



# MARINE MAMMAL COMMISSION

12 September 2012

Mr. P. Michael Payne, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by the U.S. Fish and Wildlife Service under section 101(a)(5)(D) of the Marine Mammal Protection Act. The Service is seeking authorization to take small numbers of pinnipeds by harassment incidental to research on bird hazing methods in the Farallon National Wildlife Refuge in California. The Commission also has reviewed the National Marine Fisheries Service's 27 August 2012 notice (77 Fed. Reg. 51773) requesting comments on its proposal to issue the authorization, subject to certain conditions.

## **RECOMMENDATION**

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures.

## **RATIONALE**

The Fish and Wildlife Service proposes research to assess potential bird hazing methods to be used to minimize the risk of birds ingesting rodent bait that the Service hopes to use on Southeast Farallon Island. By eradicating the invasive house mice, the Service would protect burrow-nesting sea birds, assist in the recovery of native plants and endemic species, and prevent the spread of disease to marine mammals. The hazing methods could include the use of handheld lasers, spotlights, biosonic systems (i.e., systems that broadcast various bird calls), pyrotechnics (i.e., bird bombs, CAPA charges, screamers, and screamer-bangers), Zon gun air cannons, helicopter overflights, kites and radio-controlled aircraft overflights, mylar tape, and/or trained dogs. Up to five field biologists would use those various methods to determine how well they keep birds away from selected areas. Gaining access to certain seabird roosting sites would require close approach to some pinniped haulouts or rookeries. The researchers would spend up to five hours daily on the Island for a two- to four-week period from 1 November 2012 through 31 January 2013. Increased presence of humans and aircraft overflights would be the main source of pinniped disturbance. Helicopters also would be used to survey the Island for seabirds and pinnipeds that are not visible from the main observation point, move and deploy equipments to/from areas inaccessible on foot, and to conduct radio-telemetry studies to assess the movements of the seabirds and the efficacy of the hazing methods.

The National Marine Fisheries Service preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of 3,538 California sea lions, 81 Pacific harbor seals, 328 northern elephant seals, 56 Steller sea lions, and 109 northern fur seals. It also anticipates that any impact on the affected species and stocks would be negligible. The National Marine Fisheries Service does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance would be at the least practicable level because of the proposed mitigation and monitoring measures. Those measures include—

- (1) restricting the timing of proposed activities to the non-pupping season for California sea lions, harbor seals, Steller sea lions, and northern fur seals
- (2) avoiding hauled out elephant seal females and pups
- (3) limiting the use of pyrotechnics directly over a major pinniped haul-out site
- (4) using the lowest air cannon setting needed to elicit a seabird response and adjusting the setting if pinnipeds exhibit large-scale disturbance (i.e., stampeding)
- (5) using a slow sequential approach of decreasing helicopter altitude to minimize disturbance
- (6) using kites and radio-controlled aircraft sparingly around harbor seals
- (7) retrieving any downed kites or aircraft using a slow methodical approach to avoid large-scale disturbances
- (8) ensuring trained dogs are kept at least 30 m from any pinniped to minimize disturbance and ensuring those dogs have the necessary immunizations and health certificates to limit transmittable diseases
- (9) selecting cautious approaches to the study sites, avoiding close contact with hauled out pinnipeds, using extreme caution upon approach to the sites, and avoiding loud noises
- (10) monitoring the offshore areas for predators (i.e., white sharks and killer whales) and avoiding flushing pinnipeds when predators are observed in nearshore waters
- (11) using qualified personnel to monitor and document pinniped reactions to the proposed activities
- (12) immediately reporting any observed injury or death resulting from the proposed activities or take of a species for which authorization has not been granted to the Service and suspending activities until it determines how to proceed, and
- (13) submitting a final report.

The Marine Mammal Commission concurs with the National Marine Fisheries Service's preliminary finding and recommends that the Service issue the incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures.

### **In-situ sound measurements**

The National Marine Fisheries Service suggested that the Fish and Wildlife Service conduct in-situ sound measurements during the use of biosonic systems, pyrotechnics, and air cannons because measurements of such in-air sounds are lacking generally and particularly for the proposed sources. The Commission concurs with that suggestion. The Fish and Wildlife Service has indicated that it appreciates the value of such information and plans to collect it if it has the resources to do so. To find the necessary resources, the Services may wish to contact the Natural Sounds and Night Skies Division of the Natural Resource Stewardship and Science Directorate, National Park Service. That Division was established specifically for such purposes and may be able to contribute the necessary resources.

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Please contact me if you have any questions concerning this recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Timothy J. Ragen, Ph.D.  
Executive Director

cc: Gerry McChesney, Farallon National Wildlife Refuge