



MARINE MAMMAL COMMISSION

20 December 2011

Mr. P. Michael Payne, Chief
Permits, Conservation, and Education Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Re: Permit Application No. 16473
(D. Ann Pabst, Ph.D.,
University of North Carolina Wilmington)

Dear Mr. Payne:

The Marine Mammal 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. Dr. Pabst is requesting authorization to conduct systematic line transect surveys for marine mammals off the east coast of the United States during a five-year period. She is seeking to renew and amend permit 948-1692.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested permit, but condition it to require the applicant to minimize disturbance of the subject animals by exercising caution when approaching animals, particularly mother/calf pairs, and stopping an approach if there is evidence that the activity may be interfering with mother/calf behavior, feeding, or other vital functions.

RATIONALE

Dr. Pabst and co-investigators propose to conduct systematic vessel- and aerial-based line transect surveys for marine mammals in coastal waters and waters up to 222 km offshore from Delaware Bay to Cape Canaveral, Florida. The purpose of the proposed research is to (1) document presence of North Atlantic right whales and humpback whales in the mid-Atlantic region, including signs of human interaction and (2) describe the distribution and abundance of cetaceans within areas that are used or will be used by the U.S. Navy for training activities and by industry for offshore energy production. The data would be useful for the Navy and industry, and also for the National Marine Fisheries Service, New England Aquarium, Florida Wildlife Commission, College of the Atlantic, and the scientific community, as year-round survey efforts rarely occur in this region. For that reason, the data would be provided to all stakeholders. All aerial surveys would be conducted in accordance with NOAA standards and coordinated with the Service's Northeast Fisheries Science Center and other researchers to avoid duplicative efforts.

Each year, the surveys proposed by Dr. Pabst and co-investigators would harass numerous individuals of various specified and unspecified cetacean species or stocks (see the take table in the

application). Individuals of all age classes and either sex could be harassed. Environmental and standard survey data (i.e., species, number, distance/heading, behavior, etc.) would be collected. To assess the distribution of North Atlantic right whales and humpback whales from November to June, the researchers would conduct daily systematic aerial line transect surveys from the Maryland–Virginia border to the North Carolina–South Carolina border (weather permitting). They would use fixed-wing aircraft flown at an altitude of 305 m, and the survey aircraft would circle sighted animals as many as 20 times for up to 30 minutes to obtain good quality photographs and group size and species composition data and to document signs of human interaction. Obtaining those photographs may require that the aircraft periodically drop to as low as 244 m.

Dr. Pabst and co-investigators also would conduct systematic aerial surveys in current and proposed Navy range complexes from Virginia to Florida. They would conduct those surveys using the same methods for two to four days per month at each site. However, the application notes that photographing smaller cetaceans requires less time and the researchers expect to be able to collect good photographs in three to five circles for a total of five to seven minutes.

In addition, co-investigators from the Virginia Aquarium and Marine Science Center Foundation propose to conduct systematic aerial line transect surveys year-round from North Carolina to southern New Jersey. They would use fixed-wing aircraft to survey at a minimum altitude of 183 m.

Dr. Pabst and co-investigators also propose to conduct vessel surveys opportunistically at any time of year to assess the health status of large whales. They would use a vessel up to 15 m in length to survey the mid-Atlantic region and would approach sighted animals on a parallel course at 2 to 5 knots and at a minimum distance of 50 m. They would spend the shortest amount of time needed to obtain good quality photographs. They also would collect environmental and other standard survey data.

Additionally, Dr. Pabst and co-investigators would conduct systematic vessel-based line transect surveys at the possible Navy sites for no more than 150 days each year. She would conduct the surveys using the previously described methods and would collect additional behavioral observations during focal follows of small cetaceans (i.e., bottlenose dolphins, Atlantic spotted dolphins, Risso's dolphins, and pilot whales) at the Cape Hatteras and Jacksonville sites. The researchers may spend six to eight hours per day conducting focal follows for each group of cetaceans encountered. Finally, Foundation researchers would conduct systematic vessel-based line transect surveys from North Carolina to New Jersey to provide spatial planning information needed by the industry. They would use a 13-m vessel to conduct the surveys year-round using the previously described methods.

In all the above situations, Dr. Pabst and co-investigators propose to minimize the time spent collecting the data and cease their activities if any animal rapidly changes direction or swim speed, exhibits erratic swimming behavior or dives rapidly or for prolonged periods, changes course abruptly underwater, tail slaps, or breaches. The Commission considers those measures to be prudent, but also believes that the permit should require adherence to such requirements explicitly,

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particularly for mother-calf pairs. To that end, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested permit, but condition it to require the applicant to minimize disturbance of the subject animals by exercising caution when approaching animals, particularly mother/calf pairs, and stopping an approach if there is evidence that the activity may be interfering with mother/calf behavior, feeding, or other vital functions.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the Marine Mammal Protection Act. Please contact me if you have any questions concerning the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Timothy J. Ragen, Ph.D.
Executive Director