



MARINE MAMMAL COMMISSION

24 January 2011

Mr. P. Michael Payne, Chief
Permits, Conservation, and Education Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's 23 December 2010 *Federal Register* notice (75 Fed. Reg. 80773) and Alaska Aerospace Corporation's application seeking incidental take authorization under section 101(a)(5)(A) of the Marine Mammal Protection Act. The taking would involve small numbers of harbor seals and Steller sea lions during the launching of long-range ballistic target missiles, other smaller missile systems, and space launch vehicles at the Kodiak Launch Complex, Alaska. The authorization would extend from March 2011 through February 2016. The Alaska Aerospace Corporation has conducted similar activities at this site in the past, and the Commission commented on a similar authorization in 2004.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Marine Fisheries Service—

- include in its final rule all of the applicant's proposed mitigation and monitoring measures, including those described in the preamble;
- require the Alaska Aerospace Corporation to use a remote video-camera system to monitor harbor seals on the eastern side of Ugak Island during at least five launches; if the cameras detect any disturbance, then the applicant and the Service should consult to determine what monitoring adjustments are needed and, if the authorized harbor seal takes are exceeded due to disturbance on the eastern side of the island, the applicant should consult with the Service to determine if amendments to the regulations or letters of authorization are needed;
- require appropriate monitoring of Steller sea lions before, during, and after launches to determine if the launches are disturbing the sea lions' use of Ugak Island and possibly discouraging more sea lions from hauling out there; and
- advise the applicant of the need to consult with the Fish and Wildlife Service regarding the potential incidental take of sea otters.

RATIONALE

Alaska Aerospace Corporation has requested authorization for Level B harassment of all age classes of harbor seals and of juvenile and adult Steller sea lions. The applicant also is requesting authorization to take a small number of harbor seal pups by Level A harassment, or death. All takes would be incidental to launches, and the maximum in-situ sound exposure level of any launch would be 101.4 dB re 20 μ Pa²-sec. The applicant proposes to conduct 45 daytime or nighttime launches during the five-year period.

The National Marine Fisheries Service preliminarily has determined that the total taking would have a negligible impact on the affected species and stocks. Its determination is based in part on mitigation and monitoring measures in the proposed rule, including—

- security overflights prior to launches that would maintain a distance of 0.4 km and an altitude greater than 305 m from haul-out sites;
- avoidance of launches during the harbor seal pupping season (15 May through 30 June);
- deployment of a remote camera system for visual monitoring of a haul-out site prior to, during, and after launches;
- quarterly marine mammal abundance surveys;
- in-situ sound measurements of new classes of vehicles to correlate behavioral responses; and
- an adaptive management approach that would allow for the review and revision of launch procedures and monitoring requirements if the distribution, size, or productivity of the pinniped populations are affected by the launch activities.

The Marine Mammal Commission recommends that the National Marine Fisheries Service include all of the proposed mitigation and monitoring measures in its final rule, including those described in the preamble.

Monitoring of Harbor Seals and Steller Sea Lions

Harbor seals: The launch site is on Kodiak Island, but the pinniped haul-out sites of concern are located on Ugak Island and are a minimum of about 5.6 km from the launch site. Aerial surveys have detected a maximum of 1,534 harbor seals on Ugak Island and within a 9.7-km radius of the launch site, which the applicant treats as a primary study area. Most of the seals (about 97 percent) that use the island are found on its eastern shore. The remainder (a maximum of 125) uses the island's northern shore, which is closer to the launch site and more exposed to launch-related sound. The Service assumes that launches would take harbor seals on the northern side of the island only and proposes to authorize the taking of up to 1,125 harbor seals per year based on the maximum count of 125 seals on the northern shore and an average of nine launches per year.

The Service does not expect that launches will take harbor seals on the island's eastern side because the primary haul-out site is 8 km from the launch site, at the base of 305-m cliffs facing away from the launch site, and on the windward side of the island where ambient sound levels may

mask launch-related sounds, at least to a degree. To test this assumption, the applicant proposes to install a live-streaming video system overlooking the primary harbor seal haul-out site. The application indicates this system would remain in place year-round, but the proposed rule indicates that it could be moved after the first five launches and consultation with the Service. The proposed rule also would require that qualified protected species observers set up a remote camera to monitor a harbor seal rookery if any launches occur during the harbor seal pupping season. The Marine Mammal Commission concurs with the need to test this assumption and recommends that the National Marine Fisheries Service require the Alaska Aerospace Corporation to use a remote video-camera system to monitor harbor seals on the eastern side of Ugak Island during at least five launches. If the cameras detect any disturbance, then the applicant and the Service should consult to determine what monitoring adjustments, if any, are needed. In addition, if the authorized harbor seal takes are exceeded due to disturbance on the eastern side of the island, the Alaska Aerospace Corporation should consult with the Service to determine if amendments to the regulations or letters of authorization are needed.

Steller sea lions: Since 2000 aerial surveys have detected a maximum of eight Steller sea lions within a 9.7-km radius of the launch site. Hundreds of sea lions used the island historically, but their numbers have declined in a manner that appears to be consistent with the overall decline of the western stock. Importantly, the sea lions using the island are males, and their presence tends to be limited to the post-breeding period from June to September. Even seasonally, they are presently rare around Ugak Island. The haul-out areas that sea lions have used include parts of the northern shore (5.6 to 7.2 km from the launch site) and a tidally exposed rock off that shore (6.8 km from the launch site). The Service proposes to authorize launch-related taking of 32 Steller sea lions per year.

The small number of sea lions in the area, their seasonal presence, and the fact that they are all males suggest that launch-related disturbance likely will be negligible. Nonetheless, sea lions in this area are likely part of the endangered western stock, and disturbance from launches may discourage sea lions generally from using this area in the future. That kind of impact may not be negligible. One way to determine if the launches are discouraging sea lions from using Ugak Island would be to avoid launches during the June-to-September period to determine if the number of sea lions using the area increases over time. The Marine Mammal Commission recommends that, at the least, the National Marine Fisheries Service require appropriate monitoring of Steller sea lions before, during, and after launches to determine if the launches are disturbing the sea lions' use of Ugak Island and possibly discouraging more sea lions from hauling out there.

Sea otters

Sea otters occur in the proposed action area and also may be harassed incidental to the launches. This species is under the jurisdiction of the Fish and Wildlife Service and is not included in the proposed rule. Nevertheless, the Commission believes that the applicant should consult with the Fish and Wildlife Service to determine whether a separate incidental take authorization is needed for sea otters. The Marine Mammal Commission therefore recommends that the National Marine Fisheries Service advise the applicant of the need to consult with the Fish and Wildlife Service regarding the potential incidental take of sea otters.

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

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a large, looped 'T' and 'R'.

Timothy J. Ragen, Ph.D.
Executive Director

cc: Rosa Meehan, Ph.D.