



MARINE MAMMAL COMMISSION

11 December 2018

Mr. Chris Yates
Assistant Regional Administrator
Protected Resources Division
National Marine Fisheries Service
West Coast Regional Office
7600 Sand Point Way NE
Seattle, WA 9811520910-3226

Attn: Nancy Young

Re: NOAA–NMFS–2017–0078

Dear Mr. Yates:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) draft Blue Whale Recovery Plan (83 Fed. Reg. 51665) and offers the following comments and recommendations.

Criteria for Downlisting and Delisting

Section 4(f) of the Endangered Species Act directs NMFS to prepare recovery plans for the conservation and survival of endangered and threatened species, unless it finds that such a plan will not promote the conservation of the species. Among other things, such plans are to include objective, measurable criteria which, when met, would result in a determination that the species be removed from the endangered and threatened species list. Inasmuch as the blue whale is listed as endangered, the draft recovery plan contains two sets of criteria, one for delisting the species and one for downlisting the species to threatened status. Those criteria include minimum abundance thresholds for each of nine management units and a requirement that the trend in abundance be stable or increasing over a 30-year timeframe. NMFS notes that "the specific 30-year time period may differ by management unit, depending on when abundance surveys or analyses have been conducted," but does not state explicitly whether the trend must be detected for each of the identified management units before downlisting or delisting would be contemplated. The Commission recommends that the proposed criteria be modified to clarify whether the stable or increasing trend requirement applies to each of the management units or would be applicable at the species or sub-species level.

As discussed in the draft recovery plan, the blue whale was listed initially as an endangered species under the 1969 precursor to the 1973 ESA and for the species as a whole. As such, the Commission interprets the proposed downlisting and delisting criteria as applying on the same scale; that they too apply to the species as a whole. Assuming that this is the case, the Commission believes that the proposed abundance and trend criteria are appropriate and consistent with the draft

plan's goals regarding species resiliency and maintaining geographic, ecological, and genetic representation within the species. To avoid any misunderstanding concerning the scale to which the proposed downlisting and delisting criteria would apply, the Commission recommends that NMFS explicitly state that they are aimed at the species as a whole, and that consideration of a status change at any other level (e.g., subspecies or distinct population segment) could be based on different, possibly higher, abundance thresholds and measures of stability or growth.

The proposed downlisting and delisting criteria also require an analysis of the “anthropogenic threats” facing the species in the context of each of the five listing factors set forth under section 4(a)(1) of the ESA. It is unclear why NMFS is proposing to limit these analyses to anthropogenic threats, given that the listing factors include both natural and manmade threats. The Commission recommends that NMFS clarify that the review of threats under the downlisting and delisting criteria includes both anthropogenic and natural factors that may be impeding species' recovery. The Commission is also concerned that the threats-based criteria are not as clear as they might be. For instance, it is not clear how NMFS will determine if the identified factors are “impeding” blue whale recovery. To what extent would a factor need to be preventing or slowing recovery before it would be considered to be impeding recovery? Likewise, the term “demonstrably minimized” is somewhat vague. Would this require that a threat be minimized to the extent possible, to the extent practicable, or to some lesser threshold such that the factor no longer is preventing or slowing the growth of the population?

Information Update

The discussion of blue whales in the Western North Atlantic on page 9 of the draft recovery plan is not up-to-date. For example, it omits the findings of Lesage et al. (2017). The Commission recommends that the last paragraph in that section be revised and expanded to read as follows—

Outside the Gulf of St. Lawrence in Canadian waters, sightings are frequently made on the Scotian Shelf and two blue whales were sighted in the lower Bay of Fundy in the summer of 1995 (Sutcliffe & Brodie 1977, CETAP 1982). Acoustic detections and tracking using the U.S. Navy's Sound Surveillance System indicate blue whales can travel long distances throughout the western North Atlantic, including to waters north of the West Indies and deep waters east of the U.S. Exclusive Economic Zone (Clark 1995).

Twenty-four blue whales were tagged in the northwestern Gulf of St. Lawrence, mainly during September-November, and tracked with satellite-linked transmitters between 2002 and 2015 (Lesage et al. 2017). Two adult females that were tracked beyond November left the Gulf via Cabot Strait by mid-December and traveled southward and offshore to the vicinity of the New England Seamounts, then south and westward along the shelf edge, visiting canyon areas off the Mid-Atlantic Bight before reaching as far south as Cape Hatteras and Charleston (SC). The return northward migration for at least one tagged individual began in mid-February, the individual with the longest tag transmission time reaching Cabot Strait by mid-March and then (possibly blocked by ice cover in the strait) heading back to the New England Seamounts where transmissions stopped in early May. The results of this tagging study demonstrate both the far-ranging movements of blue whales along nearly the entire east coast and their regular use of offshore waters between New England and South Carolina during winter months.

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The Commission is aware of other pertinent papers, some of which do not appear to be reflected in the draft plan. The Commission staff would welcome the opportunity to consult with the drafters of the plan to help ensure that recent information is incorporated.

I hope these comments and recommendations are helpful. Please contact me if you have any questions.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director

Reference

Lesage, V., Gavrilchuk, K., Andrews, R.D. and Sears, R. 2017. Foraging areas, migratory movements and winter destinations of blue whales from the western North Atlantic. *Endangered Species Research* 34:27-43.