



MARINE MAMMAL COMMISSION

11 May 2015

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Re: Permit Application No. 18786
(Marine Mammal Health and
Stranding Response Program)

Dear Ms. Harrison:

The Marine Mammal Commission (the 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 MMPA). The National Marine Fisheries Service (NMFS) Office of Protected Resource's (OPR) Marine Mammal Health and Stranding Response Program (MMHSRP)¹ is requesting authorization to—

- (1) respond to, rescue, transport, rehabilitate, and release threatened and endangered marine mammals under NMFS jurisdiction and disentangle² marine mammals under NMFS jurisdiction;
- (2) conduct research³ on marine mammals under NMFS jurisdiction; and
- (3) collect, salvage, receive, possess, transfer, import, export, analyze, and curate samples from marine mammals under NMFS jurisdiction during a five-year period⁴.

MMHSRP is a statutorily mandated program with three Congressionally directed goals of (1) facilitating the collection and dissemination of reference data on the health and health trends of marine mammals in the wild; (2) correlating the health of marine mammals with available data on physical, chemical, and biological environmental parameters; and (3) coordinating effective responses to unusual mortality events. The proposed activities could occur in the wild⁵ and at rehabilitation and captive facilities in the United States. In support of its goals, MMHSRP proposes to conduct ground-, vessel-, and aerial-based (both manned and unmanned) surveys of marine

¹ Including approximately 145 stranding network partner organizations external to NMFS OPR.

² Defined as both external processes in which a foreign material (e.g., gear, line, debris, etc.) has become wrapped around, hooked into, or otherwise associated with the outside of the body of the animal and internal processes in which an animal has ingested gear including hooks, line, or other marine debris.

³ In support of either an emergency event investigation or baseline health research.

⁴ Permit 932-1305 authorized similar activities.

⁵ On land and beaches and in coastal waters of the United States, waters within the U.S. exclusive economic zone, and international waters.

mammals. Personnel also would haze⁶ and attract marine mammals to help ensure animal safety. In addition, MMHSRP would observe, monitor acoustically, harass, capture, restrain, handle, hold, photograph/videotape, administer drugs (including anesthesia, medical treatment, and vaccinations) to, mark/brand⁷, sample⁸, conduct procedures on (ultrasound and other diagnostic imaging, auditory evoked potential, active acoustic playbacks⁹, surgery, etc.), and attach instruments to various numbers of marine mammals each year (see the Take Tables). Incidental harassment of marine mammals could occur incidental to the proposed activities. Marine mammals of any age class and either sex could be taken during the numerous activities as noted in the Take Tables.

For large cetaceans, biopsy sampling and tagging associated with research activities would not be attempted on calves less than 6 months of age or on females accompanying such calves. For small cetaceans, biopsy sampling and tagging¹⁰ associated with research activities would not be attempted on calves less than one year of age. Non-targeted small cetaceans may be tagged if accidentally captured during cetacean health assessments. Young-of-the-year animals would not be tagged, but the females accompanying those animals may be tagged so that they may be monitored and/or more readily identified and avoided for future net sets. In addition, MMHSRP could kill (intentionally via euthanasia or unintentionally) up to three cetaceans and five pinnipeds each year during baseline health-related research activities. MMHSRP also could kill (intentionally via euthanasia or unintentionally) an unlimited number of cetaceans and pinnipeds as warranted when responding to emergencies¹¹ including emergency-related research activities.

For rehabilitation activities, all rehabilitation facilities are evaluated against NMFS's Standards for Rehabilitation Facilities. Animals would be cleared medically by the attending veterinarian and its assessment team before a release determination is made. Potential impacts from the transport of animals from rehabilitation facilities to release sites would be minimized by following the standards and guidelines set forth by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. Response activities for entanglements would be initiated only when the entire response team agrees that it is in the best interest of the animal (e.g., a life-threatening entanglement) and that any external risks to response personnel and the animal have been eliminated or minimized to the maximum extent possible. For large whale disentanglements, responders would approach animals gradually, making minimal sound to reduce any reaction and minimize the time in

⁶ Hazing methods include, but are not limited to, the use of acoustic deterrent or harassment devices, visual deterrents, vessels, physical barriers, tactile harassment, capture and translocation, or capture and temporary holding. Acoustic deterrents that may be used to deter cetaceans include, but are not limited to: pingers, bubble curtains, Oikomi pipes, acoustic deterrent devices (e.g., Airmar devices), seal control devices (seal bombs), airguns, mid-frequency and low-frequency sonar, predator calls, aircraft, vessels, and fire hoses. Pinniped acoustic deterrents include, but are not limited to: seal bombs, Airmar devices, predator calls, bells, firecrackers, and starter pistols.

⁷ Animals would be branded under gas anesthesia, whenever possible.

⁸ Including importing and exporting samples worldwide for analysis.

⁹ Of pre-recorded songs, social sounds, and feeding calls.

¹⁰ Including females with such calves.

¹¹ Beyond handling compromised animals that could die, two additional situations in which accidental mortality could occur include (1) if there is a stampede of pinnipeds during a rescue of a distressed animal—personnel would attempt to conduct rescue activities only when few other animals are nearby or the risk of a reaction from those animals was deemed to be minimal and 2) during the capture of an entangled small cetacean if an associated (non-entangled) animal also was captured accidentally and the drowned—although the capture net would be deployed only when the target animal was alone, if that could not be avoided (e.g., female-calf pairs), dedicated response personnel would monitor the non-target animal as well.

close proximity to the animal. Vessel-based responders would approach at slow speeds, avoid making sudden changes in speed or pitch, and avoid using reverse gear. Additional caution would be taken when approaching females and calves. Only responders with extensive experience operating vessels near large whales would be involved in the vessel approaches. In addition, responders must be sufficiently trained in large whale disentanglement according to NMFS's Disentanglement Guidelines. For disentanglements of pinnipeds on beaches, responders would carry out activities efficiently to minimize disturbance and the amount of time they occupy the haul-out site.

Hazing activities would be conducted by trained personnel. Each time a deterrent or attractant is used in an emergency response, every effort would be made to assess and document the response of the animals to the method and conduct follow-up monitoring as possible (including looking for any injuries that might have resulted from the use of the deterrent or attractant by thoroughly examining any stranded animals recovered from the local vicinity). If the use of acoustic deterrents during hazing activities causes an animal to change its behavior (other than the desired result of moving away from the hazing activities), the acoustic deterrent source would be shut down. To minimize the potential for injury, airguns would not be used around mysticetes due to the ability of these animals to hear lower frequencies. Care would be taken with mid-frequency sonar on small animals and would be discontinued if the animals are too close to the source. Seal bombs would not be used in the vicinity of an oil spill due to combustion concerns.

To minimize disturbance and ensure adequate opportunities for disentanglement, photo-identification, tagging, monitoring, and sampling, the researchers in vessels would approach animal(s) gradually from behind or alongside, rather than head on. Researchers also would approach at slow speeds, avoid making sudden changes in speed or pitch, and avoid using reverse gear. Approaches to an individual animal would be limited and efforts to approach an individual would be discontinued if the animal were to display potential avoidance behavior (e.g., change in its direction of travel or departure from normal breathing and/or dive patterns). If an animal shows an apparent response to the presence of an aircraft, researchers would change the altitude/distance or speed, or leave the vicinity of the animal. For unmanned aerial systems (UASs), the UAS would hover over an individual only long enough to obtain the needed photograph or video sequence.

An experienced marine mammal veterinarian, veterinary technician, or animal husbandry specialist would be present to conduct or provide direct on-site supervision of all activities involving the use of anesthesia and sedatives. Pinniped research activities would be conducted efficiently to minimize the total time researchers are occupying the rookery/haul-out site and the total number of times a site is disturbed. During cetacean health assessment activities, female dolphins determined to be in late-term pregnancy (late 2nd and 3rd trimester) would be tagged with a roto-tag, freeze-branded, and/or tagged with an electronic tag so they could be avoided in subsequent net sets, and then released after minimal sampling to minimize handling time.

MMHSRP would coordinate its emergency response activities with other researchers in the area, to the greatest extent possible, by communicating with them when response activities are planned and conducted. Often local researchers provide assistance to the emergency responders by helping them identify or access the animal in distress. For prospective baseline health-related research, MMHSRP would work with researchers with ongoing field studies by "piggy-backing" sample collection to avoid duplicative capture efforts. The research aspects of the permit application are currently being reviewed by the three NMFS Institutional Animal Care and Use Committees.

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For all these reasons, the Commission believes that the proposed activities are consistent with the purposes and policies of the MMPA and therefore recommends that NMFS issue the permit, as requested. Kindly contact me if you have any questions concerning the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large, sweeping initial "R".

Rebecca J. Lent, Ph.D.
Executive Director