



# MARINE MAMMAL COMMISSION

15 December 2011

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

Re: Permit Application No. 16124  
(SeaWorld, Inc.)

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 and the Endangered Species Act. SeaWorld, Inc., is requesting authorization to conduct research on captive Hawaiian monk seals and to continue its related enhancement efforts.

## RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Marine Fisheries Service—

- issue the requested scientific research permit, provided it advises SeaWorld of the need to have its Institutional Animal Care and Use Committee (IACUC) review and approve its research protocol prior to initiating the proposed activities; and
- issue the requested enhancement permit under section 10(a)(1)(A) of the Endangered Species Act, but clarify that authorization for continued maintenance of the non-releasable monk seals stems from section 109(h)(1) of the Marine Mammal Protection Act, rather than section 104(c)(4).

## RATIONALE

SeaWorld, Inc., is requesting authorization to continue holding and maintaining six captive non-releasable female Hawaiian monk seals in San Antonio, Texas, for research and enhancement purposes during a five-year period. Those monk seals were collected from the wild in 1995 under permit number 898. The enhancement portion of that permit authorized the National Marine Fisheries Service to capture sick, injured, or emaciated monk seals for temporary maintenance in captivity and eventual release back into the wild. The seals were deemed non-releasable in 1997 because of an eye disease of unknown etiology that presented a risk to the health of wild Hawaiian monk seals.

Mr. P. Michael Payne  
15 December 2011  
Page 2

The proposed research would assess monk seal responses to two vaccines, a recombinant canary pox and inactivated West Nile virus. The vaccines are being tested to determine whether they could protect monk seals from canine distemper and West Nile viruses, both of which are considered potential threats to wild Hawaiian monk seals. The proposed vaccines have been tested without adverse consequence on other pinniped species, but the efficacy of the vaccines has not been determined. In this study, the researcher would vaccinate the six monk seals for both viruses on an annual basis, if needed. Virus shedding is sometimes used as a measure of effectiveness for vaccines. However, shedding has not been documented with the canine distemper vaccine and the inactivated West Nile virus cannot be shed. Therefore, the effectiveness of the vaccines would be determined by collecting blood and nasal swabs from the seals four times during the year following inoculation and using those samples to verify antibody formation.

SeaWorld may conduct its vaccine trials incidental to the routine care and husbandry of the animals (i.e., behavioral observations, blood sampling, urine and fecal collection, medical cultures, and husbandry training). In addition, SeaWorld would allow the seals to be used in other scientific studies by researchers, who have obtained approval and the relevant permits from SeaWorld and the Service. SeaWorld also requests authorization for two unintentional research-related deaths during the five-year period that could occur subsequent to vaccine administration and associated serum sampling.

The Commission understands that SeaWorld has an IACUC and requires all research projects to be reviewed and approved by it. However, it is unclear whether the proposed activities have been reviewed and approved by that IACUC. Therefore, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the permit as requested, provided it advises SeaWorld of the need to have its IACUC review and approve its research protocol prior to initiating the proposed activities.

Under its enhancement program, SeaWorld proposes to continue to maintain the non-releasable seals in captivity due to their eye disease and vision impairment and the risk that those animals pose to the wild population. Although the National Marine Fisheries Service and the Fish and Wildlife Service have determined that maintenance of non-releasable animals in captivity and the educational benefits derived from public display of those animals meets the requirements for obtaining an enhancement permit under the Endangered Species Act, the Commission has questioned whether such activities meet the heightened requirements for enhancement permits under the Marine Mammal Protection Act. As reflected in its 7 March 2008 letter (enclosure) to the Fish and Wildlife Service, the Commission does not believe that basic rescue and rehabilitation of stranded marine mammals, maintenance of non-releasable animals in captivity, or the generalized benefits derived from educational programs, by themselves, meet the enhancement permit requirements set forth in section 104(c)(4) of the Marine Mammal Protection Act. Consistent with this view, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested enhancement permit under section 10(a)(1)(A) of the Endangered Species Act, but clarify that authorization for continued maintenance of the non-releasable monk seals stems from section 109(h)(1) of the Marine Mammal Protection Act, rather than section 104(c)(4).

Mr. P. Michael Payne  
15 December 2011  
Page 3

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 and Endangered Species Act.

Please contact me if you have any questions concerning the Commission's recommendations and comments.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Timothy J. Ragen, Ph.D.  
Executive Director

Enclosure