

Congress of the United States

Washington, DC 20510

July 20, 2022

Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway, Room 13705
Silver Spring, MD 20910

Carolyn McKinnie, D.V.M.
Senior Staff Veterinarian
APHIS Animal Care
4700 River Road
Riverdale, MD 20737-1238

Dear Ms. Harrison and Dr. McKinnie:

We are writing to request clarification on how the Animal Welfare Act (AWA) exhibitor's license that the USDA issued to MS Leisure for their Miami Seaquarium facility on March 2, 2022, affects the legal status of Tokitae, also known as Lolita, and Lii, her Pacific white-sided dolphin companion.

In USDA's license approval letter to MS Leisure, the agency states, "Because (1) MS Leisure has made the decision not to exhibit Lolita/Tokitae and the Pacific white-sided dolphin within the Whale Stadium, (2) the Whale Stadium is inaccessible to the public and the animals contained therein are not visible to the public, and (3) the animals in Whale Stadium are separate from, and will not be in contact with, the regulated animals at Miami Seaquarium, these animals (Lolita and her dolphin companion) are not covered by this USDA license."

We believe this is an unprecedented situation. It is our understanding that the USDA decision makes the continued maintenance of Lii, who is covered by a Marine Mammal Protection Act (MMPA) permit from 1988, when he was captured from the wild for public display, unlawful, as any enclosure holding him must be open to the public and be covered by an AWA license. In addition, since it appears Tokitae and her enclosure have not been covered by an AWA license since approximately March 2, 2022, we request clarification as to how this situation affects her status under the Endangered Species Act (ESA).

Given the three statutes at play (AWA, MMPA, and ESA), as well as the fact that both of your agencies have jurisdiction here, we also request information on the interagency consultation process that took place when issuing this license.

We are concerned about the precedent this license has set and look forward to also hearing from you on how this decision will affect all animals held in captivity under the Animal Welfare Act, now and in the future.

Sincerely,



Suzan K. DelBene
Member of Congress



Maria Elvira Salazar
Member of Congress



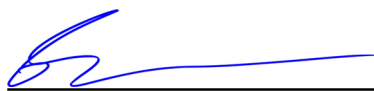
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