



# MARINE MAMMAL COMMISSION

11 May 2010

Mr. Eric Schwaab  
Assistant Administrator for Fisheries  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, Maryland 20910

Dear Mr. Schwaab:

In December 2009 the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals met in Honolulu, Hawaii, to review the management of marine mammals and marine ecosystems in U.S. waters of the Hawaiian archipelago and Pacific Trust Territories. During the meeting, National Marine Fisheries Service representatives provided thorough and helpful presentations on a variety of research and management topics, and the Commission appreciates their participation. A number of the issues discussed warrant further consideration and action and, accordingly, the Commission offers the following recommendations and comments.

## **RECOMMENDATIONS**

With regard to Pacific cetaceans, the Marine Mammal Commission recommends that the National Marine Fisheries Service—

- review its responsibilities for cetacean research and management in the Pacific Islands region;
- develop a plan and budget adequate to fulfill those responsibilities;
- identify strategies to strengthen cooperative partnerships with other agencies and groups that work in the Pacific region and that can complement and facilitate the Service's cetacean research and management objectives; and
- initiate or expand international partnerships to coordinate research and management efforts with those of other countries with jurisdiction over waters in the central and western North Pacific Ocean.

With regard to fishery interactions near the main Hawaiian Islands, the Marine Mammal Commission recommends that the National Marine Fisheries Service work with the state of Hawaii to develop an observer program or other independent monitoring strategy for assessing the interaction between marine mammals and Hawaii's kaka and short-line fisheries.

With regard to fisheries throughout the central and western North Pacific Ocean, the Marine Mammal Commission recommends that the National Marine Fisheries Service's Office of Protected Resources and Office of International Affairs work cooperatively to develop a strategy for tracking the fisheries that occur in international and foreign national waters of the central and western Pacific, assessing the amount of bycatch in those fisheries, and cooperating with regional fishery management organizations to reduce bycatch to safe levels.

## **RATIONALE**

The Commission's rationale for its recommendations is as follows.

### **Assessment of Pacific Cetacean Stocks**

The United States claims 1.7 million square nautical miles of Pacific Ocean within its Exclusive Economic Zone. With that claim come both the authority and the responsibility for managing the associated living marine resources. Doing so clearly is a great challenge because of the vastness and considerable biodiversity that the areas encompass.

The National Marine Fisheries Service, through its Pacific Islands Fisheries Science Center and Pacific Islands Regional Office, is responsible for managing fisheries and various protected resources within the U.S. Exclusive Economic Zone in this region. The Marine Mammal Protection Act provides much of the statutory framework for managing marine mammal stocks and section 117 of the Act sets forth assessment procedures that are central to that framework. In accordance with that section, marine mammal stock assessment reports should provide a clear description of each stock's distribution, abundance, trend, productivity, potential biological removal level, take by fisheries and other human activities, and status. That information provides the basis for managing marine mammals so that each stock can recover to or remain within its optimum sustainable population level.

The Service lists 24 marine mammal stocks in its assessment reports for the central and western Pacific, 23 of which are cetaceans. However, all but three of the stocks are referred to as Hawaiian stocks. The absence of reports for the dozens of other stocks that occur outside Hawaiian waters but still within areas designated as part of the U.S. Exclusive Economic Zone reveals a considerable gap in the Service's marine mammal stock assessment efforts. In essence, the Service has not yet identified even the basic units of management and conservation for many of the Pacific cetaceans stocks under its purview.

Furthermore, the information needed to guide management is notably incomplete for those stocks included in the existing assessment reports. The 2009 stock assessment reports indicate that assessment efforts are sufficient to provide a reasonably precise estimate of abundance (i.e., one that meets the Service's own standard of a coefficient of variation less than 0.3) for only one of the 23 listed cetacean stocks, the Hawaiian stock of sperm whales. This accounting clearly indicates that both the Service and the Commission must find ways to improve research and management efforts for cetaceans in U.S. waters of the central and western North Pacific.

The lack of attention to Pacific cetaceans appears to be based in part on (1) the lack of funding to support research and management, (2) limited on-site resources and infrastructure to study and manage cetaceans over such vast areas, and (3) a focus on Hawaii-based species, including monk seals and certain cetaceans. There is some validity to each of those explanations. However, the status quo is not sufficient to fulfill the Service's responsibilities for science-based management of living marine resources and, collectively, we must take steps to address these limiting factors.

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Since 2003 the Service has directed \$200,000 to \$300,000 annually toward development of a Pacific Islands cetacean program. Given the vast extensive areas involved, the potential number of stocks in those areas, the current lack of infrastructure and research and management capacity, and the inherent difficulty in studying cetaceans (including some that are quite cryptic), such amounts are insufficient for meeting even the most basic research and management responsibilities. Instead, meeting those responsibilities will require a frank appraisal of necessary research and management activities and a commitment by Service leaders to build the needed programs with required personnel, infrastructure, and fiscal resources.

The Service need not assume these responsibilities by itself. Other agencies conducting marine activities in the central and western Pacific (e.g., Navy, Fish and Wildlife Service, Coast Guard) also have responsibilities to help insofar as their activities may pose risks to marine mammals or marine ecosystems in those areas. Furthermore, many of the stocks involved likely cross boundaries into the waters of other countries or into international waters, and the Service also should solicit the cooperation of its counterparts in those other countries or in multi-national regional organizations. That being said, the Service's Pacific Islands Fisheries Science Center and Pacific Islands Regional Office still must expand their Pacific cetacean programs if the Service is to meet its research, conservation, and management responsibilities.

To build the necessary capacity, the Marine Mammal Commission recommends that the National Marine Fisheries Service (1) review its responsibilities for cetacean research and management throughout the Pacific region, (2) develop a strategic plan and budget for addressing those responsibilities, (3) identify strategies to strengthen cooperative partnerships with other agencies and groups that work in the Pacific region and that can complement and facilitate the Service's cetacean research and management objectives, and (4) initiate and expand international partnerships to coordinate U.S. research and management efforts with those of other countries. The Commission would be pleased to meet with the Service to discuss strategies for addressing the elements of this recommendation.

### **Evaluation of Hawaii Kaka and Short-line Fisheries**

Fishery interactions pose a significant threat to cetaceans around the main Hawaiian Islands. The Pacific Islands Regional Office recently convened a take reduction team to address interactions between Hawaiian longline fisheries and false killer whales. The Marine Mammal Commission commends the Service for taking this action and is pleased to participate on the team. When the Regional Office was developing the scope of the team, the Commission recommended that it include measures to investigate and address takes of false killer whales in Hawaii's kaka and short-line fisheries (see attached letter of 17 February 2010). The Office declined to do so but did acknowledge the need to assess the interaction rate between these fisheries and false killer whales, as well as other small cetaceans.

The Commission is not aware of any further action by the Service to address this need and raises this issue again because, as described in its 17 February letter, the best available information suggests that the insular population of false killer whales has declined markedly over the past three

decades. In fact, the apparent decline is among the reasons for the petition to list this stock under the Endangered Species Act. The Service, the Commission, and all other interested parties should be seeking an explanation for that decline and the means to address its cause or causes and promote its recovery. At the least, the interaction rate of these two fisheries with marine mammals should be assessed to provide a basis for determining their potential impact; in fact, this type of observer data is required for the Category II short-line fishery. With that in mind, the Marine Mammal Commission recommends that the National Marine Fisheries Service work with the state of Hawaii to develop an observer program or other independent monitoring strategy for assessing the interaction between marine mammals and Hawaii's kaka and short-line fisheries. The kaka-line fishery may also warrant listing as Category II (based on the similarity of fishing gear to longline fisheries) and the more careful monitoring and management required for such fisheries.

### **Evaluation of Marine Mammal Bycatch in Pacific Fisheries**

Fishery bycatch also is the largest direct threat to marine mammals on a global basis and likely is the largest threat to Pacific cetaceans generally. At the Commission's December meeting, a staff member of the Western Pacific Regional Fishery Management Council presented the attached figure depicting longline fishing effort in the central and western Pacific. The amount and distribution of effort suggest a considerable potential for interactions between longline fisheries and cetaceans, which may increase over time if cetaceans increase their depredation of longline bait and catch. Such interactions are known to pose significant threats to certain cetacean stocks in waters around the Hawaiian archipelago where fishing effort is relatively low compared to many other Pacific areas. In addition, many of the stocks that occur in the U.S. Exclusive Economic Zone also move outside those zones where they are at risk of being taken by fisheries in the waters of other Pacific nations or in international waters. The status of these stocks cannot be assessed and the fisheries managed accordingly if the Service does not meet its responsibilities under section 117 of the Marine Mammal Protection Act. That and other sections of the Act are intended to ensure that the opportunity to fish these vast areas is accompanied by the management oversight necessary to ensure that they are fished responsibly. The insufficiency of information to assess cetacean/fishery interactions means that, to date, the required oversight has been lacking and, as noted earlier in this letter, we must all do better.

Importantly, this lack of information compromises the U.S. position when seeking to improve conservation and management efforts by other countries. Both the Marine Mammal Protection Act (section 101(a)(2)) and the Magnuson-Stevens Fishery Conservation and Management Act set standards for U.S. fisheries and require similar standards for foreign fleets that sell their products in the United States. Congress recently emphasized the importance of those standards, and the Service is being sued for allegedly failing to uphold them. If the Service does not uphold such standards for U.S. fisheries, any efforts to impose similar standards on fleets fishing in foreign and international waters are bound to be undermined.

With these concerns in mind, the Marine Mammal Commission recommends that the National Marine Fisheries Service's Office of Protected Resources and Office of International Affairs substantially increase their efforts to track fisheries in international and foreign national

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waters of the central and western Pacific, assess bycatch in those fisheries, and cooperate with regional fishery management organizations to reduce bycatch to safe levels. Doing so is essential to fulfill the purpose of section 101(a)(2) of the Marine Mammal Protection Act, which established the goal to reduce the incidental kill and serious injury of marine mammals in commercial fisheries to insignificant levels. The section requires that countries seeking to export fish or fish products to the United States have caught those fish using methods that meet U.S. standards. Until recently, this requirement has largely been ignored, but it warrants greater attention by both the Service and the Commission.

Please contact me if you have questions about the Commission's recommendations and comments. I would be pleased to discuss them with you at your convenience.

Sincerely,



Timothy J. Ragen, Ph.D.  
Executive Director

Enclosures

## Distribution of longline effort for distant-water fleets (green), foreign-offshore fleets (red) and domestic fleets (blue) for the period 2000-2007

(Domestic fleet effort excludes the Japanese coastal fishery and the Vietnam fishery; distant-water effort for Chinese-Taipei and other fleets targeting albacore in the North Pacific are poorly covered)

