13 November 2012

Mr. P. Michael Payne, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Re: Permit Application No. 16239
(Dan Engelhaupt, Ph.D., HDR EOC)

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act. Dr. Engelhaupt is requesting authorization to conduct systematic line transect surveys for marine mammals in waters of the Atlantic and Pacific Oceans during a five-year period. He is seeking to renew and amend permit 909-1726.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Marine Fisheries Service—

- issue the requested permit, but condition it to require Dr. Engelhaupt to minimize disturbance of the subject animals by exercising caution when approaching animals, particularly female-calf pairs, and stopping an approach if there is evidence that the activity may be interfering with female-calf behavior, feeding, or other vital functions; and
- ensure that activities to be conducted under this permit and those of other permit holders who might be surveying the same species in the same areas are coordinated and, as possible, data and samples are shared to avoid duplicative research and unnecessary disturbance of animals.

RATIONALE

Dr. Engelhaupt and co-investigators propose to conduct systematic vessel- and aerial-based line transect surveys year-round for marine mammals in waters subject to U.S. jurisdiction and of the high seas in the Atlantic (including the Gulf of Mexico and Caribbean and Sargasso Seas) and Pacific (including Gulf of Alaska and waters of the Mariana Islands, Japan, and Australia) Oceans. The purposes of the proposed research are to investigate (1) the presence and absence of marine mammals before, during, and after U.S. naval exercises, (2) movement patterns of marine mammal species at risk from sound-producing sources, and (3) population structure of marine mammals that inhabit waters where Navy, renewable energy, and pier-based construction activities occur.

Dr. Engelhaupt and co-investigators would harass numerous individuals of various specified and unspecified cetacean species or stocks (see the take table in the application) during aerial- and vessel-based surveys. Individuals of all age classes and either sex could be harassed. Environmental and standard survey data (i.e., species, number, distance/heading, behavior, group size/composition, group spacing, etc.) would be collected. They would use fixed-wing aircraft flown at an altitude of 305 m, and the survey aircraft would circle sighted animals to obtain photographs and video and group size and species composition data and any response of the animals. Obtaining high-quality photographs may require that the aircraft briefly drop to as low as 213 m for cetaceans and 122 m for Hawaiian monk seals. Additionally, researchers could conduct focal follows for up to 60 minutes at an altitude of at least 365 m.

Dr. Engelhaupt and co-investigators also would conduct vessel-based surveys and would collect environmental and other standard survey data. They would use vessels up to 50 m in length and would approach sighted animals on a parallel course at a minimum distance of 10 m to photograph and videotape the animals. Researchers could conduct focal follows for up to 60 minutes. In addition, they would photograph and videotape the animals underwater on an opportunistic basis using a pole camera, if possible, to minimize impacts. However, if filming the animals underwater is deemed important to record a reaction to any event and a pole camera cannot be used, a swimmer may enter the water and photograph or videotape the animals at a distance no closer than 10 m. They would approach an individual or group no more than three times. If an animal's response to the researchers appears significant (i.e., high-speed avoidance behavior to the approaching boat or swimmer) on the first approach, then that individual would not be approached again. The Commission considers that measure to be prudent, but also believes that the permit should require adherence to other requirements explicitly, particularly to protect female-calf pairs. Therefore, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested permit, but condition it to require Dr. Engelhaupt to minimize disturbance of the subject animals by exercising caution when approaching animals, particularly female-calf pairs, and stopping an approach if there is evidence that the activity may be interfering with female-calf behavior, feeding, or other vital functions. Dr. Engelhaupt did not specify if he would coordinate his activities with other permit holders that may be surveying marine mammals in the area. Accordingly, the Commission recommends that the Service ensure that activities to be conducted under this permit and those of other permit holders who might be surveying the same species in the same areas are coordinated and, as possible, data and samples are shared to avoid duplicative research and unnecessary disturbance of animals.

Finally, researchers would collect sloughed skin and feces from the water's surface using nets. They would collect those samples only after the animals have moved at least 10 m away. Samples would be analyzed for various genetic markers by either the Southwest or Southeast Fisheries Science Centers. Samples not consumed by those analyses would be archived at the respective Centers.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the Marine Mammal Protection Act. Please contact me if you have any questions concerning the Commission's recommendations.

Sincerely,

Timothy J. Ragen, Ph.D.
Executive Director