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17TH DISTRICT, CALIFORNIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND
DRUG ADMINISTRATION, AND RELATED AGENCIES

MILITARY CONSTRUCTION

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CO-CHAIR, CONGRESSIONAL TRAVEL AND
TOURISM CAUCUS

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Congress of the United States
House of Representatives
Washington, DC 20515--0517

March 11, 2004

Marine Mammal Commission
4340 East West Highway, Suite 905
Bethesda, Maryland 20814

Dear Marine Mammal Commission and Advisory Committee on Acoustic Impacts on Marine Mammals:

We would like to congratulate the Marine Mammal Commission for recently completing the first meeting of the Advisory Committee on Acoustic Impacts on Marine Mammals. Having as many stakeholders at the table as you did – including marine mammal scientists, acousticians, the oil/gas industry, commercial shipping interests, the military, and NGOs, to name a few – presents many challenges and we commend your efforts to bring together such a diverse group of people to address this growing conservation concern. Additionally, although we believe the courts must sometimes play a role in resource conservation, we are encouraged by the use of a forum outside the judicial system to address the potential for marine mammals to be adversely affected by sound pollution (noise). Your approach may offer a model that could be used by other natural resource managers to tackle complex and controversial issues.

Overall, we suggest that the Committee 1) think broadly about the problem of anthropogenic noise in the world's oceans, and 2) be guided by a sense of responsibility for the well-being of all parts of marine world, as we do not yet understand all the levels of interconnectedness among marine mammals and the rest of the ocean environment. More specifically, we encourage the Committee to 1) value state-level input, 2) adopt an ecosystem-based approach, 3) re-evaluate the composition of the group assigned to review the existing knowledge of the negative effects of high sound-levels on marine mammals, 4) ensure participation by the U.S. Fish and Wildlife Service, and 5) discuss ways to move the dialogue to the international level.

California's coastline includes habitat for many marine mammals, and thus we are proud that the only Committee participant representing a state perspective is a member of the California Coastal Commission (CCC). The CCC has been a leader in state-level involvement with marine and coastal issues and its representative's experience brings a unique perspective to the discussion. With respect to living marine resources, the CCC takes a precautionary approach (considering situations with a *show me that the proposed activities will not harm the protected resource* attitude), much like that established under the MMPA. We urge the Committee's members to adopt a similar approach.

The Marine Mammal Protection Act stipulates an ecosystem-based approach to conservation. This legislation was very forward-thinking in finding that marine mammals "should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part" (16 U.S.C. 1361 §2). Based on this, we suggest that the Committee take a broad, ecosystem-based approach to the issue of anthropogenic sound in the ocean. For example, does our addition of sound affect marine mammal prey as well as marine mammals? Recent work by several scientists has pointed out the potential for fish and larvae to be seriously affected by noise pollution, therefore we advise that these experts be included in the conversations you have over the next year. This is but one example of how the Committee could employ an ecosystem approach.

We must express our concern regarding the composition of the sub-committee charged with reviewing the existing scientific knowledge of the potential threats to marine mammals from anthropogenic sound¹. Unlike the full Committee, the sub-committee lacks a balanced membership. Most disturbing is the subcommittee's failure to include marine mammal experts studying behavioral and non-auditory responses to noise. We strongly recommend that the larger Committee re-evaluate the sub-committee's composition, thus increasing the subcommittee's chances of successfully completing its task.

We are encouraged to see that the U.S. Fish and Wildlife Service (USFWS) is being represented on the Advisory Committee. Since this is the agency responsible for marine mammal species that are outside the jurisdiction of the National Marine Fisheries Service, including sea otters, manatees, and polar bears, its voice should be heard. We look forward to communicating with the USFWS representative regarding their participation in all of the Committee's meetings.

A last issue that we would like to comment on involves addressing the international nature of marine mammal protection with respect to anthropogenic sound sources. We hope that the Committee's deliberations will include ideas on how we can influence an international discussion of acoustic impacts to marine mammals. As we all know, the ocean environment and its inhabitants fail to recognize political boundaries. The trans-boundary nature of energy (in the form of sound) and migratory marine mammals (and other species) make it essential that we engage other countries on this issue.

Marine mammals hold a special place in many people's hearts. We can use this connection, which was reflected by passage of the Marine Mammal Protection Act over 30 years ago and continues to be reflected now as we evaluate this landmark legislation, to ensure future

¹ By affiliation, the subcommittee nominations were as follows:

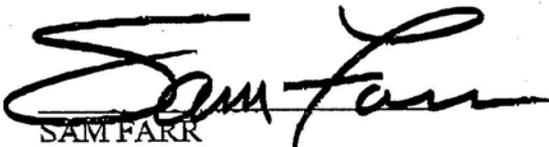
- Oil & Gas Industry → 2
- Navy → 1
- Federal Agencies
 - National Marine Fisheries Service → 1
 - Minerals Management Service → 1
- NGOs → 1
- Academic Scientists
 - Oceanographers / Acousticians → 2
 - Marine Mammal Researchers → 1

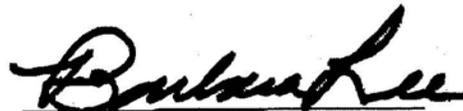
generations enjoy the same direct and in-direct benefits from these magnificent creatures as we do today.

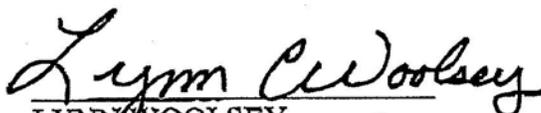
We will be both following the Committee's meetings over the next year and awaiting the Commission's report to Congress in 2005.

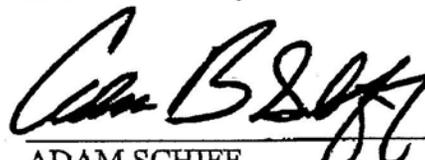
Thank you for the opportunity to provide public comment.

Sincerely,

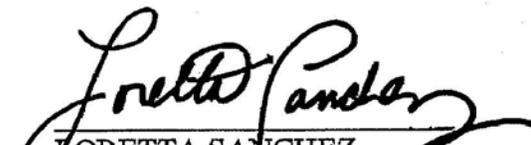

SAM FARR
Member of Congress

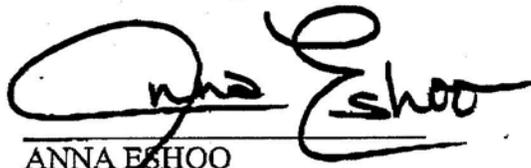

BARBARA LEE
Member of Congress


LYNN WOOLSEY
Member of Congress


ADAM SCHIFF
Member of Congress


BOB FILNER
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LORETTA SANCHEZ
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ANNA ESHOO
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