

**MARINE MAMMAL COMMISSION**  
4340 EAST-WEST HIGHWAY, ROOM 905  
BETHESDA, MD 20814

22 February 2007

Ms. Kaja Brix  
Protected Resources Division  
Alaska Regional Office  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, AK 99802

Mr. Mark Minton  
Northeast Regional Office  
National Marine Fisheries Service  
One Blackburn Drive  
Gloucester, MA 01930

Dear Ms. Brix and Mr. Minton:

On 27 December 2006 the National Marine Fisheries Service published two *Federal Register* notices proposing to list the North Pacific right whale (*Eubalaena japonica*) and the North Atlantic right whale (*E. glacialis*) as endangered under the Endangered Species Act. Currently the Act's List of Endangered and Threatened Wildlife combines these into a single species—the northern right whale, *E. glacialis*—which is listed as endangered. The proposed rules, based on a draft status review prepared by the Service, would recognize North Atlantic and North Pacific right whales as separate species consistent with taxonomy used by the scientific community and organizations such as the International Whaling Commission. Both species would be listed as endangered.

## **RECOMMENDATIONS**

To promote the recovery of these species, the Marine Mammal Commission recommends that the National Marine Fisheries Service—

- adopt the proposed rules separately listing the two species as endangered;
- prepare, adopt, and implement a recovery plan for the North Pacific right whale as soon as possible;
- revise the draft status review and write the final listing rules to indicate that right whale species in the North Pacific and North Atlantic Oceans each likely comprise two separate (eastern and western) populations and should be managed as such pending better information on stock structure; and
- conduct the necessary research and analyses to determine whether these are distinct population segments that warrant separate management under the Endangered Species Act.

## **RATIONALE**

The Commission offers the following rationale for its recommendations:

**Listing**—The draft status review and the *Federal Register* notices provide a generally thorough summary of the status, distribution, and taxonomy of both North Pacific and North

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Atlantic right whales. Genetic evidence and the long history of geographic and demographic isolation provide more than sufficient information to justify recognition of North Pacific and North Atlantic right whales as separate species. Additional evidence is more than sufficient to conclude that the risk of extinction is high for both species. For those reasons, and because the proposed rules will clarify and help focus recovery priorities for both species, the Marine Mammal Commission recommends that the Service proceed with the separate listings of North Pacific and North Atlantic right whales as endangered under the Endangered Species Act.

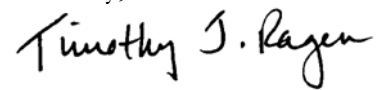
***Recovery plan***—A recovery plan is needed to guide research and recovery efforts for the North Pacific right whale. Although the 1991 recovery plan for northern right whales included information pertaining to the North Pacific right whale, that information should be updated with regard to its population status as well as threats to the species. For example, it should be noted that the habitat-use patterns of the North Pacific right whale are poorly understood and that those patterns may be affected now or in the near future by increasing human activities in the Bering Sea and North Pacific, including oil and gas exploration and drilling as well as fishing, release of contaminants, commercial shipping, and alteration of ecosystem productivity and structure. For these reasons, and because of the severely depleted status of this species, the Marine Mammal Commission recommends that the Service prepare, adopt, and implement a recovery plan for the North Pacific right whale as quickly as possible.

***Distinct population segments***—The draft status review is inconsistent on the issue of population structure for right whales. It sometimes implies that North Pacific right whales comprise a single population and at other times it suggests they consist of separate eastern and western populations. Neither the status review nor the proposed rules suggest that either species contains more than one distinct population segment as defined jointly by the National Marine Fisheries Service and Fish and Wildlife Service. However, harvest and sighting records for both the North Pacific and the North Atlantic right whales provide evidence of discrete eastern and western populations. Although we were unable to find the referenced quotation in the cited document, the draft status review also cites an IWC report (IWC 2001 as cited in the *Federal Register* notice) as stating that “...the east-west population separation should remain in place until new data are available.” We concur with that recommendation, in part because it is consistent with the limited information available, and in part because it is precautionary to recognize the occurrence of separate eastern and western populations for management purposes. Because population structure will have important implications for the management of these two species, the Marine Mammal Commission recommends that the Service (1) revise the draft status review and write the final rules to indicate that the North Pacific and North Atlantic right whales each appear to comprise two separate populations (i.e., eastern and western populations) and should be managed as such pending better information on stock structure; and (2) conduct the necessary research and analyses to determine if those populations constitute discrete population segments and therefore warrant separate management under the Endangered Species Act.

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Please contact me if you have any questions about the Commission's recommendations or rationale.

Sincerely,

A handwritten signature in black ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a large, prominent initial 'T'.

Timothy J. Ragen, Ph.D.  
Executive Director