

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

25 September 2003

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

Re: Permit Application Nos. 704-1698-00 (University of Alaska Museum)
1004-1706 (Alaska Sea Otter and Steller Sea Lion Commission)

Dear Mr. Leathery:

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

704-1698-00 (University of Alaska Museum)

The applicant is requesting authorization to import and re-export, on an opportunistic basis, an unspecified number of cetacean and pinniped (except walrus) parts taken worldwide from dead stranded marine mammals, marine mammals taken by Alaska Native subsistence hunters, and animals authorized to be taken for scientific research purposes by scientists in academic, federal, and state institutions. The proposed activities are a continuation of those authorized under the applicant's previous permit (No. 704-1444), which expired in March 2003. Specimens would be used for purposes of *bona fide* research at the University of Alaska and other institutions in the United States and worldwide. The permit is requested for five years.

1004-1706 (Alaska Sea Otter and Steller Sea Lion Commission)

The applicant is requesting authorization to acquire, import, and export an unlimited number of specimen samples from all species of cetaceans and pinnipeds (except walrus). Samples would be acquired on an opportunistic basis from dead stranded marine mammals, marine mammals taken by Alaska Native subsistence hunters, and animals authorized to be taken for scientific research purposes by scientists in academic, federal, and state institutions. Authorization is requested to export samples to the international scientific community and

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to import legally acquired specimens from other museums and scientific institutions.

The two applications exemplify why the Service should consider developing regulations to govern the issuance of research permits to institutions that archive and share specimens and samples of marine mammals and marine mammal parts. Although the Commission recognizes the value of archiving specimen materials so that they are readily available for research purposes, we also note that, because of the speculative nature of that future research, it may be difficult at the permitting stage to determine that the taking is required to further a *bona fide* scientific purpose. Nevertheless, scientists need to be able to rely on the availability of multiple specimens from a variety of sources for many different types of studies, ranging from contaminant baselines to examinations of morphological and genetic variation. The more specimens that are available, taken from different sources and collected over time, the more information researchers will have for use in addressing problems threatening marine mammal populations. For this reason, museums and other institutions must gather a variety of specimens, properly store them for long periods, and make them available to scientists. A museum has little way of knowing what information scientists in the future may garner from a specimen collected and stored today. Accordingly, meeting the rigid standards of the Marine Mammal Protection Act with regard to the issuance of scientific research permits presents a challenge. How can or should the agencies assure that research institutions such as museums or tissue banks meet those requirements for specific samples as well as entire collections? Requiring the Service to make a case-by-case determination of the potential research value of each individual sample every time a museum or tissue bank receives a sample is likely to be as unrealistic as making such a determination in the first instance. That is, although one can identify more precisely what specimens are to be retained, and how they were obtained, one still may not know what research may be conducted using those specimens. This being the case, rigorous adherence to the permit provisions could deter collections and limit future and retrospective types of research, something the Commission believes goes against the best interests of marine mammal conservation.

The Commission recommends that the Service consider adopting a generic approach for authorizing the collection and use of specimen materials by institutions for eventual use for research purposes. The Service could authorize the collection and storage of specimens by the institution in the first instance but defer authorization for the use of such materials until a specific research proposal has been developed. We anticipate that researchers authorized to conduct research on a particular species at the host institution or elsewhere would have access to the samples without additional authorization from the Service. However, if an individual did not have a prior authorization, he or she should apply for one and be required to demonstrate that the proposed research meets the Marine Mammal Protection Act requirements before the institution would make samples available to them.

In the immediate permit applications being considered, both institutions have histories of maintaining specimens and conducting *bona fide* research. The Commission recommends the Service issue the requested research permits to them authorizing the collection and retention of specimen materials with the following conditions:

Mr. Stephen L. Leathery
25 September 2003
Page 3

- the institutions be responsible for maintaining detailed accounts of how, when, and where all samples were collected. The institutions periodically provide reports to the Service concerning how those samples were obtained and are being used in sufficient detail for the Service to determine that the permittees are meeting the requirements of all applicable laws, including the Marine Mammal Protection Act, the Endangered Species Act, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the International Whaling Commission, and the Antarctic Conservation Act of 1978; and
- researchers not authorized to conduct research under the permits or who do not hold other valid research permits wishing to use those specimens must obtain a permit or other appropriate authorization from the Service before obtaining such materials from the permittee.

Please contact me if you have any questions concerning this recommendation.

Sincerely,

A handwritten signature in black ink that reads "David Cottingham". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

David Cottingham
Executive Director