



## MARINE MAMMAL COMMISSION

16 February 2010

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application from the U.S. Air Force seeking authorization under section 101(a)(5)(A) of the Marine Mammal Protection Act to take small numbers of Atlantic bottlenose dolphins by Level B harassment over a five-year period. The taking would be incidental to training operations to be conducted by the Naval Explosive Ordnance Disposal School off the coast of Eglin Air Force Base's Santa Rosa Island property in the Gulf of Mexico. The Commission also has reviewed the National Marine Fisheries Service's 15 January 2010 *Federal Register* notice (75 Fed. Reg. 2490) soliciting comments on the application.

The Service has issued one-year incidental harassment authorizations to the applicant for similar activities in 2005, 2006, 2007, and 2008. However, because of apparent transport safety issues, none of the proposed activities has been conducted to date. Rather than seek another one-year incidental harassment authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, the applicant now is requesting that the Service issue regulations to authorize incidental taking for a five-year period. Also, the current request varies from past authorizations in certain other respects. In the current request, the mission description has been updated to include the addition of 20 10-lb net explosive weight charges, a decrease in the annual number of detonations of 5-lb charges from 30 to 20, a seasonal breakdown of detonation numbers, and updated marine mammal density estimates. Based on these new density estimates, the applicant estimates that pre-mitigation take would average approximately 10 bottlenose dolphins annually. The proposed mitigation measures are largely unchanged from the 2008 incidental harassment authorization.

The Commission supports the Service's intent to publish proposed small-take regulations for these activities, provided that the research, mitigation, and monitoring activities described in the application are incorporated into the rule.

The Commission looks forward to reviewing the proposed regulations.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen".

Timothy J. Ragen, Ph.D.  
Executive Director