



MARINE MAMMAL COMMISSION

30 May 2018

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. 21856
(ABR, Inc.—Environmental & Research Services)

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). ABR, Inc.—Environmental & Research Services (ABR) is seeking to renew its permit to conduct research on marine mammals in Alaska during a five-year period—permit 15750 authorized similar activities.

ABR proposes to conduct research year-round on marine mammals in lower Cook Inlet, primarily in Kamishack Bay. The purpose of the research is to investigate abundance and distribution of marine mammals in the vicinity of Pebble Mine. Researchers would harass, observe, and photograph/videotape marine mammals of any age class and each sex (see the take table and application for specifics¹). ABR would use various measures to minimize impacts on marine mammals and also would be required to abide by the National Marine Fisheries Service's (NMFS) standard permit conditions.

Co-investigator (CI) qualifications

The original CI qualification forms that NMFS provided the Commission for review included scant details regarding each CI's experience specific to marine mammals. The vast majority of the CIs' specified experience involved conducting surveys for seabirds and terrestrial mammals. Based on the Commission's informal comments, ABR revised the CI qualification forms and removed some CIs from the CI duties table in the permit application. Although the CI qualification forms have much improved, a few CIs don't appear to have the experience necessary for conducting

¹ Primarily manned and unmanned aerial surveys would be conducted, with a single vessel-based survey each year. Take would not be authorized for the vessel surveys based on the manner in which they would be conducted.

the various surveys. Mr. Welch's² and Mr. McNown's marine mammal experience³ includes conducting observations as protected species observers (PSOs) during pile-driving/construction activities. Those activities were land-based and involved enumerating numbers of takes or implementing mitigation when an animal occurred within the relevant harassment zones, which is not comparable to conducting directed marine mammal surveys. Species identification from aircraft and vessels can be more difficult than from land. More importantly, CIs are responsible for recognizing when an animal adversely reacts to the observation platform and for taking the appropriate steps⁴ to minimize those impacts. Therefore, the Commission recommends that NMFS issue ABR's permit but remove Mr. Welch and Mr. McNown as CIs under the permit until such time that they obtain the relevant experience conducting surveys for marine mammals from aircraft and vessels.

As noted, the original CI qualification forms⁵ were insufficient and did not match the duties described in the CI table. This has been an ongoing issue and a subject of Commission letters⁶ for many years. While the Commission appreciates NMFS encouraging applicants to use the qualification forms⁷, the experience listed in those forms still must be crosschecked with the duties to be authorized for each CI⁸ to conduct. As such, the Commission recommends that NMFS more thoroughly review each CI's qualification form, CV, or biosketch to ensure the experience specified matches the duties to be conducted under the permit prior to deeming an application complete—if a CI's experience is insufficient and/or inconsistent with the duties specified to be conducted in the CI table, NMFS should return all documentation to the applicant to be revised prior to processing the application further⁹.

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 recommendations.

Sincerely,



Peter O. Thomas, Ph.D.,
Executive Director

² Mr. Welch did indicate that he had aerial survey experience but did not indicate that experience was specific to marine mammals or include it in Table 3 of his qualification form. If this was an error, it should be fixed.

³ All other CIs specified their experience conducting aerial and vessel surveys for marine mammals.

⁴ Including increasing distance/altitude and implementing speed and course alterations.

⁵ Some applicants provide the information via CVs or biosketches rather than the qualification form.

⁶ For example, see the Commission's [21 July 2017](#), [23 December 2016](#) and [9 November 2015](#) letters. The Commission also has commented informally, most recently for the Northeast Fisheries Science Center's permit application for pinnipeds but also for nearly every permit application NMFS provides to the Commission for review.

⁷ That were developed in consultation with the Commission.

⁸ Or principal investigator (PI).

⁹ This applies to PIs as well.