

MARINE MAMMAL COMMISSION
4340 East-West Highway, Room 700
Bethesda MD 20814-4447

19 June 2009

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

Re: Permit Application No. 14352
(Gregory D. Bossart, V.M.D.)

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 seeking authorization to capture, examine, measure, sample, biopsy-sample, freeze-brand, tag, extract a tooth from, and release up to 40 Atlantic bottlenose dolphins annually in the Indian River Lagoon, Florida; accidentally kill up to two dolphins over the five-year duration of the permit; and inadvertently harass up to 400 dolphins annually in the course of conducting the proposed research. The applicant states that calves one year of age and younger and animals accompanying such calves will not be captured. The proposed research is a continuation and refinement of studies conducted by the National Marine Fisheries Service (Permit No. 998-1678) concerning health assessment and surveillance, emerging infectious diseases, immune status, genetics, contaminant analyses, and antibiotic resistance patterns in this species. The Marine Mammal Commission offers the following recommendations and comments.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service—

- require the applicant (and other applicants seeking authorization for research activities that involve an invasive procedure or that harm or materially alter the behavior of the animals under study) to demonstrate that the proposed research has been reviewed and approved by an Institutional Animal Care and Use Committee (IACUC), as required by section 2.31 or section 2.37 of the Animal and Plant Health Inspection Service's Animal Welfare Act regulations; and
- defer issuance of any application, including the subject request, seeking authorization for such research until the applicant has provided documentation demonstrating compliance with the IACUC requirements.

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Upon the Service's receipt of such documentation, the Marine Mammal Commission recommends that the permit be issued provided that the Service—

- require that an activity be suspended, pending review and authorization from the Service to proceed, if more than two animals are accidentally killed during the five-year duration of the permit, if issued; and
- 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 or in the same areas are coordinated and, as possible, data are shared to avoid unnecessary duplication of research and disturbance of animals.

RATIONALE

The Commission continues to be concerned that the Service is issuing permits to applicants who are not in compliance with Animal Welfare Act requirements concerning the establishment and use of Institutional Animal Care and Use Committees. This application implies that the proposed research activities have been reviewed by Harbor Branch Oceanographic Institution's Institutional Animal Care and Use Committee; however, it is not clear whether this is in fact the case. The Marine Mammal Commission therefore recommends that the Service require the applicant (and other applicants seeking authorization for research activities that involve an invasive procedure or that harm or materially alter the behavior of the animals under study) demonstrate that the proposed research has been reviewed and approved by an Institutional Animal Care and Use Committee, as required by section 2.31 or section 2.37 of the Animal and Plant Health Inspection Service's Animal Welfare Act regulations. Further, the Marine Mammal Commission recommends that the Service defer approval of any application seeking authorization for such research until the applicant has provided documentation demonstrating compliance with this requirement.

The Marine Mammal Commission also recommends that the Service require that an activity be suspended, pending review and authorization from the Service to proceed, if more than two animals are accidentally killed during the five-year duration of the permit, if issued. This requirement is necessary to allow for review of the activities as accidental deaths exceeding this level suggest that the risks associated with these studies have been underestimated. Finally, the Marine Mammal Commission recommends that 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 or in the same areas are coordinated and, as possible, data are shared. This last recommendation is intended to avoid unnecessary duplication of research and disturbance of animals.

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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 recommendations.

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director

cc: Barbara Kohn, D.V.M.