

Sea Shepherd Takes Battle Against ICR to U.S. Supreme Court

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Robert F. Kennedy, Jr., Environmental Attorney and President, Waterkeeper Alliance

Scott West, Director of Intelligence and Investigations, Sea Shepherd Conservation Society

Scott West

On the phone we have Robert F. Kennedy, Jr., environmental attorney, president of Waterkeeper Alliance. He intended to be here this morning, his airplane was held up in New York due to fog, and finally the flight was cancelled. So this is why we had a couple of delays this morning. But he's with us on the phone, Mr. Kennedy supports Sea Shepherd Conservation Society, supports our mission, supports Captain Watson, and everything Sea Shepherd does worldwide.

Mr. Kennedy?...

Robert F. Kennedy, Jr.

Hi Scott. It's Robert Kennedy. Am I audible there? (Yes)

I'm the senior attorney for the Natural Resources Defense Council, and I'm attorney for Waterkeeper as well as president of the Waterkeeper Alliance, which is 200 Riverkeepers, Soundkeepers, Baykeepers, across North America and across the world, who use litigation and law enforcement to enforce environment laws in 37 countries and protect local waterways. NRDC was also started and functions as a law enforcement organization. They wrote many of the laws, 28 laws, that were passed after Earth Day 1970. Then for the past forty years they've been enforcing those laws with injunctions, citizen suit provisions in varying courts.

We do not operate, we help negotiate treaties, we've assisted the United States Government, I've personally helped negotiate treaties in Canada and Latin America. NRDC has been deeply involved with various treaties, they authored the treaty that bans ozone.

Generally it's very difficult for groups like ours to function in the maritime commons, in the international waters, because there really are no enforcement tools so that although the nations may agree on international laws, there's really no way to enforce them. And unless a nation has a direct economic interest in, for example, protecting a territory where there are minerals or oil, there is very little enforcement. On the fisheries outside of the territorial waters of various nations, enforcement is virtually non-existent.

Paul Watson and Sea Shepherd, and I'm participating to express our solidarity and willingness to work on the legal issues with Mr. Moure and the other attorneys to safeguard and to protect Paul Watson and Sea Shepherd and its mission on the high seas because it's a mission that only they are capable of accomplishing and that is absolutely vital to the enforcement of international agreements on the high seas which otherwise will go unenforced.

The organization that brought this lawsuit, which is the so-called Institute for Cetacean Research, which is an arm of the Japanese government, is really a pirate organization masquerading as a scientific research group. For many years they've obtained permission to kill thousands of whales every year using as a pretense that they weren't doing this for business reasons, which would have been illegal, but that they were killing the whales for scientific research. Since 1986

when they obtained this scientific research exemption, they have killed 20,000 whales and they have not produced a single peer-reviewed article in any scientific publication.

A science magazine recently called the scientific mission of the Institute for Cetacean Research, "bogus." And everybody's aware of that. There's no reason even if they were a scientific organization to kill 20,000 whales. Between 1950 and 1986, there were worldwide by every nation fewer than 900 whales killed for scientific purposes. In 1986, when the ICR, the Institute for Cetacean Research, obtained their exemption, that was the total number of whales ever needed to be killed.

Since then, they've killed 20,000 and that produced no recognized science from all of these endeavors. Instead they've taken the whale meat back to Japan and they claim that it's Japanese culture, this is a Japanese cultural necessity, but in reality according to recent study by IFAW, fewer than 2% of people in Japan actually eat whale meat, and that number is declining rapidly because of the widespread knowledge now that whale meat is heavily contaminated with neurotoxic mercury. More than 90% of Japanese people have never tasted whale meat.

Because of this, the whale meat is not being sold but it is frozen and they now have the Japanese government keeping in warehouses 60,000 tons of frozen whale meat. When they sank two years ago, in 2010 they sank a Sea Shepherd ship in an act of piracy, they turned, the Sea Shepherd ship had the right-of-way, they cut it in two, and almost killed six people, and they sank the ship. Then they arrested the captain of the ship and they charged him, and what was the charge? It was interfering with a business enterprise. That was the charge that they levied against him. Yet they're telling the world that this is not a business enterprise, it is a scientific enterprise. But in Japan they don't even pretend that this has anything to do with science, it's simply a business. And it's a business that doesn't make any money. The Institute for Cetacean Research has received, since 1986, over \$310 million dollars in subsidies from the Japanese government.

So they can't sell the whale meat at home, they can't economically run this business, but it is a business for them, and the business is completely based upon them receiving enormous subsidies from the Japanese government including \$30 million in subsidies raised by people in this country and around the world for tsunami relief in Japan, that was handed over last year to the Institute of Cetacean Research.

So it is as I said, it's a pirate industry, the International Whaling Commission has recognized that the scientific research claims are dubious and has imposed a moratorium on whaling, an international moratorium, and the Institute for Cetacean Research is violating that moratorium. In other words, they are today in violation, by sending these ships out, the two harpoon boats and their factory processing ship in the Southern Ocean, they are violating not only Australian law, and the Australians and Chileans have chased them out of their territorial waters and forbidden them from coming into those waters and their Antarctic waters, they are in violation of international law.

The term for that is piracy. If you are violating international law on the high seas, you are a pirate.

We have in our country a long and proud history of battling piracy on the high seas, beginning in 1805 when Thomas Jefferson sent the marines to Tripoli to subdue the Barbary pirates. And we ought to be, not trying to impede Paul Watson and Sea Shepherd, but we should be issuing him letters of marques in order to support and recognize the important value of his activities to our country and to the world community in battling a pirate organization that is in violation of international laws.

He is performing a profound public service for all of us and instead of recognizing him, the U.S. government, various agencies of the U.S. government have attempted to impede him. Last year, Monica Medina, who is the U.S. representative to the whaling commission, promised the Japanese that she would try to get the IRS to deprive Sea Shepherd of its 501c(3) designation, which is its charitable designation, which allows it to raise charitable funds and get the tax deduction. And it's critical for its work. The IRS in January announced another audit of Sea Shepherd, which

they are engaging in now, but it is the third audit in ten years. I don't know, in the environmental groups that I've been involved with, I don't know of a single audit that has been done by the IRS of those groups. This is a campaign of harassment.

And now we're faced with this very, very dubious, strange, and unique injunction, preliminary injunction, that was issued by a court *sua sponte* with no argument, no opportunity to argue their case in front of the three judges of the court of appeals in the Ninth Circuit, and no knowledge that this was coming. I've never seen a species of injunction like this before in my thirty years as a practicing attorney and litigator. And in addition to that, there was no bond issued, no bond requirement. And there was no opinion. It was simply a one page e-mail that said we enjoin you, and not only that, it's an e-mail that pretends to enjoin entities, not only U.S. Sea Shepherd, but entities that are based in other countries which have nothing to do with the United States and over which U.S. courts have no jurisdiction, clearly.

So I'm very happy to be part of this effort and to express the solidarity of NRDC and Waterkeeper and the 200 Waterkeepers around the world, to Sea Shepherd for doing something that we can't do, which is to enforce laws on the high seas.