

ANNUAL REPORT OF THE  
MARINE MAMMAL COMMISSION, CALENDAR YEAR 1973

A REPORT TO CONGRESS

31 January 1974

Marine Mammal Commission  
1625 I Street, N.W.  
Washington, D.C. 20006

MARINE MAMMAL COMMISSION

Washington, D. C.

The President of the Senate

The Speaker of the House of Representatives

Sirs:

I have the honor to submit, in accordance with Public Law 92-522,  
21 October 1972, the first Annual Report of the Marine Mammal  
Commission, Calendar Year 1973.

Respectfully,

A handwritten signature in cursive script, appearing to read "Victor B. Scheffer".

Victor B. Scheffer, Chairman

31 January 1974

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### Organization of the Commission

This is the first annual report of the Marine Mammal Commission, an independent branch of the Federal Government authorized by the Marine Mammal Protection Act of 1972.

(P.L. 92-522, 21 October 1972)

The first Commissioners were appointed by the President on 14 May 1973: Dr. Victor B. Scheffer (Chairman), Bellevue, Washington; Dr. A. Starker Leopold, Berkeley, California; and Dr. John H. Ryther, Woods Hole, Massachusetts. Because of the pressure of other responsibilities, Dr. Ryther tendered his resignation on 13 November 1973 and, as of 31 December 1973, the vacancy left by his resignation had not been filled.

### Objectives and Responsibilities

The Marine Mammal Protection Act sets forth a national policy to prevent the extinction or depletion of any marine mammal species or population stock, to maintain the health and stability of the marine ecosystem, and, consistent with these objectives, to maintain optimum sustainable populations of marine mammals. The Commission is charged with the responsibility of developing and reviewing information, actions, and policy to insure that these objectives are attained.

Research Responsibilities

Congress recognized that there is inadequate knowledge of the ecology and population dynamics as well as present population levels of marine mammals, and of the factors which influence their ability to reproduce and sustain their role in the marine ecosystem. It therefore directed that two-thirds of the funds appropriated to the Commission for each fiscal year shall be expended on research and studies relating to the protection, conservation, and management of marine mammals.

Responsibilities for Review and Recommendation

The results of these urgently needed studies are to be reported and serve as the basis for review and recommendations by the Commission, in consultation with the Committee of Scientific Advisors, concerning actions and policies of Federal agencies and other activities specified in the Act.

The Commission is directed to recommend to Federal officials and to Congress such measures as it deems necessary or desirable to further the policies of the Act.

The Act directs that any such recommendations shall be responded to within 120 days after receipt thereof, and, if not followed or adopted, a detailed explanation of reasons why they were not followed or adopted must be provided.

Committee of Scientific Advisors

In accordance with Section 203 of the Act, the Commission appointed a nine-member Committee to serve at least until 30 June 1974: Dr. George A. Bartholomew, Los Angeles, California; Mr. John J. Burns, College, Alaska; Dr. Douglas G. Chapman, Seattle, Washington; Mr. Jack W. Lentfer, Anchorage, Alaska; Dr. Kenneth S. Norris, Santa Cruz, California; Dr. G. Carleton Ray, Baltimore, Maryland; Mr. William E. Schevill, Cambridge, Massachusetts; Dr. Donald B. Siniff, St. Paul, Minnesota; Dr. Jesse R. White, Miami, Florida. (The first meeting of the Committee was held in Seattle on 18-19 January 1974.)

Meetings Held by the Commission

Although the Commission was not funded until 27 November 1973, it met in Washington, D.C., on 31 May - 1 June 1973 for preliminary discussion, and four times subsequently in 1973: 12 June, Woods Hole, Massachusetts; 12 July, Seattle, Washington; 6-7 August, Washington, D.C.; and 7 December, Berkeley, California.

Activities of the Commission

Permits for Taking or Importing Marine Mammals

A central feature of the Act is the provision for a moratorium on the taking and importation of marine mammals and marine mammal products, during which no permit for taking or importation may be issued for purposes of scientific research or public display unless it is first reviewed by the Commission

and Committee of Scientific Advisors and found to be consistent with the purposes of the Act.

By 31 December 1973, permit applications for public display (PD) or research (R) had been received from the following applicants: The Aquarium (Depoe Bay, Oregon)--PD; California State University--R; University of California at Santa Cruz--R; Columbia (Missouri) Zoological Park--PD; Coronado Productions (Walt Disney Productions)--R; Denver Zoological Foundation--PD; University of Guelph (Ontario)--R; University of Minnesota--R; University of Missouri--R; Mystic Aquarium (Connecticut)--PD; State University of New York--R; University of Rhode Island, 2 applications--R; Santa Barbara Community College District--PD and R; Sea Life Park (Hawaii)--PD; Sea World (California)--PD; University of Texas--R; U.S. Geological Survey--R; U.S. National Marine Fisheries Service--R; U.S. Naval Undersea Center--R. In summary, 6 were for public display, 13 for research, and 1 was for both.

The Commission recommended approval of 4 of the applications though it recommended changes in the specifications of 2. Sixteen applications were pending at the end of the year.

#### Environmental Impact Statement

The Commission reviewed a draft environmental impact statement prepared by the Secretary of Commerce on importation of South African fur seal skins. Subsequently, the Secretary issued a permit for the importation of a reduced number of skins.

Federal-State Efforts

The Marine Mammal Protection Act vests primary jurisdiction over marine mammals subject to the moratorium in the Federal Government while it encourages cooperative efforts between the States and Federal Government. This matter has already been the subject of discussion by the Commission, and it will receive the attention and consideration of the Commission, the Staff, and the Committee of Scientific Advisors.

International Agreements

The Chairman was an advisor in the United States Delegation to the 25th Meeting of the International Whaling Commission in London, 18-28 June 1973.

The Chairman consulted in Washington, D.C., on 7 August 1973, with representatives of the Departments of Commerce, Interior, and State, and the Council on Environmental Quality, with respect to a provision of the Act which calls for an international ministerial meeting on marine mammals before 1 July 1973. This matter will be the subject of continued efforts.

William E. Schevill (Committee of Scientific Advisors) represented the Commission at a joint meeting of Soviet and U.S. scientists in Washington, D.C., in December. It was entitled "Meeting of the Marine Mammal Subgroup for the Agreement on Conservation of Rare and Endangered Species of Animals and Plants and General Wildlife Conservation and Management."

The delegates exchanged, with respect to the North Pacific region, information on: annual take of marine mammals, standard methods for physiological and morphological studies, research findings on gray whale, beluga whale, bowhead whale, northern sea lion, common seals, walrus, and sea otter, as well as other information. The Soviet delegates invited the U.S. delegates to collaborate in future research at sea.

Proposed Research Activities

In addition to reviewing, assessing, and making appropriate recommendations relating to policies and actions affecting protection and conservation of marine mammals, the Commission will conduct a major scientific research program. Future research activities were scheduled as an agenda item for the 18-19 January 1974 joint meeting with the Committee of Scientific Advisors. (Discussion results appear in Appendix A.)

The Budget

The following budget was proposed for FY 74:

Research Support - including support of the Committee of Scientific Advisors	\$275,000
Salaries	88,000
Personnel benefits	8,000
General Services Administration overhead charges	8,000
Rent, communications, utilities	9,000
Travel	6,000
Equipment and supplies	12,000
Printing and reproduction	<u>6,000</u>
Total	<u>\$412,000</u>

Acknowledgments

The Commission is grateful for the help and advice provided during its first year by the Council on Environmental Quality, the General Services Administration, the Congressional (House) Subcommittee on Fisheries and Wildlife Conservation and the Environment and (Senate) Subcommittee on Oceans and Atmosphere, the National Oceanic and Atmospheric Administration, the Office of Management and Budget, and the Smithsonian Institution.

The Commission is also grateful for the support and advice provided by various organizations and individuals concerned with the protection, conservation, and welfare of marine mammals.

Addendum

Because the Commission was still in an early stage of organization at the end of 1973, this addendum is offered by the Executive Director as a means of describing certain key activities of the Commission during January 1974.

Establishment of the Commission Staff

By the end of January 1974, the Executive Director, the General Counsel, the pro-tem Scientific Officer, the Administrative Officer, and other staff members had been selected, and negotiations had been concluded for offices at 1625 I Street, N.W., Washington, D.C. 20006 (Telephone 202/382-4475). Although the advisability of establishing a separate research office

outside of Washington had been considered, it was decided that it was more desirable to centralize the entire operation in Washington. The office will be fully functional by mid-February 1974.

Meeting of the Committee of Scientific Advisors

On 18 and 19 January 1974, a meeting of the Committee of Scientific Advisors was held with Commissioners Scheffer and Leopold, the Executive Director-designate, John R. Twiss, Jr., and the General Counsel-designate, Robert Eisenbud, of the Commission Staff. Dr. D. G. Chapman, Chairman of the Committee of Scientific Advisors, reported as follows:

The meeting was convened by Dr. D. G. Chapman on the request of Dr. V. B. Scheffer, Chairman of the Commission. All members were present.

Dr. G. Carleton Ray and Mr. W. E. Schevill gave a review of the 16-17 January 1974 oversight hearings of the Congressional Subcommittee on Fisheries and Wildlife Conservation and the Environment.

After thorough discussion the Committee passed the following procedural resolutions by unanimous vote:

The Committee will ordinarily communicate a single recommendation based on a majority view of a quorum from the Chairman of the Committee to the Chairman of the Commission through the Executive Director, and further ordinarily will limit its advice

to scientific aspects of the problem. The Committee reserves the right to submit minority opinions and to consider and make recommendations on a broader basis.

A quorum will be five members present.

The Committee shall be consulted by the Commission and may review and make recommendations on:

1. all studies and recommendations of the Commission;
2. research programs conducted or proposed to be conducted under the authority of the Marine Mammal Act; and
3. all applications for permits for scientific research and/or display.

The Committee understands that the Commission staff is available to it for assistance and advice.

The Committee then established the offices of Chairman and Vice Chairman. Dr. Chapman was elected Chairman and Dr. Ray, Vice Chairman.

#### Permit Review

The Committee noted the problems in the review procedure used to date and made necessary by current regulations. After discussion, with input by Mr. Joseph Blum from N.O.A.A. and Mr. Ben Crabb from the Department of Interior, the question of drafting an appropriate resolution was referred to a subcommittee consisting of Mr. Burns and Dr. Ray. This subcommittee presented the following report which was adopted unanimously by the whole Committee.

Report of Subcommittee on Permit Applications

The Committee requests the Departments of Commerce and Interior to revise current regulations to provide for quarterly review of applications for research and display, except at the discretion of the Committee and/or Commission in case of emergency. Continuous review procedures currently in effect do not provide for consultative review by the Committee nor do they provide the opportunity to limit the take of a species within a defined time period.

The Committee recommends that the following procedure be used for review:

1. The Executive Director shall transmit copies of applications to each Committee member when these are received from either Department; applications to be considered at any quarterly meeting must be received not less than 15 days prior to that meeting.
2. Each member shall review all applications prior to the quarterly meeting of the Committee.
3. A member of the Committee will be identified by the Chairman of the Committee to lead the review of each application before the Committee.
4. A Committee report, recommending approval or denial and containing added comment or requests for information, will be transmitted to the Executive Secretary for transfer to the Commission at the conclusion of the quarterly meeting.

The Committee further recommends that its Chairman may request outside review at his discretion, in addition to review by the Committee. It is also suggested that permit applications for work on marine mammals be submitted at the same time that research proposals are submitted to federal, state or private granting or contracting agencies.

In the interim, before the above recommendations may be adopted, we suggest that the full 45-day period from publication in the Federal Register be allowed for Committee and Commission review.

The question of the permit application forms used by the Departments of Commerce and Interior was also considered. The Committee considers that it is appropriate that this be discussed, but it was agreed to defer to a future meeting after input by the Commission's legal counsel.

The Committee agreed that, pending any revision of permit review applications, all Committee members should transmit recommendations to the Committee Chairman; he in turn will transmit a recommendation to the Commission following the guidelines expressed above.

#### Protocols for Capture and Holding of Live Animals

The Committee noted the serious problems of establishing standards and of inspection to determine that standards are being met. Such standards and such inspection are essential

for appropriate decisions on permits. In view of the magnitude of the problem the Committee unanimously agreed to establish a subcommittee (White, Norris, Ray) to set criteria for certification of capture and holding facilities, including review of present guidelines, and further to recommend procedures of implementation. This subcommittee was asked to prepare a report that would be circulated prior to the next meeting of the Committee. It will be reviewed at that meeting and, if approved, transmitted to the Commission.

J. Blum noted that such guidelines of the Department of Commerce are to be published shortly in the Federal Register and urged members of the Committee to provide comments.

#### Research Grants and Contracts, Policy, and Procedure

The problem of awarding grants and contracts to members of the Scientific Advisory Committee was first addressed. The following policy was adopted unanimously.

The Committee recommends to the Commission that it set up an ad-hoc committee to review proposals for research projects in which a member of the Committee is directly involved. Further it is recommended to the Commission that no research grant or contract should be approved which allows a member of the Committee to receive salary money from the grant.

The Committee recommends to the Commission that the same policy be adopted in the review of research grant proposals as for the review of permits.

### Recommendations on Research

The Committee had before it a list of critical problems prepared by Dr. Norris. These were discussed together with other input. A joint subcommittee from the Committee and the Commission was established (Leopold, Norris, Siniff) and subsequently submitted a report by mail with recommendations on research priorities (See Appendix). The report will be used by the Committee and the Commission in preparing requests for proposals and evaluating proposals.

The Committee agreed that it would recommend to the Commission that it require interim and final reports from each research grant and contract in time for the Commission's annual report, with the expectation of publication in the open literature of results from grants and contracts. The Committee understands that the Commission will need to have this recommendation reviewed by its legal counsel to ensure that requirements of the Marine Mammal Act and other pertinent legislation are met.

### Review of Permit Applications and Grant Requests

All complete applications received by the Departments of Commerce and Interior since the expiration of the economic hardship clause were reviewed and recommendations made to the Commission for forwarding to the appropriate Department.

### Stranded Animals

Several problems were noted in regard to stranded animals, e.g., whose responsibility it is to determine if the animal is in fact dead, the responsibility for expenses that might be incurred with stranded animals, the problems of using such animals for education or research. The Committee also believes that there is need for advice from legal counsel on some aspects of the Marine Mammal Act in relation to stranded animals. To resolve some of these problems and to consult with counsel when the Commission's staff is available, a subcommittee was established (Schevill, Lentfer, and White).

### Endangered, Threatened, and Depleted Species

The Committee noted the problems with the definitions of these items and established a subcommittee (1) to consider appropriate definitions, (2) to review species so listed and to make recommendations on the appropriateness of the listing, and (3) to discuss problems of protection of such species. The subcommittee consists of Mr. Burns, Mr. Schevill, and Dr. Siniff.

### Other Items

The Committee recommends that the Commission consider establishment of a newsletter on marine mammal matters.

The Committee agreed to hold its next meeting at San Diego, April 19 and 20, with the possibility of additional input on the porpoise-tuna problem. It was agreed that meetings should rotate to different regions of the United States.

Appendix

Report of the Ad Hoc Committee on Research Needs and Priorities

The Ad Hoc Committee on Research Needs and Priorities was formed to outline the major topics of study that might be considered for research support. The Committee, consisting of Dr. Kenneth S. Norris, Dr. Donald B. Siniff, and Dr. A. Starker Leopold (Chairman), submitted the following preliminary categorization of research topics that would seem appropriate for consideration. At this stage, priorities are not designated, although some areas of investigation are clearly more pertinent to the intent of the Act than others. Each research proposal will be considered on its own merits, first by the Committee of Scientific Advisors and then by the Commission for final action. In due time, a set of priorities based on experience and knowledge will emerge, and these will be applied in the evaluation of proposals.

1. Status of Marine Mammals

- a. Census methods.--One of the most challenging aspects of planning for the conservation of marine mammals is knowing the numerical status and population trends of the various species. New methodology is desperately needed. Proposals for testing innovative census methods will be given high priority.

- b. Delineation of subpopulations.--Many marine mammals are geographically localized in their distribution. A species usually includes many subpopulations, each occupying a different geographic sector of the marine environment. Clearly, one subpopulation may be locally threatened while the species as a whole is not. Delineation of subpopulations and their relative status is an important consideration for the planning of a conservation program.
- c. Migrations.--Some marine mammals make extensive seasonal migrations which must be detailed if total ecosystem relationships are to be understood (e.g., the Pacific gray whale breeds and calves in winter along the coast of Baja California, and moves to the Bering Sea in summer).
- d. Checklist of marine mammals.--An accurate delineation of the species and subspecies of marine mammals is essential to planning for their conservation.

## 2. Management of Marine Mammals

- a. Preservation.--Some species are obviously in need of complete protection, not only from exploitation, but from harassment and disturbance.
- b. Economic use.--Other species are potentially capable of sustaining a regulated harvest under rational management. Optimum population levels, optimum

carrying capacity of the habitat, population status, trends, and potential yield rates are needed for all species where harvest is in progress or is contemplated. Very high priority is allocated to the study of porpoise mortality incident to tuna fishing with purse seines.

- c. Socio-economic aspects of exploitation.--The Marine Mammal Protection Act provides for subsistence hunting of marine mammals by native peoples. Consideration must be given the social and economic significance of harvest by native peoples, as well as the status of the species in question.
- d. International treaties and legal problems.--Protection of many species is provided in treaties, agreements, and specific laws, both national and state. Review and study of such legislation is needed, and the Commission is directed by the Act to do this.
- e. Maintenance of captive stocks.--One aspect of managing marine mammals is the maintenance of individuals in captivity, for display, education, and scientific study. There is much to be learned about the feeding, care and sanitation of captive populations. Appropriate studies of the husbandry of captive marine mammals will be considered for possible financial support.

3. Ecology of Marine Mammals

- a. Ecosystem relations.--Marine mammals are an integral part of the marine environment. They require, among other things, food supply, places to breed, to escape disturbance, to find shelter from predators, and merely to loaf. Research on the habitat requirements of individual species is highly relevant.
- b. Population dynamics.--Marine mammals, like all other living organisms, maintain their populations by producing young at a rate that offsets mortality. What are the rates of recruitment and mortality of individual populations? To what extent are recruitment and mortality related to the density of populations? In the field of wildlife conservation, these questions inevitably emerge as primary considerations in planning management programs.
- c. Physiology.--Each kind of marine mammal is physiologically adapted to the environment in which it lives. What are the nature of these adaptations? To what extent are they subject to compensation and modification? For example, how can the northern fur seal, adapted to Arctic waters, survive and reproduce on the California Channel Islands?
- d. Behavior.--Studies of marine mammals have revealed many remarkable facets of adaptive behavior. The

schooling of porpoises, the social structure of breeding colonies of seals, the acoustic echolocation and communication systems of whales are examples. All of this knowledge is of scientific interest and much of it is relevant to conservation programs.

- e. Pathology.--Marine mammals are subject to the attack of many diseases and parasites whose impact is highly relevant to conservation in the wild and in captivity.
- f. Habitat deterioration.--Oil spills, pesticides such as DDT, and other environmental contaminants may depress wild populations of marine mammals. Knowledge of the extent and nature of habitat deterioration and their effects on populations are crucial in programming the conservation of the species affected.
- g. Harassment and disturbance.--There is abundant evidence that many species of marine mammals are highly sensitive to human disturbance. For example, gray whales on the calving grounds in Mexico lagoons avoid areas of heavy boat traffic, including areas frequented by excursion cruises bringing eager and sympathetic whale-watchers. Hauling grounds of seals and sea lions may be rendered unusable by excessive human visits. An important facet of management is the regulation of visitors on critical areas. Definition of these critical areas is needed.

4. Summary

The above categories of needed research on marine mammals encompass most of the categories requiring the attention of the Marine Mammal Commission. Pending a more precise definition of priorities, allocation of research funds will be made in the topical areas here defined.