

**PERFORMANCE AND ACCOUNTABILITY REPORT
FISCAL YEAR 2011**



Photo courtesy of J. Baker

MARINE MAMMAL COMMISSION

10 November 2011



MARINE MAMMAL COMMISSION

15 November 2010

Message from the Chairman

Congress passed the Marine Mammal Protection Act of 1972 to maintain the health and stability of the marine ecosystem and, more specifically, to prevent marine mammal stocks from diminishing beyond the point at which they cease to be significant, functioning elements of the ecosystem. Title II of the Act created the Marine Mammal Commission as an independent federal agency charged with reviewing the domestic and international programs and policies of other federal agencies as they pertain to marine mammals. For almost four decades, the Commission has worked with federal, state, and local agencies; international, tribal, and non-governmental organizations; industry; and the public to meet the objectives of the Marine Mammal Protection Act. The Commission's independent status and scientific expertise enable it to provide objective, science-based advice. The Commission also attempts to provide its recommendations with as much forethought as possible, with the aim of resolving issues before they become costly and controversial.

With this letter, I submit the Commission's Fiscal Year 2011 Performance and Accountability Report, including financial and program performance results. The performance data in this report are complete and reliable. Prior to preparation of the report, the Commission evaluated its management controls and financial management system pursuant to the Federal Managers Financial Integrity Act of 1982. No material weaknesses were identified and the financial management system was found to conform to government financial system requirements. In accordance with OMB Circular 123, Appendix C, no improper payments were made. An independent, certified public accountant audited the Commission's financial statements, internal controls, and management systems and verified that they conform to generally accepted accounting principles, laws, regulations, and requirements.

On behalf of the Marine Mammal Commission, I am pleased to submit this Fiscal Year 2011 Performance and Accountability Report to the Office of Management and Budget.

Respectfully,

A handwritten signature in blue ink that reads "Daryl J. Boness".

Daryl J. Boness, Ph.D.
Chairman

Attachments

MANAGEMENT DISCUSSION AND ANALYSIS

The following describes the Marine Mammal Commission, its responsibilities, and its activities in Fiscal Year (FY) 2011.

Commission structure

The Commission consists of (1) three Commissioners appointed by the President and confirmed by the Senate, one serving as Chairman; (2) a nine-member Committee of Scientific Advisors on Marine Mammals appointed by the Chairman in consultation with the Director of the National Science Foundation, the Secretary of the Smithsonian Institution, the Chairman of the Council on Environmental Quality, and the Chairman of the National Academy of Sciences; and (3) a staff of 14 full-time employees. The Commission's organizational structure is depicted in Figure 1.

Commission mission, duties, and high priority performance goals

Mission: The Commission oversees and advises federal agencies to ensure that their domestic and international policies and actions are consistent with the Marine Mammal Protection Act, which seeks to protect and conserve marine mammals as functioning elements of healthy, stable marine ecosystems. Marine mammals are subject to multiple human-related risk factors, including operational and ecological fishery interactions; the introduction of noise, contaminants, and disease into their habitat; the creation of harmful algal blooms and dead zones; ill-managed coastal development and other forms of habitat modification; collisions with vessels; and climate disruption. The Commission consults with other federal agencies (e.g., National Marine Fisheries Service; Fish and Wildlife Service; Department of State; Navy; Bureau of Energy Management), state agencies (e.g., various Departments of Fish and Game), and tribal organizations (e.g., the Indigenous People's Council on Marine Mammals) to characterize those risk factors and identify cost-effective solutions. The Commission also helps develop and coordinate multi-agency and international research and management initiatives to facilitate marine mammal protection and conservation. In all its work, the Commission seeks to be a source of useful information; focused and catalytic research funding; and independent, objective, and forward-looking oversight.

Duties: Title II of the Marine Mammal Protection Act specifies the duties of the Commission and its Committee of Scientific Advisors on Marine Mammals as follows.

- (1) Undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949, the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966.
- (2) Conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of the Marine Mammal Protection Act, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock.

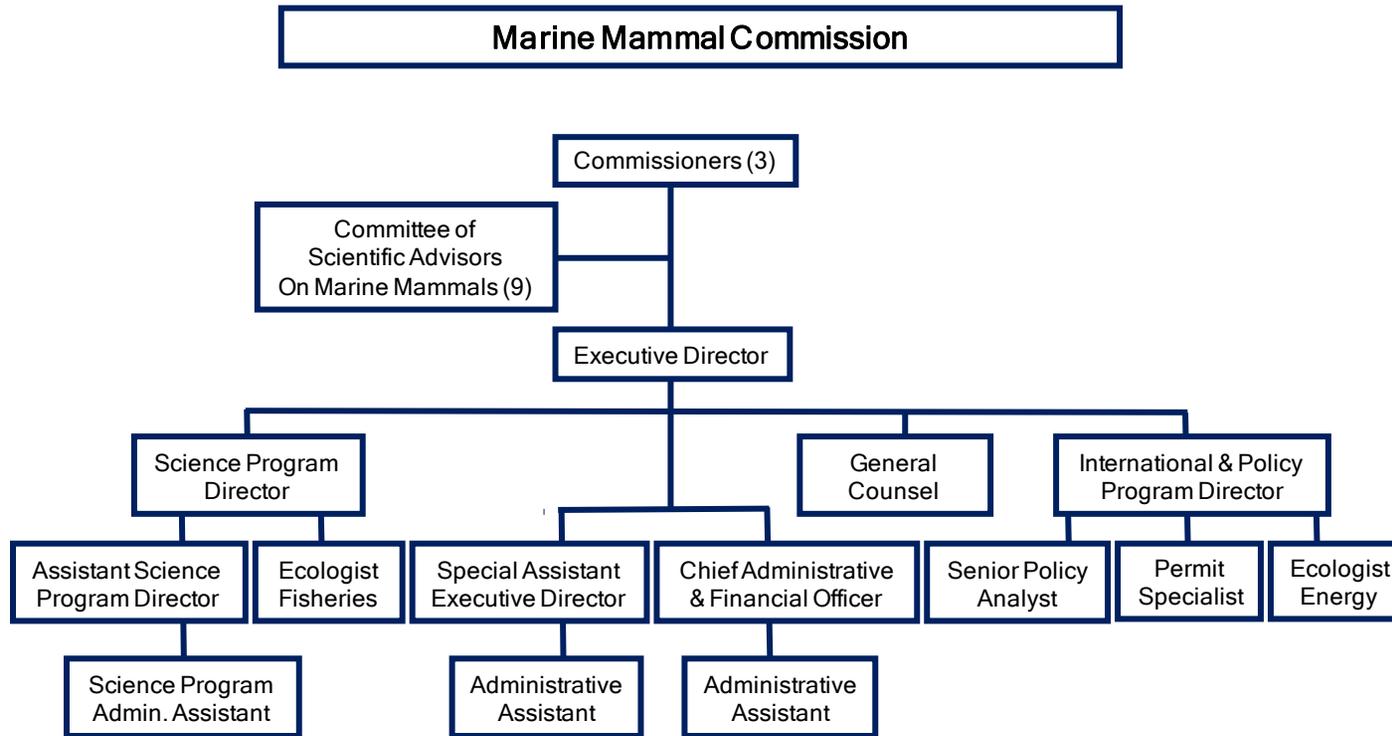


Figure 1. Organizational structure of the Marine Mammal Commission

- (3) Undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals.
- (4) Recommend to the Secretary [of Commerce or the Interior] and other federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals.
- (5) Recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;
- (6) Recommend to the Secretary [of Commerce or the Interior] such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973 as may be appropriate with regard to marine mammals.
- (7) Recommend to the Secretary [of Commerce or the Interior], other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of the Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to the Marine Mammal Protection Act.

High priority performance goals and special projects: In FY 2011 the Marine Mammal Commission also focused on specific high priority performance goals and certain special projects that it deemed necessary to fulfill its duties under the Marine Mammal Protection Act. These projects were in various stages of development during the year and are expected to continue into FY 2012 and, in some cases, FY 2013. They are as follows:

- Survey of federal funding for marine mammal research: The Commission has developed a Web-based survey for collecting funding data from other federal agencies. The survey will help the Commission document the resources being used to support marine mammal research as well as the species, regions, and topics being studied. The intent of the survey is to provide a basis for better integration, coordination, and prioritization of that research on a national level, thereby increasing the cost-effectiveness of marine mammal research efforts.
- Review of marine mammal stock assessments: The 1994 amendments to the Marine Mammal Protection Act directed the National Marine Fisheries Service and the Fish and Wildlife Service to assess the status of marine mammal stocks under their jurisdiction and report that information on a regular basis (i.e., every one to three years). The reports summarize the information available on each stock and provide the basis for management of fisheries and other human activities that pose threats to marine mammals. The Commission is reviewing stock assessment reports to identify strengths and weaknesses and recommend measures to address the latter.
- Global assessment of marine mammals: The Commission, working with several partner organizations, is conducting a global assessment of marine mammals. The goal is to identify those species and stocks most in need of protection, to characterize the threats to them, and to provide the international community of scientists, managers, and interested organizations a basis for prioritizing their conservation efforts. The Commission also is seeking a means to

develop local or regional research/conservation capacity in foreign and international areas where marine mammal species are at high risk of extirpation or extinction.

- Objective criteria for listing species under the Endangered Species Act: The Commission is sponsoring a review of listing processes under the Endangered Species Act. The goal is to develop a more objective basis for listing (and delisting) species based on population viability analysis. A more objective listing basis should reduce management errors resulting in either over- or under-protection of species.
- Evaluating potential conflicts between mariculture and marine mammals in a West Coast estuary: Drake's Estero, an estuary just north of San Francisco, is the focus of a conflict between advocates for mariculture in the estuary versus advocates for designating it as wilderness. The debate has focused on the effects of mariculture on harbor seals that use the estuary for resting, reproduction, and predator avoidance. The Commission has agreed to serve as an independent third party that can objectively evaluate the scientific evidence pertaining to whether mariculture is or is not affecting the harbor seals.

Overview of Commission performance in FY 2011

Basic statutory duties: The Commission used its FY 2011 budget allocation (\$3,243,500) to fulfill its basic statutory duties under the Marine Mammal Protection Act. Among other things, it reviewed and made recommendations regarding (1) proposed marine mammal research, (2) proposed rules to authorize take of marine mammals incidental to other activities (e.g., Navy exercises, oil and gas operations, seismic studies, coastal development), (3) environmental analyses for proposed projects that will affect marine mammals or their habitat, (4) stock assessment reports and related documents prepared by the National Marine Fisheries Service and the Fish and Wildlife Service; and (5) proposals to change the listing status of marine mammals under the Endangered Species Act. Figure 2 illustrates the level of effort required to fulfill these statutory duties.

Research: In FY 2011 the Commission supported a number of projects, workshops, or conferences intended to address pressing marine mammal conservation issues. They involved development of alternative fishing gear to reduce marine mammal bycatch, improving marine protected areas, advancing bio-logging technology, integrating social science into conservation, integrating marine mammals into ocean observing systems, developing necropsy protocols and

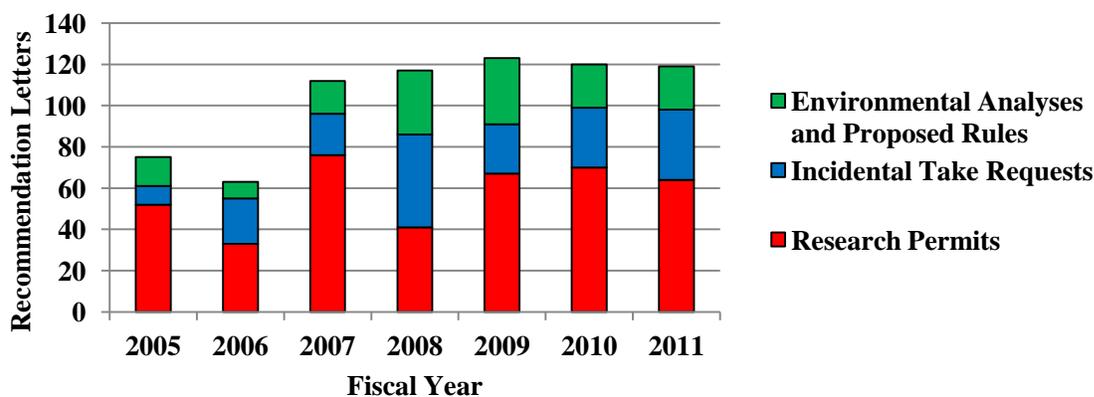


Figure 2. Reviews undertaken by the Marine Mammal Commission pertaining to applications for research permits, applications for permission to take marine mammals incidental to other human activities, and environmental analysis or rulemaking pertaining to such activities.

stranding networks, and characterizing wildlife acoustic communication and the population consequences of acoustic disturbance. The Commission also is sponsoring the development of a primer to help Alaska Natives understand key legislation related to marine mammals, and is helping to sponsor the 19th Biennial Conference on Marine Mammals, which brings together the international community of marine mammal scientists.

Special projects: In FY 2011 the Commission made important progress on the special projects described above. The Commission completed programming of its Web-based survey of federal funding, beta tested the survey, collected data for FY 2009, completed initial analyses, and is revising the survey to provide more species-specific funding information. In the spring of 2012 the Commission will request data for FY 2010 and 2011.

Commission staff also reviewed all marine mammal stock assessment documents, created and populated a database of information, and completed its analyses. The staff is currently drafting the stock assessment report.

With regard to its global assessment of marine mammals, the Commission has appointed a steering committee, developed partnerships with several other organizations interested in the project, and is in the process of compiling the necessary data on all marine mammal populations. The last step of identifying pertinent stock and populations has taken longer than expected because the scientific information for a number of species and portions of the world's oceans is scant.

To develop more objective listing criteria under the Endangered Species Act, the Commission has supported a review of all population viability analyses used for marine mammals and used in listing decisions under the Endangered Species Act. In FY 2011 the Commission issued a grant to develop an objective analytical framework for listing decisions. The Commission has a draft framework in hand and expects it to be published within six months.

In FY 2011 the Commission also continued its efforts to moderate a debate regarding the effects of mariculture on harbor seals in Drake's Estero on the West Coast. The Commission has drafted a report of that issue (currently under review) and expects to finalize its report by the end of November 2011.

Finally, in FY 2011 the Commission completed a report entitled, "Assessing the Long-term Effects of the BP Deepwater Horizon Oil Spill on Marine Mammals in the Gulf of Mexico: A Statement of Research Needs" to (1) guide assessment of the long-term effects of the Gulf spill and associated risk factors on marine mammals, (2) guide mitigation and restoration efforts for Gulf marine mammal populations, (3) help track the changes in the Gulf ecosystem, including recovery and restoration, and (4) help guide assessment of future spills in the Gulf and elsewhere. The report is available at <http://www.mmc.gov/reports/workshop/welcome.shtml>.

Overview of Commission finances in FY 2010

Annual appropriations and distribution of funds: Congress is the sole source of funding for the Marine Mammal Commission. Total annual appropriations for the Marine Mammal Commission from FY 2005 to FY 2011 are listed in Table 1.

In FY 2011 the Commission obligated 99.7 percent of its appropriation of \$3,243,500. About 60 percent was used for salaries and benefits (including Commissioners and Committee members), 19 percent for administration and rent, 18 percent for the Science Program, and 3 percent for travel (Figure 3). About 7 percent of salaries and benefits were for Commissioners and Committee members, 68 percent for science and policy staff, and 25 percent for administrative staff.

Table 1. Annual appropriations for the Marine Mammal Commission, FY 2005 to FY 2010.

Fiscal Year	Expenditures
2005	\$2,608,000
2006	\$2,785,000
2007	\$2,747,000
2008	\$3,728,000 ¹
2009	\$3,200,000
2010	\$3,250,000
2011	\$3,243,500

¹ Includes an additional \$908,000 appropriated for special projects

The Commission uses about 75 percent of its annual funds to meet its general oversight and advisory responsibilities (e.g., reviewing stock assessment efforts, permits for scientific research, incidental take authorizations, matters pertaining to listing and delisting of endangered and threatened species). The remaining 25 percent is used to support essential research that is not being conducted by the other federal agencies, support workshops that resolve important conservation issues, and carry out special projects identified either by Congress or the Commission. The Commission uses its limited research funding to support potentially catalytic research

projects—that is, projects that may lead to rapid advancements in marine mammal science and conservation—and as seed funding to encourage the larger agencies to support important, multi-agency research efforts. The Commission used 3 percent of its budget for travel to ensure that the Commissioners, Committee members, and staff are knowledgeable regarding local, regional, national, and global issues, able to interact directly with stakeholders involved in those issues, and able to provide reliable and well-informed advice and oversight.

Management of Commission Finances: A number of staff members are involved in managing the Commission’s budget. The Executive Director oversees and assumes responsibility for all financial systems and transactions. The Chief Administrative and Financial Officer manages and is responsible for all day-to-day budgetary matters, including purchase orders, time cards, and payments for various services and utilities. The Chief Administrative and Financial Officer also works with the Directors of the Science Program and the International and Policy Program to oversee their expenditures. An Administrative Assistant completes all paperwork related to travel expenses and assists the Chief Administrative and Financial Office in day-to-day management of the Commission’s budget. The Special Assistant to the Executive Director serves as a backup for the

Chief Administrative and Financial Officer and Executive Director and provides a secondary check on all expenditures. The Scientific Program Administrative Assistant oversees all day-to-day fiscal transactions related to Commission-sponsored research. Together, the Executive Director, General Counsel, Chief Administrative and Financial Officer, Scientific Program Director, International and Policy Program Director, and Special Assistant to the Executive Director form the Commission’s Senior Management Group, which meets two to three times each year with

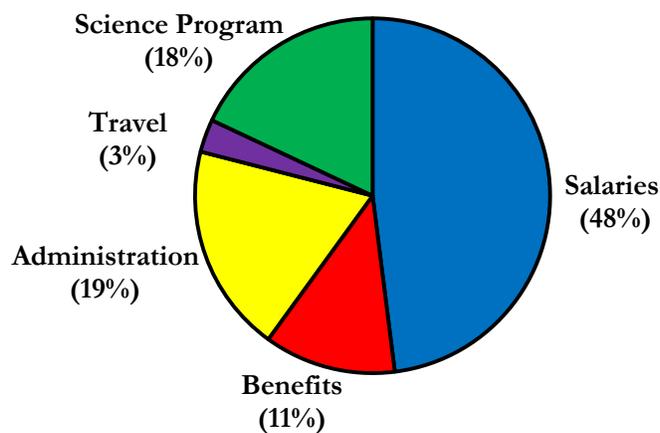


Figure 3. Approximate distribution of appropriated funds for the Marine Mammal Commission in FY 2010.

the Commission Chairman to review the Commission's management operations. An independent, certified public accountant examined all financial systems and controls and completed a comprehensive audit for FY 2011 (report attached). The audit found no material internal weaknesses in financial systems and controls, and identified no areas where improvement is required.

Other Accompanying Information: Section 537 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2010 (Act) of the Consolidated Appropriations Act, 2010 (Pub. Law 111-117) requires certain departments, agencies, and instrumentalities of the U.S. Government receiving appropriations under the Act to track undisbursed balances in expired grant accounts for FY 2011. In FY 2011 the Marine Mammal Commission did not have any undisbursed balances in expired grant accounts.

PERFORMANCE SECTION

The Marine Mammal Commission is an oversight body with no regulatory authority. Its most powerful tools for promoting the protection and conservation of marine mammals are the recommendations it makes to other federal agencies, the reports it prepares to inform decision-makers and stakeholders regarding matters involving marine mammals, and the studies it supports to improve understanding of marine mammals, their habitat, and the factors that affect their status. Some of the Commission's efforts focus on specific matters and accomplishments that may be relatively easy to measure (e.g., review of research permits). Other efforts may be intended to promote broad changes in marine mammal conservation and management, and progress in those areas may be more difficult to assess (e.g., changes in social attitudes toward marine mammal conservation). The Commission has been working with the Office of Management and Budget to identify meaningful ways to evaluate the Commission's contributions toward marine mammal conservation. The results presented below are based on measures identified to date.

(1) *Undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949, the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966.*

Objective: Review relevant national laws and international treaties

Status: Satisfactory, ongoing, but requires continued emphasis

Action: In FY 2011 the Commission participated as a member of the U.S. delegation to the International Whaling Commission and the International Convention for the Regulation of Whaling. It also consulted with the Department of the Interior regarding whaling by Iceland and the question of whether Iceland has a sound scientific basis for a non-detriment finding under the Convention for International Trade in Endangered Species of Wild Fauna and Flora. At the end of FY 2011 the Commission was preparing its analysis to guide the Department's decision as to whether it should certify Iceland under the Pelly Amendment to Fishermen's Protective Act of 1967. The Commission participates as a member of the U.S. delegation to meetings of the polar bear range states. As part of that effort, the Commission has sponsored the development of a polar bear monitoring plan that the range states will review as a basis for guiding their research on polar bears. The Commission also continues its global assessment, which will include information on the suitability of regulations, laws, treaties, and conventions to protect and conserve marine mammals.

Finally, the Commission is undertaking two projects that are intended to improve the implementation of legislation pertaining to marine mammals. The first project pertains to

development of more objective criteria for listing and delisting decisions under the Endangered Species Act to reduce over- and under-protection errors and the controversy that those errors often generate. The second project seeks to integrate various analyses conducted under the Endangered Species Act, National Environmental Policy Act, and Marine Mammal Protection Act to streamline the regulatory process without compromising the value of the analyses being conducted under those Acts.

(2) *Conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of the Marine Mammal Protection Act, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock.*

Objective: Review annual stock assessment reports

Status: Satisfactory and ongoing

Action: The Commission reviewed 140 marine mammal stock assessment reports revised by the National Marine Fisheries Service and the Fish and Wildlife Service and provided recommendations and comments to improve those reports. The recommendations generally pertained to the following areas:

- expand stock assessment efforts to collect data on numerous species that are presently not assessed or for which assessments are incomplete or outdated (examples include the Gulf of Mexico where stock assessments are adequate for about 10 percent of stocks, the Arctic where marine mammal stocks are subject to major changes in their habitat, and the central and western Pacific where stock assessment efforts are virtually non-existent throughout wide areas that also are fished intensively by gear known to take marine mammals incidentally);
- expand fishery observer coverage to provide a more reliable assessment of fishery interactions (examples include the Gulf of Mexico where observer effort traditionally has been low, state waters of Alaska where observer effort has been non-existent but where marine mammals interact with nearshore fisheries concentrated in time and space for such species as salmon and herring; and
- for the reasons described above, develop a strategy for completing and/or updating stock assessments in the Pacific Islands region, the Arctic, and the Gulf of Mexico.

The Commission also held its FY 2011 annual meeting in Louisiana to focus, in part, on the need to improve stock assessment efforts for cetaceans in the Gulf of Mexico. The shortcomings of those stock assessment efforts were particularly evident because of the BP Deepwater Horizon oil spill and the difficulty of assessing potential impacts on marine mammals. The Commission made numerous recommendations to the National Marine Fisheries Service to improve stock assessment efforts in that region.

Objective: Provide a broad overview of stock assessment efforts since 1994

Status: Partially delayed and incomplete

Action: The Commission continued but did not make sufficient progress on its review of all stock assessment efforts since the 1994 amendments. Originally, the Commission planned to complete this assessment in FY 2010, but work on the review was interrupted by the Gulf of Mexico oil spill. In FY 2011 Commission staff compiled and completed analysis of the existing data and began drafting the report. The Commission expects to complete draft by December 2011 and finalize the report by March 2012.

Objective: Review all research and incidental take applications

Status: Satisfactory and ongoing

Action: The Commission reviewed and made recommendations regarding 64 applications for scientific research on marine mammals and 34 applications for authorizing the incidental taking of marine mammals resulting from activities other than commercial fishing. The Commission also reviewed 21 environmental analyses of activities that may take marine mammals. The Commission submitted recommendations and comments to the National Marine Fisheries Service and the Fish and Wildlife Service to enhance protection and conservation of the affected marine mammals. The recommendations varied by permit application but generally included—

- the importance of ensuring that research methods are consistent with bona fide science;
- the importance of monitoring research effects to determine if they are having unacceptable impacts on targeted populations;
- the need for compliance with the Animal Welfare Act, including review by an Institutional Animal Care and Use Committee and use of humane research methods; and
- avoiding unnecessary redundancy in research activities and sharing of data when possible.

Based on Commission recommendations, the Services are beginning to require better reporting of potential research effects and the National Marine Fisheries Service adopted a policy (effective at the beginning of calendar year 2010) requiring its scientists to use Institutional Animal Care and Use Committees in accordance with the Animal Welfare Act.

The Commission also participates in quarterly interagency discussions with the National Marine Fisheries Service and the Fish and Wildlife Service regarding means for improving the permitting process.

Objective: Review federal funding for marine mammal research

Status: Satisfactory and ongoing

Action: The Commission has completed its Web-based survey for federal agencies to characterize federal funding for marine mammal research and conservation. Agencies entered their data for 2009 and the initial analyses revealed that the survey must be modified to require more species-specific data so that the Commission can identify those species that are the subject of the most research. For that purpose, Commission staff has identified a set of changes to be made to the survey and have worked with a programming consultant, who is making the changes. The Commission anticipates a call for 2010 and 2011 data in the spring of 2012. It also anticipates completion of a final report for FY 2009 by the same time.

(3) Undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals.

Objective: Support studies needed for the protection and conservation of marine mammals and marine ecosystems

Status: Satisfactory and ongoing

Action: In FY 2011 the Commission supported numerous research and related projects covering a wide range of topics. The studies fall into the following functional categories:

- Development of alternative fishing gear to avoid bycatch of the vaquita, which is the world's most endangered cetacean. The Commission sponsored a collaborative project involving

shrimp fishing experts from the National Marine Fisheries Service, Southwest Fisheries Science Center and the Mexican Ministry of Fisheries. The two groups have developed trawl nets similar to those used in the Gulf of Mexico but small enough to be used by artisanal fishermen in the Gulf of California. The nets would replace gillnets that have been used to catch shrimp for U.S. markets.

- The advance of micro-technology has revolutionized the study of marine mammals, providing means for assessing their behavior on land (pinnipeds) and at sea, but also at depth as well as at the surface. The new technologies are providing vital information on foraging habits, diving depths, vocalizations and sensitivity to sound, and environmental information (i.e., marine mammals are being used by oceanographers for sampling the physical properties of the marine environment). In FY 2011 the Commission provided support for a conference on the application of these new types of technologies.
- One of the major, recent trends in marine ecosystem research and management has been the integration of social science into conservation. Such integration is essential if managers are to understand the socio-economic benefits and costs of their management strategies. The Commission provided a small amount of support for and participated in a meeting of social scientists aimed at promoting their involvement in conservation issues.
- In Alaska in FY 2011, the Commission is supporting an effort to develop a primer for Alaska Natives that will help them understand the requirements of the Marine Mammal Protection Act, Endangered Species Act, and National Environmental Policy Act. Alaska Natives depend on marine mammals for subsistence purposes, but many of them have had little opportunity to learn about these pieces of legislation. The primer is being developed in cooperation with the University of Alaska.
- The Indian Ocean and the waters around Southeast Asia contain a number of poorly known but highly endangered marine mammals. In recent years, the Commission has observed a growing interest by nations in that region in marine mammals and their conservation and management. The Commission seeks to support that interest by linking researchers and managers in that part of the world with researchers from other parts of the world. In FY 2011 the Commission helped support an education and training workshop to promote development of stranding networks and management capacity in nations bordering the Indian Ocean.
- In FY 2011 the Commission also supported meetings and workshops related to two sound-related issues: wildlife acoustic communication and the population consequences of acoustic disturbance. The former is an effort to better understand how marine and terrestrial animals use acoustics to communicate and the latter is an effort to apply a model developed by a National Academy of Sciences panel to better understand the potential effects of sound from such sources as seismic surveys and sonar on marine mammal populations.
- In FY 2011 the Commission sponsored the development of a monitoring plan for the polar bear. As noted earlier in this report, the purpose of the plan is to provide a guide for Arctic nations conducting research on and attempting to conserve the polar bear.

(4) Recommend to the Secretary and other federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals.

Objective: Identify, recommend, and participate in federal agency actions to promote the protection and conservation of marine mammals

Status: Satisfactory and ongoing

Action: Commission staff participated on the Joint Subcommittee on Ocean Science and Technology as well as six interagency working groups on marine mammal unusual mortality events; harmful algal blooms, hypoxia, and ocean health; ocean partnerships; marine debris; ocean observation; and development of a research plan to investigate anthropogenic noise in the ocean. Commission staff participated on four take reduction teams and sent representatives to all three regional scientific review groups established under the Marine Mammal Protection Act.

Objective: Provide well-reasoned, useful recommendations to other federal agencies concerning their programs and actions related to marine mammals

Status: Satisfactory and ongoing

Action: Each calendar year the Commission holds its annual meeting in a different region of the country to examine associated regional issues and develop letters of recommendation to the pertinent research and management agencies. During the course of the year, the Commission also sends recommendation letters on a wide range of topics related to marine mammal conservation. In FY 2011 the Commission sent 119 letters to federal agencies regarding actions to further the goals of the Marine Mammal Protection Act. These included recommendations concerning stock assessments, monitoring and mitigation measures, listing decisions under the Endangered Species Act, recovery efforts, habitat protection measures, ecosystem-related studies and management, public display, research permits, and other matters related to or affecting the protection and conservation of marine mammals.

(5) Recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals.

The Commission also continued to support international assessment and recovery efforts for a number of species in foreign and international waters, including the vaquita, freshwater cetaceans, Indian Ocean cetaceans, and manatees in the Caribbean region.

Objective: Maintain ongoing communication with the Department of State regarding marine mammal conservation

Status: Satisfactory and ongoing

Action: Commission staff meets quarterly with staff from the Department of State's Office of Oceans and Polar Affairs to ensure both offices are up to date on matters pertaining to a range of marine mammal issues. Important issues in 2011 included conservation of the vaquita; implementation of the U.S.–Russia polar bear treaty and other international research and management actions for the polar bear; implementation of the marine mammal action plan for the Caribbean region; development of U.S. positions for the 2010 International Whaling Commission meeting; and development of Arctic policy. In addition, the Commission has supported a U.S.-Mexico effort to develop alternative fishing gear that will not kill vaquita, which only occur in the northern Gulf of California. Such gear is seen as the key to conserving that highly endangered species.

Objective: Complete a global assessment of marine mammals

Status: Unsatisfactory and in need of increased attention

Action: The Commission's global assessment of marine mammals is underway, but needs more attention. The Commission has established a steering committee for this effort, developed a database for collecting the data needed for the analysis, established partnerships with two universities and a private organization to help accumulate data, and has begun preliminary analysis of the data. However, progress has been too slow because of limited information on a wide range of species and the difficulty of determining stock or population structure. To address the lack of progress, in FY 2011 the Commission initiated support for a part-time assistant who is now responsible for completing and managing the database that will underlie this effort.

Objective: Promote conservation efforts for the endangered vaquita

Status: Satisfactory but in need of ongoing attention

Action: Conservation of the vaquita is deemed to be particularly important because (1) it is considered the most endangered cetacean species in the world, and (2) the United States is the primary market for the shrimp fishery that is decimating the vaquita and may drive it to extinction. The Commission continues to work with colleagues from the National Marine Fisheries Service, the Department of State, and Mexican colleagues to promote more effective research and conservation of the vaquita. In FY 2011 the Commission's efforts related to the vaquita were focused entirely on the development of alternative fishing gear. Initial tests of new gear conducted in the Gulf of California in the summer of 2011 provided positive results by demonstrating that the new nets are capable of catching shrimp.

(6) *Recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973 as may be appropriate with regard to marine mammals.*

Objective: Provide recommendations regarding listing/delisting decisions and designation of critical habitat for marine mammal species and stocks

Status: Satisfactory and ongoing

Action: In FY 2011 the Commission provided analyses and recommendations to the Fish and Wildlife Service and National Marine Fisheries Service regarding status reviews, listing/delisting decisions, designation of critical habitat, and development of recovery plans for such species and stocks, including—

- Listing of the ringed seal under the Endangered Species Act;
- Listing of the bearded seal under the Endangered Species Act;
- Listing of the walrus under the Endangered Species Act;
- The importance of maintaining the independence of members of the Cook Inlet Beluga Whale Recovery Team;
- The importance of maintaining the independence of the consulting or expert agency when the National Marine Fisheries Service is consulting with itself;
- Development of a recovery plan for the northern sea otter in southwestern Alaska;
- Revision of critical habitat for the Hawaiian monk seal;
- Delisting of the eastern population of Steller sea lions;

- Completion of a section 7 consultation on the effects of groundfish fisheries on the western population of Steller sea lions; and
- Relisting of the eastern gray whale.

Objective: Develop a more objective basis for listing/delisting decisions by the Fish and Wildlife Service and National Marine Fisheries Service.

Status: Satisfactory and ongoing

Action: In recent years the Commission participated in an interagency effort to develop a more objective basis for listing decisions. The results were unsatisfactory and the effort ended without a satisfactory product. The lack of progress reflected divergent views about how to build a framework for such decisions and the necessary complexity of that framework. After further discussions, the Commission agreed that it would support a separate effort to develop a framework built on the use of population viability analysis. The approach would be similar in many regards to the framework for calculating potential biological removal levels under the Marine Mammal Protection Act to identify strategic marine mammal stocks. In FY 2009 the Commission sponsored a study of population viability analyses reported in the conservation literature. In FY 2010 the project was extended to include all cases where a population viability analysis was used in listing or delisting decisions under the Endangered Species Act. In FY 2011 this information was used to develop a population viability analysis framework that can be applied to data-rich and data-poor species, will build greater objectivity into listing decisions, and will reduce the likelihood of over- and under-protection errors in listing decisions. The Commission has a draft report in hand on this framework and expects that it will be published in the peer-review literature by June 2012.

(7) Recommend to the Secretary, other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of the Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to the Marine Mammal Protection Act.

Objective: Promote the protection of Alaska Natives and the marine mammals they depend on for subsistence

Status: Unsatisfactory

Action: In FY 2008 the Commission sponsored a review of co-management in Alaska. The review involved participants from 19 Alaska Native organizations, 5 federal agencies, 2 state agencies, 3 non-governmental organizations, an Australian agency (where Native groups and government managers also co-manage certain marine mammal resources), and the public. The review examined progress in co-management since enactment of the 1994 amendments to the Marine Mammal Protection Act (when co-management was incorporated explicitly into the Act), and it provided a basis for recommendations to enhance co-management efforts over the coming decade. In FY 2009 the Commission convened representatives of the various Alaska Native organizations and agency representatives to develop a coordinated proposal for improving co-management efforts. The meeting resulted in an outline that the Alaska Native organizations and agencies could use to prepare such a proposal, but parties have failed to follow through adequately and a proposal has not yet been developed. In FY 2010 and again in FY 2011 the Commission engaged in discussions with Alaska Native representatives, agency representatives, and Congressional staff members to plan a meeting where the parties could develop a strategy for improving the capacity of Alaska Natives to participate in co-management. No progress has been made to date. The Commission will address this issue in its next annual meeting, which it plans to hold in Anchorage, Alaska, in January 2012.

Objective: Ensure that the actions of federal agencies other than the Fish and Wildlife Service and National Marine Fisheries Service are consistent with the objectives of the Marine Mammal Protection Act

Status: Satisfactory and ongoing

Action: In FY 2011 the Commission reviewed numerous environmental impact statements and applications for incidental take authorizations for Navy testing and training ranges in U.S. waters. Such documents are still being produced as part of an extensive effort by the Navy to bring its activities into compliance with relevant environmental laws. Action on this objective will continue in FY 2011. The Commission's recommendations and interactions with the Navy have focused primarily on improving monitoring and mitigation measures and supporting behavioral studies to characterize the response of marine mammals to Navy sonar.

In FY 2011 the Commission also reviewed multiple applications for incidental take of marine mammals during the course of seismic surveys for oil and gas deposits in various U.S. waters. The Commission participated in the Open-Water meeting sponsored annually by the Bureau of Ocean Energy Management and the National Oceanic and Atmospheric Administration to review oil and gas operations in Alaska.

FINANCIAL SECTION

The Marine Mammal Commission's budget is used for three general purposes. First, it maintains a staff of 14 and compensates the Commissioners and members of the Committee of Scientific Advisors on Marine Mammals, thereby allowing them to perform the work of the Commission. This entails maintaining an office environment with all the necessary supporting equipment, supplies, and services (e.g., computers and communication systems). Second, the budget supports travel of the staff, Commissioners, and Committee members as required to participate in matters pertaining to marine mammal research, management, and conservation. The Commission's travel budget is relatively small, but such travel is essential to ensure that the Commission work force is up to date and providing expertise on a wide range of issues affecting marine mammal conservation throughout U.S. waters (e.g., ship strikes, entanglement in marine debris) and, to a lesser but important extent, in foreign and international waters (e.g., climate disruption). Third, the budget supports the Commission's research program, which is focused primarily on the planning, conduct, analysis, and reporting of key scientific studies, as well as evaluation of key conservation issues. Such studies are undertaken to ensure that decision-makers have the benefit of being well informed about the potential consequences of their decisions, both positive and negative, for the protection and conservation of marine mammals and marine ecosystems.

The following letter and results of the FY 2010 audit describe the state of the Marine Mammal Commission financial systems, including administrative systems, controls, and compliance with laws and regulations. The principal financial statements have been prepared to report the financial position and results of operations of the Commission, pursuant to the requirements of 31 U.S.C. §3515(b). Although the statements have been prepared from the Commission's books and records in accordance with Generally Accepted Accounting Principles for federal entities and the formats prescribed by the Office of Management and Budget, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity. The audit (attached) resulted in an unqualified opinion with no material weaknesses or reportable conditions on internal controls or on compliance with laws and regulations.



MARINE MAMMAL COMMISSION

15 November 2011

Daryl J. Boness, Ph.D.
Chairman
Marine Mammal Commission
4340 East West Highway, Room 700
Bethesda, Maryland 20814

Dear Chairman Boness:

Mr. Frank Giordano, an independent certified public accountant, has completed the financial audit for the Marine Mammal Commission for FY 2011.

The Commission has received an unqualified opinion with no material weaknesses or reportable conditions on internal control or compliance with laws and regulations.

Respectfully,

A handwritten signature in cursive script that reads "Catherine Jones".

Catherine Jones
Chief Financial Officer