



MARINE MAMMAL COMMISSION

6 October 2009

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 submitted by the U.S. Army Corps of Engineers and the U.S. Marine Corps under section 101(a)(5)(D) of the Marine Mammal Protection Act. The applicants are seeking authorization to take small numbers of Atlantic bottlenose dolphins by harassment incidental to blasting and dredging operations at the U.S. Marine Corps' Blount Island facility in Duval County, Florida. The Commission also has reviewed the National Marine Fisheries Service's 8 September 2009 *Federal Register* notice (74 Fed. Reg. 46090) requesting comments on its proposal to issue the authorization, subject to certain conditions.

The potential taking of bottlenose dolphins would result from noise generated by the blasting and operation of construction equipment and related activities. The Service has preliminarily determined that the proposed activities should result, at most, in temporary modification of dolphin behavior and visual and acoustic disturbance and, therefore, will have a negligible impact on the species. This preliminary determination is based on the inclusion of proposed monitoring and mitigation measures, including use of confined blasting techniques, established safety zones, and restricted hours of detonation from two hours after sunrise to one hour before sunset to ensure adequate observation of marine mammals in the project area.

RECOMMENDATION

Based on its review of the information provided in the application and *Federal Register* notice, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, provided that the monitoring and mitigation activities proposed by the Service are carried out as described. The Commission notes that the Service's *Federal Register* notice states that the Fish and Wildlife Service considers the proposed timeframe for the activities (i.e., between November and March) to be "the manatee construction window" for utilizing explosives. Nevertheless, the Commission suggests that, if they have not already done so, the applicants and the National Marine Fisheries Service consult with the Fish and Wildlife Service to ensure that authorization for the taking of manatees by harassment is not required.

Please contact me if you have any questions concerning this recommendation.

Sincerely,

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

Timothy J. Ragen, Ph.D.
Executive Director