

MARINE MAMMAL COMMISSION  
4340 East-West Highway, Room 700  
Bethesda, MD 20814-4447

29 September 2008

Mr. P. Michael Payne  
Chief, Permits Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3226

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by Scripps Institution of Oceanography under section 101(a)(5)(D) of the Marine Mammal Protection Act. The applicant is seeking authorization to take small numbers of marine mammals by harassment incidental to conducting a marine seismic survey and piston coring activities in the Santa Barbara Channel. We also have reviewed the National Marine Fisheries Service's 28 August 2008 *Federal Register* notice announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

## RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, provided that—

- the applicant be required to conduct all practicable monitoring and mitigation measures that reasonably can be expected to protect the potentially affected marine mammal species from serious injury, and
- operations be suspended immediately, pending review by the Service, if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the seismic survey.

## BACKGROUND

The proposed seismic survey and piston coring activities are scheduled to be conducted over approximately 12 days during November 2008 off southern California, north and northwest of Santa Cruz Island in the Santa Barbara Channel. Activities would be conducted only during daylight hours. The purpose of the program is to test the feasibility of recovering a continuous paleoclimate record from the Santa Barbara Basin. The principal means of taking would be by disturbance from a single generator injector airgun (discharge volume of 45 in<sup>3</sup>, 0-to-peak output of 225.3 dB re 1  $\mu$ Pa-m<sup>2</sup>) and a 1.5-kJ electromechanical boomer (209 dB re 1  $\mu$ Pa-m<sup>2</sup> RMS) or a 2-kJ electric sparker system (209 dB re 1  $\mu$ Pa-m<sup>2</sup> RMS). If possible, the generator chamber of the airgun would be set to 25 in<sup>3</sup>, which would result in a peak source sound level of ~218 dB re 1  $\mu$ Pa-m<sup>2</sup>. In addition to the airgun, sparker, and boomer, a towed chirp system, a multibeam echosounder, and a 3.5-kHz sub-bottom profiler would be used at various times during the cruise.

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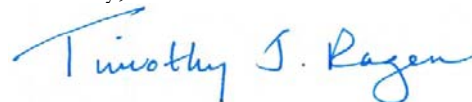
Proposed mitigation measures include vessel speed or course alteration, airgun or boomer shutdown within calculated exclusion zones, and shutdown at any range in the event that a North Pacific right whale or a concentration of sea otters is sighted. (The applicant is consulting with the U.S. Fish and Wildlife Service regarding potential impacts on sea otters). The National Marine Fisheries Service has preliminarily determined that the proposed activity would result, at most, in Level B harassment of small numbers of 26 species of cetaceans and pinnipeds. The Service also has preliminarily determined that any effects would have no more than a negligible impact on the affected marine mammal species and stocks due to the proposed monitoring and shutdown provisions (i.e., vessel speed and/or course alteration, shutdown procedures, and minimizing approach to slopes and submarine canyons, if possible). The Service states that there are no subsistence uses of affected marine mammals in the proposed action area.

## **RATIONALE**

The Commission believes that the Service's preliminary determinations are reasonable, provided that the proposed mitigation and monitoring measures are adequate to ensure that marine mammals are not being taken in unanticipated ways or numbers. In this regard, our comments on this request are essentially the same as those provided in our letters on the applicant's previous requests to conduct similar studies. The Marine Mammal Commission recommends that the applicant be required to carry out all monitoring and mitigation measures described in the application and in the Service's *Federal Register* notice to protect the potentially affected marine mammal species from serious injury. Because the applicant is requesting authority to take marine mammals by harassment only, the Marine Mammal Commission recommends that the National Marine Fisheries Service require that operations be suspended immediately if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the seismic survey. Any such suspension should remain in place until the Service has reviewed the situation and determined that further deaths or serious injuries are unlikely to occur or has issued regulations authorizing such takes under section 101(a)(5)(A) of the Act.

Please contact me if you or your staff has questions about the Commission's comments and recommendation.

Sincerely,



Timothy J. Ragen, Ph.D.  
Executive Director