



MARINE MAMMAL COMMISSION

6 May 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 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 June 2011 to June 2012. The Commission also has reviewed the National Marine Fisheries Service's 19 April 2011 *Federal Register* notice (76 Fed. Reg. 21862) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions. The Commission previously has 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, including a condition that requires suspension of the proposed activities if the Service determines that an injury or death of a marine mammal may have resulted from those activities and that modifications to the proposed activities or mitigation measures would be warranted.

RATIONALE

United Launch Alliance plans to conduct Delta IV/Evolved Expendable Launch Vehicle activities from 6 June 2011 to 5 June 2012. However, the proposed activities would occur for 43 days only during that one-year period. The 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 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 1,075 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. The measures include—

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- initiating operations before dusk;
- turning on lighting equipment before dusk and keeping lighting equipment on throughout the night, if activities occur at night;
- keeping construction sound at a constant, uninterrupted level while pinnipeds are present;
- initiating a gradual startup of activities if they are stopped for longer than 30 minutes and pinnipeds are present;
- using qualified observers to monitor the day before, during, and the day after harbor maintenance activities at times when tides are less than or equal to 0.6 m and pinnipeds can haul out;
- limiting the use of the *Delta Mariner* and other vessels to periods with high tides;
- restricting vessel speed to 1.5 to 2 knots within 3 miles of the harbor and 0.75 knots when approaching the wharf and moorings, stern side first;
- introducing quieter dredging techniques and equipment as alternate methods are explored; and
- reporting all injured and dead pinnipeds in the vicinity of the proposed activities immediately to the National Marine Fisheries Service.

The Marine Mammal Commission concurs with the National Marine Fisheries Service's preliminary finding and recommends that the Service issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures, including a condition that requires suspension of the proposed activities if the Service determines that an injury or death of a marine mammal may have resulted from those activities and that modifications to the proposed activities or mitigation measures would be warranted.

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

Sincerely,



Timothy J. Ragen, Ph.D.
Executive Director