



April 14, 2022

Hon. Anthony J. Blinken  
Secretary of State  
Department of State  
2201 C Street NW, Room 2206  
Washington, DC 20520-2204

Dear Sec. Blinken:

I am writing you on behalf of Public Employees for Environmental Responsibility (PEER) to alert you to a potential threat to marine resources in U.S. waters caused by a Department of State practice, and to request your assistance in addressing this threat.

The source of our concern is the State Department's handling of applications for foreign Marine Scientific Research (MSR) vessels to operate in U.S. waters. In issuing consent letters for these vessels, State does not post any public notice of these proposed research efforts describing the nature of work they will conduct or identify where in U.S. waters they will operate.

In addition, the consent letters issued by State to applicants who have met the criteria for MSR approval under international law are not generally made available to the public. State requires requesters to submit Freedom of Information Act (FOIA) requests for such information. However, in our experience, State does not respond to these FOIA requests in a timely manner.

A PEER Board Member, Richard Steiner, a marine conservationist formerly on the marine faculty of the University of Alaska, Fairbanks, submitted such a request 11 months ago (May 19, 2021) and has recently been informed that he should expect production no sooner than October 6, 2022. Delaying the release of this information for 17 months functionally makes the State consent letters for foreign research into state secrets.

Beyond the delays, the underlying concern is the basis upon which State issues these consent letters accompanied by the apparent total absence of any monitoring of the research activities conducted by these foreign vessels.

In the instance of the above-referenced FOIA request, the information sought concerned MSR applications submitted to State during 2018 to conduct marine research in U.S. waters of the North Pacific, including U.S. waters along the Aleutian Islands.

In August 2018, the largest recorded mass beaching of rare Stejneger's beaked whales (also known as Bering Sea beaked whales or saber-toothed whales) took place on the beaches of the Aleutian island of Adak. While the final cause of these deaths has not been determined, this type

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of mass stranding has been known to follow active acoustic (sound generating) activity by naval or other ships that can scare these deep-diving whales quickly to the surface, causing fatal decompression impacts. Just prior to the 2018 beaked whale mass stranding, recording devices from the Alaska Volcano Observatory in the region recorded distinct anthropogenic acoustic sources, repeating at regular intervals, for hours at a time. The source of these sonic pulses remains unknown, and Prof. Steiner sought to identify potential sources.

Through FOIA inquiries with NOAA, the U.S. Navy, and the U.S. Geological Survey (all of which were answered in a timely fashion), Prof. Steiner was able to determine that no domestic vessels were permitted to operate any active source sonic equipment in that area during that time.

We understand from the Research Application Tracking System (RATS) that State requires the following:

“If the research involves the study or incidental take of marine mammals or species listed under the Endangered Species Act, include the appropriate authorization from the [NOAA Office of Protected Resources](#) (i.e., Research Permit or an Incidental Take Permit/Authorization).” NOAA confirms that no Incidental Harassment Authorizations (IHAs) were issued for such activity in the Aleutians that year.

From those FOIA requests, and the Alaska Marine Exchange’s Automatic Identification System (AIS) tracking data, Prof. Steiner learned that three Japanese research ships had operated in the area during the period in question. One of these was the Yushin Maru #2, a notorious Japanese whaling ship (owned and operated by the Japan Institute for Cetacean Research), that had been permitted to deploy as many as 240 acoustic sonobuoys in the water for its cetacean research in the Bering Sea/Aleutian Islands that summer. Significantly, later that year, after a long, tense diplomatic dispute with the U.S. and other anti-whaling nations, Japan withdrew from the International Whaling Commission (IWC) in order to resume commercial whaling.

Prof. Steiner was trying to determine precisely what these, or other, foreign research ships were doing in those waters at that time, and whether they may have conducted acoustic activities, permitted or not, that caused the mass stranding – and the State MSR consent letters appear to be the only source of this information.

The type of damage that may have occurred in the mass stranding of these beaked whales highlights the potential risk to marine resources from poorly regulated and poorly monitored foreign research efforts in U.S. waters. Moreover, unlike domestic research vessels, there is no public notice or comment requirement. Further, since their activities in U.S. waters are not monitored, there is no reliable gauge of the damage that might have been inflicted. For instance, we cannot determine whether any of these foreign research vessels might have used active source (sound generating) acoustic equipment in these waters, which may have caused the beaked whale mass stranding. The Yushin Maru #2 certainly has such equipment onboard (sonar etc.), and uses it during its active whale hunting operations elsewhere.

Compounding our concern is that State does not appear to take environmental compliance concerns into account when issuing MSR consent letters. Last month, State revoked the permit

for a Russian research vessel (the Tinro) to participate in a high seas salmon research program in the U.S. Exclusive Economic Zone (EEZ) off Alaska due to Russia's invasion of Ukraine.

By contrast, in 2018 State issued a consent letter to the Yushin Maru #2, a well-known whaling scofflaw found to have violated international law by the International Court of Justice at the Hague (case filed by Australia and New Zealand) by whaling in the Southern Ocean Whale Sanctuary, established by the IWC. Given its illegal history, the Yushin Maru arguably should never have been permitted to enter the U.S. EEZ. This consent letter issued by State was clearly not in the national interest. State would have been made aware of these factors if it had provided public notice for MSR consent applications.

Clearly, the MSR application and approval process at State is secretive, and there is no reason it should be. The public deserves to be notified of any/all such applications, exactly what research is proposed, permit stipulations and compliance issues, and receive after-action reports. These are research cruises in U.S. waters and they should be subject to all laws and regulations that U.S. researchers are, and the public deserves to be made aware of all such activity.

To that end, PEER is requesting that you undertake a review of State's process for accepting, reviewing, and approving foreign MSR operations in U.S. waters, and consider the following respectful suggestions:

1. Require all foreign entities proposing to conduct marine research in U.S. waters to submit a detailed application to the State Department and NOAA;
2. Open the foreign MSR approval process to the public. Prior to consideration by State, all MSR applications should be noticed in the *Federal Register*, presenting detailed plans of exactly what research is proposed, objectives, equipment to be used, and where; and then opened for public comment;
3. Post all State MSR decisions/consent letters with any/all stipulations in the *Federal Register*;
4. Ensure that all MSR applicants comply with any/all U.S. regulations and statutes, such as the Marine Mammal Protection Act, through a process overseen by NOAA.
5. Develop a policy spelling out how compliance with stipulations in its consent letters, and with other U.S. laws and regulations, will be monitored;
6. Require that all MSR applicants have their vessel's Automatic Identification System transmitter on at all times while in US waters (to enable tracking of the vessel) even beyond the currently required 12-mile limit, and to report to the US Coast Guard upon arrival and departure within the U.S. EEZ;
7. Institute a requirement that, subsequent to the permitted research activity, all MSR applicants will provide an after-cruise report to the U.S. public concerning the mission;

8. Formulate a clear policy spelling out which foreign research vessels/institutions are prohibited from entering the U.S. EEZ, and why;
9. Consider requiring U.S. scientific observers to be placed aboard any foreign MSR activity, at the discretion of State, in consultation with NOAA and the U.S. Coast Guard;
10. Require approved foreign MSR applicants to produce - upon request by NOAA, State, or the Coast Guard – an unedited copy of their ship’s log covering the entire duration of its time within the U.S. EEZ; and
11. Post online all previous MSR applications and consent letters.

These steps will make the MSR process transparent and far more protective of our marine resources. They will also further international cooperation in marine scientific research. In addition, they will enhance national security without impinging on scientific activity. Finally, these steps are inexpensive, and some could be instituted immediately.

Should you desire any clarification or further information on this topic, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

Tim Whitehouse  
Executive Director

cc. Rick Spinrad, Ph.D., Undersecretary of Commerce for Oceans and Atmosphere,  
Administrator, NOAA