unlikely to meet the SARA jeopardy test, avoiding costly redesign.
- b) **Improving alignment across statutes:** Better coordination among SARA, the [Impact Assessment Act](#), and the [Fisheries Act](#) would reduce duplication and improve timelines. Clearer guidance on how SARA s. 73 permitting decisions are informed by impact assessments would enhance predictability.
- c) **Investing in science and cumulative effects frameworks:** Expanding existing federal approaches to evaluate population-level impacts—such as changes to habitat, vital rates, and population trajectories—earlier in the process would reduce uncertainty and accelerate decision-making.

These measures improve efficiency while respecting the legal thresholds established by Parliament.

**2. What are your views/general impressions on these proposals to improve regulatory efficiency related to building major projects faster in Canada?**

Canada can improve regulatory efficiency while maintaining the integrity of the SARA jeopardy test. The following considerations are essential:

- a) **Maintain the jeopardy test as a binding legal standard:** Under SARA s. 73(3)(c), permits may only be issued where the competent minister determines that an activity will not jeopardize the survival or recovery of the species. This requirement reflects SARA's purpose (s. 6) and is reinforced by federal policy distinguishing survival (persistence) from recovery (improvement in status).
- b) **Avoid exemptions that undermine statutory requirements:** Exempting projects from the jeopardy test would:
  - i. Undermine a mandatory precondition enacted by Parliament,
  - ii. Conflict with the precautionary and conservation objectives of SARA, and
  - iii. Increase legal uncertainty and the likelihood of judicial review.
- c) **Preserve science-based decision-making:** The jeopardy test operationalizes scientific analysis through assessment of:
  - i. Project effects on habitat,
  - ii. Impacts on survival and reproduction, and

- iii. Population-level consequences, including growth rate and extinction risk.

The Department of Fisheries and Oceans Canada (DFO) Canadian Science Advisory Secretariat Science Advisory Report 2022/036 – [\*Science Advice to Support the Components of a Jeopardy Assessment Framework for Permitting under the Species at Risk Act\*](#) – emphasizes evaluating allowable harm that does not jeopardize survival or recovery. Exemptions would bypass this framework and allow decisions without assessing population-level consequences.

- d) **Recognize the vulnerability of Southern Resident killer whales:** The SRKW population remains critically low (74 individuals) and faces multiple interacting threats, including reduced prey availability, vessel noise, and contaminants. Federal assessments indicate that survival and recovery may be at risk if these pressures are not reduced. In this context:
  - i. Cumulative effects are already at or beyond sustainable thresholds,
  - ii. Even small incremental increases in disturbance can have population-level consequences, and
  - iii. Recovery depends on reducing, not increasing stressors.
- e) **Support regulatory certainty through consistent standards:** Strong, consistently applied legal requirements provide predictability for proponents and regulators. In contrast, exemptions would:
  - i. Introduce discretion into science-based determinations,
  - ii. Increase risks of litigation and project delays, and
  - iii. Erode public and Indigenous trust in decision-making.

Regulatory efficiency is best achieved through clarity and consistency, not by weakening core safeguards.

### 3. What do businesses and Indigenous Peoples require to advance major projects within a shorter timeframe under these proposals?

To advance projects within shorter timelines, businesses and Indigenous Peoples require:

- a) **Clarity and predictability:** Consistent application of SARA protections, including the jeopardy test, and clear recognition of ecological limits.
- b) **Early and meaningful Indigenous engagement:** Projects proceed more efficiently when Indigenous Peoples are involved early, supported with adequate capacity, and engaged in co-management and monitoring. Respect for rights and stewardship responsibilities is essential for both legitimacy and timeliness.
- c) **Robust cumulative effects management:** Regional, science-based frameworks that assess total impacts, identify thresholds, and define acceptable limits in advance reduce uncertainty and avoid late-stage conflicts.
- d) **Investment in mitigation and recovery-aligned measures:** For marine projects affecting SRKWs, this includes vessel noise reduction, speed

measures, [prohibitions on scrubber washwater discharge in critical habitat](#), protection of foraging areas, and actions to improve prey availability. Projects aligned with recovery objectives are more likely to meet the jeopardy test efficiently.

Exempting projects from the SARA jeopardy test would be inconsistent with Canadian law. [Section 73\(3\)\(c\)](#) of the *Species at Risk Act* establishes a mandatory condition that authorized activities must not jeopardize species survival or recovery, giving effect to SARA's purpose of preventing extinction and enabling recovery. Courts have affirmed that such obligations must be implemented in accordance with the Act's purpose and cannot be undermined through delay or discretion. The Act also embeds the precautionary principle, requiring protective action where there is risk of serious or irreversible harm. Weakening this safeguard would further conflict with Canada's obligations under the [Convention on Biological Diversity](#) and its commitment to halt and reverse biodiversity loss.

**The proposal to exempt projects from the SARA jeopardy test would:**

- 1. Bypass science-based assessments of population risk,**
- 2. Increase extinction risk for highly vulnerable species, including Southern Resident killer whales, and**
- 3. Create legal and regulatory uncertainty, slowing rather than accelerating project delivery.**

Maintaining the integrity of the jeopardy test under SARA is essential. Canada can achieve efficient permitting and strong economic outcomes without sacrificing the legal protections that prevent irreversible biodiversity loss.

Sincerely,



Level Pratt  
Marine Protection and Policy Director