



MARINE MAMMAL COMMISSION

6 July 2010

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

Re: Permit Application No. 15537
(Institute for Marine Mammal Science)

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.

The applicant is requesting authorization to acquire from U.S. rehabilitation facilities up to eight stranded, rehabilitated California sea lions during a five-year period for purposes of public display. The applicant is seeking authorization to acquire animals deemed to be releasable but has indicated a willingness first to consider accepting non-releasable animals (excluding disabled or impaired animals or animals that are not healthy and/or have illnesses or conditions that may adversely affect their long-term health).

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service approve the permit request, provided that the Service—

- require that the applicant obtain non-releasable sea lions—as determined by the stranding facility's attending veterinarian, in consultation with the Service and appropriate behavioral experts, and based on the Service's release criteria for stranded, rehabilitated marine mammals—provided that such animals are available and suitable for the intended purpose;
- authorize transfer or retention of animals determined to be releasable only as a secondary option and only if non-releasable animals are not available or are determined by the Service, in consultation with the applicant, to be unsuitable for the applicant's purposes;
- require a reasonable (e.g., one-year) waiting period from the date of permit issuance to see if suitable, non-releasable animals become available before allowing the applicant to acquire releasable animals;
- consult with the Animal and Plant Health Inspection Service to ensure that the applicant's plans and facilities for transport and maintenance of the requested animals—including any progeny—are adequate to provide for their health and well-being;
- require the applicant to provide a written justification explaining the need for a captive breeding program for California sea lions before such a program is authorized;

- consult with the Animal and Plant Health Inspection Service before issuing the permit to confirm that the probability is extremely low that these animals might be introduced into the Gulf of Mexico, even under the most severe weather conditions; and
- ensure that the applicant's education program is acceptable (i.e., a program is in place as a component of the proposed public display of these animals, the basic message of the program is consistent with the policies of the Marine Mammal Protection Act, and the program includes accurate information about the life history and other aspects of the species).

RATIONALE

Section 109(h)(3) of the Marine Mammal Protection Act requires that, whenever feasible, rehabilitated stranded animals maintained under that authority be returned to their natural habitat. The Marine Mammal Commission therefore recommends that, if the National Marine Fisheries Service issues the requested permit, it require that the applicant obtain non-releasable sea lions—as determined by the stranding facility's attending veterinarian, in consultation with the Service and appropriate behavioral experts, and based on the Service's release criteria for stranded, rehabilitated marine mammals—provided that such animals are available and suitable for the intended purpose. Further, the Marine Mammal Commission recommends that the National Marine Fisheries Service authorize the transfer or retention of animals determined to be releasable only as a secondary option and only if non-releasable animals are not available or are determined by the Service, in consultation with the applicant, to be unsuitable for the applicant's purposes. In this regard, the Commission notes that strandings of California sea lions occur on a highly seasonal basis. Consequently, depending upon the time of year that the permit is issued, non-releasable animals may not be as readily available as at other times. The Marine Mammal Commission therefore recommends that the permit, if issued, require a reasonable waiting period (e.g., one year) from the date of permit issuance to see whether suitable, non-releasable animals become available before allowing the applicant to acquire releasable animals.

The applicant is requesting authorization to obtain pups or juveniles (two males and six females) estimated to be two years or less in age. The application does not, but should, provide information on whether the applicant's current facilities (e.g., space, medical and quarantine facilities, etc.) are adequate to house and care for these animals as they mature. In addition, the applicant intends to initiate a breeding program. If a breeding program is instituted, the applicant's facilities also will need to be of sufficient size to house any progeny of the subject animals into adulthood. The Marine Mammal Commission therefore recommends that the National Marine Fisheries Service consult with the Animal and Plant Health Inspection Service to ensure that the applicant's plans and facilities for transport and maintenance of the requested animals—including any progeny—are adequate to provide for their health and well-being.

The Commission also has serious concerns about whether a captive breeding program for California sea lions should be authorized, given the frequent availability of non-releasable individuals that could be housed in public display facilities. The Marine Mammal Commission therefore

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recommends that the National Marine Fisheries Service require the applicant to provide a written justification explaining the need for such a breeding program before considering authorizing one.

The Commission notes that the applicant's previous facility was destroyed by Hurricane Katrina and that some marine mammals were released into the Gulf of Mexico as a result. Because California sea lions are not native to that area and are quite adaptable to a variety of environments, it is important that these animals not be introduced into the Gulf ecosystem. Therefore, the applicant should be required to provide assurance that the facilities where the sea lions will be kept is capable of withstanding similar forces of nature or, in the alternative, that the applicant has an adequate contingency plan in place to ensure that California sea lions are not unintentionally released from the facility. The Marine Mammal Commission therefore recommends that, before issuing the permit, the National Marine Fisheries Service consult with the Animal and Plant Health Inspection Service to confirm that the probability is extremely low that these animals might be introduced into the Gulf of Mexico, even under the most severe weather conditions.

The application states that the institute's education program is consistent with professionally recognized standards, including those of the American Zoo and Aquarium Association. The application also states that the requested animals would be "used in educational presentations to the general public, meet-and-greet type scenarios—such as posing for photos with guests, shaking hands/flippers with guests, and other educational activities." The Commission questions whether such activities can accurately be characterized as "educational." Rather, they appear to constitute entertainment and public relations. Certainly, they are inconsistent with the natural behavior of sea lions in the wild, and they would misrepresent to the public the true character of the animals. Therefore, the Marine Mammal Commission recommends that, prior to issuing the requested permit, the National Marine Fisheries Service ensure that the applicant's education program is acceptable (i.e., a program is in place as a component of the proposed public display of these animals, the basic message of the program is consistent with the policies of the Marine Mammal Protection Act, and the program includes accurate information about the life history and other aspects of the species).

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 this recommendation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael L. Gorkin for".

Timothy J. Ragen, Ph.D.
Executive Director

cc: Barbara A. Kohn, D.V.M.