

May 26, 2009

Jennifer Skidmore
Permits
Conservation and Education Division
Office of Protected Resources
NMFS
1315 East-West Highway Room 13705
Silver Spring, MD 20910

Sent via U.S. Mail and E-mail NMFS.Pr1Comments@noaa.gov

RE: File NO. 14497: Import two bottlenose dolphins by The Mirage Casino-Hotel

Dear Ms.Skidmore

Thank you for the opportunity to provide comments in response to the April 27, 2009 Federal Register notice of application for permit by The Mirage Casino-Hotel in Las Vegas to import two bottlenose dolphins (*Tursiops truncatus*) for the stated purpose of public display. On behalf of Born Free USA, and the World Society for the Protection of Animals, please accept our comments on behalf of the more than 250,000 members and supporters of our organizations.

Lack of educational value

The Issuance Criteria under the Marine Mammal Protection Act (MMPA) outlined under Sec. 216.43(b) (3), allows the take or import of marine mammals for public display if the applicant, “offers a program for education of conservation that is based on professionally recognized standards of the public display community.” However as the National Marine Fisheries Service (NMFS) has acknowledged, “There are no uniform professionally recognized standards established by the entire public display community for education or conservation programs¹.” As such, no marine park can meet the education requirement under the MMPA and, therefore should not be issued permits to exploit marine mammals. It would behoove the NMFS to develop these standards with the input and assistance from the animal welfare community. Until such standards are in existence the issuance of any permit for public display is a violation of the MMPA.

In lieu of official “standards” NMFS has been basing applicant qualification on unofficial “standards” submitted by the industry itself at the request of NMFS to be used as examples of education/conservation programs. However, to our knowledge the effectiveness of these unofficial, industry “standards” has not been measured.

To our knowledge there exists no behavioral research demonstrating an association between viewing animals in a captive setting and either knowledge about the animal or intention to take action to conserve the animal in the wild. There is no indication that individuals visiting dolphin exhibits or attending dolphin shows are particularly interested

¹ “Proposed amendment to regulations for permits to capture or import marine mammals for purposes of public display under the Marine Mammal Protection Act of 1972 (MMPA).” *Federal Register*, July 3, 2001 (Volume 66, Number 128).

in the population status of an animal or what steps are being taken to ensure its survival in the wild.

Indeed, a national survey of marine mammal conservation education and research programs revealed that few institutions engage in systematic evaluation of the informal learning opportunities they provide to the public. Respondents had most difficulty in addressing the question of which programs were most effective².

The educational information provided by The Mirage as evidenced on its “secret garden” website is little more than thinly veiled public relations propaganda disguised as education, consisting of superficial taxonomic information and vague references to conservation.

The Mirage dolphin exhibit and associated shows and programs merge contradictory messages. On the one hand, the Mirage must make the public believe that their use of dolphins helps save the species in the wild, while on the other, they must justify their use of dolphins by imparting a sense that the animals are better off in captivity than in the wild.

The Mirage attempts to do this with misleading statements such as “Current scientific data shows that dolphins in Alliance of Marine Mammal Parks and Aquariums zoological parks and aquariums live longer than their counterparts in the wild.”

The truth is while some studies indicate that captive bottle nosed dolphins live as long or have the same mortality rate as their wild counterparts, other studies continue to indicate higher year-to-year mortality rate for animals in captivity. Captive-born mortality rates also fail to show a clear improvement of the wild³.

No matter, final message imparted by The Mirage is that marine mammals are not as vulnerable as the public may have thought because The Mirage is keeping them safe and visitors can feel good because they have helped conservation simply by visiting the dolphin exhibit. From a communications perspective, this deception is a triumph; from a conservation education perspective, it is a tragedy.

Viewing captive dolphins gives the public a false picture of the animal’s natural lives and fosters a benign and mythical reputation of dolphins. This constitutes a form of miseducation. Far from having a positive effect on education and conservation, captive marine mammal displays have a negative effect. Exposure to dolphins swimming in barren pools encourages people to consider wildlife as isolated objects or servants to human desires rather than as integral parts of an ocean ecosystem with their own intrinsic value.

Furthering this distorted view of the natural world, The Mirage also offers (for an additional fee) the opportunity to physically interact with captive dolphins in its “trainer-for-a-day” program. Such programs reinforce a dangerous public misconception that it is

² B.Birney. “The status of AAZPA’s marine mammal conservation education and research programs.” Unpublished 1990 report. In Elin Kelsey. “Conceptual change and killer whales: constructing ecological values for animals at the Vancouver Aquarium.” *Int. J. Sci. Educ.*, Vol. 13(1991), No 5: 551-559

³ T.H.Woodley et al. “A comparison of survival rates for free-ranging bottlenose dolphins (*Tursiops truncatus*), killer whales (*Orcinus orca*) and beluga whales (*Delphinapterus leucas*),” Technical Report No. 97-02 (Guelph, Ontario: International Marine Mammal Association, Inc., 1997).

appropriate to physically interact with dolphins. This misconception threatens wild dolphins who become habituated to handouts, aggressive with humans, and eventually come to be regarded as “nuisance animals,” thus opening the door to animal control that may mean death to them.

According to Trevor Spradlin, a scientist with the NMFS, “interacting with wildlife is always a high-risk behavior. People need to take a realistic look and put the wild back into the equation when they think of dolphins.” By its very nature the “trainer-for-a-day” program flies in the face of this recommendation.

Clearly, The Mirage fails to meet the conservation education exemption under the MMPA, for there is no demonstrated scientific or educational value in the display and breeding of the dolphins in their possession and the addition of these two additional dolphins will not serve the purpose of the MMPA and may in fact undermine it. For these reasons, we strongly urge you to deny the above-referenced permit application.

Lack of conservation value

While the stated purpose of this permit is captive display the application clearly indicated that the actual purpose for the import of these two dolphins is for captive breeding. As such, it is worth pointing out that any captive breeding program conducted by The Mirage will not contribute to the conservation of the species or any marine mammal species.

Rather than enhancing wild populations, The Mirage’s captive breeding efforts are merely to produce revenue generating calves “baby dolphins” for display. The produced animals once they reach adulthood will continue to be used for commercial display or traded and sold to other entertainment venues when they become surplus to The Mirage.

It is not the responsibility of the NMFS to facilitate commercial propagation of marine mammals for explicitly non-conservation purposes. The Mirage already has plenty of dolphins at its disposal to exploit for commercial gain and to ostensibly “educate” the public and promote conservation.

Producing multiple generations of a single species that is neither endangered nor has any difficulty reproducing in the wild does not contribute to conservation of marine mammals. Moreover, it has been estimated that if dolphinariums were serious about breeding a captive population for conservation purposes, they would need many more animals than they typically hold for the appropriate amount of genetic diversity⁴.

The issuance of this permit may actually undermine the conservation of wild marine mammals in the long term.

In recent years the popularity of captive dolphin shows and “swim with the dolphin programs” has grown internationally (perhaps fostered by the poor example set by the United States) as countries seek to lure locals and American tourists with the promise of an opportunity to see and interact with dolphins at a fraction of the cost charged by U.S. facilities such as the Mirage’s “trainer-for-a-day” program.

There has been public outcry against a lucrative and rapidly growing international industry, in which dolphins are captured so that tropical resorts and amusement parks can

⁴ S.Mayer, A Review of the Scientific Justifications for Maintaining Cetaceans in Captivity, edited by F.Clarke (Chippenham. U.K.: Whale and Dolphin Conservation Society, 1998)

offer shows and “swim-with-dolphin” or “trainer-for-the -day” packages. Many countries where these facilities exist do not have the same environmental or animal welfare laws as the United States, so there is a greater chance that dolphins or other marine mammals will be removed from the wild and will be held in inhumane conditions.

Animal welfare

We believe that the welfare of the dolphins will be compromised by moving them from the tropical climes of Bermuda to an urban facility in the arid Nevada desert. The two dolphins in question will be fasted for 18 hours prior to transport, then transported for 14 hours resulting in 32 hours of food deprivation and other related transport stressors.

The confinement, physical handling, and travel that accompany the transport process are known to cause acute stress for marine mammals⁵. Dolphins do not appear to become accustomed to transport as mortality rate greatly increases immediately after each transport even when the transport is between facilities⁶. The trauma of transport between facilities is comparable to capture from the wild in terms of stress and spike in mortality rate.

The stress of moving is further compounded when animals are introduced or forced into new and artificial social groupings determined by people in small restricted areas with little or no opportunity to escape. Multiple studies show that adding new animals, removing existing animals, or isolating animals from their former groups is stressful for dolphins and may lead to increased aggression, illness, and death. Even seemingly small changes can cause extreme stress leading to chronic illness and death⁷.

Again, the two dolphins in question will be removed from a facility in which they have lived for 10 and 11 years and will be force into new and multiple social groups as prospective but “unproven” breeding animals. It is unclear what will become of these animals if they fail to be “successful breeders,” and thus become surplus The Mirage as they apparently are now to Dolphin Quest.

Finally, The Mirage has a poor track record of dolphin care evidenced by high dolphin mortality. In 2007 the Las Vegas Review Journal reported that 11 of 16 dolphins housed at The Mirage “dolphin habitat” had died since the facility opened in 1990 as recorded in the Marine Mammal Inventory Report.

Causes of death have ranged widely from pneumonia and other respiratory ailments, to pulmonary abscesses and stomach tears. The causes of some deaths have never been determined. The Mirage also admitted that it may have used a dolphin for breeding purposes that had hereditary problems which may have caused led to the premature death of two calves sired by him.

Subjecting these animals to the stresses of moving and transport for the purpose of commercial display and/or breeding in order to create highly lucrative “baby” display

⁵ L.Nielson. Chemical Immobilization of Wild and Exotic Animals (Ames: Iowa State University Press, 1999).

⁶ R.J.Small and D.P.DeMaster, “Acclimation to captivity.” *Marine Mammal Science* 11 (1995):510-519.

⁷ K.A.Waples and N.J.Gales “Evaluating and minimizing social stress in the care of captive bottlenose dolphins (*Tursiops aduncus*),” *Zoo Biology* 21 (2002): 5-26

animals only to live their lives in environments known not to accommodate their natural behavior is not conservation, educational, or humane.

We urge the NMFS to consider these very serious issues in its decision to grant or deny this application.

Societal values

Like all wildlife, marine mammals are considered by law to be a “public resource” and, as such, the sentiments of the public should be taken into consideration when deciding how our wildlife will be managed.

In a survey of 1,000 U.S. citizens by researchers from Yale University, respondents overwhelmingly preferred to see captive marine mammals expressing natural behaviors rather than performing tricks and stunts. In fact, four-fifths of the public in this survey state that marine mammals should not be kept in captivity unless major educational and/or scientific benefits resulted⁸. In a 2003 survey of the Canadian Public, 74 percent of respondents thought that the best way to learn about natural habits of whales and dolphins is by viewing them in the wild either directly through whale watching tours or indirectly through television and cinema or on the Internet. Only 14 percent felt that viewing cetaceans in captivity was educational⁹. Finally, in a 2007 U.S. public opinion poll commissioned by the World Society for the Protection of Animals, only 12% of respondents thought it was acceptable to keep dolphins in an environment where their natural behaviors might be restricted. Likewise, only 12% thought it was acceptable for hotels or resorts to keep dolphins solely for entertainment¹⁰.

While the educational value of this applicant’s activities is unclear, it is clear that The Mirage is a commercial business. This business uses dolphins to attract and entertain casino/hotel guests. Such activities have nothing to do with conservation and everything to do with profit. We believe that the approval of this permit will only serve to condone commercial exploitation of marine mammals, will compromise the integrity of the Marine Mammal Protection Act and will seriously jeopardize the welfare of these two individual dolphins.

Conclusion

In light of the above, we recommend that the NMFS deny this application. Clearly, there is a fundamental concern with the appropriateness of using marine mammals for public display purposes, (especially in a casino/hotel setting) and we do not believe that importing these dolphins for commercial/entertainment purposes justifies subjecting them to the perils of transport only to place them in a facility with a troubling dolphin mortality record and questionable breeding practices.

⁸ S.R.Kellert, *American Perceptions of Marine Mammals and Their Management* (Washington, DC: The Humane Society of the United States, 1999).

⁹ A telephone poll of 350 greater Vancouver residents was conducted 13-24 August 2003 by R.A.Malatest and Associates Limited, Victoria, British Columbia, on behalf of Zoocheck Canada Incorporated.

¹⁰ *U.S. Public Opinion Poll on Dolphins*. Survey conducted by Harris Interactive on behalf of World Society for the Protection of Animals, November, 2007.

Second, we question whether a “substantial public benefit” will result from the granting of this permit since the effectiveness of the “educational” content of The Mirage has, to our knowledge, not been measured and official standards do not exist.

For these reasons we strongly urge you to deny the above referenced permit application.

Again, thank you for the opportunity to offer comments on this permit application.

Sincerely,

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Born Free USA

Sharanya Krishna Prasad
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World Society for the Protection of Animals (US office)