



MARINE MAMMAL COMMISSION

10 July 2012

Mr. P. Michael Payne, Chief
Permits and Conservation 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 United Launch Alliance's application seeking to renew its authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act to take small numbers of marine mammals by harassment. The taking would be incidental to *Delta Mariner* operations, cargo unloading activities, and harbor maintenance activities. These activities would be related to the Delta IV/Evolved Expendable Launch Vehicle at south Vandenberg Air Force Base, California and would occur year-round from September 2012 through August 2013. The Commission also has reviewed the National Marine Fisheries Service's 28 June 2012 notice (77 Fed. Reg. 38587) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions. The Commission previously commented on numerous incidental harassment authorizations for these activities.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures.

RATIONALE

United Launch Alliance plans to conduct Delta IV/Evolved Expendable Launch Vehicle activities from September 2012 through August 2013. However, the activities only would occur for 43 days during that one-year period. The proposed activities would include (1) transport of the launch vehicle by the *Delta Mariner* and a tugboat, (2) maintenance dredging in the harbor to accommodate the *Delta Mariner*, and (3) cargo movement. Use of dredging and construction equipment and human presence would be the main source of disturbance of marine mammals.

The Service preliminarily has determined that, at most, the proposed activities would result in the temporary modification of the behavior of 1,161 harbor seals, 86 California sea lions, and 43 northern elephant 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 will be at the least practicable level because of the proposed mitigation and monitoring measures. Those measures include—

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- (1) initiating operations before dusk;
- (2) turning on lighting equipment before dusk and keeping lighting equipment on throughout the night, if activities occur at night;
- (3) keeping construction sound at a constant, uninterrupted level while pinnipeds are present;
- (4) initiating a gradual startup of activities if they are stopped for longer than 30 minutes and pinnipeds are present;
- (5) limiting the arrival and departure of the *Delta Mariner* and the accompanying tugboat to high tides and daylight hours;
- (6) restricting vessel speed to 2.8–3.7 km/hr within 4.8 km of the harbor and 1.4 km/hr when approaching the wharf and moorings and approaching stern side first;
- (7) introducing quieter dredging techniques and equipment as alternate methods are explored;
- (8) using a qualified observer to monitor the day before, during, and the day after the proposed activities at times when tides are less than or equal to 0.6 m and pinnipeds can haul out;
- (9) using a night-vision scope to monitor activities, if those activities occur at night;
- (10) reporting injured and dead marine mammals to the Service and local stranding network using the Service's phased reporting approach and suspending activities, if appropriate; and
- (11) submitting a final comprehensive monitoring report to the Service.

The Commission concurs with the National Marine Fisheries Service's preliminary finding. The activities will occur for a relatively short period, should not result in any injury or mortality, and at most can be expected to result in short-term changes in marine mammal behavior that should not have long-term consequences. For those reasons, the Marine Mammal Commission recommends that the Service issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures.

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

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director