



An international organization dedicated to conservation through public display, education, and research

June 6, 2016

Ms. Nicole R. Le Boeuf, Division Chief
Marine Mammal and Sea Turtle Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910–3226

RE: National Marine Fisheries Service (NMFS) Proposed Rule to designate the Sakhalin Bay-Nikolaya Bay-Amur River Stock of Beluga Whales as a Depleted Stock Under the Marine Mammal Protection Act (MMPA). 81 Fed. Reg. 19542 (April 5, 2016)

Dear Ms. Le Boeuf:

The Alliance of Marine Mammal Parks and Aquariums (AMMPA) is an international association representing marine life parks, aquariums, zoos, research facilities and professional organizations dedicated to the highest standards of care for marine mammals and to their conservation in the wild. Collectively, the AMMPA and its membership represent the greatest body of experience and knowledge with respect to marine mammal husbandry in the world.

Each AMMPA member must be accredited according to AMMPA standards and guidelines which require that the facility meet or exceed every standard of care established by the U.S. government. AMMPA standards are based on the expertise and experience of the thousands of veterinarians, trainers, and animal care specialists who work with marine mammal parks and aquariums throughout the world.

Animals in AMMPA accredited facilities receive high quality, nutritious food and routine and preventative veterinary care supervised by licensed professionals. They exercise and play in ways that are mentally and physically beneficial, and voluntarily engage in training done through positive reinforcement methods. Training engages and

stimulates the animals and enables them to be voluntary participants in their own health care. As a result, animals in AMMPA facilities are thriving.

AMMPA members are dedicated to the conservation of marine mammals in the wild through public education, scientific study and through the rescue and rehabilitation of sick, injured, and orphaned marine animals.

Each year, more than 40 million people visit AMMPA facilities where, in addition to seeing living marine mammals in person, they have opportunities to learn about the animals through multiple modalities.¹ This is important since there are no other venues where the public can safely and legally get close to marine mammals, observe them above and below water for extended periods, and have the benefit of knowledgeable experts to provide information, answer questions, and guide interactions. More than two million school children participate in specially designed school programs, summer camps, and other on-site activities at AMMPA facilities. More than 800,000 individuals, mostly children, learn about marine mammals from off-site outreach programs, and AMMPA members also reach more than 150 million people every year with educational information through computer learning programs, websites, publications, satellite television, and other vehicles.

AMMPA members have spent tens of millions of dollars supporting marine mammal and ocean research. This research enhances animal care in AMMPA facilities and benefits animals in the wild. For example, some vital physiological and behavioral data can only be gathered from animals in human care because, for many physiological parameters, the mere act of collecting information in the wild can interfere with and skew the natural processes scientists are trying to measure.

Terrie M. Williams, professor of biology at the University of California Santa Cruz, recently posted comments about her experience working with a bottlenose dolphin at Long Marine Lab. Throughout the post, Williams reflects on what will happen to the wild animals researchers have been trying to save. “I fear that the ensuing ignorance concerning marine mammal biology will keep wild dolphins, whales, seals and sea otters at risk. The evidence is clear as carcasses and sick animals wash up on our shores every day. We desperately need the science to solve the problems.” Williams continued, “...after 30 years of conducting marine mammal science, I’ve learned that it is unrealistic to think that we will solve the threats to wild marine mammals by only studying them in the oceans.”²

¹ Sweeney, D. L. (2009). Learning in human-dolphin interactions at zoological facilities (Unpublished doctoral dissertation). University of California, San Diego, CA.

² Williams, T. (4/28/2016). The deafening silence of an empty pool and voiceless dolphins. HuffPost Science.

AMMPA facilities have funded or supported thousands of scientific studies that help scientists better understand our oceans and marine life. This includes work by respected scientists who work for AMMPA facilities and are part of the AMMPA's Scientific Advisory Committee, as well as independent scientists. AMMPA facility staff members also play an integral role as first responders in the National Oceanic and Atmospheric Administration's ("NOAA") Stranding Network. AMMPA members are on the front lines, and respond to more than 2,000 stranding incidents involving marine animals each year and investing \$3 million annually on the recovery, rescue, rehabilitation and release of these animals. The need has been particularly acute in recent years with unusual mortality events involving cetacean morbillivirus on the Atlantic coast and elevated levels of strandings of California sick and malnourished sea lion pups in Southern California.

It is based on the foregoing experience and expertise that the AMMPA offers its comments on NMFS' Proposed Rule to Designate the Sakhalin Bay-Nikolaya Bay-Amur River Stock of Beluga Whales as a Depleted Stock under the MMPA (Proposed Rule). Specifically, the AMMPA believes that designating a marine mammal population that occurs solely in another nation's waters as a depleted stock clearly exceeds NMFS' jurisdictional authority under the MMPA. The AMMPA is concerned about the Proposed Rule, and perplexed as to why NMFS would propose this unprecedented action when it has long been understood that it is the Endangered Species Act (ESA), not the MMPA, that is the appropriate regulatory means by which imperiled animals in foreign jurisdictions can be identified and protected.

Indeed, as recently as May 12, 2016, NMFS issued a 90-day finding on a petition to list the Taiwanese humpback dolphin—a wholly foreign species—under the ESA. 81 Fed. Reg. 29515 (May 12, 2016). It would therefore be appropriate for NMFS to retract the Proposed Rule, with the explanation that the agency would be willing to consider any future petition brought under the ESA regarding the Sakhalin Bay-Nikolaya Bay-Amur River aggregation. To do otherwise would set a harmful precedent that potentially establishes a dual-track for regulation of imperiled species. This is inconsistent with Congressional intent, as well as the express language of the MMPA and ESA.

Further, although some animal rights groups contend that this proposed designation by NMFS would somehow "encourage Russian authorities to reconsider" their practices with respect to belugas and support the conservation of Russian beluga populations,³ based on the AMMPA's experience, it is much more likely that such a designation would be perceived by Russian authorities as an insult and interference in their management of the species and would actually impede efforts to conserve beluga populations in Russian waters.

³ Whale and Dolphin Conservation Society (4/4/16), Groups welcome federal agency's decision to protect Russian beluga whales. US.Whales.org.

In addition, the AMMPA hereby joins in the comments submitted by the Georgia Aquarium on June 2, 2016 which, among other things, examine the meaning of the MMPA, relevant case law, legislative history and applicable precedents, demonstrating that, as NMFS once acknowledged itself, it lacks the authority to designate foreign populations of animals as depleted. The AMMPA also joins in the comments filed by Matthew Cronin, Ph.D on May 26, 2016 regarding the lack of genetic support for characterizing the Sakhalin Bay-Nikolaya Bay-Amur River aggregation as a stock under the MMPA. The MMPA explicitly states that any determinations about marine mammals must be based on the best scientific information available. It is clear from Dr. Cronin's comments that the best available science does not support the proposed NMFS designation.

We respectfully request that NMFS reexamine the question of whether it has authority to act in the manner set forth in the Proposed Rule and reconsider its proposed designation of the Sakhalin Bay-Nikolaya Bay-Amur River group of beluga whales as a depleted stock under the MMPA.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen Dezio". The signature is written in black ink and is positioned above the printed name and title.

Kathleen Dezio
President & CEO