

**Comments received on the proposed Incidental Harassment Authorization for the Elkhorn Slough Tidal Wetland Project and U.S. Fish and Wildlife Service responses**

We, the U.S. Fish and Wildlife Service (USFWS), received three comment letters during the 30-day comment period on the proposed Incidental Harassment Authorization (IHA) for a tidal marsh restoration project within the Minhoto-Hester Marsh in Elkhorn Slough, Monterey County, California (82 FR 6627, January 19, 2017). Substantive comments (edited for clarity and brevity) and our responses are listed below.

Comment	Response
USFWS should include an explicit provision requiring the reporting of injured and dead marine mammals to the Monterey Bay Aquarium and USFWS’s Southern Sea Otter Recovery Coordinator in the Final IHA.	We have added that provision to the final IHA (see item 8(b)).
USFWS should include an explicit provision requiring the submission of a written report to USFWS in the Final IHA.	We have added that provision to the final IHA (see item 8(a)).
USFWS should issue the incidental harassment authorization, subject to the inclusion of the proposed mitigation, monitoring, and reporting measures.	We have issued the final IHA.
I request supplemental requirements for biological monitoring for work occurring in “other areas” where monitoring would cease after three successive days of no observed disturbance. Because of the length of the project (11 months), it is possible circumstances could change to present a risk to sea otters after the suspension of monitoring that would not be detected. Accordingly, I request that periodic checks be made, even in the absence of a significant change in activities, to ensure that the potential for impacts to sea otters has not increased after suspension of monitoring.	Sea otters are routinely monitored by staff of the Elkhorn Slough National Estuarine Research Reserve. We added text to the final IHA (item 7(b)) specifying that “monitoring shall be reinstated immediately if any significant behavioral changes are noted during routine monitoring performed by staff of the Elkhorn Slough National Estuarine Research Reserve.”
I agree that biological monitors should have the authority to stop work at any time for the “safety of any marine mammals.” It would be helpful to clarify the meaning of “safety,” as that is not a defined term under the Marine Mammal Protection Act.	We have clarified the meaning of safety under item 6(d) of the final IHA, which now refers to item 7(c). Item 7(c) states that the biological monitor “shall have the authority to stop project activities if marine mammals approach or enter the exclusion zone or if, in the professional judgment of the monitor, sea otters outside the exclusion zone display a significant and alarming reaction to construction activity.”

<p>The authority to suspend activities should cover the potential for takes that are not covered by this incidental take authorization based on the type of take involved or the number of animals covered.</p>	<p>This comment is addressed in item 7(d) of the final IHA, which states that the biological monitor “shall have the authority to stop project activities if take exceeds the type or level of take anticipated.”</p>
<p>The final IHA should require the immediate cessation of work if the take limits are reached.</p>	<p>This comment is addressed under 5(c) of the final IHA, which states, “The taking of any southern sea otter after anticipated take levels are reached is prohibited unless written permission is obtained from the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California, 93003.”</p>
<p>I therefore request that the monitoring data include observations of sea otter behavioral responses to noise and be made available to the U.S. Geological Survey (USGS).</p>	<p>A detailed monitoring plan (Appendix B to the IHA request) describes the monitoring, which will include detailed observations of behavior in relation to construction activity. The monitoring results will be public information and will be made available to USGS.</p>

In addition to comments received during the comment period, we received a request from the project proponent to delay the start date of the one-year authorization to August 1, 2017, due to the availability of contractors to begin work on the project. Because delaying the start date does not change our analysis of the effects of the project, we have issued the final IHA with a start date of August 1, 2017.