



MARINE MAMMAL COMMISSION

17 March 2025

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. 28233
(Clearwater Marine 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 (MMPA). Clearwater Marine Aquarium (CMA) is proposing to import three male, captive-born common bottlenose dolphins (*Tursiops truncatus truncatus*) and two male, captive-born Black Sea bottlenose dolphins (*T. t. ponticus*) from Attica Zoological Park in Athina, Greece, for the purpose of public display. Based on the application, CMA appears to meet the basic criteria for obtaining such a permit—it (1) is open to the public on a regularly scheduled basis with access that is not limited or restricted other than by charging an admission fee, (2) offers an educational program based on professionally recognized standards, and (3) holds Exhibitor's License #58-C-0376, issued by the U.S. Department of Agriculture under the Animal Welfare Act. In addition, CMA would abide by standards set forth by the International Air Transport Association for transporting the dolphins from Greece.

Status of Black Sea bottlenose dolphins

The Black Sea bottlenose dolphin subspecies is not listed as endangered or threatened under the Endangered Species Act (ESA) nor is it designated as depleted under the MMPA. However, in all likelihood, it would qualify for one of such categorizations under those statutes. Based on an assessment conducted in 2008 and published in 2012, the International Union for Conservation of Nature (IUCN) considered the subspecies to be “endangered” under the Red List criteria. Threats to the subspecies noted in [that assessment](#) included past hunting, live captures for public display, incidental take in fisheries, habitat degradation including reduced prey availability, and “a mortality event of unknown cause” in 1990. Both the abundance of the subspecies and its trend in abundance are unknown. A simple simulation conducted as part of the Red List assessment assumed a constant intrinsic annual growth rate of 4 percent and subtracted “realistic” estimates of direct and incidental removals, resulting in an inference that the population size had been reduced by 50 percent. A reduction of that magnitude would, in all likelihood, place the population below its maximum net productivity level and warrant a designation of the subspecies as depleted under the MMPA.

The assessment is now rather outdated and IUCN acknowledges that it needs updating. However, the assessment raises legitimate concerns that the subspecies may meet the listing criteria under the ESA and the criteria for a depleted designation under the MMPA. There is nothing to suggest that incidental take in fisheries or habitat degradation have abated. Moreover, anecdotal information available since IUCN published its assessment suggests that the status of this population has deteriorated in recent years. Since the onset of the Russian war on Ukraine, large numbers of dead dolphins have been washing up on the shores of the Black Sea. [One researcher estimated](#) that thousands of dolphins may have been killed due to military activities in 2022 alone. It is unclear what proportion of those were bottlenose dolphins rather than other small cetaceans that occur in the Black Sea, but such reports raise serious concerns about the status of the stock, particularly since dolphin deaths presumably have been occurring at significant rates while hostilities in the areas have been ongoing since the Russian invasion in February 2022. In addition, an oil spill occurred in the Kerch Strait in December 2024, [reportedly killing at least 32 dolphins](#).

Importing depleted species for public display

Two provisions of the MMPA address the taking or importation of depleted marine mammals for purposes of public display. Section 101(a)(3)(B) specifies that permits for depleted species or stocks may be issued only for scientific research, educational or commercial photography, or enhancing the survival or recovery of the species or stock. Section 102(b)(3) limits imports of depleted marine mammals to those authorized by scientific research or species enhancement permits. More exactly, section 102(b)(3) specifies that the prohibition applies to any marine mammal “taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted species or stock.” Although this suggests that the depletion rulemaking must be completed before the prohibition becomes applicable, section 102(d)(1) explains that publication of a proposed rule is sufficient to trigger the import prohibition for purposes of public display.

If NMFS applies these prohibitions strictly, importation of Black Sea bottlenose dolphins for purposes of public display would be permissible under the MMPA. Regardless of the merits of listing this subspecies under the ESA or designating it as depleted under the MMPA, NMFS has not taken or even proposed such an action. So, technically, the provisions preventing the importation of depleted marine mammals currently do not apply.

On the other hand, the drafters of the MMPA made the policy decision that depleted species and stocks should not be available for public display permits. And that policy decision would be undermined if a permit were to be issued simply because NMFS has not gotten around to assessing the status of this subspecies under either the ESA or MMPA. This situation is not dissimilar from that concerning Georgia Aquarium’s proposed importation of beluga whales from the Sea of Okhotsk in 2012. In [its comments on that permit application](#), the Commission noted that—

...in the past both the Commission and the Service have taken the position that an applicant (and/or the Service as the decision-maker) has an obligation to demonstrate that the affected stock is not depleted before taking or importation can be allowed, even if no formal depletion designation has been made. Good policy reasons support this—we do not want to promote removals from unhealthy

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or potentially unhealthy populations simply because we do not have sufficient information to make a formal depletion designation.

In that instance, NMFS declined to issue the permit, prevailed in subsequent litigation challenging that decision, and ultimately determined that the source population (the Sakhalin Bay-Nikolaya Bay-Amur River stock of beluga whales) was depleted.

The Commission recommends that NMFS treat CMA's application similarly and request CMA to provide additional information sufficient to support a determination that the Black Sea bottlenose dolphin is not depleted. Absent such information, the Commission recommends that NMFS deny issuance of a public display permit authorizing the importation of the two Black Sea bottlenose dolphins or any other dolphins from that subspecies.

The Commission believes that the proposed activities pertaining to the three captive-born common bottlenose dolphins (*T. t. truncatus*) are consistent with the purposes and policies of the MMPA and recommends that NMFS issue a permit authorizing the importation of those three dolphins, as requested. Please 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 fluid and cursive, with the first letters of each name being capitalized and prominent.

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