

## United States Senate

May 22, 2015

Kathryn Sullivan, Ph.D.  
Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitution Avenue, NW  
Room 5128  
Washington, DC 20230

Dear Dr. Sullivan:

I write to you today to follow up on the serious concerns I raised with you at Wednesday's Senate hearing regarding the pending seismic study off the New Jersey coast. As you are aware, the National Science Foundation (NSF) is funding a proposed study that is designed to profile the ocean floor off the New Jersey coast through the use of seismic air guns that would send 250 decibel sound blasts every five (5) seconds, 24 hours a day, for 30 consecutive days this summer. The New Jersey Department of Environmental Protection (NJDEP) has raised serious concerns with the proposed project's effect on New Jersey's coastal resources, specifically about the harmful impacts of seismic blasting on the marine mammals, fisheries, and marine ecosystems off of New Jersey's coast.

I am formally requesting that the National Marine Fisheries Service ("NMFS") withdraw the Incidental Harassment Authorization issued on May 14, 2015, and re-notice this proposed authorization with the correct numbers of marine mammals to be harassed, based upon the correct methodology, so that the public can adequately review and comment upon this project. In addition, I would like to confirm that your office will work with the Office for Coastal Management ("OCM") to encourage and facilitate a meaningful mediation process between NJDEP and the NSF to attempt to address New Jersey's concerns with the study.

On March 17, 2015, NMFS published in the Federal Register a proposed Incidental Harassment Authorization ("IHA") for this project. In this Register Notice, NMFS estimated the take of 1,323 marine mammals as a result of harassment by the proposed seismic blasting, including 800 bottlenose dolphins.

On April 16, 2015, Senator Robert Menendez, Congressman Frank Pallone, and I sent a request to NOAA for a sixty-day extension of the public comment period, in order for members of the public to have sufficient time to thoroughly review the proposed study and environmental assessment, and to provide meaningful input.

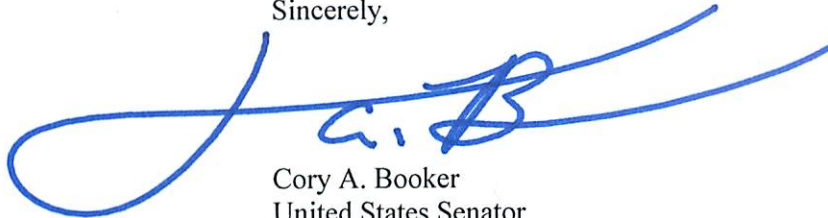
No response to this request for an extension of public comment was ever received by my office, but on May 14, 2015, NMFS issued an authorization for the seismic blasting to harass **more than 18,000 marine mammals, including more than 12,000 bottlenose dolphins**. These revised numbers were apparently based upon comments received from the Marine Mammal Commission that NMFS had utilized an incorrect methodology to calculate the number of marine mammals in harm's way. These revised numbers bear little resemblance to what was published in the proposed rule. As I communicated to you during the hearing, this represents a massive increase. The public was given no opportunity to comment on these dramatically altered estimates, on the methodological changes that led to them, or on the mitigation and monitoring priorities that may have shifted in light of them, as certain populations are now expected to be taken in much higher percentages relative to others in the region.

In its submitted comments, the Marine Mammal Commission advised NMFS that their error was of such a magnitude that NMFS had "undermined the public review process" and that the authorization should be re-noticed in order to allow the public to have an adequate opportunity to be heard on the true facts of this application. I am asking that NMFS do exactly this. The State of New Jersey, its residents, and the Marine Mammal Commission should be given the opportunity to review the IHA with the substantially revised take numbers.

Regarding NJDEP's request for mediation in the federal consistency process, I greatly appreciate your commitment to staying closely engaged with NJDEP, my staff, and NSF. NJDEP has furnished OCM with a list of measures that could make the study less harmful. Through your involvement, there remains some hope that a meaningful mediation process between NJDEP and NSF can occur.

Thank you, and I look forward to your response on this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. A. B.', with a large, sweeping flourish extending to the left and right.

Cory A. Booker  
United States Senator