



MARINE MAMMAL COMMISSION

7 August 2009

Mr. P. Michael Payne, Chief
Permits, Conservation, and Education Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by United Launch Alliance under section 101(a)(5)(D) of the Marine Mammal Protection Act. The applicant seeks to renew a one-year incidental harassment authorization for the take of small numbers of pinnipeds incidental to activities related to the Delta IV/Evolved Expendable Launch Vehicle at South Vandenberg Air Force Base, California. The Commission also has reviewed the National Marine Fisheries Service's 8 July 2009 *Federal Register* notice (74 Fed. Reg. 32567) requesting comments on the application and proposing to issue the authorization, subject to certain conditions.

The applicant is requesting authorization to take small numbers of Pacific harbor seals, California sea lions, and northern elephant seals during transport vessel operations, cargo movement activities, harbor maintenance dredging, and kelp habitat maintenance operations in the harbor at South Vandenberg Air Force Base. The principal means of taking would be by disturbance resulting from the presence of, and noise generated by, heavy equipment and other construction activities, including vessel traffic during dredging activities and docking and cargo movement activities associated with the operation of the launch facility. Noise from these various sources is estimated to range from 56 to 95 dBA at a distance of 76.2 m (250 ft) from the sources.

The Service states that incidental harassment authorizations have been issued annually since 2002 for essentially the same activities as are being proposed. The Service has preliminarily determined that the effects of the proposed activities would be limited to short-term startle responses and localized behavioral changes (i.e., Level B harassment) for small numbers of the affected species and would have no more than a negligible impact on those marine mammal stocks.

RECOMMENDATION

The Service's preliminary determinations appear to be reasonable, and the Marine Mammal Commission recommends that the National Marine Fisheries Service approve the request, provided that—

- all reasonable measures will be taken to ensure the least practicable impact on the subject species, and

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- the required mitigation and monitoring activities are carried out as described in the Service's 8 July 2009 *Federal Register* notice and the application.

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

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director