



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Southwest Fisheries Science Center
8604 La Jolla Shores Drive
La Jolla, CA 92037

December 29, 2005

Stephen L. Leathery
Chief
Permits, Conservation and Education Division, F/PR1
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway, Room 13705
Silver Spring, Maryland 20910-3282


Dear Steve,

I am writing to revise my previous **request of November 7, 2005**, for an amendment to my current **scientific research permit (774-1714-03)** issued to the Southwest Fisheries Science Center (SWFSC).

I request that the killer whale takes under our permit be separated into two **distinct groups**: southern resident killer whales (**SRKW**) and non-SRKW. Further, I request the current permit be amended to allow the following takes associated with **photo-ID activities** over a 5-year period: 100 for SRKW and 900 for non-SRKW. I also request the permit be amended so as to allow the following takes associated with **biopsy activities** over a 5-year period: 50 for SRKW and 650 for non-SRKW. Supporting documentation for this amendment request is enclosed. An electronic version of this request has also been emailed to **Shane Guan** at Shane.Guan@noaa.gov.

Thank you for your consideration of my request. If you require **additional** information, please contact **Mari Rosales** of my staff at 858-546-7088 or Mari.Rosales@noaa.gov.

Sincerely,


for **Stephen B. Reilly, Ph.D.**
Director, Protected Resources Division

Enclosure



Amendment to Permit 774-1714-03

Due to the potential change in the ESA status of the Southern Resident killer whale (SRKW) we are requesting that the killer whale takes under our permit be separated into two distinct groups, SRKW and non-SRKW. Specifically, we request our current permit be amended to allow the following takes associated with photo-ID over a 5-year period: 100 for SRKW and 900 for non-SRKW. We also request our permit be amended so as to allow the following takes associated with biopsy over a 5-year period: 50 for SRKW and 650 for non-SRKW. The methods used for photo-ID and to obtain biopsy samples are described in greater detail below.

Further, the Southwest Fisheries Science Center will coordinate closely with the Northwest and Alaska Fisheries Science Centers before commencing biopsy activities on SRKW. Prior to obtaining biopsy samples from killer whales, every effort will be made to use photo-ID to identify the stock to which specific killer whales belong.

Species Status

On May 2, 2001, the National Marine Fisheries Service (NMFS) received a petition from the Center for Biological Diversity and 11 co-petitioners to list Southern Resident killer whales (SRKW) as threatened or endangered under the Endangered Species Act (ESA). In August 2001, NMFS formally accepted the petition and began a status review to determine if these killer whales qualified for protection. To assist in the status review, NMFS formed a Biological Review Team (BRT) of scientists from the Alaska, Northwest, and Southwest Fisheries Science Centers, and worked with scientists, Tribal, State, and Canadian co-managers. In July 2002, NMFS determined that, while the population of SRKW was declining, the listing of this population was "not warranted" because the SRKW did not meet the significance criteria for consideration as a distinct population segment (DPS) when considered in the context of the global taxon.

Because of the uncertainties regarding killer whale taxonomy, NMFS announced that it would reconsider the taxonomy of killer whales within 4 years. At the same time, NMFS started the process to list SRKW as a "depleted" population under the Marine Mammal Protection Act (MMPA) and made the designation in May 2003.

On December 17, 2003, as a result of a court challenge brought by the original petitioners on December 18, 2002, the U.S. District Court for the Western District of Washington instructed NMFS to reconsider the process by which it determined listing eligibility and to make a new finding within a year. NMFS reconvened a second BRT in 2004 to consider new scientific and commercial data and update the status review for SRKW. In addition, NMFS co-sponsored a Cetacean Taxonomy workshop in 2004 and met with the public and Washington State and Tribal co-managers to discuss the updated status review.

Based on the best scientific data on behavior, demography, range, and genetics, the BRT unanimously concluded that the SRKW community is discrete from other eastern North Pacific killer whales. The BRT also evaluated the ecological setting, range, genetics, and behavioral and cultural diversity of the SRKW with respect to other North Pacific killer whales, and determined that the SRKW are significant, and therefore qualify as a DPS. In the conclusion of the second status review, the BRT expressed its concerns about the viability of the Southern Resident population and stated that “[t]he population is at risk for extinction, due either to small-scale impacts over time or to a major catastrophe” (Krahn *et al.* 2004).

On December 16, 2004, NMFS announced its proposal to list the SRKW as “threatened” under the ESA. On November 15, 2005, NMFS announced its decision to list the SRKW as “endangered” under the ESA.

Range

The SRKW are the only population of the eastern North Pacific killer whales to spend a considerable amount of time in the California Current ecosystem and to inhabit the coastal regions off California, Oregon, and Washington. From late spring (May or June) to early fall (October or November), SRKW are frequently sighted within the Georgia Basin, an area encompassing the waters of Georgia Strait, the San Juan Islands, and the Strait of Juan de Fuca in Washington State and British Columbia (Ford *et al.* 2000). In the summer, some of the Southern Residents travel to the outer coast of Washington and southern Vancouver Island while one pod (J pod) is often found in waters inside the San Juan Islands (NMFS 2005). In early fall, all three pods move into Puget Sound, Washington (Osborne 1999). Although the winter range of the SRKW is less known, these whales occur intermittently in the Georgia Basin/Puget Sound area throughout the winter (Osborne 1999). SRKW have also been reported in Oregon waters (Depoe Bay, Yaquina Bay, and the mouth of the Columbia River) in March and April (NMFS 2005), and in Monterey Bay, California in January and March (Black *et al.* 2001, Krahn *et al.* 2004).

Methodology for photo-identification and biological collection

Photo-identification activities are conducted from small boats (rigid-hull inflatables) and research ships on an opportunistic basis. Animals will be approached closely enough to optimize photographic quality (i.e., well-focused images, utilizing at least one half of the slide viewing area). These activities could result in Level B harassment. Distance for optimal approach is approximately 10-20 m. These photographs are the primary method of abundance estimation for some stocks of killer whales including Southern Residents. They are also used for stock identification. Photo-identification of adult and juvenile males and females will occur. If the opportunity arises, females accompanied by calves may be approached for photo-identification, but efforts will cease immediately if there is

any evidence that the activity may be interfering with pair bonding, nursing, reproduction, feeding or other vital functions.

Biological sample collection will occur opportunistically during vessel surveys using biopsy sampling (skin/blubber collected by projectile dart) or collection of sloughed skin or feces. Collection of samples using projectile biopsy could result in Level B harassment. No known injuries or other significant effects of this sampling have been observed during the two decades the SWFSC has conducted this type of sampling. Contact with the animals will be limited to approximately 2 hours during this activity. For Southern Resident killer whales, if signs of harassment such as rapid changes in direction, prolonged diving and other behaviors are observed from an individual or a group, the biopsy activities will be discontinued on that individual or group. The animals to be sampled will either approach the vessel on their own, be approached by the main research vessel, or be approached by a small boat deployed from the main vessel. The projectile biopsy sample will be collected from animals within approximately 5 to 30m of the bow of the vessel or small boat (Palsbøll *et al.* 1991). Small samples (<1 gram) will be obtained from free-ranging individuals using a biopsy dart with a stainless steel tip measuring approximately 4 cm in length with an external diameter of 9mm and is fitted with a 2.5 cm stop to ensure recoil and prevent deeper penetration. Between sample periods, the biopsy tips are thoroughly cleaned and sterilized with bleach. Biological samples may be collected from adults, juveniles, and females with calves. Justification for biopsy of females with calves was given in our primary permit.

Literature Cited

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- Ford, J.K.B., G.M. Ellis, and K.C. Balcomb. 2000. Killer whales: the natural history and genealogy of *Orcinus orca* in British Columbia and Washington State. 2nd ed. UBC Press, Vancouver, British Columbia.
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- NMFS. 2005. Preliminary Draft Conservation Plan for Southern Resident Killer Whales (*Orcinus orca*). Seattle, Washington.
- Osborne, R.W. 1999. A historical ecology of Salish Sea "resident" killer whales (*Orcinus orca*): with implications for management. Ph.D. thesis, University of Victoria, Victoria, British Columbia.
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