



MARINE MAMMAL COMMISSION

10 May 2012

Mr. Timothy J. Van Norman
Chief, Branch of Permits
Division of Management Authority
U.S. Fish and Wildlife Service
4401 North Fairfax Drive
Arlington, VA 22203

Re: Request to Renew Permit No. PRT-063561
(Edmund Gerstein, Ph.D.,
Florida Atlantic University)

Dear Mr. Van Norman:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit renewal application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act. Dr. Gerstein is requesting authorization to take by deliberate harassment manatees in Florida waters during a two-year period. He previously was issued a three-year permit with a two-year extension that expired on 20 October 2011. However, due to delayed timing of the permit renewal in 2010, Dr. Gerstein had to forfeit funding, personnel, and resources. The project then did not proceed in 2011 due to poor water visibility and personal circumstances. Therefore, he requests an additional two years to complete Phase II of the project. The Commission has commented on this matter in numerous letters, the last of which was sent on 15 January 2004.

RECOMMENDATION

The Marine Mammal Commission recommends the Fish and Wildlife Service issue the permit renewal, subject to the previous permit conditions.

RATIONALE

Watercraft in Florida's nearshore and inshore waters are a frequent cause of manatee serious injury and death. Dr. Gerstein is requesting extension of his authorization to test the effectiveness of an acoustic device for alerting manatees of approaching vessels. The acoustic deterrent device operates from 10–20 kHz and at less than 120 dB re 1 μ Pa. He completed the first phase of his study, which occurred in the Merritt Island National Wildlife Refuge and involved controlled approaches by watercraft powered by electricity. In the second phase of his study, he has conducted similar tests using watercraft powered by gasoline. He is requesting an extension so that he can collect additional data and thereby increase the power of his statistical analyses.

Under the extension, up to 60 subadult and adult manatees of either sex could be harassed each year during control (no acoustic deterrent) or test (acoustic deterrent) approaches. The tests involve approaching a single manatee from a distance of 50 m to a distance of no less than three

Mr. Timothy J. Van Norman
10 May 2012
Page 2

manatee lengths. For each approach, he records the manatee's response, including vocalizations. He does not approach calves or females with calves.

Dr. Gerstein has obtained special-use permits from the Refuge to conduct his tests. His Institutional Animal Care and Use Committee also has reviewed and approved the research protocols.

The Commission believes that the tests being conducted by Dr. Gerstein could provide information needed to reduce serious injuries and deaths by watercraft. Therefore, the Marine Mammal Commission recommends that the Fish and Wildlife Service issue the permit renewal, subject to the previous permit conditions.

That being said, the Commission also believes that the Service should consult with Dr. Gerstein to (1) ensure that there is a common understanding of the uncertainties that would have to be resolved before a possible acoustic deterrent device could be used for other than research purposes and (2) consider how such use would most likely be authorized under the Endangered Species Act and the Marine Mammal Protection Act. Using or marketing such a device could reasonably be interpreted as a taking of manatees and perhaps other marine mammal species, would require a balancing of risks and benefits, and would require separate authorization under the Acts. Before any such devices are used, the Commission would appreciate hearing from the Service as to how it might authorize such takings, should the research demonstrate the effectiveness of the device.

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 recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy J. Ragen, Ph.D.
Executive Director