



BLUE WATER FISHERMEN'S ASSOCIATION

September 19, 2017

VIA FEDERAL EXPRESS

The Honorable Ryan Zinke, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

The Honorable Wilbur Ross, Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, D.C. 20230

Mr. Greg Sheehan
Deputy Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, D.C. 20240

Mr. Chris Oliver
Assistant Administrator for Fisheries
NOAA Fisheries Service
Protected Resources Division
1315 East-West Highway
Silver Springs, MD 20910

Re: Petition to Designate the Northwest Atlantic Leatherback Subpopulation of Sea Turtles as a Distinct Population Segment (DPS) and List the DPS as Threatened under the Endangered Species Act

Dear Secretary Zinke, Secretary Ross, Mr. Sheehan, and Mr. Oliver:

Pursuant to section 4(b) of the Endangered Species Act ("ESA"), 16 U.S.C. § 1533(b), section 553(3) of the Administrative Procedure Act, 5 U.S.C. § 553(e), and 50 C.F.R. § 424.14(a), the Blue Water Fishermen's Association ("BWFA" or "Petitioner") hereby petitions the Secretary of the Interior, through the U.S. Fish and Wildlife Service ("USFWS"), and the Secretary of Commerce, through the National Marine Fisheries Service ("NMFS"), to designate the Northwest Atlantic Leatherback Subpopulation of sea turtles (*Dermochelys coriacea*) as a Distinct Population Segment ("DPS") under the ESA, in accordance with the Policy Regarding the Recognition of Distinct Vertebrate Population Segments, 61 Fed. Reg. 4722 (February 7, 1996) ("DPS Policy"). BWFA further petitions USFWS and NMFS (collectively, "Services") to list this DPS as a threatened species under the ESA. The petitioned actions are based both on new data and new interpretations of previously available information, which demonstrate that (1) the Northwest Atlantic Leatherback Subpopulation constitutes a discrete and significant DPS, and (2) the DPS is not in danger of extinction throughout all or a significant portion of its range, and therefore should not be listed under the ESA as endangered, but rather should be listed as threatened.

The leatherback sea turtle was listed as endangered throughout its range in 1970. 35 Fed. Reg. 8491 (June 2, 1970). USFWS has jurisdiction over sea turtles on land and NMFS has jurisdiction over sea turtles in the marine environment. The two agencies completed a final recovery plan for the leatherback sea turtle in 1992. On the basis of substantial scientific and commercial information available since the leatherback turtle's original listing and as summarized in this petition, designation of the Northwest Atlantic Leatherback Subpopulation is

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now warranted. In addition, this DPS is not in danger of extinction throughout its range, and therefore should be listed as threatened under the ESA.

This petition initiates a statutory process, whereby the Services must respond within specific time frames. Specifically, the Services must issue an initial finding as to whether the petition “presents substantial scientific or commercial information indicating that the petitioned action may be warranted.” 16 U.S.C. § 1533(b)(3)(A); 50 C.F.R. § 424.14. For the purposes of this decision, “‘substantial scientific or commercial information’ refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered ‘substantial information.’” 50 C.F.R. § 424.14(i). USFWS must make this initial finding “[t]o the maximum extent practicable, within 90 days after receiving the petition.” *Id.*

This petition includes three Enclosures. Enclosure 1 is the technical and legal analysis supporting the petitioned action, and is divided into four sections. The first section describes the petitioned action, and provides contact information for the Petitioner. The second section provides an overview of the Leatherback sea turtle, a description of the Atlantic subpopulations, and additional details regarding the Northwest Atlantic Leatherback Subpopulation. The third section, in accordance with the DPS Policy, explains why the Northwest Atlantic Leatherback Subpopulation is discrete and significant, and therefore should be designated as a DPS under the ESA. The fourth section describes why the Northwest Atlantic Leatherback DPS does not meet the statutory definition of endangered, and should instead be listed as threatened under the ESA. Pursuant to 50 CFR § 424.14(c)(6), Enclosure 2 contains electronic copies of all supporting materials cited in the petition. Enclosure 3 contains copies of the notices sent by BWFA to relevant state agencies, along with delivery confirmations, as is required by 50 CFR § 424.14(c)(9).¹

As demonstrated by the substantial scientific and commercial information contained in the attached Enclosures, the Northwest Atlantic Leatherback Subpopulation constitutes a discrete and significant population, and therefore should be designated as a DPS under the ESA. Furthermore, based on the criteria set forth in section 4(a) of the ESA, it is clear that this DPS does not qualify as endangered, and should be listed as threatened under the ESA.

¹ The notices sent to the relevant state agencies identified the proposed DPS at the “Western North Atlantic Subpopulation of Leatherback Sea Turtles.” This petition refers to the proposed DPS as the “Northwest Atlantic Leatherback Subpopulation of Sea Turtles.” This change was based on Petitioner’s review of additional literature, and reflects a change in name only. Substantively, the proposed DPS is the same in both the notices and the petition.

Please let me know if you have any questions regarding the foregoing or the enclosed materials. Thank you for the opportunity to provide you with this petition and related information.

Best regards,

A handwritten signature in blue ink, appearing to read "Jack Devnew", is written over the typed name.

Jack Devnew
President of Blue Water Fishermen's
Association

Enclosures