



# MARINE MAMMAL COMMISSION

21 December 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 National Park Service's (NPS) application for authorization under section 101(a)(5)(A) 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<sup>1</sup> and climate monitoring activities in Alaska. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 13 December 2018 notice (83 Fed. Reg. 64078) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

NPS plans to conduct seabird surveys and/or climate monitoring activities in Glacier Bay National Park, Katmai National Park and Preserve, Kenai Fjords National Park, and Katchemak Bay. 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 and Steller sea lions<sup>2</sup>. 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 a harbor seal pup less than one week of age is present or killer whales are present offshore;

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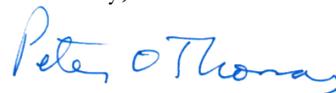
<sup>1</sup> NMFS inadvertently stated in the *Federal Register* notice that seabird and marine mammal surveys were to be conducted. However, only dedicated seabird surveys are proposed to be conducted. Any sighting of a marine mammal would be incidental to the seabird surveys. NMFS indicated that it would amend the preamble to the final rule accordingly.

<sup>2</sup> The Commission informally noted that NMFS did not account for the Southwest Alaska Inventory and Monitoring Network (SWAN) conducting both summer and winter surveys. Thus, the proposed numbers of takes would increase by 300 for harbor seals and 200 for Steller sea lions on an annual basis. The Commission also noted minor errors in the calculations of the proposed numbers of takes for activities to be conducted by NPS in Glacier Bay National Park. NMFS indicated that it would incorporate those revisions in the preamble to the final rule accordingly.

- maintaining a distance of 100 m from Steller sea lions<sup>3</sup> during gull surveys and climate monitoring activities;
- maintaining a distance of 100 to 150 m from shore during SWAN surveys and a constant vessel speed to minimize disturbance of hauled-out pinnipeds and, if sighting conditions allow, maintaining a distance of greater than 150 m;
- avoiding known Steller sea lion rookeries during SWAN surveys;
- accessing each study site slowly to prevent a panicked exit by the animals and selecting a pathway of approach farthest from the animals to minimize the number harassed;
- moving slowly when at the study site and using quiet voices in the visual presence of pinnipeds;
- avoiding killer, humpback, and beluga whales by remaining at least 463 m away from a whale and, if accidentally positioned within 463 m of a whale, slowing the vessel to 10 knots or less and maintaining a course away from the whale;
- using qualified observers to monitor and record observations of pinnipeds within the vicinity of the proposed study sites;
- using avoidance measures, if a species for which authorization has not been granted or if a species for which authorization has been granted but the authorized number of takes has been met, is observed near the proposed activities<sup>4</sup>;
- reporting (1) unusual behaviors, numbers, or distributions of pinnipeds, (2) rare or unusual species of marine mammals, (3) tag-bearing carcasses of pinnipeds, and (4) vessel-based counts of marine mammals, including branded 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.

The Commission concurs with NMFS's preliminary findings and recommends that NMFS issue the final rule, subject to inclusion of the proposed mitigation, monitoring, and reporting measures. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,



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

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<sup>3</sup> Sea lions may be approached during the other seabird line-transect surveys conducted by SWAN.

<sup>4</sup> The Commission informally noted that NMFS did not include this standard measure in the proposed rule. NMFS indicated it would be included in the final rule.