



# MARINE MAMMAL COMMISSION

23 May 2016

Ms. Jolie Harrison, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Re: Permit Application No. 19116  
(Office of Science and Technology)

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act (the MMPA). The National Marine Fisheries Service's (NMFS) Office of Science and Technology (S&T) is seeking to renew its permit to conduct research on marine mammals off California during a five-year period—permit 14534 authorized the same activities.

S&T proposes to conduct research on numerous species of marine mammals, primarily from spring through fall of each year in the Southern California Bight and areas within and near Monterey and San Francisco Bays (see the Take Table). The purpose of the research is to investigate (1) baseline behavior parameters including vocalizations, diving, feeding, and other behaviors and (2) responses of marine mammals to anthropogenic sound. Researchers would harass, observe/track<sup>1</sup>, photograph/videotape, record acoustically<sup>2</sup>, conduct playback studies<sup>3</sup> on, sample<sup>4</sup>, and/or instrument<sup>5</sup> numerous odontocetes of both sexes and various age classes (see the Take Tables). They would not tag calves<sup>6</sup> or females with those calves. Animals would not be approached more than three times in a given day. In addition, researchers would not conduct playback studies on groups of animals with calves<sup>6</sup>. Various species of marine mammals could be harassed incidental to the proposed activities (see the Take Table).

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<sup>1</sup> Including conducting focal follows.

<sup>2</sup> Prey fields also would be mapped with echosounders.

<sup>3</sup> Using a sound source that emits sonar-like signals and shipping sounds and using actual mid-frequency sonar sources on Navy vessels. A sound source would be active for a maximum of 30 minutes, and an individual animal would be exposed to received levels no greater than 180 dB re 1  $\mu$ Pa.

<sup>4</sup> Including collecting sloughed skin.

<sup>5</sup> Cetaceans would be instrumented under the permit only with suction-cup tags. However, cetaceans could be instrumented with dart tags and pinnipeds with other types of tags under separate permits.

<sup>6</sup> Neonate calves (i.e., those lacking fetal folds) for species not listed under the Endangered Species Act (ESA) and calves 6 months of age or less for ESA-listed species.

To minimize impacts during tagging attempts, researchers would cease their activities if animals exhibit a moderate (e.g., hard tail flicks or trumpet blows) or strong (e.g., continuous surges, tail slashes, numerous trumpet blows or agonistic behavior) reaction. They also would implement ramp-up and shut-down procedures<sup>7</sup> during the playback studies. A playback session would cease if a dependent calf is clearly separated from the accompanying female. To minimize repeat playbacks on tagged individuals, researchers would crosscheck the photo-identification catalog before tagging and conducting playback studies on individuals. S&T would collaborate with Cascadia Research Collective (Cascadia), Southwest Fisheries Science Center, Wood Hole Oceanographic Institution, University of St. Andrews, Oregon State University, University of California Santa Cruz, Stanford University, Moss Landing Marine Laboratory, Scripps Institution of Oceanography, and the Naval Undersea Warfare Center Division, Newport.

Cascadia's Institutional Animal Care and Use Committee (IACUC) has reviewed and approved the research protocols. However, none of the NMFS Science Center IACUCs have reviewed or approved the protocols, which normally is required when a permit is requested by any of the Science Centers or S&T. And, although the permit would be issued to S&T with Dr. Ned Cyr as the responsible party, Dr. Brandon Southall of Southall Environmental Associates, Inc. (SEA) would be the principal investigator (PI). The Commission is unsure why Dr. Southall did not request the permit on his own behalf with SEA as the affiliation rather than continuing to have the permit be issued under the auspices of S&T, given that he left his position with S&T in 2009. The Commission also understands that Jay Barlow, a NMFS researcher currently listed as a co-investigator (CI) on the permit, may be filling an advisory role rather than a field researcher role and thus may be removed as a CI from the final permit. In that case, although the applicant would be NMFS, there would be no NMFS employees filling either PI or CI roles under the permit. Therefore, the Commission recommends that NMFS issue the permit to Dr. Brandon Southall of SEA rather than to Dr. Ned Cyr of S&T and ensure that the appropriate IACUC review has been conducted and approval has been issued.

The Commission believes that the proposed activities are consistent with the purposes and policies of the MMPA. Kindly contact me if you have any questions concerning the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.  
Executive Director

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<sup>7</sup> Including when an animal exhibits unusual or abnormal surface and subsurface behaviors involving apparent disorientation and confusion or dramatic changes in group cohesion putting it at risk of stranding or being struck by a vessel.