



# MARINE MAMMAL COMMISSION

24 September 2012

Senator John F. Kerry  
Senator Scott P. Brown  
Senator Jeanne Shaheen  
Senator Kelly A. Ayotte  
Senator Olympia J. Snowe  
Senator Susan M. Collins  
United States Congress

Representative Barney Frank  
Representative John F. Tierney  
Representative William R. Keating  
Representative Frank Guinta  
Representative Chellie Pingree  
Representative Mike Michaud

Dear Senators Kerry, Brown, Shaheen, Ayotte, Snowe, and Collins, and Representatives Frank, Tierney, Keating, Guinta, Pingree, and Michaud:

The Marine Mammal Commission recently received a copy of your 6 September letter to Mr. Samuel Rauch, Acting Assistant Administrator for the National Marine Fisheries Service. Your letter urged the Service to adopt a National Seafood Coalition proposal that would modify an existing regulation aimed at reducing the number of harbor porpoises killed by gillnets in the Gulf of Maine.

Your letter was sent on the same day that the Service wrote the Coalition denying its request. That being the case, you likely did not have the benefit of seeing the Service's evaluation of the Coalition's proposal. The evaluation (attached) essentially concluded that the Coalition overestimated both the conservation and economic benefits of its proposal. The Commission agrees with the Service's assessment.

The regulation in question requires fishing closures that were based on 2007 consensus recommendations of the Harbor Porpoise Take Reduction Team. The closures are scheduled to go into effect because too many fishermen are not complying with existing regulations and are killing more harbor porpoises than allowed by statute. The Team and Service developed the closures following procedures set forth in the Marine Mammal Protection Act. It is the Commission's understanding that Congress intended those procedures to be the mechanism used to reduce excessive bycatch of marine mammals.

The Team includes representatives from gillnet fisheries, conservation groups, the scientific community, and management agencies. If the Service were to act on the Coalition's proposal outside the take reduction process, it would undermine the good faith needed to make the process work; in essence, take reduction team members would lose their incentive to develop mutually agreeable solutions.

The Harbor Porpoise Take Reduction Team should consider the Coalition's proposal. However, five years have passed since the Team's consensus recommendation to implement these closures and it is time to move forward. The Commission's understanding is that the Service will ask the Team to review the proposal, and the Commission looks forward to that discussion. Nonetheless, the plans for such a review do not provide a basis for delaying further the implementation of regulations already considered and recommended.

Thank you for considering these comments. If you or your staff have questions, I would be pleased to stop by to discuss them at your convenience.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen".

Timothy J. Ragen, Ph.D.  
Executive Director

Cc: Samuel Rauch, National Marine Fisheries Service