

Message from the Chairman

Congress passed the Marine Mammal Protection Act of 1972 to prevent marine mammal stocks from diminishing beyond the point at which they cease to be significant, functioning elements of the marine ecosystem. Title II of the Act created the Marine Mammal Commission as an independent agency of the Executive Branch. The Commission is charged with reviewing the domestic and international programs and policies of all federal agencies as they relate to marine mammals. The Commission provides advice and recommendations regarding marine mammal protection and conservation, and manages a small research program. For three decades, the Commission has worked successfully with other federal and state agencies and the private sector to further the primary objective of maintaining the health and stability of the marine ecosystem and, when consistent with that objective, obtaining and maintaining optimum sustainable populations of marine mammals.

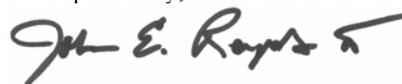
With this letter, I submit the Commission's FY 2007 Performance and Accountability Report, including financial and program performance results for 2007. The performance data contained in this report are complete and reliable. Prior to preparation of the report, the Commission evaluated its management controls and financial management system pursuant to the Federal Managers' Financial Integrity Act. No material weaknesses were identified and the financial management system was found to conform to government financial system requirements. An independent firm audited the Commission's financial statements, internal controls, and management systems and verified that they conform to generally accepted accounting principles, laws, regulations, and requirements.

The Marine Mammal Protection Act required that the Commission annually report to Congress on its activities and accomplishments in the preceding year, including the findings and recommendations made by the Commission and subsequent agency responses. The Paperwork Reduction Act of 1995 eliminated the reporting requirement, but the Commission has continued to submit an annual report to inform Congress regarding management issues and events under the Commission's purview. We have done so because of positive feedback regarding the report's utility to a wide range of stakeholders, including Congressional staff. The 2006 Annual Report to Congress is attached to this report.

Its independent status, small size, and scientific expertise enable the Commission to provide cost-effective, objective, science-based advice to the Legislative and Executive Branches. The Commission seeks to provide its recommendations with as much forethought as possible, with the aim of resolving issues before they become costly and controversial.

I am pleased to submit this report to the Office of Management and Budget on behalf of the Marine Mammal Commission.

Respectfully,



John E. Reynolds, III, Ph.D.
Chairman

Attachments

Management Discussion and Analysis

Agency Structure—The Commission consists of (1) three Commissioners appointed by the President and approved by the Senate, (2) a nine-member Committee of Scientific Advisors on Marine Mammals appointed by the Chairman in consultation with the Director of the National Science Foundation, the Secretary of the Smithsonian Institution, the Chairman of the Council on Environmental Quality, and the Chairman of the National Academy of Sciences, and (3) a staff of eleven full-time employees.

Agency Duties—Congress articulated the specific duties of the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals in Title II of the Marine Mammal Protection Act. Those duties define the Commission’s general mission and specific goals. As set forth in the Marine Mammal Protection Act, the duties are to—

- (1) undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949, the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966;
- (2) conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of the Marine Mammal Protection Act, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock;
- (3) undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;
- (4) recommend to the Secretary and other federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;
- (5) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;
- (6) recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973 as may be appropriate with regard to marine mammals; and
- (7) recommend to the Secretary, other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of the Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to the Marine Mammal Protection Act.

From Fiscal Year 2004 to Fiscal Year 2007, total annual expenditures of the Marine Mammal Commission were as follows.

Fiscal Year	Expenditures (thousands)
2004	\$2, 856
2005	\$2,608
2006	\$2,785
2007	\$2,747 ¹

¹ An additional \$908,000 available in Fiscal Year 2007 will be carried over to Fiscal Year 2008.

The above expenditures reflect base appropriations plus several two-year add-ons to enable the Commission to complete special projects as directed by Congress. Those projects were aimed at evaluating (a) the effects of anthropogenic noise on marine mammals, (b) the biological viability of the most endangered marine mammals and the cost effectiveness of their recovery programs, and (c) the ecological role of killer whales. On each of these difficult and controversial issues the Commission is seeking to develop recommendations to Congress that will promote effective and cost-effective research and management measures to achieve conservation goals while minimizing disruption of activities otherwise deemed vital to the nation. In March 2007, the Commission submitted its report to Congress on the effects of anthropogenic noise on marine mammals. In 2007 the Commission also completed four supporting reports on the most endangered marine mammals and the cost-effectiveness of their recovery programs. Those four reports reviewed (1) existing systems for evaluating high-risk species or species in need of additional management protections, (2) existing recovery programs for the 22 taxa of marine mammals listed as endangered or threatened under the Endangered Species Act or designated as depleted under the Marine Mammal Protection Act, (3) methods for assessing the biological viability of marine mammals, and (4) recovery efforts for the endangered North Atlantic right whale. At the end of Fiscal Year 2007, the Commission was completing a summary report of these matters for submission to Congress in the first quarter of Fiscal Year 2008. In addition, in Fiscal Year 2007 the Commission was completing its analysis of the ecological role of killer whales and expects to submit the resulting report to Congress in the third quarter of Fiscal Year 2008.

In Fiscal Year 2007, the Commission also undertook several other projects that it deemed essential to research and management efforts aimed at conserving marine mammals and their ecosystems. To understand risks to Arctic marine mammals faced with the physical, biological, and ecological consequences of climate change, the Commission sponsored a review of potential effects by an eclectic group of arctic scientists. That review will be published as a special edition of *Ecological Applications* in January 2008. The Commission also hosted an international workshop of scientists to develop monitoring strategies for two key Arctic marine mammals, the ringed seal and the beluga (white) whale. Reports on those monitoring strategies are being completed and are expected to be available for dissemination to the community of scientists and managers working in the Arctic in the third quarter of Fiscal Year 2008. The Commission anticipates developing monitoring strategies for other Arctic marine mammals in coming years.

The Commission also held a workshop in June 2007 to examine the concepts of rights and privileges in marine conservation. The aim of the workshop was to identify mechanisms to better communicate the rights, privileges, and responsibilities of citizens engaged in matters affecting marine mammal conservation under the Marine Mammal Protection Act and the Endangered Species Act.

In Fiscal Year 2007, the Commission held its annual meeting in Vancouver, Washington, to examine a range of West Coast issues related to growing pinniped populations, interactions between those pinniped populations and endangered and threatened salmonids, efforts to recover the southern resident killer whale, the status of sea otter populations in Oregon and Washington, and efforts by the states of California, Oregon, and Washington to promote more effective ecosystem-based management of the West Coast marine environment. Commission recommendations emanating from the meeting will be transmitted to the respective agencies in the first quarter of Fiscal Year 2008. The Chairman of the Commission testified before the House Committee on Natural Resources, Subcommittee on Fisheries, Wildlife and Oceans on pinniped/salmonid interactions at Bonneville Dam in the Columbia River. The Commission also participated in meetings on captive care needs for the Hawaiian monk seal, and initiated planning for a review of co-management efforts of Federal agencies responsible for managing marine mammals and Alaska Native Organizations (planned for the second quarter of Fiscal Year 2008).

In addition to special projects, the Marine Mammal Commission reviewed and commented on stock assessment reports prepared by the National Marine Fisheries Service and Fish and Wildlife Service for all marine mammal stocks in U.S. waters. The Commission also reviewed all permit applications for scientific research on marine mammals and all applications for incidental taking of marine mammals during the course of other human activities. These and other responsibilities conducted in Fiscal Year 2007 reflect the Commission's ongoing efforts to ensure that the goals of the Marine Mammal Protection Act are being met.

In Fiscal Year 2007, the Commission used about 55 percent of its budget for salaries and benefits, 25 percent for maintaining an office, 10 percent for research and special projects, and 10 percent for travel including its annual meeting. Administration and financial services at the Commission are carried out by five personnel. The Executive Director oversees and assumes responsibility for all financial systems and transactions. The Administrative and Chief Financial Officer is the primary person responsible for all day-to-day budgetary matters, including purchase orders, time cards, and payments for various services and utilities. The Administrative and Chief Financial Officer also works with the Scientific Program Director to oversee the expenditures of the Science Program, which issues small research grants. The Special Assistant to the Executive Director serves as a backup for the Administrative and Chief Financial Officer and Executive Director and provides a secondary check on all expenditures. The Science Program Grants Officer manages day-to-day fiscal transactions related to Commission-sponsored research. Together, the Executive Director, Administrative and Chief Financial Officer, Scientific Program Director, and Special Assistant to the Executive Director form the Commission's Senior Management Group, which meets two to three times each year with the Commission Chairman to review the Commission's management operations. All financial systems and

controls were examined by outside auditors during a comprehensive audit for Fiscal Year 2007 (report attached). They found no material internal weaknesses in our financial systems and controls, and identified no areas where improvement is required.

In Fiscal Year 2007 the Marine Mammal Commission met its ongoing administrative, policy, and research obligations, as specified by the Marine Mammal Protection Act. However, the Commission also identified three key areas where additional efforts will be needed in the near future to achieve the goals of the Marine Mammal Protection Act. The first involves increasing its capacity to evaluate fishery and oil and gas-related issues. Both the direct and indirect effects of fishing remain key areas of concern with regard to potential effects on marine mammals, and the Commission requires additional expertise in this area. The second involves oil and gas operations, which are increasing rapidly, particularly in the Arctic. Such operations have the potential to affect marine mammals and marine ecosystems through contamination (e.g., oil spills), the introduction of noise (e.g., seismic studies), and possible disturbance or physical interactions (e.g., ship strikes). The third area pertains to international matters affecting marine mammals. In Fiscal Year 2007, an intensive survey of the Yangtze River in China failed to detect a single Yangtze River dolphin (baiji). If not extinct, the species is on the very edge of extinction and likely to go extinct in the near future. Unfortunately, the baiji is only one of a number of marine mammal taxa in foreign or international waters that are faced with a high risk of extinction. The vaquita, or Gulf of California harbor porpoise, also is thought to be on the verge of extinction, and strong international support of Mexican recovery efforts is needed to prevent the species from following the baiji. To strengthen its efforts in these three areas, in Fiscal Year 2007 the Marine Mammal Commission sought and was granted permission from the Office of Management and Budget to increase its staff by one full-time equivalent.

Performance Section

The following describes in greater detail the actions taken by the Marine Mammal Commission in Fiscal Year 2007 to fulfill its duties as set forth in the Marine Mammal Protection Act.

- (1) Undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949, the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966;

Objective: Review relevant national laws and international treaties.

Status: Satisfied.

Action: The Commission participated in interagency meetings to review and prepare U.S. positions pertaining to the International Whaling Commission and the International Convention for the Regulation of Whaling. The Commission's General Counsel attended the International Whaling Commission meeting as part of the U.S. delegation. The Commission also participated in interagency meetings and discussions with Congressional staff regarding the reauthorization of the Marine Mammal Protection Act,

implementation of section 120 of the Act, and the U.S.-Russia Polar Bear Treaty, which was ratified by the Senate in December 2006. The Commission's Chairman also testified before the House Committee on Natural Resources, Subcommittee on Fisheries, Wildlife and Oceans regarding section 120 of the Marine Mammal Protection Act. Finally, the Commission Chairman and a member of the Committee of Scientific Advisors participated in the development of a Caribbean-wide Marine Mammal Action Plan, being organized by the United Nations Environment Program under the auspices of the Specially Protected Areas and Wildlife protocol.

- (2) Conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of the Marine Mammal Protection Act, and of all applications for permits for scientific research, public display, or enhancing the survival or recovery of a species or stock;

Objective: Review annual stock assessment reports.

Status: Satisfied.

Action: The Commission reviewed all marine mammal stock assessment reports prepared by the Fish and Wildlife Service and National Marine Fisheries Service and provided recommendations and comments to improve those reports.

Objective: Review all applications for research permits and incidental take authorizations.

Status: Satisfied.

Action: The Commission reviewed all marine mammal related applications for scientific research and incidental taking submitted to the Fish and Wildlife Service and National Marine Fisheries Service and provided comments and recommendations to enhance protection and conservation of the affected marine mammals. The Commission also participated in interagency discussions with the National Marine Fisheries Service regarding means for improving the permitting process.

Objective: Review federal funding for marine mammal research.

Status: Satisfied.

Action: As part of its endangered species project, the Commission completed a review of federal funding for endangered, threatened, and depleted marine mammals, developed a database for archiving and analyzing these data, and is initiating the development of a web-based reporting form that it will use to monitor funding by other agencies with responsibilities related to marine mammals.

- (3) Undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;

Objective: Support studies needed for the protection and conservation of marine mammals and marine ecosystems.

Status: Satisfied.

Action: The Commission supported a number of research projects in Fiscal Year 2007. Examples include:

- assessing threats to Arctic marine mammals resulting from climate change, and developing monitoring strategies for Arctic marine mammals faced with climate change;
- assessing the range-wide abundance of Pacific walruses;
- vaccinating endangered Hawaiian monk seals against morbillivirus, and investigating range-wide monk seal population structure using genetic techniques;
- predicting the influence of food availability on the locations of right whales, with implications for management activities;
- reviewing the life history information on cetacean species as part of the IUCN's Global Marine Mammal Assessment;
- analyzing mortality data of Florida manatees; and
- investigating killer whale predation patterns in southeastern Alaska, and modeling predator-prey relationships between killer whales and other marine mammals.

Objective: Complete special projects mandated by Congress.

Status: Partially complete.

Action: The Commission submitted to Congress its report on the effects of anthropogenic sound on marine mammals and is in the process of finalizing two additional reports on (1) the biological viability of the most endangered marine mammals and the cost-effectiveness of recovery programs, and (2) the ecological role of killer whales. These reports are planned for completion before the end of the second quarter in Fiscal Year 2008.

- (4) Recommend to the Secretary and other federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;

Objective: Participate in, identify, and recommend federal agency actions to promote protection and conservation of marine mammals.

Status: Satisfied.

Action: Commission staff participated in interagency working groups on unusual marine mammal mortality events; harmful algal blooms,

hypoxia, and ocean health; ocean partnerships; marine debris; development of a research plan to investigate anthropogenic noise in the ocean; and an ongoing review of the permitting process for marine mammal research.

Objective: Participate in other activities to promote protection and conservation of marine mammals.

Status: Satisfied.

Action: Commissioners, Committee members, or staff participated in take reduction team efforts for longline, trawl, and pot fisheries, as well as recovery team activities for three species/stocks listed under the Endangered Species Act (Alaska sea otters, Hawaiian monk seals, Florida manatees). The Commission also sent representatives to all three regional scientific review groups established under the Marine Mammal Protection Act.

Objective: Provide well-reasoned, useful recommendations to other federal agencies concerning their programs and actions related to marine mammals.

Status: Satisfied.

Action: Each year the Commission holds its annual meeting in a different region of the country to examine associated regional issues and develop letters of recommendation to the pertinent research and management agencies. During the course of the year, the Commission also sends recommendation letters on a wide range of topics related to marine mammal conservation. During Fiscal Year 2007 the Commission sent about 120 letters to federal agencies regarding actions to further the goals of the Marine Mammal Protection Act. These included recommendations concerning stock assessment, monitoring and mitigation measures, recovery efforts, habitat protection measures, ecosystem-related studies and management, public display, research permits, and other matters related to or affecting the protection and conservation of marine mammals.

- (5) Recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;

Objective: Promote conservation efforts for the baiji (Yangtze River dolphin).

Status: Unsuccessful.

Action: The Commission participated in planning discussions with the Department of State and Chinese officials for baiji surveys and capture efforts to attempt recovery by bringing the last remaining dolphins into a semi-natural environment (an ox-bow of the Yangtze River). A Committee member led several of the planning activities in preparation for these research and recovery efforts, and participated

in the survey in the first quarter of Fiscal Year 2007. The survey did not detect a single baiji, indicating the baiji is either extinct or on the verge of extinction. The loss of this species is a failure of the Chinese government and the international community to organize and carry out the needed conservation measures in a timely manner. In Fiscal Year 2008, the Commission anticipates supporting a review of the factors leading to the baiji's apparent extinction and the conservation lessons to be learned from this unfortunate event.

Objective: Promote conservation efforts for the endangered western North Pacific gray whale.

Status: Ongoing.

Action: A Commission staff member served on the international panel convened by the IUCN–The World Conservation Union to assess and make recommendations to avoid adverse effects on the gray whale from oil and gas exploration and development along the northwestern coast of Sakhalin Island, Russia.

Objective: Promote conservation efforts for the vaquita (Gulf of California harbor porpoise).

Status: Ongoing.

Action: In past years the Commission supported several assessment studies of the vaquita, and a meeting of the international vaquita recovery team (a Commission Committee member and staff member serve on the recovery team). In Fiscal Year 2007 the Commission participated in many discussions regarding vaquita conservation efforts with the National Marine Fisheries Service and the Department of State.

Objective: Promote conservation efforts for Arctic marine mammals.

Status: Ongoing.

Action: Commission staff participated in interagency discussions regarding Arctic Council actions as they pertain to marine mammals. In addition, Commission staff initiated efforts to develop a project for monitoring and assessing the status of Arctic marine mammals potentially affected by climate change. The Commission also supported a project to predict the consequences of climate change on marine mammals, to be published as a special edition in *Ecological Applications* in January 2008.

- (6) Recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973 as may be appropriate with regard to marine mammals.

Objective: Promote conservation of the Cook Inlet beluga whale stock.

Status: Satisfied.

Action: The Commission provided analyses of the merits of listing the depleted Cook Inlet beluga whale stock under the Endangered

Species Act, and repeated its long-standing recommendation that the National Marine Fisheries Service move forward with this listing.

Objective: Promote conservation efforts for the North Pacific right whale.
Status: Satisfied.
Action: The Commission provided recommendations concerning proposals to establish critical habitat for the North Pacific right whale under the Endangered Species Act.

Objective: Promote conservation of the southern resident killer whale stock.
Status: Satisfied.
Action: The Commission provided recommendations concerning the listing of the southern resident killer whale stock and establishment of critical habitat for the stock under the Endangered Species Act. The Commission also reviewed the population status of this stock and associated research and management efforts at its annual meeting.

- (7) Recommend to the Secretary, other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of the Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to the Marine Mammal Protection Act.

Objective: Promote the protection of Alaska Natives and the marine mammals they depend on for subsistence.
Status: Satisfied.
Action: The Commission held its October 2005 annual meeting in Alaska focusing on issues of importance to marine mammal conservation in that region. Nineteen Alaska Native organizations, whose subsistence cultures depend on the taking of marine mammals, participated in that meeting. Topics reviewed covered the full range of issues pertinent to co-management of Alaska marine mammals, including monitoring of subsistence harvests, funding for Alaska Native organizations involved in harvest management, sharing of western science and traditional ecological knowledge, and the need to review and revise co-management agreements. In Fiscal Year 2007 the Commission established a steering committee and initiated planning for a review of co-management efforts, to be held in the second quarter of Fiscal Year 2008.

Financial Section

The Marine Mammal Commission's budget is used for three primary purposes. The first purpose is to maintain a staff of eleven and compensate the Commissioners and members of the Committee of Scientific Advisors on Marine Mammals and thereby allow them to perform the work of the Commission. This entails maintaining an office environment with all the necessary supporting equipment, supplies, and services (e.g., computers and communication systems). The second purpose is to support travel of the

staff, Commissioners, and Committee members as required to participate in matters pertaining to marine mammal research, management, and conservation. Such travel is essential to ensure that the Commission work force is up-to-date on a wide range of issues affecting marine mammal conservation throughout U.S. waters (e.g., ship strikes, entanglement in marine debris) and, to a lesser extent, in international waters (e.g., climate change). The third purpose is to support the Commission's research program, focused primarily on the planning, conduct, analysis, and reporting of key scientific studies, and evaluation of key conservation issues. Because Fiscal Year 2007 funding was based on a continuing resolution with appropriated amounts the same as in Fiscal Year 2006, the Commission's general activities with regard to the above three purposes remained at approximately the same level as in Fiscal Year 2006.

The following letter describes the results of our Fiscal Year 2007 audit of our financial systems, including administrative systems, controls, and compliance with laws and regulations. The principal financial statements have been prepared to report the financial position and results of operations of the Marine Mammal Commission, pursuant to the requirements of 31 U.S.C. 3515 (b). While the statements have been prepared from the books and records of the Marine Mammal Commission in accordance with Generally Accepted Accounting Principles (GAAP) for Federal entities and the formats prescribed by the Office of Management and Budget (OMB), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The audit resulted in an unqualified opinion with no material weaknesses or reportable conditions on internal control or compliance with laws and regulations. [The audit report will be attached.]

November 14, 2007

John Reynolds
Chairman
Marine Mammal Commission
4340 East West Highway, Room 905
Bethesda, Maryland 20814

Mr. Frank Giordano, an independent certified public accountant, has completed the financial audit for the Marine Mammal Commission for Fiscal Year 2007.

The Commission has received an unqualified opinion with no material weaknesses or reportable conditions on internal control or compliance with laws and regulations.

Respectfully,



Catherine Jones
Chief Financial Officer