

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

23 June 2008

Mr. P. Michael Payne
Chief, Permits Division
National Marine Fisheries Service
Office of Protected Resources
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 the University of Texas, Institute of Geophysics, 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 a seismic survey that will be conducted approximately 100 miles off the coast of Oregon from 30 June to 19 July 2008. We also have reviewed the National Marine Fisheries Service's 23 May 2008 *Federal Register* notice announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

The applicant is requesting authorization to take by harassment small numbers of 26 species of cetaceans and 3 species of pinnipeds incidental to the survey. The purpose of the survey is to investigate the methane vent systems that exist off Oregon. The principal means of taking would be by disturbance from the firing of a pair of generator injector airguns, each with a discharge volume of 40–60 in³ for a total of up to 120 in³. At times during the survey the applicant also intends to use a Simrad EM300 30-kHz multibeam bottom-mapping echosounder (normal operating frequency of approximately 30 kHz and maximum source level of 237 dB re 1 μ Pa-m (rms)) and a Knudsen Engineering Model 320 BR subbottom profiler (designed to operate at 3.5 and/or 12 kHz with an estimated maximum source level of 211 dB re 1 μ Pa-m). The National Marine Fisheries Service has preliminarily determined that the proposed activities would result, at most, in Level B harassment of small numbers of certain species of marine mammals and would have no more than a negligible impact on the affected marine mammal stocks.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, provided that the applicant be required to implement all practicable monitoring and mitigation measures that reasonably can be expected to protect the potentially affected marine mammal species from serious injury, and that activities 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.

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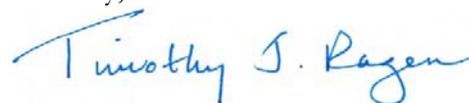
RATIONALE

The Commission believes that the Service's preliminary determinations are reasonable, provided that the proposed mitigation and monitoring activities are adequate to ensure that marine mammals are not being taken in unanticipated ways or numbers. In this regard, our comments on this application are essentially the same as those provided in earlier letters commenting on similar studies undertaken elsewhere. As in those cases, several species of beaked whales occur in the proposed survey area. In light of the equivocal evidence suggesting a greater sensitivity of beaked whales to certain sounds and the uncertainties concerning the effects of these sounds on these and possibly other species, the Commission continues to believe that caution is warranted.

The Commission generally concurs with the Service and the applicant that the proposed activities will result only in Level B harassment of cetaceans. However, because beaked whales may respond to seismic activities in ways that lead to their injury or death, the Service should consult with the applicant to determine the likely effectiveness of the proposed monitoring program in detecting an injured or dead beaked whale or other small cetacean. Because the applicant is requesting authority to take marine mammals by harassment only, the Service should 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 our comments and recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a prominent initial 'T'.

Timothy J. Ragen, Ph.D.
Executive Director