



Animal Welfare Institute

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BY ELECTRONIC AND REGULAR MAIL

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Chief:

RE: Comments on Draft Recovery Plan for the Sei Whale (*Balaenoptera borealis*) (76 Fed Reg 43985)

On behalf of the Animal Welfare Institute (AWI), please accept the following comments on the above-referenced National Oceanic and Atmospheric Administration/National Marine Fisheries Service (hereafter NMFS) Draft Recovery Plan for the Sei Whale (*Balaenoptera borealis*) (hereafter Draft Plan).

The purpose of the Draft Plan is to provide a research strategy to obtain data necessary to estimate population abundance, trends, and structure and to identify factors that may be limiting sei whale recovery since the current status of sei whales is unknown and the population not adequately defined.

This Draft Plan is of significant importance for endangered species such as sei whales. Under §4(f) of the Endangered Species Act (ESA), recovery plans must incorporate objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species will be removed from the list. Recovery plans must include enough information to indicate when a species' habitat is threatened, address the same factors that went into the species initial listing, and provide a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species.

AWI is concerned that the Draft Plan does not include the site-specific management actions and objective, measurable criteria for delisting as mandated by the ESA's section 4 standard. Here,

the Draft Plan simply proposes to do more research on the species and does not recommend specific actions or steps that could ultimately lead to actions to stave off threats to sei whales, and thus does not satisfy the recovery provisions of the ESA. The ESA requires that a recovery plan be both developed and implemented. 16 U.S.C. § 1533(f). Implementing a recovery plan is impossible absent detailed and specific management measures. While AWI supports the research initiatives identified in the Draft Plan and encourages NMFS to expedite creation of an agency team to implement the tasks contained in the plan, as written the plan falls far short of what is legally required in a recovery plan.

In addition, there are several instances where AWI strongly feels that NMFS could establish more specific classification criteria for the recovery status of populations, identify and protect critical habitats for sei whales, provide for more specific mandates within Tier I, and establish more reliable benchmarks for downlisting sei whales.

NMFS' Mandatory Duties under the ESA (Section 4):

The ESA was designed to “save from extinction species that the Secretary of the Interior designates as endangered or threatened.”¹ An “endangered” species is “any species which is in danger of extinction throughout all or a significant portion of its range.” 16 U.S.C. § 1532(6). A “threatened” species is “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” 16 U.S.C. § 1532(20).

In considering whether to list a species as “threatened” or “endangered,” NMFS conducts a formal review in which it must consider the species’ status according to five statutory factors. Those factors are:

- A. The present or threatened destruction, modification, or curtailment of its habitat or range;
- B. Over-utilization for commercial, recreational, scientific, or educational purposes;
- C. Diseases or predation;
- D. The inadequacy of existing regulatory mechanisms; or
- E. Other natural or manmade factors affecting its continued existence.

16 U.S.C. § 1533(a)(1). Once a species is listed as threatened or endangered, NMFS “must do far more than merely avoid the elimination of [the] protected species. It must bring these species back from the brink so that they may be removed from the protected class...”² The ESA contains a number of provisions designed to stem the threat of extinction, promote recovery of those species found to be threatened or endangered, and establish systems to conserve the species even after the threat of extinction has passed.

Section 4(f) of the ESA of 1973 directs the Secretary of the Interior and the Secretary of Commerce (acting through the Fish & Wildlife Service and NMFS) to develop and implement

¹ *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995).

² *Defenders of Wildlife v. Andrus*, 428 F.Supp. 167, 170 (1977).

recovery plans for species of animals and plants listed as endangered or threatened unless such plans will not promote the conservation of the species. 16 U.S.C. § 1533(4)(f).

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the ESA. 16 U.S.C. § 1531 et seq. Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1).

Any such plan is supposed to be a basic road map to recovery, i.e. the process that stops and reverses the decline of a species and neutralizes threats to its existence. *See* Policy and Guidelines for Planning and Coordinating Recovery of Endangered and Threatened Species (*updated* June 2010); 50 C.F.R. § 402.02. The purpose is to provide a means for achieving the species' long-term survival in nature.

According to NMFS and FWS, a recovery plan “delineates, justifies, and schedules the research and management actions necessary to support recovery of a species, including those that, if successfully undertaken, are likely to permit reclassification or delisting of the species.” *Id.* The ESA directs that the plan shall, “to the maximum extent practicable,” include:

- i. A description of site-specific management plans that may be necessary to achieve conservation and survival of the species;
- ii. A recovery objective (i.e. a target population number) and a list of objective, measurable criteria for indicating when the objective has been achieved; and
- iii. Estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal. 16 U.S.C. § 1533(f)(1)(B).

Specifically, the ESA suggests that methods and procedures, including scientific resources management activities such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation may be necessary to conserve species. 16 U.S.C. § 1532(3). The legislative history suggests that incorporation of “site-specific management objectives” is to assure that recovery plans “are as explicit as possible in describing steps to be taken in the recovery of a species.” S.Rep. No. 240, 100th Cong., 2d Sess. 9 (1988), *reprinted in*, 1988 U.S.C.C.A.N. 2709.

The goal of the ESA is not only to prevent extinction but also to bring species back to healthy population levels. Recovery plans are blueprints designed to guide the government in bringing listed species to a self-sustaining level and are one of the most important tools to ensure sound scientific and logistical decision-making throughout the recovery process. In this sense, they should also include a call for species reintroduction, habitat acquisition, captive propagation, habitat restoration and protection, population assessments, research and technical assistance for landowners, and public education.

History of Sei Whale Recovery:

The sei whale has been listed as “endangered” under the ESA since its passage in 1973. In 1998, NMFS constructed a draft recovery plan for both fin and sei whales (NMFS 1998). Despite this early attempt that combined these two separate species in a single draft plan, no further progress was made until publication of the final fin whale recovery plan in July 2010 (NMFS 2010).

The 1998 draft provided information on the taxonomy, zoogeography, and basic natural and life history of sei whales as well as outlining recovery objectives. Though this information provided a basis from which a more meaningful recovery plan could be developed, it was necessarily out of date with regard to our understanding of distribution and threats to the species. For example, distributional shifts of copepods as a result of climate change were not factored into the 1998 draft plan.

In addition, the 1998 draft recovery plan did not accurately document sei whale distribution in U.S. waters. The plan cited literature indicating that sightings are uncommon anywhere in U.S. Atlantic waters and may be seen sporadically in offshore waters. In fact, sei whales are seen with some regularity in Atlantic waters; reliable sightings of sei whales occur in the near coastal waters of the southern Gulf of Maine and along the east coast.³

2011 Draft Recovery Plan for the Sei Whale:

The Draft Plan divides recovery actions into three tiers. Tier I includes: 1) continued international regulation of whaling; 2) determine population size, trends, and structure using opportunistic data collection in conjunction with passive acoustic monitoring, if determined to be feasible; and 3) continued stranding response and associated data collection. After ten years of conducting Tier I actions, NMFS expects to evaluate this approach to determine if the approach is providing sufficient demographic data (or if more efficient data collection methods become available). If the Tier I method proves to be sufficient, NMFS will continue Tier I data collection activities. If Tier I data collection methods are insufficient, NMFS will consider Tier II actions, building upon research conducted during Tier I. Tier II adds more extensive directed demographic survey research and actions that are dependent upon acquiring comprehensive information (*e.g.*, assessment of threats currently ranked as unknown). Tier III recovery actions depend upon data collected in Tiers I and/or II. When sufficient data are obtained, Tier III recovery activities will be undertaken as feasible.

³ Weinrich, M.T., Belt, C.R., Schilling, M.R., and Marcy, M. 1986. Behavior of sei whales in the Gulf of Maine, Summer 1986. *J. Amer. Cetacean Soc.* 20 (4): 4-7. *See also* Blue Ocean 2010. Blog documenting multiple sei whale sightings in 2010 from May through late August, generally around Jeffreys Ledge, available at: <http://whalesightings.blogspot.com/search?q=sei>. *See also* Whalewatch.com 2009, Documenting sightings in the fall near Stellwagen Bank, available at http://www.whalewatch.com/research/Sei_whale_Review2009.php September 7, 2009. *See also* WDCS unpublished: Whale Sightings 1999-2010.

Site-Specific Management Actions

A recovery plan's recommendations are implemented through NMFS' programs, cooperation and consultation with states, and by the obligation of federal agencies to consult with NMFS or to implement conservation programs. 16 U.S.C. §§ 1535, 1536(1), (2). These programs often require the development of detailed and possibly site- or situation-specific restrictions to protect the sei whale. As of now, the Plan does not provide for any of these provisions. By failing to directly and specifically address the threats posed by human activities and resource development, NMFS has failed to meet its obligation under the ESA. Given the ESA mandate that a recovery plan be both developed and implemented, 16 U.S.C. § 1533(f), implementing this recovery plan is impossible absent detailed and specific management measures.

Specifically, AWI is concerned that the Draft Plan does not include management actions that are specific to particular sites since it identifies recovery strategies applicable to entire ocean basins. In addition, there is a lack of detail in the management actions; recommended actions for various ecosystems are largely the same and are described in boilerplate statements. These statements consistently describe the purpose of the Draft Plan as simply to provide a research strategy to obtain data necessary to estimate population abundance, trends, and structure, and to identify factors that may be limiting sei whale recovery.

Site-specific management actions should, at the very least, identify species "sites" inhabited by sei whales and describe management actions for each of these "sites." A recovery plan that recognizes specific threats to the conservation and survival of a threatened or endangered species, but fails to recommend corrective action or explain why it is impracticable or unnecessary to recommend such action,⁴ does not meet the ESA's standard.⁵

Here, the Draft Plan simply lists the general territories inhabited by sei whales and proposes to do more research on the species, which does not constitute a "management action" for each site.⁶ There are additional measures "necessary to achieve the plan's goals for the conservation and survival of the species." 16 U.S.C. § 1533(f)(1)(B)(i). The ESA suggests procedures that may be necessary to conserve species in addition to research, including census, law enforcement, habitat acquisition and maintenance, propagation, live trapping and transplantation. 16 U.S.C. § 1532(3). The Draft Plan does not recommend specific actions or steps that could ultimately lead to actions to stave off threats to sei whales, and thus does not satisfy the recovery provisions of the ESA.

The ESA mandates a recommendation of actions to counter identified threats to sei whales, but the Draft Plan lacks mandates and makes objectives within Tier I optional, referring to when

⁴ NMFS has admitted that many potential threats such as fishery interactions, anthropogenic noise, ship strikes, etc. are essentially unknown. National Marine Fisheries Service. 2011. Draft Recovery Plan for the Sei Whale (*Balaenoptera borealis*). National Marine Fisheries Service, Office of Protected Resources, Silver Spring, MD at I-14 – I-34. (July 2011).

⁵ Courts have found that it is insufficient that a recovery plan's criteria would "likely lead" to finding that statutory delisting factors were met. *Fund for Animals v. Babbitt*, 903 F.Supp. 96, 108 (D.D.C 1995).

⁶ National Marine Fisheries Service, *supra* n. 4.

such actions will be taken as “opportunistically,” when “highly desirable,” “as necessary,” or “if feasible,” by the agency’s estimation.⁷ This language permits NMFS unbridled discretion and does not impose a clear duty on NMFS to fulfill the statutory command to the extent that it is feasible or possible.

There are numerous other ways that the Draft Plan would abdicate NMFS’ active role in recovery and leave the agency with a toothless strategy for the recovery of sei whales. For example, the Draft Plan defers state, federal, and international efforts to implement recovery efforts almost entirely to the current management of sei whales by the International Whaling Commission (IWC).⁸ For example, NMFS’ recommendation for dealing with hunting threats to sei whales is to simply continue the IWC’s current management strategy. Yet, under current management, the Japanese kill up to 100 sei whales alone in its North Pacific whaling “research” program,⁹ despite there being no IWC assessment of the status of sei whales in the area for a number of years. Therefore, Japan’s sei whale hunt is conducted in the absence of reliable and agreed estimates on population abundance and trend.¹⁰ Indeed, NMFS concedes that “in no location is there sufficient information on sei whale population size, trends, and structure to justify the resumption of exploitation.”¹¹ Despite this evidence, it is unclear what, if anything, the U.S. government acting through NMFS has done to date to try to compel or dissuade the Japanese from continuing to kill sei whales in numbers that may be unsustainable.

The Draft Plan fails to address numerous known and acknowledged threats to sei whale recovery. It specifically states that in addition to threats from whaling, sei whales face potential threats from collisions with vessels, entanglement in active or derelict fishing gear, reduced or displaced prey abundance due to climate change, and the effects of anthropogenic ocean noise. Unfortunately, the Draft Plan fails to meaningfully address any of these threats (except to recommend that they continue to be assessed and studied).¹²

Furthermore, the Draft Plan does not entail developing minimum habitat values for any sei whale ecosystems and has not adequately listed and/or provided specific recovery actions in response to threats to the species habitat. In essence, the sole purpose of the plan is to simply conduct research on sei whale populations and continue the status quo regulations managed by the IWC.¹³ Such research does not meet NMFS’ various statutory obligations as outlined above for recovery plans.

In addition, NMFS has stated that the Draft Plan will be reviewed every ten years and Tier II actions will be taken at that time if appropriate. However, the timeline of ten years is arbitrary

⁷ *Id.* at II-2, III-2, III-3, IV-1, IV-2, IV-3.

⁸ *Id.* at IV-1.

⁹ A total of 592 sei whales have been reportedly killed by the Japanese in the northwestern Pacific Ocean between 1988 and 2009 with the majority killed between 2004 and the present. *Id.* at I-28.

¹⁰ *Id.* at I-26.

¹¹ *Id.* at IV-7.

¹² *Id.* at v.

¹³ “The primary purpose of this Recovery Plan is to provide a research strategy to obtain data necessary to estimate population abundance, trends, and structure...” *Id.*

and unreasonable given that science and/or circumstances could change and the plan might no longer be suitable in a much shorter period of time (Tier II & III actions might be necessary and imminent well before ten years have passed). In essence, NMFS is proposing to simply collect data on sei whales for ten years, and then evaluate this approach to see if it is sufficient.¹⁴ In addition, NMFS has also stated that time to recovery is not predictable (and is in fact impossible) with the current information and global listing of sei whales.¹⁵ This is not sufficient as a site-specific plan to achieve species recovery.

Objective, Measurable Criteria for Down-listing and Delisting

A recovery plan must include “objective, measurable criteria which, when met, would result in a determination... that the species be removed from the list.” 16 U.S.C. § 1533(f)(1)(B). The Draft Plan does not delineate distinct sei whale ecosystems, nor does it describe monitoring or recovery criteria by which to measure sei whale status in each ecosystem. Its purpose is simply to provide a research strategy to obtain data necessary to estimate population abundance, trends, and structure and to identify factors that may be limiting sei whale recovery since the current status of sei whales is unknown and the population not adequately defined. By simply proposing to gather data, NMFS has not met its obligation to develop objective, measurable criteria by which to achieve species recovery.

In addition, the Draft Plan proposes arbitrary population thresholds that are not based upon the best scientific evidence available. NMFS acknowledges that it has no idea what the status of the global populations of these whales are, or what their numbers are in various oceanic basins around the world.¹⁶ However, without this critical baseline information, NMFS set the minimum population criterion for down-listing the whales at 1,500 reproducing mature adults worldwide (consisting of at least 250 mature males and 250 mature females in each oceanic basin).¹⁷

In 1974, the year after the sei whale was listed as endangered under the ESA, NMFS acknowledges that there were an estimated 8,600 sei whales in the North Pacific basin alone.¹⁸ In the late 1960’s, NMFS estimates that there were somewhere in the neighborhood of 2,000 sei whales in the North Atlantic basin (i.e., 870 in the putative Nova Scotia stock and at least 965 in the putative Labrador Sea stock).¹⁹ And, based on data gathered between 1978 and 1988, NMFS estimates that there were 9,718 individuals in the Southern Hemisphere at that time.²⁰ If a global population upwards of 20,000 whales could result in an endangered listing under the ESA, how can a global population of 1,500 reproducing adults serve as an objective standard for

¹⁴ *Id.* at v-vi.

¹⁵ *Id.* at vii.

¹⁶ “Of the commercially exploited ‘great whales,’ the sei whale is one of the least studied, and the current status of most sei whale stocks is poorly known.” *Id.*

¹⁷ *Id.* at vi & III-2.

¹⁸ “Application of various models to whaling catch and effort data suggests that the total population of adult sei whales in the North Pacific declined from about 42,000 to 8,600 individuals between 1963 and 1974 (Tillman 1977).” *Id.* at I-12.

¹⁹ *Id.* at I-8.

²⁰ *Id.*

downlisting the species to threatened? This number is even more outrageous in its inadequacy when the pre-exploitation size estimate of sei whales in the North Pacific (42,000) and Southern ocean (65,000) are considered.²¹

From an objective standpoint, the 1,500-whale threshold cannot survive scrutiny. It is an inadequate, illogical, arbitrary, and counterproductive standard. Moreover, even if the 1,500 mature adults per ocean basin represented an acceptable recovery criterion it is nonsensical to specify that this must include at least 250 mature males and 250 mature females since this total would be 500; far short of the 1,500 limit. If NMFS is suggesting that recovery (for the purpose of downlisting) can be achieved with a total ocean basin population of 1,500 sei whales with at least 250 mature males and females in the population, this criterion is even less acceptable than the total of 1,500 mature individuals per oceanic basin. It is unclear why NMFS apparently believes that setting the downlisting criteria bar so low versus setting the numerical criteria much higher. Frankly, given current population estimates (e.g. for Icelandic and Faroese waters) the numerical recovery criterion of 1,500 mature adult sei whales can likely already be met. While ESA listing are not intended to be permanent, NMFS must recognize that any down- or delisting of the sei whale will have broad implications at the IWC and in regard to wildlife trade as controlled by the Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES).

The Draft Plan is riddled with admissions that NMFS does not have any data on current populations, population dynamics, and population trends and does not indicate any particular methodology for monitoring whether these goals have been met.²² Without this data, how is it possible to form an official opinion that the prescribed population size is sufficient for downlisting? If NMFS does not know the baseline population size for a species that was manifestly endangered in 1973 (and likely remains so), how can the agency establish benchmarks for when it won't be endangered any more? These criteria are arbitrary, particularly in light of the fact that global populations were significantly higher than 1,500 reproducing adults when it was listed. NMFS should take a precautionary approach to setting the criteria, and set the threshold for downlisting at a much higher level than the estimated size of the global population at the time of listing. Ideally, if the pre-exploitation population size for each ocean basin (i.e., Atlantic, Pacific, and Southern) can be accurately estimated, the threshold for delisting should be set at that number with downlisting criteria set at just below that number to ensure a high likelihood of complete recovery if the "endangered" designation is ever removed.

NMFS has failed to explain the evidence which is available, and failed to offer a rational connection between the facts found and the choice made.²³ The Draft Plan specifically states that there is a "need for improved understanding of the genetic differences among and between populations to determine stock structure – a prerequisite for assessing abundance and trends, but

²¹ *Id.* at I-12 (for North Pacific) and I-14 (for Southern ocean). There is no pre-exploitation abundance estimate for the North Atlantic.

²² "Currently, the population structure of sei whales has not been adequately defined." *Id.*

²³ *Motor Vehicle Manufacturer's Ass'n v. State Farm Mutual Ins. Co.*, 463 U.S. at 52, 103 S.Ct. at 2871; See also *Northern Spotted Owl v. Hodel*, 716 F.Supp. at 482.

such information is not available for this Draft Plan.”²⁴ Without data on population abundance and trends, and without a consistent and reliable monitoring methodology to obtain this data, NMFS is left without a means to ensure that the Draft Plan’s Tier I objectives are met.

NMFS’ objective, measurable criteria must specifically assess whether the threats that originally led to a decision to list a species have been remedied in ways that would permit biological recovery of the listed species. Indeed, the ESA mandates that agencies “*shall, to the maximum extent practicable,*” incorporate into a recovery plan “objective measurable criteria which, when met *would* result in a determination... that the species be removed from the list.” 16 U.S.C. § 1533(f)(1)(B)(ii). The same five statutory factors must be considered in delisting as in listing, and NMFS must address each of these factors and measure whether threats to the sei whale have been ameliorated.²⁵

Here, NMFS has simply stated that none of the known threats to sei whales are known to limit the continued growth of populations, listing the factors in Section 4(a)(1) of the ESA without addressing them directly.²⁶ NMFS has provided no explanation as to how these factors are addressed by the recovery tasks/actions included in the Draft Plan. It is not acceptable that NMFS has no way of determining whether the species has recovered enough to be downlisted or delisted.²⁷

The promise of habitat-based recovery criteria at some time in the future does not satisfy the agency’s obligation to produce objective, measurable criteria that will lead to delisting as a part of the recovery plan itself. The purpose of the habitat recovery criteria is to measure the effect of habitat quality and quantity on sei whale recovery. Such monitoring is not possible if there is no scale against which to gauge the status of the habitat.

Ultimately, though NMFS is legally obligated to prepare a recovery plan for each ESA listed species (which it has not previously done for the sei whale) the present Draft Plan is effectively a research plan that NMFS is attempting to pass off as a recovery plan. While AWI supports the research initiatives identified in the Draft Plan and encourages NMFS to expedite creation of an agency team to implement the tasks contained in the plan, as written the plan falls far short of what is legally required in a recovery plan. Admittedly, this is, in part due to a paucity of information about the ecology, biology, status, trend, and threats to the sei whale. Nevertheless, NMFS does have an unalterable mandate to recover the species and, therefore, at a minimum, NMFS must explicitly specify its intent to revise this recovery plan every five years in order to take the scientific information that is gathered through its research effort and use it to develop a meaningful recovery plan that include objective, measurable criteria to seriously address the threats that prevent the recovery of this species.

²⁴ National Marine Fisheries Service. *supra* n. 4 at v.

²⁵ *Defenders of Wildlife v. Andrus*, 428 F.Supp. at 170.

²⁶ National Marine Fisheries Service. *supra* n. 4 at vii & III-2.

²⁷ *Id.* at vii.

Specific Recommendations:

AWI has substantive concerns regarding the Draft Plan, and recommends that NMFS urgently combine Tier I and Tier II and undertake both immediately. Alternatively, NMFS can skip over Tier I and immediately proceed to Tier II since Tier II efforts are more mandatory while the Tier I efforts are all based on opportunistic sampling and conducting research efforts if feasible or if desirable.

These specific changes include but are not limited to:

- Establishing more specific classification criteria to assess the recovery status of populations and to determine when down-listing or delisting may be warranted;
- Estimating population sizes and monitoring trends in abundance as part of Tier I actions;
- Identifying and protecting critical habitats as part of Tier I actions;
- Identifying causes and minimizing frequency of or, preferably, eliminating human-caused injury and mortality;
- Determining and minimizing or, preferably, eliminating any detrimental effects of vessel and aircraft interactions;
- Treating all threats (whether determined to be low, medium, or high) with equal attention due to potential cumulative impacts of said threats;
- Providing for obtaining information on unknowns in the recovery plan: anthropogenic noise, ship noise, oil & gas exploration & development, military sonar & explosives, and ship strikes;
- Providing specific criteria to analyze whether collection methods are sufficient to move to Tier II (which includes assessment of threats unknown); and
- Mandating that the Recovery Plan be reviewed every 5 years instead of every 10 so as to incorporate best available science.

Conclusion:

AWI is not satisfied that NMFS has fulfilled its obligations under §4(f) of the ESA by providing sufficient detail regarding:

- A description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation & survival of the species; and
- Objective, measurable criteria which, when met, would result in a determination in accordance with the provisions of this section, that the species will be removed from the list.

AWI is concerned that NMFS can not make a sufficiently informed decision to downlist sei whales from endangered to threatened status simply by determining population size and trends. NMFS absolutely needs to identify, characterize, protect, and monitor habitat improvement to sei whale populations in U.S. waters and elsewhere, as well as describe other site-specific management actions in the Draft Plan.

The ESA requires identification of management actions necessary to achieve the Plan's goals for the conservation and survival of the species. A recovery plan that recognizes specific threats to the conservation and survival of a threatened or endangered species, but fails to recommend corrective action or explain why it is impracticable or unnecessary to recommend such action, does not meet the ESA's standard; nor does a plan that completely ignores threats to conservation and survival of a species.

Thank you for providing this opportunity to comment on the Draft Plan and for considering these comments. Please send any future correspondence or information about the Draft Plan to: Tara Zuardo, Wildlife Program Associate, Animal Welfare Institute, 900 Pennsylvania Ave., SE, Washington, DC 20003.

Sincerely,



Tara Zuardo
Wildlife Program Associate

References:

National Marine Fisheries Service. 2011. Draft Recovery Plan for the Sei Whale (*Balaenoptera borealis*). National Marine Fisheries Service, Office of Protected Resources, Silver Spring, MD. 105 pp.

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