

**MARINE MAMMAL COMMISSION
4340 EAST-WEST HIGHWAY, ROOM 905
BETHESDA, MD 20814**

27 January 2006

James W. Balsiger, Ph.D.
Regional Administrator, Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802-1668

Dear Dr. Balsiger:

At its annual meeting on 12–14 October 2005 the Marine Mammal Commission reviewed actions that have been taken to implement section 119 of the Marine Mammal Protection Act (MMPA). Congress passed section 119 in 1994 to provide explicit authority for Alaska Native organizations (ANOs) and the National Marine Fisheries Service and/or the Fish and Wildlife Service to enter into cooperative agreements to conserve marine mammals and to provide for the co-management of subsistence use by Alaska Natives. More generally, section 119 was designed to promote partnerships between the federal management agencies and subsistence users to further the goals of the Act. At the time, the co-management agreement between the Alaska Eskimo Whaling Commission and the National Oceanic and Atmospheric Administration constituted the only formal cooperative management structure among subsistence hunters and federal managers.

Based on what we heard at the Commission meeting, it is clear that over the past decade significant progress has been made toward implementing section 119. Native commissions now exist for most marine mammal species being taken for subsistence. Cooperative agreements between several of the ANOs and the responsible federal agency are in place for a number of species. The Indigenous People's Council for Marine Mammals (IPCoMM) has been created to serve as an advocate for Native interests and to coordinate matters related to co-management on behalf of the various ANOs. Overall, the level of cooperation and collaboration among Native subsistence hunters and the agencies has improved considerably. Like you, the Commission recognizes the need for and value of further development of such cooperative efforts. At the same time, we hope you are as encouraged by progress to date as we are.

In the decade since section 119 was added to the MMPA, marine mammal research and management have become significantly more complex. Greater attention is being devoted to ecosystem-related issues and, particularly, to the effects of climate change. These effects are already being manifested in ways that pose grave threats to the marine mammals, the marine ecosystems of which they are a part, and the subsistence cultures that depend on them. In view of these considerations, we believe that it might be timely to carry out a more comprehensive review of co-management efforts than was possible at the Commission's meeting. Such a review might address concerns that were raised at our annual meeting, including (a) stable support for ANOs with section 119 responsibilities; (b) the role of the State of Alaska in these agreements; (c) identification of

marine mammal populations for which additional coverage or better coordination among ANOs may be needed; (d) an assessment of the efficacy of harvest monitoring programs conducted to date and the identification of mechanisms that might make them more effective; (e) the initiation of additional monitoring programs where needed; and (f) the consideration of the need, if any, for modifications to the umbrella agreement between IPCoMM and the responsible federal agencies. These suggested topics are further developed below.

One benefit of the existing cooperative agreements has been the establishment of relatively stable funding sources for some ANOs and for some activities under the agreements. Other ANOs, however, receive little or no federal funding for their activities. In some cases, this is because cooperative agreements have yet to be developed. In other cases, this reflects funding priorities established by Congress or made within the Administration. With discretionary spending for marine mammal programs shrinking, the Services are unlikely to be able to make up any funding shortfalls for co-management programs from their existing budgets. This being the case, the development of comprehensive, long-term strategic plans, including clarification of minimum efforts required for sampling or other aspects to ensure collection of adequate information to meet management objectives, may be the most effective way to address these shortcomings. Regardless, funding considerations need to be factored into decisions as to whether additional cooperative agreements are pursued and, if so, how they are structured. This is not to say that new cooperative agreements for some species or areas might not be beneficial, even if funding is limited or unavailable.

Another issue touched on at the Commission's meeting was the need to expand the current authority under the MMPA to enable the Services and ANOs to enter into agreements that enable the parties to establish and enforce harvest limits prior to a stock becoming depleted. The need for such an amendment is exemplified by the situation with Cook Inlet beluga whales, which were harvested to the point of depletion even though NMFS and most Native hunters sought to curtail hunting before that occurred. We encourage you to continue to work with members of Congress and their staffs to urge them to include a harvest management provision in legislation to reauthorize and amend the Act.

Harvest monitoring is a key element that should be addressed in most, if not all, cooperative agreements between the Services and ANOs. The Fish and Wildlife Service has established marking and tagging regulations that require hunters to provide information on polar bears, sea otters, and walrus taken for subsistence and handicraft purposes and that provide a mechanism for tracking the origin of certain marine mammal parts. The Service has established a network of "taggers" in most Native villages where marine mammals under its jurisdiction are taken. We believe that the program yields valuable information on the numbers of marine mammals landed by hunters. However, animals that are struck and lost are not tagged, and the task of assessing the numbers of such animals remains a challenge. Nevertheless, we encourage the Services and the ANOs to consider possible methods for addressing this and other possible shortcomings and believe that a comprehensive review would provide an opportunity to discuss this issue.

The only marine mammal stock for which NMFS has established marking and tagging regulations is the Cook Inlet beluga whale. Although we recognize that this type of regulatory

program may not be needed in all instances to gather reliable harvest data and may not work well in some instances (e.g., where the marine mammals are used primarily for consumption rather than the creation and sale of handicrafts and there may be less of an incentive to report and have marine mammal parts tagged). Nonetheless, this approach may be useful for some stocks for which harvest data are lacking or are viewed as being of questionable accuracy and it would bolster the Alaska Native contribution to the science of stock assessment. Having access to reliable, real-time information will become increasingly important if harvest management programs of the types now under consideration are to succeed. As harvest management programs for stocks under NMFS' jurisdiction are improved, the Service and the affected ANOs may benefit by taking advantage of the existence of taggers already established in many Native villages.

The Commission also believes that section 119 cooperative agreements provide an appropriate mechanism for coordinating research and information collection activities between the federal agencies and the affected Native communities and subsistence users. The potential contribution of Alaska Natives to marine mammal science and management has yet to be fully developed. A comprehensive review would provide an opportunity to identify future areas of collaboration and clarify ways in which all parties might most effectively contribute to the various programs. The parties to such agreements should support hunters, village schools, or other appropriate entities in carrying out, participating in, assisting, or otherwise supporting needed research (e.g., by providing or assisting in logistical support, specimen and data collection, internships and training). Furthermore, the importance of traditional ecological knowledge should be recognized in cooperative agreements between the agencies and the ANOs, and greater efforts should be made to document and, where possible, quantify such information so that it can be effectively integrated into existing research and management programs.

One issue of continuing frustration with NMFS that some ANOs voiced is the sharing of specimens between Native hunters and researchers for purposes of contaminant and related analyses. We understand that the Service has advised Native hunters that they must obtain their own scientific research permits before providing specimens to researchers. The Commission believes that the MMPA provides other possible ways to authorize such transfers and testing, and we encourage the Service to consider alternatives that would lessen the burden on the Natives. Among the alternatives that we think the Service should consider are

- Routinely adding permit conditions to appropriate scientific research permits (e.g., the University of Alaska) to allow specimens to be collected and transported by Native subsistence hunters and analyzed for contaminants and diseases as part of the authorized activities.
- Adopting regulations parallel to those promulgated by the Fish and Wildlife Service (see 50 C.F.R. § 18.23(b)(1)) that allow for transfers of specimens from marine mammals taken by subsistence hunters to "a duly authorized representative" of the Service's Alaska Regional Director for purposes of scientific research.

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- Amending the regulation at 50 C.F.R. § 216.3 to redefine the term “subsistence” to include the testing of samples from marine mammals taken for consumption related to health and safety concerns.

Here again, the Commission believes that a review could provide an opportunity to consider these options and coordinate efforts to resolve this problem.

Finally, a comprehensive review of co-management would provide an opportunity for all parties to assess what aspects of the current agreements have been most effective and to reaffirm their commitment to future cooperation and collaboration. It would also allow for an evaluation of the effectiveness of programs conducted to date in relation to funds expended and how the results have been used to date to improve management of the individual species. Perhaps most importantly, such a review would enable the agencies and ANOs to engage in long-range, strategic planning and budgeting to guide the development of co-management efforts over the next five or ten years. Such plans would provide useful information to Congress as it considers future budget decisions. The Commission would be pleased to assist the Services and IPCoMM in the planning and conduct of a review of co-management.

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We thank the NMFS staff who participated in our meeting, gratefully acknowledge your agency’s contribution to the development of co-management of marine mammals in Alaska, and look forward to continued important progress in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "David Cottingham", with a long horizontal flourish extending to the right.

David Cottingham
Executive Director