

February 4, 2010

Lisa Van Atta
Assistant Regional Administrator, Protected Resources Division
Pacific Islands Regional Office, National Marine Fisheries Service
1601 Kapiolani Boulevard, Suite 1110
Honolulu, HI
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Re: 90-day finding on false killer whale ESA petition

Dear Lisa,

I am writing to provide comments on the 90-day finding on the petition to list the insular population of false killer whales in Hawai'i under the Endangered Species Act (hereafter 90-day finding). On the basis of the best available data, I believe the insular population of false killer whales in Hawai'i does qualify for listing under the ESA. I have recently reviewed available information on false killer whales in Hawai'i for the U.S. Marine Mammal Commission and provide a copy of that report here for consideration in the status review.

Analyses of genetic data from biopsy samples subsequent to the analyses of Chivers et al. (2007), as well as an assessment of association data of photo-identified individuals subsequent to the analyses of Baird et al. (2008), provide additional evidence that the insular population of false killer whales in Hawai'i is distinct from other populations (see Baird 2009). There is strong evidence of a decline in population size for the insular population of false killer whales in Hawai'i beyond that reported in the 90-day finding. An analysis of sighting rates from aerial surveys undertaken in 1993, 1995, 1998, 2000, and 2003, by J. Mobley of the University of Hawaii shows a strong significant decline in the sighting rates of false killer whales, but no significant changes in sighting rates of any of four other species, indicating that the false killer whale decline documented was not due to changes in survey design or weather conditions (Baird 2009). All other available lines of evidence, summarized in the 90-day finding, support this evidence of a large decline. A comparison of the largest number of individuals documented in a 1989 survey (Reeves et al. 2009) with more recent population estimates (Mobley et al. 2000; Baird et al. 2005) suggest that the decline may have resulted in a more than 50% decline of the population since the late 1980s.

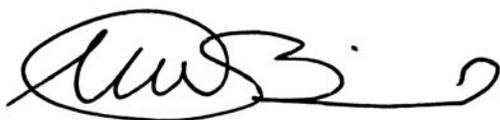
There are a number of likely contributing factors to the decline that can only be addressed if there is a mechanism in place to regulate recreational fisheries in Hawaiian waters. These include a reduction in populations of the fish that false killer whales prey upon, mortality of false killer whales associated with ingestion of fish hooks from free-swimming hooked fish, as well as mortality from ingestion of hooked fish taken off lines from near-shore recreational and commercial fishermen around the main Hawaiian Islands (see review in Baird 2009). The implementation of a new system for recreational fishermen to register in Hawai'i is a positive step, but does not include those who fish only within State waters. This combined with the lack of any catch or size limits for the type of game fish that are eaten by false killer whales suggests that the existing regulatory mechanisms to protect false killer whales are inadequate.

Because of the potential for legal repercussions fishermen are unlikely to voluntarily admit to either shooting false killer whales (to deter them from taking fish off lines or in retaliation to their taking fish off lines), or to having false killer whales hooked in fishing gear (and potentially being injured or killed as a result). Even in cases where there is no immediate legal repercussions (such as authorized bycatch in Category 1 commercial fisheries) there is good evidence of this – a comparison of self-reported bycatch rates from commercial fishing vessels that do not have observers on board to bycatch rates documented by observers will show this. In order to assess the type and rate of injuries and frequency of occurrence of bycatch in nearshore fisheries, observer coverage is necessary for both the kaka line fishery and the shortline fishery. Efforts should be made to assess what other near-shore fisheries may exist that utilize gear that could result in bycatch of false killer whales.

In terms of assessing reproduction for individuals from the insular population, analysis of reproductive hormone levels in biopsy samples collected from this population may be informative and should be undertaken.

Thank you very much for the opportunity to comment on the 90-day finding.

Sincerely,

A handwritten signature in black ink, appearing to read 'RW Baird', with a decorative flourish at the end.

Robin W. Baird, Ph.D.
Research Biologist

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