



# MARINE MAMMAL COMMISSION

14 January 2011

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

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 U.S. Fish and Wildlife Service under section 101(a)(5)(D) of the Marine Mammal Protection Act. The Fish and Wildlife Service is seeking authorization to take small numbers of pinnipeds by harassment incidental to aircraft operations during polar bear captures in the Chukchi Sea from March through May 2011. The Commission also has reviewed the National Marine Fisheries Service's 4 January 2010 *Federal Register* notice (76 Fed. Reg. 330) requesting comments on its proposal to issue the authorization, subject to certain conditions.

## RECOMMENDATION

Based on its review of the application and *Federal Register* notice, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures.

## RATIONALE

The Fish and Wildlife Service needs to use fixed-wing aircraft and helicopters to study polar bear health, body condition, movement patterns, habitat use, and demography. Similar studies in the past involved 28 to 30 flight days with fewer than 200 flight hours. For the proposed study, the Service will schedule flights daily, weather permitting, over sea ice offshore from Shishmaref to Cape Lisburne, Alaska.

The National Marine Fisheries Service has determined preliminarily that the proposed activities would result in no more than a temporary modification in the behavior of small numbers of ringed and bearded seals. Any impact on the affected species or stocks is expected to be negligible. The Fisheries Service does not anticipate any take of marine mammals by death or serious injury. In addition, the Fisheries Service believes that the potential for temporary or permanent hearing impairment will be at the least practicable level because of the proposed mitigation and monitoring measures.

The mitigation and monitoring measures include maintaining flight distances of at least 1.61 km from groups of five or more seals, landing on ice at distances greater than 0.8 km from a hauled-out seal, and flying at altitudes higher than 91 m when close to shore. In addition, a research staff member would monitor continuously the number and species of seals encountered throughout the flights except when tracking polar bears or initiating captures. Fish and Wildlife Service biologists

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also would dedicate one hour per day to monitoring and recording the age class of observed seals and their reactions to the aircraft.

The National Marine Fisheries Service also has determined preliminarily that the proposed activities would not have an unmitigable adverse impact on the availability of species or stocks for subsistence use. To prevent interference with subsistence hunting, flights would avoid areas 24 km to the south and west of Point Hope and within a 24-km radius of Kivalina. As necessary, the Fish and Wildlife Service would meet regularly with subsistence leaders from those communities to redefine no-fly zones throughout the polar bear capture season.

Based on the above measures, the Commission concurs with the National Marine Fisheries Service that the proposed activities will not have more than a negligible impact on the seal species and will not have an unmitigable impact on the availability of species or stocks for subsistence use. Therefore, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures.

Please contact me if you have any questions concerning this recommendation.

Sincerely,



Timothy J. Ragen, Ph.D.  
Executive Director