



MARINE MAMMAL COMMISSION

24 June 2011

Ms. Nadene G. Kennedy
Permit Office, Room 755
Office of Polar Programs
National Science Foundation
4201 Wilson Boulevard
Arlington, VA 22230

Dear Ms. Kennedy:

By notice published in the *Federal Register* on 25 May 2011 (76 Fed. Reg. 30397), the National Science Foundation sought comments on a permit modification request from Robert Pitman. Mr. Pitman seeks an amendment of his current authorization under the Antarctic Conservation Act of 1978 to conduct additional research on cetaceans near the Antarctic Peninsula and within McMurdo Sound and the Ross Sea. The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the amendment request with regard to the goals, policies, and requirements of the Marine Mammal Protection Act and the Antarctic Conservation Act and offers the following recommendations.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Science Foundation issue the requested permit modification, provided that it—

- contact the permit holder to confirm whether he intends to approach fin whales to take photographs as part of the proposed research;
- explain why an authorization is not needed for photo-identification activities involving fin whales, if that is the case;
- specify not only the species and total numbers of each species authorized to be taken, but also provide a breakdown of the authorized types of takes (i.e., photo-identification, biopsy sampling, satellite dart tagging, and suction-cup tagging); and
- advise the permit holder of the need to obtain all necessary permits under the Convention on International Trade in Endangered Species of Wild Fauna and Flora before importing or exporting any marine mammal part.

RATIONALE

Permit 14097, issued by the National Marine Fisheries Service under the Marine Mammal Protection Act, authorizes Mr. Pitman to conduct research on numerous cetacean species, nearly worldwide. It allows the permit holder to photograph, biopsy sample, and instrument with satellite dart tags and suction-cup tags numerous species of cetaceans. The purposes of the research are to study cetacean movement patterns, diet preferences, and genetics. The Foundation issued Mr. Pitman permit 2009-013 under the Antarctic Conservation Act on 10 October 2008 to authorize research activities in Antarctic waters for a five-year period. That permit authorizes Mr. Pitman to

photograph and tag an unspecified number of killer whales, minke whales, and humpback whales, and to collect samples from 200 killer whales, 25 minke whales, and 25 humpback whales. The permit holder is requesting that his Antarctic Conservation Act permit be modified to authorize the same number of takes as authorized for those three species under his Marine Mammal Protection Act permit (Table 1). In addition, he is requesting authorization under the Antarctic Conservation Act to take blue whales, fin whales, and Arnoux’s beaked whales in Antarctic waters, consistent with his authorization under Permit 14097.

Table 1. Requested annual takes by activity

Procedure	Whale species					
	Killer	Minke	Humpback	Blue	Fin	Arnoux’s beaked
Photograph	1,000	100	1,000	1,000		200
Biopsy	400	50	300	200	500	10
Instrument with satellite dart tag	50	25	30	25	25	²
Instrument with suction-cup tag	¹	¹	30	25	25	²

¹ Takes associated with suction-cup tagging can be deducted from the satellite dart tag takes, because the activity is less invasive than dart tagging.

² Permit 14097 currently does not allow Mr. Pitman to place instruments on Arnoux’s beaked whales.

It is unclear why the permit holder did not include a request for authorization to take fin whales for photo-identification purposes in his permit modification request. It may be that the permit holder does not intend to engage in this activity or unintentionally omitted such a request. The Marine Mammal Commission therefore recommends that the National Science Foundation contact the permit holder to confirm whether he intends to approach fin whales to take photographs and, if so, take steps to amend the permit accordingly.

Another possible explanation for the omission of fin whales in the modification request is that the permit holder or the Foundation does not believe that a permit is needed for this activity because no takes are anticipated. In this regard, the Antarctic Conservation Act defines “take” to mean to kill, injure, capture, handle, or molest a native mammal or bird. The Marine Mammal Commission recommends that, if the Foundation believes that photo-identification of fin whales does not require authorization under a permit, it explain the basis for that determination. Among other things, that explanation should indicate why an authorization is necessary for the other cetaceans included in the modification request, but not fin whales.

The Commission notes that Mr. Pittman’s current Antarctic Conservation Act permit does not differentiate among the various activities that may result in the taking of marine mammals by specifying the number of animals that may be taken in the course of each authorized activity. Because of the increased complexity of the proposed activities under the requested amendment, the Marine Mammal Commission recommends that, if the permit is amended, it specify not only the


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species and total numbers of each species authorized to be taken, but also provide a breakdown of the authorized types of takes. That is, the permit should specify the number of animals of each species authorized to be taken in conducting each activity (i.e., photo-identification, biopsy sampling, satellite dart tagging, and suction-cup tagging). The table above provides an example of such specification.

Lastly, the Marine Mammal Commission recommends that the National Science Foundation advise the permit holder of the need to obtain all necessary permits under the Convention on International Trade in Endangered Species of Wild Fauna and Flora before importing or exporting any marine mammal part.

The Commission believes that the activities for which it has recommended approval are consistent with the purposes and policies of the Marine Mammal Protection and Antarctic Conservation Acts.

Please contact me if you have any questions regarding the Commission's recommendations.

Sincerely,

Timothy J. Ragen, Ph.D.
Executive Director

Cc: Mr. P. Michael Payne