



MARINE MAMMAL COMMISSION

8 December 2022

Dr. Mary Cogliano, Chief
Branch of Permits, MS: IA
Division of Management Authority
U.S. Fish and Wildlife Service
5275 Leesburg Pike
Falls Church, Virginia 22041-3803

Re: Permit Application No. 0032559
(Alaska Veterinary Pathology Services)

Dear Dr. Cogliano:

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). Alaska Veterinary Pathology Services (AVPS) proposed to conduct necropsies on polar bears, Pacific walruses, and northern sea otters and export samples to Canada for analysis. Carcasses and samples could originate from dead-stranded animals and animals that died after entering rehabilitation, during legal subsistence hunts, or as a result of fisheries bycatch. The purpose of the research is to determine the cause of death (when not already known) and investigate life history parameters of polar bears, walruses, and northern sea otters. In addition to the requested permit, AVPS holds a Letter of Authorization (LOA) #77185D authorizing it to conduct necropsies in its laboratory and send and receive samples domestically.

The U.S. Fish and Wildlife Service (FWS) sent AVPS's original permit application to the Commission for review in February 2022. At that time, the Commission noted deficiencies in the information contained in the application and provided specific questions that needed to be addressed before the application could be considered complete. FWS published a revised application packet in the *Federal Register* (87 Fed. Reg. 73029) on 28 November 2022. Although some minor changes were made in the revised application, the Commission notes that many of its questions remained unanswered.

When revising application packets, FWS tends to append new documents, supplemental material, updated curricula vitae, email conversations, and other relevant materials to one large file rather than requiring applicants to remove inaccurate information and submit a single, revised application. As a result, application materials tend to contain several hundred pages of contradictory and unorganized material, presumably with the intent that more recent material will be interpreted as superseding anything submitted previously. This revised application packet includes 158 pages of documentation, including three versions of answers to some of the application questions. The versions were not identical, and none of them contained a submission date. Upon comparison with

the original application from February, it appears that the version at the beginning of the document is the most current rather than the version at the end that normally would be expected to be the most recent version. The Commission continues to recommend that FWS revise its protocol for finalizing permit applications and require applicants to submit a single, revised application that clearly and completely describes the proposed activities to be conducted under the permit. Reviewers, whether from the Commission or the public, should not have to sort through supplementary documents and compare multiple versions of the application to discern what the applicant plans to do or to piece together responses to the application requirements.

Although the remaining issues could easily be rectified and the proposed activities are not of significant conservation concern, it is imperative that all applications contain accurate, complete, and consistent information. Therefore, the Commission recommends that, before a final permit is issued, FWS ensure that (1) AVPS requests to import samples if it intends for samples to be returned after analyses have been conducted abroad, (2) AVPS clarifies whether samples collected only during necropsies would be exported or whether samples received under the LOA would be exported as well, and (3) all tables that specify the numbers of individuals to be necropsied or sampled are updated accordingly¹. If AVPS intends to export samples received under its LOA, FWS should consider combining the activities currently authorized under the LOA with the activities proposed in this permit application under a single permit. This would simplify authorization renewal processes and avoid overlapping and potentially unclear provisions under separate authorizations².

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

¹ For example, AVPS proposed to necropsy, and presumably export samples from, 50 individuals of each species in the application text. However, one table indicated that “500 or less” animals of each species may be sampled annually, and another indicated 650 northern sea otters, 200 polar bears, and 200 walruses may be sampled annually.

² For example, email correspondence from FWS in the application packet claimed that “this application request will include the carcass transfer authorizations since your LOA only authorizes sample transfers” but the LOA itself and correspondence about the LOA state that samples to be transferred include whole carcasses.