



MARINE MAMMAL COMMISSION

23 April 2020

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. 23310
(Patricia Fair, Ph.D.,
South Carolina Aquarium)

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). Dr. Fair proposed to conduct research on bottlenose dolphins in coastal waters of South Carolina during a five-year period—letters of confirmation (LOCs) 20066 and 22856 authorize the same activities.

The purpose of the research is to investigate (1) behavior, (2) distribution and habitat use, and (3) health of bottlenose dolphins in response to stressors along the South Carolina coast. Dr. Fair would harass, observe, photograph/videotape, and/or biopsy sample numerous bottlenose dolphins of any age class and either sex (see the application and take tables for specifics). Researchers would use various measures to minimize impacts on marine mammals and would be required to abide by the National Marine Fisheries Service's (NMFS) standard permit conditions. The Commission understands that Dr. Fair will be submitting her research protocols in the near future to her Institutional Animal Care and Use Committee, which will meet and review the protocols in April 2020.

Authorization of activities under multiple authorities

Dr. Fair indicated in her application that photo-identification (photo-id) data would continue to be collected under the current LOCs¹ to document behavior, distribution, and habitat use of the dolphins, while biopsy sampling² would be covered under the research permit to analyze stress markers and pollutants. The Commission informally asked why the activities currently authorized under LOCs 20066 and 22856 were not included in Dr. Fair's scientific research permit application, given that she was requesting takes of the same stocks for the same activities in the same general area. Thus, the permit should subsume the LOCs. Dr. Fair indicated that the activities covered

¹ LOC 22856 issued to Dr. Fair and LOC 20066 issued to Dr. Eric Montie, a co-investigator on the permit application.

² Including photo-id of the animals that are biopsy sampled.

under the LOCs were for independent studies conducted by separate researchers. Although that may be the case for Dr. Montie's LOC, the activities authorized under Dr. Fair's LOC and the activities that would be authorized under the research permit are the same and would fulfill the same purpose of examining the potential effects of a large-scale harbor deepening project on bottlenose dolphins. Further complicating this issue is the fact that Dr. Fair included photo-id takes of bottlenose dolphins (rows 1 and 3 in the take table) in the permit application, even though she indicated that those activities would be authorized under the LOCs and not under the permit (see Objective 1 in the application).

As discussed in its [4 April 2018 letter](#) for Pacific Whale Foundation permit 21321, the Commission contends that it is most prudent for an applicant to include all activities in the same general area under a single authorization rather than parse activities between a scientific research permit and an LOC. This is especially true for Dr. Fair's activities that are for the same purpose. Therefore, the Commission recommends that NMFS authorize Dr. Fair to conduct the activities in LOC 22856 under research permit 23310, which would then replace the LOC. If NMFS does not follow the Commission's recommendation, the Commission recommends that NMFS remove rows 1 and 3 from research permit 23310, consistent with Dr. Fair's application indicating that those activities would be authorized under the LOCs and not the research permit.

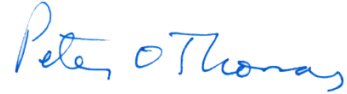
If NMFS retains rows 1 and 3 in the permit, there is an issue with the requested number of takes per animal. Dr. Fair did not specify the number of times an animal could be approached for photo-id purposes. However, she requested to take 2,500 dolphins of the Charleston Estuarine System Stock (CESS) and 2,500 dolphins of the Northern Georgia/Southern South Carolina Estuarine System Stock (NGSSCES) during those activities, which exceed the population estimates of 910 individuals in CESS and 166 individuals in NGSSCES. Based on those estimates, it is clear that Dr. Fair plans to approach and take some and possibly many animals more than once per year even though she requested only one take per animal in the take table. The "takes per animal" column is intended to describe the number of times an individual could be taken by the specified procedures in a given year, consistent with NMFS's 2016 application instructions. Re-sighting rate information regarding dolphins in the study area should be available from data collected under the LOCs, since the populations have been studied for a number of years and the accompanying data are to be used in capture-recapture analyses.

Dr. Fair correctly specified that some animals could be biopsy sampled twice in a given year by indicating a "2" in the "takes per animal" column of the rows related to biopsy sampling. Consistent with the biopsy sampling rows, the Commission recommends that NMFS base the "takes per animal" column in rows 1 and 3 on the estimated number of times an individual could be taken in a given year.

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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,

A handwritten signature in blue ink that reads "Peter O. Thomas". The signature is written in a cursive style with a large initial "P" and "T".

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