



MARINE MAMMAL COMMISSION

29 April 2010

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

Re: Amendment of Permit No. 87-1743-06
(Daniel P. Costa, Ph.D.)

Dear Mr. Payne:

By *Federal Register* notice of 19 March 2010 (75 Fed. Reg. 13257), the National Marine Fisheries Service requested public comment on a request from Daniel P. Costa, Ph.D., to amend scientific research permit No. 87-1743-05. The permit, issued on 29 September 2009 and valid through 30 September 2010, authorizes research to study the long-term behavioral patterns, physiology, and life history of northern elephant seals. Dr. Costa was seeking an increase in the number of weaned pups that he could weigh, measure, and tag to study the effects of an ongoing El Niño event. On 25 March 2010 the Service published notice in the *Federal Register* (75 Fed. Reg. 14424) that, pursuant to section 104(c)(3)(A) of the Marine Mammal Protection Act and section 216.33(e)(6) of its permit regulations, it had issued the amendment prior to the close of the public comment period because delaying issuance could have resulted in the loss of unique research opportunities.

The Service noted that previous investigations by Dr. Costa revealed a dramatic impact of the 1998 El Niño on foraging success, pup weight, and natality of female northern elephant seals. The Service agreed with Dr. Costa that increasing the number of elephant seal pups that could be taken by harassment under Permit No. 87-1743-05 was necessary to more fully investigate the effects associated with the current El Niño event. In particular, the Service believed that a larger sample size was needed to investigate whether and how pup survival is being affected and to assess how any such impacts might be related to the oceanographic conditions associated with the El Niño event, reduced developmental time, and changes in maternal investment in the pups. The Commission supports the Service's decision to amend the permit and agrees with the Service's assessment that waiting until the close of the public comment period would have resulted in the loss of an unforeseen and unique research opportunity.

Sincerely,

A handwritten signature in blue ink that reads "Peter O Thomas, Sr".

Timothy J. Ragen, Ph.D.
Executive Director