



MARINE MAMMAL COMMISSION

21 March 2017

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Glacier Bay National Park's (GBNP) application for authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA) to take small numbers of marine mammals by harassment. The taking would be incidental to conducting seabird surveys in Glacier Bay National Park and Preserve in Alaska from May through September 2017. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 8 March 2017 notice (82 Fed. Reg. 12931) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

GBNP plans to conduct up to three ground- and two vessel-based surveys at up to four study sites where marine mammals may be present. Those surveys would occur from May through September. The purpose of the surveys is to (1) identify onset of gull nesting, (2) conduct surveys of adult gulls, and (3) document gull nest sites. Vessel- and research-related sound and the increased presence of humans would be the main sources of marine mammal disturbance.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of harbor seals. It also anticipates that any impact on the affected species and stocks would be negligible. NMFS does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance will be at the least practicable level because of the proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

- conducting pre-survey monitoring before accessing a study site;
- avoiding a site if Steller sea lions are hauled out or killer whales are present offshore;
- accessing each study site slowly to prevent a panicked exit and selecting a pathway of approach farthest from the seals to minimize the number harassed;
- moving slowly when at the study site and using quiet voices in the visual presence of pinnipeds;
- using qualified observers to monitor and record observations of pinnipeds within the vicinity of the proposed study sites;

- reporting (1) unusual behaviors, numbers, or distributions of pinnipeds, (2) rare or unusual species of marine mammals, and (3) tag-bearing carcasses of pinnipeds to the Alaska Department of Fish and Game and the Alaska Fisheries Science Center;
- reporting injured and dead marine mammals to NMFS and the Alaska Regional Stranding Coordinator using NMFS's phased approach and suspending activities, if appropriate; and
- submitting a final monitoring report.

Estimation of takes

The method NMFS used to estimate the numbers of takes during the proposed activities, which summed fractions of takes for harbor seals across survey days prior to rounding to a whole number of seals, does not account for and negates the intent of NMFS's 24-hour reset policy. NMFS should have used the average harbor seal count at each survey site rounded to a whole number *before* multiplying it by the number of days that activities would occur—a tack taken for all previous incidental take authorizations based on average¹ pinniped counts (e.g., 81 Fed. Reg. 8927, 81 Fed. Reg. 96420). This is the first time that the Commission is aware that NMFS has used fractions of seals based on actual pinniped counts to inform its take estimation process.

The Commission discussed the rounding issue, which generally had been based on species-specific densities and associated ensonified areas, with NMFS in mid-summer 2016 and a follow-on meeting was to be scheduled. Therefore, the Commission again recommends that NMFS follow its policy of a 24-hour reset for enumerating the number of harbor seals that could be taken during the proposed activities by applying standard rounding rules before summing the numbers of estimated takes across survey sites and survey days. The Commission requests a meeting in the next month to address and ultimately resolve this matter.

Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director

¹ Weighted average counts have been used in previous authorizations rather than simple average counts as was used for the proposed authorization. In general, the Commission notes that maximum pinniped counts are used more frequently than 'average' counts when estimating pinniped harassment takes based on human presence—the upper confidence interval of the mean has been used for a few authorizations as well. Given these inconsistencies, it would be prudent for NMFS to provide guidance to applicants stipulating which metric should be used.