



MARINE MAMMAL COMMISSION

15 October 2018

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 application submitted by U.S. Air Force (the Air Force) seeking issuance of regulations under section 101(a)(5)(A) of the Marine Mammal Protection Act. The Air Force proposed to take marine mammals by harassment incidental to conducting rocket launches at Vandenberg Air Force Base (VAFB) in California. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 13 September 2018 notice (83 Fed. Reg. 46483) announcing receipt of the application and proposing to issue regulations, subject to certain conditions.

In recent years, incidental harassment of marine mammals subsequent to rocket launches has been authorized under a final rule and letter of authorization issued to the Air Force, while harassment subsequent to rocket boost-backs and landings has been authorized under incidental harassment authorizations issued to Space Explorations Technology Corporation (SpaceX). Given that boost-backs and subsequent landings occur shortly after the rocket is launched, the Commission is unsure why the Air Force has not proposed to include boost-back and landing activities in its regulations rather than continue to have those activities authorized under separate incidental harassment authorizations to SpaceX. Such an approach segments what is essentially a single activity. The Commission has commented previously¹ that the totality of a rocket activity (both the launch and boost-back and landing of the same rocket) should be covered under a single authorization, which should be the Air Force's regulations. Therefore, the Commission recommends that NMFS include in its proposed rule rocket boost-back and landing activities rather than authorizing those activities under separate incidental harassment authorizations.

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

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas".

Peter O. Thomas, Ph.D.,
Executive Director

¹ See its [15 November 2017](#) and [21 April 2016](#) letters.