



# MARINE MAMMAL COMMISSION

3 December 2013

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 (the 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 (GFNMS) under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA). GFNMS 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 (NMFS) 27 November 2013 *Federal Register* notice (78 Fed. Reg. 70921) requesting comments on its proposal to issue the authorization, subject to certain conditions. The Commission previously commented on a similar proposed incidental harassment authorization.

## 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

GFNMS proposes to continue research on black abalone populations during extreme low tides at up to 12 study sites on Southeast Farallon and Maintop Islands. Researchers have been surveying some of those populations since 1992. They plan to continue the surveys as part of the long-term GFNMS's Ecosystem Assessment Surveys program and to supplement previous surveys by searching for abalone in unexplored areas. Five to six field biologists would conduct the surveys on foot. The researchers would visit the sites twice during daylight hours in January and February 2014. Increased presence of humans would be the main source of pinniped disturbance.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of California sea lions, Pacific harbor seals, northern elephant seals, Steller sea lions, and northern fur 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 would be at the least practicable level because of the proposed mitigation and monitoring measures. Those measures include—

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- (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 newborn and nursing elephant seal pups;
- (4) selecting cautious approaches to the study sites, avoiding close approaches of pinnipeds, conducting slow movements and staying close to the ground, 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 Point Blue Conservation Science, formally PRBO Conservation Science);
- (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 Point Blue Conservation Science;
- (9) reporting carcasses with tags and rare or unusual marine mammal species to the Service and Point Blue 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 NMFS and suspending activities until it determines how to proceed; and
- (11) submitting a final report.

The Commission concurs with NMFS's preliminary finding and recommends that NMFS issue the incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures.

Thank you for the opportunity to provide comments on GFNMS's application. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.  
Executive Director