



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

FEB 13 2009

Robert H. Day, Ph.D.
ABR, Inc.—Environmental Research & Services
P.O. Box 80410
Fairbanks, Alaska 99708-0410

Letter of Confirmation No. 14227
Expiration Date: February 17, 2014
Reports Due: May 17th annually

Dear Dr. Day:

This Letter of Confirmation (LOC) affirms that the General Authorization for Scientific Research applies to the research described in your Letter of Intent (LOI). This LOC is valid through the expiration date indicated above.

You must comply with the National Marine Fisheries Service's regulations governing research under the General Authorization. A copy is attached to this LOC for your convenience.

Please contact your permit analysts – Tammy Adams or Carrie Hubbard – at 301-713-2289 or via email at Tammy.Adams@noaa.gov or Carrie.W.Hubard@noaa.gov if you need assistance with your LOC.

Species covered by this LOC

This LOC is valid only for takes of the following marine mammal species or stocks listed in your LOI:

- Harbor seal (*Phoca vitulina*), Gulf of Alaska Stock
- Harbor porpoise (*Phocoena phocoena*), Gulf of Alaska Stock
- Dall's porpoise (*Phocoenoides dalli*), Alaska Stock
- Minke whale (*Balaenoptera acutorostrata*), Alaska Stock
- Gray whale (*Eschrichtius robustus*), Eastern North Pacific Stock
- Killer whale (*Orcinus orca*), various resident and transient stocks

If you encounter other marine mammal species or stocks, we recommend you observe the approach distances in our marine mammal viewing guidelines to avoid harassment. The guidelines can be found on-line at: <http://www.nmfs.noaa.gov/pr/education/viewing.htm>.

Activities covered by this LOC

This LOC is valid for aerial surveys along the western shore of Cook Inlet, Alaska, between Bruin Bay and southern Chinitna Bay, excluding the area from Oil Bay to the eastern edge of Chinitna Bay.

Reports

Annual reports and reports of exceeding level B harassment should be submitted to:
Chief, Permits Division (F/PR1)
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway, Room 13705,
Silver Spring, MD 20910

See paragraphs (d)(2) and (d)(6) of the regulations for additional report information.

Personnel

You or a Co-Investigator must be on-site to supervise research activities. The following people are approved as Co-Investigators: Brian Lawhead, Adrian Gall, Charles Johnson, Tom Obritschkewitsch, Julie Parrett, Alexander Prichard, John Rose, Pamela Seiser, Jennifer Boisvert, and Ann Wildman.

To designate other personnel as Co-Investigators, please submit their names and current curriculum vitae to this office for approval.

Notification

You should submit advance notifications of on-site activities to the Alaska Assistant Regional Administrator for Protected Resources at
National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668; phone 907-586-7235; fax 907-586-7012

This notification should include your LOC number and a description of the planned activities, including when and where they would occur. See paragraph (d)(5) of the regulations for additional information.

Please have a copy of this LOC on site during research activities and ensure all personnel understand the attached regulations.

Sincerely,

for 

P. Michael Payne
Chief, Permits, Conservation and
Education Division
Office of Protected Resources
(phone: 301-713-2289)

Enclosure

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PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Subpart D—Special Exceptions

§ 216.45 General Authorization for Level B harassment for scientific research.

(d) *Terms and conditions.* Persons issued letters of confirmation in accordance with paragraph (c) of this section are responsible for complying with the following terms and conditions:

- (1) Activities are limited to those conducted for the purposes, by the means, in the locations, and during the periods of time described in the letter of intent and acknowledged as authorized under the General Authorization in the confirmation letter sent pursuant to paragraph (c) of this section;
- (2) Annual reports of activities conducted under the General Authorization must be submitted to the Chief, Permits Division (address listed in paragraph (b) of this section) within 90 days of completion of the last field season(s) during the calendar year or, if the research is not conducted during a defined field season, no later than 90 days after the anniversary date of the letter of confirmation issued under paragraph (c) of this section. Annual reports must include:
 - (i) A summary of research activities conducted;
 - (ii) Identification of the species and number of each species taken by Level B harassment;
 - (iii) An evaluation of the progress made in meeting the objectives of the research as described in the letter of intent; and
 - (iv) Any incidental scientific, educational, or commercial uses of photographs, videotape, and film obtained as a result of or incidental to the research and if so, names of all photographers.
- (3) Authorization to conduct research under the General Authorization is for the period(s) of time identified in the letter of intent or for a period of 5 years from the date of the letter of confirmation issued under paragraph (c) of this section, whichever is less, unless extended by the Director or modified, suspended, or revoked in accordance with paragraph (e) of this section;
- (4) Activities conducted under the General Authorization may only be conducted under the on-site supervision of the principal investigator or co-investigator(s) named in the

letter of intent. All personnel involved in the conduct of activities under the General Authorization must perform a function directly supportive of and necessary for the research being conducted, or be one of a reasonable number of support personnel included for the purpose of training or as back-up personnel;

- (5) The principal investigator must notify the appropriate Regional Director, NMFS, (Regional Director) in writing at least 2 weeks before initiation of on-site activities. The Regional Director shall consider this information in efforts to coordinate field research activities to minimize adverse impacts on marine mammals in the wild. The principal investigator must cooperate with coordination efforts by the Regional Director in this regard;
- (6) If research activities result in a taking which exceeds Level B harassment, the applicant shall:
 - (i) Report the taking within 12 hours to the Director, Office of Protected Resources, or his designee as set forth in the letter authorizing research; and
 - (ii) Temporarily discontinue for 72 hours all field research activities that resulted in the taking. During this time period, the applicant shall consult with NMFS as to the circumstances surrounding the taking and any precautions necessary to prevent future taking, and may agree to amend the research protocol, as deemed necessary by NMFS.
- (7) NMFS may review scientific research conducted pursuant to the General Authorization. If requested by NMFS, the applicant must cooperate with any such review and shall:
 - (i) Allow any employee of NOAA or any other person designated by the Director, Office of Protected Resources to observe research activities; and
 - (ii) Provide any documents or other information relating to the scientific research;
- (8) Any photographs, videotape, or film obtained during the conduct of research under the General Authorization must be identified by a statement that refers to the General Authorization or ESA permit number, and includes the file number provided by NMFS in the confirmation letter, the name of the photographer, and the date the image was taken. This statement must accompany the image(s) in all subsequent uses or sales. The annual report must note incidental scientific, educational, or commercial uses of the images, and if there are any such uses, the names of all photographers; and
- (9) Persons conducting scientific research under authority of the General Authorization may not transfer or assign any authority granted thereunder to any other person.

(e) *Suspension, revocation, or modification.*

(1) NMFS may suspend, revoke, or modify the authority to conduct scientific research under the General Authorization if:

- (i) The letter of intent included false information or statements of a material nature;
- (ii) The research does not constitute bona fide scientific research;
- (iii) Research activities result in takings of marine mammals other than by Level B harassment;
- (iv) Research activities differ from those described in the letter of intent submitted by the applicant and letter of confirmation issued by NMFS; or
- (v) The applicant violates any term or condition set forth in this section.

(2) Any suspension, revocation, or modification is subject to the requirements of 15 CFR part 904.

[59 FR 50376, Oct. 3, 1994]