



MARINE MAMMAL COMMISSION

13 February 2013

Mr. P. Michael Payne, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Re: Request for Amendment, Permit Nos.
14451, 14353, and 13846
(Joseph Mobley, Jr., University of Hawaii at Manoa;
Ann Zoidis, Cetos Research Organization; and
Jim Darling, Ph.D., Whale Trust)

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the above-referenced permit amendment applications with regard to the goals, policies, and requirements of the Marine Mammal Protection Act. Permit 14451 authorizes Mr. Mobley to conduct research on cetaceans off the east and west coasts of the United States, Hawaii, Guam, and the Mariana Islands. Permit 14353 authorizes Ms. Zoidis to conduct research on humpback and minke whales in Hawaiian waters. Permit 13846 authorizes Dr. Darling to conduct research on humpback whales in Hawaiian waters and humpback and gray whales in waters off Washington and Alaska. The current permits expire on 31 July 2015.

All three permits include authorization for incidental taking of false killer whales. However, the permits are not specific to the insular Hawaiian false killer whale stock that—in November 2012—the Service listed as endangered under the Endangered Species Act. Because of the listing, the Service is required to conduct a section 7 consultation to consider the potential effects of ongoing and proposed research activities (including incidental taking) on this stock. The Service already has consulted on some research activities that involve both directed and incidental taking of insular Hawaiian false killer whales and concluded that such research would not jeopardize the stock's survival. It now has initiated section 7 consultation for the three subject permits. In addition, the Service proposes to amend those permits to authorize the taking of insular Hawaiian false killer whales, specifically, under the Marine Mammal Protection Act.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the permit amendments, provided that the current permit conditions remain in effect.

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RATIONALE

Permit 14451 authorizes Mr. Mobley to conduct research on cetaceans, primarily large whales, during aerial and vessel surveys. He would use the surveys to photograph and videotape cetaceans and observe their behavior. The permit also authorizes him to take 205 false killer whales per year incidental to the authorized activities. Mr. Mobley proposed to allocate 180 of the currently authorized takes to the insular Hawaiian false killer whale stock.

Permit 14353 authorizes Ms. Zoidis to conduct research on humpback and killer whales using photography, videotaping, behavioral observations, acoustic monitoring, and tagging. The permit authorizes Ms. Zoidis to take 1,000 false killer whales per year incidental to the authorized activities. However, she may take false killer whales outside the range of the insular Hawaiian false killer whale stock—with support from the Navy, Ms. Zoidis has proposed to expand the geographic range of her activities to the entire Hawaiian Islands, including the Northwestern Hawaiian Islands. Nonetheless, Ms. Zoidis indicated that all of the currently authorized takes may be allocated to the insular Hawaiian stock, depending on the outcome of the Service's section 7 consultation.

Permit 13846 authorizes Dr. Darling to conduct research on humpback and gray whales using photography, videotaping, behavioral observations, acoustic monitoring, sampling, tagging, and acoustic playback experiments. The permit authorizes him to take 150 false killer whales per year incidental to the authorized activities. Here, too, all of the currently authorized takes may be allocated to the insular Hawaiian false killer whale stock.

The Marine Mammal Commission supports the Service's efforts to allocate incidental takes from the proposed activities on a stock-by-stock basis. It also supports the Service's efforts to conduct a section 7 consultation on these activities to determine their potential effects on the insular Hawaiian false killer whale stock. The stock in question appears to be severely depleted and, under certain circumstances, even well-intended research activities may have unacceptable effects on highly endangered species. However, the Commission does not believe that is the case here, particularly with these three research permits that seek authorization for incidental takes only. The takes, if and when they occur, likely will involve no more than small changes in false killer whale behavior over brief periods of time. Therefore, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the permit amendments, provided that the current permit conditions remain in effect.

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 the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive, flowing style.

Timothy J. Ragen, Ph.D.
Executive Director