



MARINE MAMMAL COMMISSION

16 March 2021

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 Amendment Application No. 18786
(Marine Mammal Health and
Stranding Response Program)

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 amendment application with regard to the goals, policies, and requirements of the Marine Mammal Protection Act (the MMPA). The National Marine Fisheries Service (NMFS) Office of Protected Resources (OPR) Marine Mammal Health and Stranding Response Program (MMHSRP) is requesting to amend its permit, which authorizes the program to (1) respond to, rescue, transport, rehabilitate, and release threatened and endangered marine mammals under NMFS jurisdiction and disentangle marine mammals under NMFS jurisdiction, (2) conduct research¹ on marine mammals under NMFS jurisdiction, and (3) collect, salvage, receive, possess, transfer, import, export, analyze, and curate samples from marine mammals under NMFS jurisdiction during a five-year period. MMHSRP is a statutorily mandated program with three Congressionally directed goals of (1) facilitating the collection and dissemination of reference data on the health and health trends of marine mammals in the wild, (2) correlating the health of marine mammals with available data on physical, chemical, and biological environmental parameters, and (3) coordinating effective responses to unusual mortality events.

MMHSRP is requesting a major modification to extend the expiration date of its permit from 31 December 2021 to 31 December 2022. The extension would allow MMHSRP additional time to prepare an updated programmatic environmental impact assessment (PEIA) for its permit renewal. Such a request is typically considered a minor modification. However, MMHSRP previously requested and was issued an 18-month extension of its permit, a major modification, for the same reason, and so any additional extension requests are also considered major modifications. In its [7 May 2019 letter](#) on MMHSRP's previous request, the Commission recommended the issuance of the modification with the understanding that MMHSRP would be able to complete its PEIA and apply for a renewal of its permit within the new timeframe. It is unclear why MMHSRP would be unable

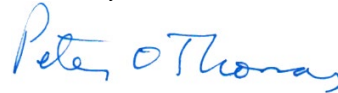
¹ In support of either an emergency event investigation or baseline health research.

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to obtain a renewal within the next ten months given that the purpose of the permit remains the same. The Commission believes that MMHSRP's request to extend the duration of its permit by an additional 12 months through a second amendment is inconsistent with NMFS's permit regulations². It was never the intent of those implementing regulations to allow a permit holder the ability to apply for multiple extensions of a permit. Finally, MMHSRP states in its application that it anticipates applying for a renewal of its permit by 30 June 2021, and so the argument that a final PEIA would be useful to "analyze the permit request" does not hold weight. As such, the Commission recommends that NMFS deny MMHSRP's request to extend the expiration of its permit by 12 months and instead require it to immediately apply for a renewal of its permit.

Kindly contact me if you have any questions concerning the Commission's recommendation.

Sincerely,



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

² Specifically, 50 C.F.R. § 216.35(b) provides, "The maximum period of any special exception permit issued, or any major amendment granted, is five years from the effective date of the permit or major amendment. In accordance with the provisions of § 216.39, *the period of a permit may be extended by a minor amendment up to 12 months beyond that established in the original permit* (emphasis added)."