



MARINE MAMMAL COMMISSION

27 February 2020

Ms. Pamela Scruggs, Chief
Division of Management Authority
U.S. Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, Virginia 22041-3803

Dear Ms. Scruggs:

As part of its responsibilities under sections 101(a)(1), 202(a)(2), and 203(c) of the Marine Mammal Protection Act (MMPA), the Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors, reviews permit applications and formulates associated recommendations. The MMPA requires that, if an agency does not implement the Commission's recommendations, the agency explain why it has not done so in a timely manner. Specifically, section 202(d) of the MMPA requires that FWS respond within 120 days after receipt of Commission recommendations and that if any recommendations are not followed or adopted, a detailed explanation of the reasons why those recommendations were not followed or adopted must be provided.

In recent years, FWS appears to have issued permits which do not follow the Commission's recommendations but responses to the Commission's letters regarding those permit applications have yet to be received. The Commission has asked for responses informally through emails and phone conversations and formally through its letters¹. FWS has yet to provide them for the National Park Service Glacier Bay 14763C², Offspring Films 29633C³, BBC 53109C⁴, Mote Marine Laboratory (Mote) 100361⁵, Sea to Shore Alliance 37808A, U.S. Geological Survey (USGS) 791721⁶, and ABR, Inc. 75595C⁷ permits. As such, the Commission recommends that FWS provide responses as soon as possible to the Commission's recommendations for all of the aforementioned permits including detailed explanations regarding why any recommendation was not followed or adopted.

¹ e.g., the Commission's [7 November 2018 letter](#) on Rode 85339C.

² See the Commission's letters from [5 July 2017](#) and [25 October 2017](#).

³ See its [5 July 2017 letter](#).

⁴ See its [23 January 2018 letter](#).

⁵ See its [2 July 2018 letter](#).

⁶ See its [3 July 2018 letter](#).

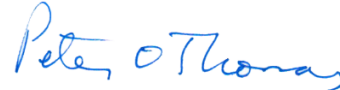
⁷ See its [19 December 2018 letter](#).

Ms. Pamela Scruggs
27 February 2020
Page 2

Additionally, the Commission has provided recommendations on 12 permit applications that FWS has yet to issue⁸. When FWS does issue those permits, the Commission expects FWS to respond to the Commission's recommendations that they do not follow within the statutorily-mandated 120-day timeframe.

Kindly contact me if you have any questions regarding the Commission's concerns and recommendation.

Sincerely,



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

cc: Dr. Mary Cogliano, Branch of Permits Chief
Ms. Diane Bowen, National Marine Mammal Coordinator

⁸ University of California at Davis (UC Davis) 32831C ([18 December 2017 letter](#)), Marine Mammals Management 82088B ([9 July 2018 letter](#)), Rode 85339C ([7 November 2018](#) and [18 December 2018 letters](#)), USGS 690038 ([18 December 2018 letter](#)), Marine Mammal Health and Stranding Program 009526 ([19 December 2018](#) and [18 April 2019 letters](#)), National Wildlife Health Center 51164C ([19 December 2018](#) and [15 March 2019 letters](#)), Florida Fish and Wildlife Conservation Commission 773494 ([20 December 2018](#) and [27 March 2019 letters](#)), Alaska SeaLife Center 11219B ([2 December 2019 letter](#)), UC Davis 98121C ([3 December 2019 letter](#)) Stanford University 02713D ([3 December 2019 letter](#)), USGS 33776D ([10 December 2019 letter](#)), and SeaWorld of California 16657D ([13 January 2020 letter](#)).