



# MARINE MAMMAL COMMISSION

29 June 2023

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. 041309  
(U.S. Fish and Wildlife Service,  
Marine Mammals Management)

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 humaneness and *bona fide* criteria of the Marine Mammal Protection Act (the MMPA). Marine Mammals Management (MMM) is requesting to renew and amend its permit to conduct research on northern sea otters in Alaska during a five-year period.

In March 2022, the U.S. Fish and Wildlife Service (FWS) asked the Commission to review informally MMM's application and provide any comments or questions. During its review of the application, the Commission noted that the majority of the information required in FWS's 2020 application instructions was lacking, unclear, or insufficient. The Commission was particularly concerned that the application included numerous invasive research activities that would be conducted on sea otters but did not provide adequate evidence that the humaneness and *bona fide* criteria under the MMPA would be met. In its [7 April 2022 letter](#), the Commission recommended that FWS find MMM's application to be incomplete and refrain from further processing until MMM had submitted a complete application that addressed all of the items in FWS's 2020 application instructions or that FWS deny the application for failing to demonstrate that it met the issuance criteria under section 104 of the MMPA. The Commission also expressed concern that MMM may have conducted surgical implantations of LHX2 tags in northern sea otters without authorization to do so.

MMM's application is now available for public review and comment, largely unchanged except for the inclusion of a lengthy email exchange providing some additional information. The application is still missing some of the information required by FWS's 2020 application instructions and the Commission continues to stand by the concerns and recommendations included in its 7 April 2022 letter. As such, the Commission recommends that FWS find the application incomplete and work with the applicant to adequately address the application requirements.

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Resolution of the concerns described in the Commission's 7 April 2022 letter is essential for the Commission to assess whether MMM's permit application meets the humaneness and *bona fide* criteria of the MMPA. The Commission is dismayed that FWS requested only select follow-up information from MMM. Since the context and extent of the Commission's concerns were not conveyed to MMM, the responses provided by the applicant remain insufficient. If FWS considers the email correspondence from June 2022 to January 2023 that is included in the application packet to sufficiently address the application requirements and the Commission's concerns, the Commission again recommends that MMM's application be denied for failing to demonstrate that it meets the issuance criteria under section 104 of the MMPA, particularly those regarding humaneness and whether the proposed research will further a *bona fide* scientific purpose.

Additionally, the Commission has yet to hear anything further from FWS regarding potentially unauthorized LHX2 tagging that was conducted under MMM's permit, including whether FWS had issued a minor amendment to the permit. Until FWS issues a permit renewal to MMM, the Commission recommends that FWS advise MMM and any associated veterinarians that they must review and abide by the procedures, protocols, and conditions specified in their current permit.

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

Sincerely,



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