

MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814-4447



21 May 2007

Mr. P. Michael Payne
Chief, Permits Division
Office of Protected Resources
National Marine Fisheries Service, NOAA
1315 East-West Highway
Silver Spring, MD 20910

Re: Permit Application No. 1121-1900 (National Marine Fisheries Service's Office of Science and Technology)

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act.

The applicant is requesting authorization to harass beaked whales and various other species of cetaceans by conducting playback experiments using received sound levels of up to 170 dB for the purpose of determining what characteristics of exposure to specific sounds (including mid-frequency sonar) evoke behavioral responses in beaked whales and other deep-diving cetaceans. Authorization also is requested to tag focal animals with digital archival recording tags using suction cups and to import and export skin samples collected during suction-cup tag retrieval. The proposed research would be conducted in two phases. However, the current application appears to be limited to Phase I research, scheduled to be conducted between June and October 2007. A draft environmental assessment of the effects of the proposed research activities accompanies the application.

Over a one-year period, up to 375 beaked whales (including 150 Cuvier's beaked whales), 203 short-finned pilot whales, 263 Risso's dolphins, 299 melon-headed whales, and 113 sperm whales would be taken by harassment during close approaches for photo-identification, tagging, and playback studies. Of these numbers, up to 10 beaked whales (including 5 Cuvier's beaked whales), 9 short-finned pilot whales, 5 Risso's dolphins, 5 melon-headed whales, and 5 sperm whales would be tagged, photo-identified, exposed to playbacks of mid-frequency sounds, and monitored for behavioral response to the playback noise. Additional numbers of several species of cetaceans would be harassed incidental to the proposed studies, including up to 3 humpback whales, 6 minke whales, 6 Bryde's whales, 3 sei whales, 6 fin whales, and 3 blue whales.

Page 15 of the draft environmental assessment describes the proposed action alternative as "a one-year scientific research permit" to authorize the conduct of Phase I research activities. However, the Service's *Federal Register* notice states that the permit would be valid for five years. The

RECOMMENDATION

Upon resolution of this issue, the Marine Mammal Commission recommends that the National Marine Fisheries Service approve the requested permit provided that—

- an activity cease if there is evidence that it may be interfering with the vital functions of the subject animals, particularly cow-calf pairs;
- tagging not be conducted on females accompanied by calves less than six months of age, as determined by size;
- the Service ensure that activities to be conducted under this permit and those of other permit-holders who might be carrying out research on the same species in the same areas are coordinated to avoid unnecessarily duplicative research and unnecessary disturbance of animals;
- the Service consult with the applicant regarding the steps that will be taken to monitor any animals that appear to be injured or disoriented during the playback experiments and to recover and necropsy any animals that may have died as a result of the activities; and
- activities be suspended, pending review and authorization to proceed, if an animal is accidentally injured or killed during the conduct of the authorized activities.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the Marine Mammal Protection Act.

Please contact me if you have any questions concerning these comments and recommendation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael H. Ragen" with a stylized flourish at the end.

Timothy J. Ragen, Ph.D.
Executive Director