



MARINE MAMMAL COMMISSION

30 August 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 Gulf of the Farallones National Marine Sanctuary under section 101(a)(5)(D) of the Marine Mammal Protection Act. The Sanctuary is seeking authorization to take small numbers of pinnipeds by harassment incidental to black abalone research in the Farallon Islands, California. The Commission also has reviewed the National Marine Fisheries Service's 23 August 2012 *Federal Register* notice (77 Fed. Reg. 50990) 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 Sanctuary proposes to continue research on black abalone populations during extreme low tides at up to 13 study sites on Southeast Farallon and Maintop Islands. Researchers have been surveying some of those populations since 1992, plan to continue the surveys as part of the long-term Sanctuary's Ecosystem Assessment Surveys program, and plan to supplement the surveys by searching for abalone in areas previously unexplored. Three to four field biologists would conduct the surveys on foot. Gaining access to certain sites would require close approach to some pinniped haulouts or rookeries. The researchers would visit the sites for up to four daylight hours per visit in November 2012 and February 2013. Increased presence of humans would be the main source of pinniped disturbance. The Sanctuary plans to continue these surveys in future years and would re-apply for the necessary incidental harassment authorizations to do so.

The Service preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of 6,850 California sea lions, 175 Pacific harbor seals, 225 northern elephant seals, 95 Steller sea lions, and 20 northern fur seals. It also anticipates that any impact on the affected species and stocks would be negligible. The 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) rescheduling surveys at sites where pups are present for species other than elephant seals
- (3) avoiding hauled out elephant seal females and pups
- (4) 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
- (5) monitoring the offshore areas for predators (i.e., white sharks and killer whales) and avoiding flushing pinnipeds when predators are observed in nearshore waters
- (6) coordinating sampling efforts with other permitted researchers (e.g., from the U.S. Fish and Wildlife Service and PRBO Conservation Science, formally Point Reyes Bird Observatory)
- (7) using qualified personnel to monitor and document pinniped reactions to the proposed activities
- (8) reporting unusual behaviors, numbers, or distributions of pinnipeds to the Service and PRBO Conservation Science
- (9) reporting carcasses with tags and rare or unusual marine mammal species to the Service and PRBO Conservation Science
- (10) 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
- (11) 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.

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

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director