



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

Gerry McChesney
Farallon National Wildlife Refuge
1 Marshlands Road
Fremont, CA 94555

NOV 07 2012

Dear Mr. McChesney,

Enclosed is an Incidental Harassment Authorization (IHA) issued to the U.S. Fish and Wildlife Service (USFWS), under the authority of section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.). This Authorization allows for the incidental take, by Level B harassment only, of five marine mammal species, incidental to the bird mitigation research trial in the Farallon National Wildlife Refuge. The IHA is valid from November 7, 2012 through November 6, 2013.

You are required to comply with the conditions contained in this IHA. In addition, you must cooperate with any federal, state, or local agency monitoring the impacts of your activity and submit a final report to the National Marine Fisheries Service's (NMFS) Office of Protected Resources, within 90 days after completion of the work authorized herein. Along with other mitigation measures to be incorporated, the IHA requires monitoring for the presence and behavior of marine mammals.

If you have any questions concerning the IHA or its requirements, please contact Michelle Magliocca, Office of Protected Resources, NMFS at 301-427-8426.

Sincerely,

Helen M. Golde, Acting Director
Office of Protected Resources

Enclosure



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

DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

INCIDENTAL HARASSMENT AUTHORIZATION

The U.S. Fish and Wildlife Service, Farallon National Wildlife Refuge (1 Marshlands Road, Fremont, CA 94555) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107, to harass marine mammals incidental to a bird mitigation research trial, subject to the following:

1. This Authorization is valid from November 7, 2012 through November 6, 2013.
2. This Authorization is valid for the bird mitigation research trial, as described in the Incidental Harassment Authorization (IHA) application.
3. The U.S. Fish and Wildlife Service (USFWS) is hereby authorized to take, by Level B harassment only, the following marine mammal species, incidental to bird hazing techniques associated with the bird mitigation research trial:
 - a. Northern elephant seal – 1,312
 - b. Harbor seal – 324
 - c. Steller sea lion – 224
 - d. California sea lion – 14,152
 - e. Northern fur seal – 436
4. The taking by Level A harassment, serious injury, or mortality of any of the species listed in 3 above or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.
5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to NMFS' Southwest Region, 501 West Ocean Blvd., Long Beach, CA 90802-4213; phone 562-980-4000; fax 562-980-4027, and NMFS' Office of Protected Resources, 1315 East-West Hwy, Silver Spring, MD 20910; phone 301-427-8401; fax 301-713-0376.
6. The holder or designees must notify NMFS' Southwest Region and Headquarters at least 24 hours prior to the commencement of the specified activity (see contact information in 5 above).
7. Mitigation Requirements



The holder of this Authorization is required to abide by the following mitigation conditions listed in 7(a)-(e). Failure to comply with these conditions may result in the modification, suspension or revocation of this Authorization.

(a) *Temporal Restriction*: The bird mitigation research trial will be conducted between November 1 and January 31, at a time when there are fewer birds on the island and outside of the peak pinniped pupping season. The USFWS will avoid harassing pregnant female pinnipeds and pups during the research trial by having a biologist identify and map where these individuals are located.

(b) *Limited Use of Pyrotechnics*: The USFWS will place pyrotechnics in locations so as to avoid exceeding the hearing threshold of pinnipeds. Researchers will first use pyrotechnics as far away as possible from haul-out sites and gradually get closer if necessary, while monitoring behavioral reactions of pinnipeds. Pyrotechnics shall not be used directly over a major haul-out site.

(c) *Limited Use of Air Cannons*: The USFWS will place air cannons in locations so as to avoid exceeding the hearing threshold of pinnipeds. Researchers will use the lowest detonation volume if haul-outs are close, but may experiment with increasing the volume at farther distances. Behavioral response of pinnipeds will be monitored and the air cannons will be adjusted at the first sign of large-scale disturbance.

(d) *Slow Sequential Approaches of Helicopters*: Helicopter flights in areas near haul-outs will use a slow sequential approach of decreasing altitude in order to avoid or minimize pinniped disturbance.

(e) *Slow and Cautious Approaches to Haul-outs*: Any researchers needed to investigate gull roosting areas, conduct hazing, or monitor pinniped responses, will approach haul-outs slowly and cautiously in order to avoid unnecessary disturbance to pinnipeds.

(f) *Limited Use and Retrieval of Kites and Radio-controlled Aircraft*: Kites and radio-controlled aircraft will be used sparingly around harbor seals. If a kite or radio-controlled aircraft falls into a haul-out area, then it will either be: (1) left in place if it could not be retrieved safely or without causing major pinniped disturbance; or (2) retrieved using a slow methodical approach to avoid major pinniped disturbance. Retrieval may also occur at a later time when pinnipeds are either absent or in fewer numbers.

(g) *Restricted Use of Trained Dogs*: Dogs will be trained to not harass pinnipeds and will have the necessary immunizations and certificates to ensure that no diseases are transmittable. Dogs will be kept at least 30 meters away from pinnipeds.

8. Monitoring Requirements

The holder of this Authorization is required to abide by the following monitoring conditions listed in 8. Failure to comply with these conditions may result in the modification, suspension, or revocation of this Authorization.

(a) Visual Monitoring

- (i) The holder of this Authorization must designate at least one biologically-trained, on-site individual(s), approved in advance by NMFS, to monitor pinnipeds and record observations before, during and after bird hazing operations. The observer will be located at the peak of the island's center to allow for maximum visibility.
- (ii) If bird hazing operations take place in areas not visible from the island's peak, additional observers will be used to monitor and record information from other locations.
- (iii) Observers will monitor offshore areas for predators (e.g., white sharks) to avoid harassing pinnipeds when predators are in nearshore waters.
- (iv) During bird hazing operations, observers shall record numbers of disturbances, by species and age, according to a three-point scale of intensity including (1) Head orientation in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position and/or slight movement of less than 1 m; "alert"; (2) Movements in response to or away from disturbance, typically over short distances (1-3 meters) and including dramatic changes in direction or speed of locomotion for animals already in motion; "movement"; and (3) All flushes to the water as well as lengthier retreats (> 3 meters); "flight".
- (iv) Observers will be properly equipped to observe haul-out locations and stop bird hazing operations if they result in unexpected pinniped reactions or if predators are seen in nearshore waters.
- (v) NMFS must be informed immediately of any changes or deletions to any portions of the monitoring plan, as described in the application.

9. Reporting Requirements

The holder of this Authorization is required to submit a report on all activities and visual and acoustic monitoring results to the Office of Protected Resources, NMFS, and the Southwest Regional Administrator, NMFS, 90 days prior to the expiration of the IHA if a renewal is sought, or within 90 days of completion of the research trial.

a) The visual monitoring report must contain the following information:

- (i) number of marine mammals observed and number taken, by species, and, if possible, sex and age class;

- (ii) marine mammal behavior patterns observed;
- (iii) marine mammal distances to harassment sources;
- (iv) time and locations of all marine mammal sightings;
- (v) environmental conditions, including but not limited to visibility, tide level and state (i.e., slack, ebb, flood); and
- (vi) other human activity in the area (e.g., other research operations, offshore activities).

b) In the unanticipated event that bird hazing techniques clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury, or mortality, the USFWS shall immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and/or by email to Michael.Payne@noaa.gov and Michelle.Magliocca@noaa.gov and the Southwest Regional Stranding Coordinator at 562-980-3230 (Sarah.Wilkin@noaa.gov). The report must include the following information:

- (i) time, date, and location (latitude/longitude) of the incident;
- (ii) description of the incident;
- (iii) status of all sound source use in the 24 hours preceding the incident;
- (iv) description of marine mammal observations in the 24 hours preceding the incident;
- (v) species identification or description of the animal(s) involved;
- (vi) the fate of the animal(s); and
- (vii) and photographs or video footage of the animal (if equipment is available).

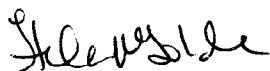
Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with the USFWS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The USFWS may not resume their activities until notified by NMFS via letter, email, or telephone.

d) In the event that the USFWS discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the USFWS will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by

email to Michael.Payne@noaa.gov and Michelle.Magliocca@noaa.gov and the Southwest Regional Stranding Coordinator at 562-980-3230 (Sarah.Wilkin@noaa.gov). The report must include the same information identified in Condition 9(c) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the USFWS to determine whether modifications in the activities are appropriate.

e) In the event that the USFWS discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in Condition 3 of this Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the USFWS shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by email to Michael.Payne@noaa.gov and Michelle.Magliocca@noaa.gov and the Southwest Regional Stranding Coordinator at 562-980-3230 (Sarah.Wilkin@noaa.gov), within 24 hours of the discovery. The USFWS shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

14. A copy of this Authorization must be in the possession of the lead contractor on site and observers operating under the authority of this Incidental Harassment Authorization.
15. This Authorization may be modified, suspended, or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.



Helen M. Golde,
Acting Director, Office of Protected Resources,
National Marine Fisheries Service.

NOV 07 2012

Date