



MARINE MAMMAL COMMISSION

1 April 2020

Mr. Chris Oliver, Assistant Administrator
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Mr. Oliver:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, is writing to express concern about the Marine Mammal Unusual Mortality Event Fund (the Fund) established under section 405 of the Marine Mammal Protection Act (the MMPA). Congress created the Fund to enable the Secretary of Commerce, in consultation with the Secretary of the Interior, to compensate persons or entities for responding to a marine mammal unusual mortality event (UME). Response activities are expected to comport with a contingency plan developed under section 404(b) of the MMPA designed to (1) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during a UME, (2) assist in identifying the cause or causes of a UME, (3) determine the effects of a UME on the abundance estimates of the affected marine mammal populations, and (4) identify any roles played in a UME by physical, chemical, and biological factors, including contaminants. Based on the scope of response activities called for under the MMPA, the frequency with which UMEs have occurred, the number of ongoing UMEs, and the expectation that additional UMEs will occur in the foreseeable future, the Commission is concerned about the solvency of the Fund.

Deposits into the fund can originate from several sources—amounts appropriated to the Fund, other amounts appropriated to the Secretary for use with respect to UMEs, and amounts received in the form of gifts, devises, and bequests. The Fund has received appropriated monies only once in the last 15 years, with approximately \$800,000 deposited in 2005. Since then, stranding network organizations have provided many services free of charge and have requested reasonable compensation for others. In addition, the Working Group on Marine Mammal Unusual Mortality Events (WGMMUME) has extended the life of the Fund by being judicious in which compensation requests it has granted. However, the Fund's liquidity cannot be supported into the future based solely on gifts, devises, and bequests, particularly since only modest contributions have been made thus far.

The WGMMUME has repeatedly noted, including at its 23–25 March 2020 Annual Meeting, that the amount of funding obligated to respond to ongoing UMEs could render the Fund insolvent should additional compensation be requested. If the Fund continues to be used but not replenished, NMFS will soon be unable to fulfill its obligations under section 404 of the MMPA. As such, the WGMMUME has recommended in letters sent following its Annual Meetings that NMFS seek to replenish the Fund. The Commission shares the WGMMUME's concern and recommends that NMFS take action to seek and obtain additional monies for the Fund (e.g., by requesting support in

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the President's Budget) to enable the agency to meet its obligations under section 404 of the MMPA. This will ensure that the stranding network organizations have the resources required to (1) respond adequately to future UMEs and (2) conduct the necessary investigations to determine the cause(s) of those events and to inform potential mitigation actions to reduce morbidity and mortality of marine mammals.

The Commission looks forward to working with you to secure the necessary funding. Please contact me if you have any questions.

Sincerely,



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

cc: Samuel Rauch, Deputy Assistant Administrator for Regulatory Programs, NMFS
Donna Wieting, Director of the Office of Protected Resources, NMFS
Michael Ziccardi, WGMMUME Chair, University of California Davis
Tracey Goldstein, WGMMUME Chair Elect, University of California Davis
Deborah Fauquier, WGMMUME Executive Secretary, NMFS
Teri Rowles, Senior Advisor for Marine Mammal Health Science, NMFS
Sarah Wilkin, Marine Mammal Health and Stranding Response Program Coordinator, NMFS
Gary Frazer, Assistant Director for Ecological Services, U.S. Fish and Wildlife Service
Diane Bowen, National Marine Mammal Coordinator, U.S. Fish and Wildlife Service