

Public Comment Processing
Attn: Docket No. FWS-R4-ES-2015-0178
U.S. Fish and Wildlife Headquarters, MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

April 7, 2016

Re: The Fish and Wildlife Service (FWS) Proposed Rule: Endangered and Threatened Wildlife and Plants: 12-Month Finding on a Petition to Downlist the West Indian Manatee, and Proposed Rule to Reclassify the West Indian Manatee as Threatened

To Whom It May Concern:

The undersigned organizations and businesses working in Florida and committed to protecting our state's water resources, write in opposition of your proposed rule to reclassify the West Indian Manatee from Endangered to Threatened under the federal Endangered Species Act. One of the five factors the FWS is supposed to evaluate is "the present or threatened destruction, modification, or curtailment of its habitat or range."¹ Manatees rely on healthy aquatic ecosystems, but in Florida, critical water issues stem from upland land use, runoff, and water consumption for human use. Florida faces serious and increasing threats to the quality and quantity of its water supply, which the State of Florida has been unwilling or unable to resolve. Without serious efforts to address threats to Florida's waterways, manatee habitat will continue to become increasingly fragmented and degraded.

In Florida, there are more than 2,700 water body segments on the statewide Comprehensive Verified List of Impaired Waters.² Algal blooms have plagued the northern Indian River Lagoon in recent years, and red tide blooms have been reoccurring without respite along Florida's southwest coast. These events have negatively impacted the seagrass and aquatic communities in the region. Warmer waters and increased salinity as a result of climate change may be driving more frequent and intense blooms.³ These events result in Unusual Mortality Events (UMEs) for Florida's manatees that can cause hundreds of deaths. In 2013 alone, 118 manatees died as a result of harmful algal blooms in the Indian River Lagoon and there were 276 red tide related mortalities.⁴ Brevard County suffered seagrass losses estimated at 47,000 acres in recent years, and reoccurring blooms are hindering seagrass recovery. In 2016, a brown tide began much earlier in the year than it had previously, likely preventing any new growth.⁵ Another large-scale seagrass die off was documented in Florida Bay late in 2015.⁶

¹ 16 U.S.C. §1533(a)(1); 50 C.F.R. §424.11(c); 81 Fed. Reg. 1014 (Jan. 8, 2016).

² 2014 Integrated Water Quality Assessment and Florida Watershed Assessments List, available at: <http://www.dep.state.fl.us/water/watersheds/assessment/a-lists.htm>.

³ US Environmental Protection Agency, Climate Change and Harmful Algal Blooms, available at: <https://www.epa.gov/nutrientpollution/climate-change-and-harmful-algal-blooms>.

⁴ 12-month Finding on Petition to Downlist the West Indian Manatee, and Proposed Rule to Reclassify the West Indian Manatee as Threatened, 81 Fed. Reg. 1005 (Jan. 8, 2016).

⁵ Jim Waymer and Dave Berman, *Algae reappear in ailing lagoon*, Florida Today (February 24, 2016).

⁶ Kevin Spear, *Florida Coastal Environments are Collapsing*, Orlando Sentinel (March 4, 2016).

Policy decisions, such as the continued discharges from Lake Okeechobee into the Caloosahatchee and St. Lucie Rivers, their estuaries, and downstream coastal waters, combined with the state's refusal to purchase conservation lands to replenish the Everglades, exacerbate poor coastal water quality conditions that negatively affect manatee habitat.

The various pollutant streams degrading Florida's waterways are not controlled. The Florida Department of Environmental Protection's establishment of TMDLs (Total Maximum Daily Loads) and BMAPs (Basin Management Action Plans) has been slow, and even completed plans are criticized for their questionable ability to create lasting improvements in water quality. Where such plans are in place, they are poorly implemented. Even where they are applied as part of a permitting program, enforcement is inconsistent at best. Under Governor Rick Scott's administration, enforcement of environmental violations in Florida has decreased by eighty-four percent.⁷ Present trends in policy, permitting, and enforcement indicate that Florida's water quality problems are not likely to improve in the near future.

As over 1,000 people each day move to Florida and development increases, so does demand on Florida's dwindling water supply. By the year 2030, fresh water consumption in Florida is expected to increase by 1.3 billion gallons per day, or 21%, over 2010 demand.⁸ Existing water supplies are insufficient to meet that demand while maintaining non-consumptive beneficial uses, including environmental and habitat uses. Minimum Flows and Levels (MFLs) for springs and rivers therefore often allow for reductions in flow, which take away habitat for manatees. Considering the anticipated future loss of artificial warm water that would displace 60-70% of Florida's manatees, the state regulatory agencies are not doing enough to safeguard and restore springs so manatees have sufficient winter habitat to which they can transition. Spring flows must be increased and navigational impairments removed so that manatees may once again inhabit those areas of their historical range. This includes restoration of the Ocklawaha River and its associated springs.

Florida's water resources are in jeopardy, which leaves manatees in danger. While many initiatives have been put in place by the FWS and its state partners during the years that manatees have been listed as an endangered species, the agencies have not managed to safeguard the manatees' habitat, as evidenced by the previously mentioned large scale mortality events from cold stress, red tide and UME events, along with other seagrass losses, stormwater runoff issues, other point and nonpoint source pollution, and habitat losses due to coastal development. The U.S. Fish and Wildlife Service will need the full protection of the Endangered Species Act behind it to achieve the land acquisition and environmental management changes needed to make additional springs and warm water refugia available to wintering manatees, and to ensure water quality conditions that are protective of manatee habitat.

Manatees were originally included on the federal endangered species list in 1967 due to dire threats from pollution, loss of habitat, and speeding boats. All of these threats continue and new threats have emerged. The FWS was right not to downlist manatees in the past and has no legal or scientific basis to do so now due to the new and ongoing threats to manatee habitat. The FWS

⁷ Public Employees for Environmental Responsibility, 2014 Report on DEP Enforcement, available at: <http://www.peer.org/news/news-releases/florida-environmental-enforcement--how-low-can-it-go.html>.

⁸ Florida Department of Environmental Protection, 2014 Annual Report on Regional Water Supply Planning.

must maintain the manatee's endangered status to ensure the best protections moving forward. The Florida Manatee's endangered status has allowed the species to advance on the road to recovery, but the threats to its habitat are still too great to warrant a change to its listing status at this time. Please maintain the manatee's status as endangered under the federal Endangered Species Act until threats to its habitat are better controlled.

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