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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC350

Takes of Marine Mammals Incidental to Specified Activities; St. George Reef Light Station Restoration and Maintenance at Northwest Seal Rock, Del Norte County, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we, NMFS, have issued an Incidental Harassment Authorization (Authorization) to the St. George Reef Lighthouse Preservation Society (Society) to take four species of marine mammals, by Level B harassment only, incidental to conducting helicopter operations, and lighthouse renovation and light maintenance activities on the St. George Reef Light Station on Northwest Seal Rock (NWSR) offshore of Crescent City, California in the northeast Pacific Ocean, from the period of November 2013 through December 2013.

DATES: This authorization is effective from November 25, 2013, through December 31, 2013.

ADDRESSES: A copy of the Authorization and application are available by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see FOR FURTHER INFORMATION CONTACT) or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 et seq.) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if: (1) We make certain findings; (2) the taking is limited to harassment; and (3) we provide a notice of a proposed authorization to the public for review.

We shall allow authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (i.e., mitigation); and requirements

pertaining to the monitoring and reporting of such takings. We have defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorization for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, we must either issue or deny the authorization and must publish a notice in the Federal Register within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

We received an application on May 8, 2012, from the Society for the taking by harassment, of marine mammals, incidental to conducting aircraft operations and restoration and maintenance activities on the St. George Reef Light Station (Station) for

the 2013 season. We determined that application complete and adequate on November 27, 2012 and made the complete application available for public comment (see ADDRESSES) in January 2013.

The Society's restoration activities would: (1) Restore and preserve the Station on a monthly basis (November through December); and (2) perform periodic, annual maintenance on the Station's optical light system. The Station, which is listed in the National Park Service's National Register of Historic Places, is located on NWSR offshore of Crescent City, California in the northeast Pacific Ocean.

The specified activities would occur in the vicinity of a possible pinniped haul out site located on NWSR. Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); (3) maintenance activities (e.g., bulb replacement and automation of the light system); and (4) human presence, may have the potential to cause any pinnipeds hauled out on NWSR to flush into the surrounding water or to cause a short-term behavioral disturbance. These types of disturbances are the principal means of marine mammal taking associated with these activities and the Society has requested an authorization to take 204 California sea lions (Zalophus californianus); 36 Pacific Harbor seals (Phoca vitulina); 172 Steller sea lions (Eumetopias jubatus); and six northern fur seals (Callorhinus ursinus) by Level B harassment.

To date, we have issued three 1-year Authorizations to the Society for the conduct of the same activities from 2009 to 2012. This will be the Society's fourth Authorization for the same activities for the remainder of the 2013 season.

Description of the Specified Activity and Specified Geographic Region

The Society would conduct aircraft operations, lighthouse restoration, and light maintenance activities between November 25, 2013, through December 31, 2013, at a maximum frequency of one session per month. The duration for each session would last no more than three days (e.g., Friday, Saturday, and Sunday).

The Station is located on a small, rocky islet (41°50'24" N, 124°22'06" W) approximately nine kilometers (km) (6.0 miles (mi)) in the northeast Pacific Ocean, offshore of Crescent City, California (Latitude: 41°46'48" N; Longitude: 124°14'11" W).

We outlined the purpose of the Society's activities in a previous notice for the proposed authorization (78 FR 1838, January 9, 2013). The proposed activities have not changed between the proposed authorization notice and this final notice announcing the issuance of the Authorization. For a more detailed description of the authorized action, including aircraft and acoustic source specifications, the reader should refer to the notice for the proposed authorization (78 FR 1838, January 9, 2013).

Comments and Responses

We published a notice of receipt of the Society's application and proposed Authorization in the Federal Register on January 9, 2013 (78 FR 1838). During the 30-day comment period, we received one comment from the Marine Mammal Commission (Commission) which recommended that we issue the requested Authorization, provided that the required monitoring and mitigation measures are carried out (e.g., restrictions on the timing and frequency of activities, restrictions on helicopter approaches, timing measures for helicopter landings, and measures to minimize acoustic and visual disturbances) as described in the notice of the proposed authorization (78 FR 1838,

January 9, 2013) and the application. We have included all measures proposed in the notice of the proposed authorization (78 FR 1838, January 9, 2013) in the Authorization.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species likely to be harassed incidental to helicopter operations, lighthouse restoration, and lighthouse maintenance on NWSR are the California sea lion, the Pacific harbor seal, and the eastern Pacific stock of northern fur seal, and the eastern Distinct Population Segment (DPS) of Steller sea lion which NMFS has removed from the list of threatened species under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et seq.), effective in November, 2013. Steller sea lions and northern fur seals are not listed as threatened or endangered under the ESA but are categorized as depleted under the MMPA. California sea lions and Pacific harbor seals are not listed as threatened or endangered under the ESA nor are they categorized as depleted under the MMPA.

Potential Effects of the Activity on Marine Mammals

Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) noise generated during restoration activities (e.g., painting, plastering, welding, and glazing); and (3) maintenance activities (e.g., bulb replacement and automation of the light system) may have the potential to cause Level B harassment of any pinnipeds hauled out on NWSR. The effects of sounds from helicopter operations and/or restoration and maintenance activities might include one of the following: temporary or permanent hearing impairment or behavioral disturbance (Southall, et al., 2007).

The notice for the proposed Authorization (78 FR 1838, January 9, 2013) included a discussion of the effects of sounds from: (1) The sound levels produced by the helicopter;

(2) behavioral reactions (or lack thereof) of pinnipeds to helicopter operations and light construction noise; (3) hearing impairment and other non-auditory physical effects; (4) behavioral reactions to visual stimuli; (5) and specific observations gathered during previous monitoring of the marine mammals present on NWSR. We have reviewed these data and determined them to be the best available information for the purposes of this Authorization.

To summarize, the effects of the Society's helicopter operations and restoration activities on the marine mammals present on NWSR would range from no response to a short-term startle response. These behavioral changes have the potential to cause the animals to haul-out leading to temporary displacement from the island and we expect no permanent abandonment of NWSR by the animals. Finally, we anticipate that there will be no instances of injury or mortality during the project. No activities would occur on pinniped rookeries and we do not expect mother and pup separation or crushing of pups to occur.

Anticipated Effects on Marine Mammal Habitat

The notice for the proposed Authorization (78 FR 1838, January 9, 2013) included a discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates. While we anticipate that the specified activity may result in marine mammals avoiding NWSR during the helicopter operations and restoration activities, this impact to habitat is temporary and reversible. We consider the impacts of avoidance in the notice for the proposed Authorization (78 FR 1838, January 9, 2013) as behavioral modification.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

The Society has based the mitigation measures which they will implement during the proposed helicopter operations and restoration activities, on the following: (1) Protocols used during previous Authorizations for helicopter operations and restoration activities as approved by us; (2) recommended best practices in Richardson *et al.* (1995); and (3) reasonable and prudent measures implemented by the terms and conditions of previous section 7 ESA Biological Opinion (BiOp) Incidental Take Statement (ITS).

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities, the Society and/or its designees will implement the following mitigation measures for marine mammals:

- (1) Limit the time and frequency of the restoration activities;
- (2) Employ helicopter approach and timing techniques; and
- (3) Avoidance of visual and acoustic contact with marine mammals by the Society and/or its designees.

Time and Frequency: The Society will conduct lighthouse restoration activities at maximum frequency of once per month between November 25, 2013 through December

31, 2013. Each restoration session will last no more than three days. Maintenance of the light beacon will occur only in conjunction with restoration activities.

Helicopter Approach and Timing Techniques: The Society shall ensure that helicopter approach patterns to the lighthouse will be such that the timing techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach NWSR when the tide is too high for the marine mammals to haulout on NWSR.

Since the most severe impacts (stampede) are precipitated by rapid and direct helicopter approaches, initial approach to the Station must be offshore from the island at a relatively high altitude (e.g., 244 - 305 meters; 800 - 1,000 feet,). Before the final approach, the helicopter shall circle lower, and approach from area where the density of pinnipeds is the lowest. If for any safety reasons (e.g., wind condition) such helicopter approach and timing techniques cannot be achieved, the Society must abort the restoration and maintenance activities for that day.

Avoidance of Visual and Acoustic Contact with Marine Mammals: The Society's members and restoration crews shall be instructed to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the lighthouse. The door to the lower platform (which is used at times by pinnipeds) shall remain closed and barricaded.

Mitigation Conclusions

We have carefully evaluated the Society's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine

mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- (1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;
- (2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- (3) The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's mitigation measures, we have determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the Marine Mammal Protection Act states that we must set forth "requirements pertaining to the monitoring and reporting of such taking." The Act's implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

The Society continues to sponsor marine mammal monitoring to implement the mitigation measures that require real-time monitoring and to satisfy the monitoring requirements of the incidental harassment authorization. At least once during the period between November 15, 2013 through December 31, 2013, the Society will have a

qualified biologist present during all three workdays at the Station. The biologist shall document use of the island by the pinnipeds, frequency, (i.e., dates, time, tidal height, species, numbers present, and any disturbances), and note any responses to potential disturbances. In the event of any observed Steller sea lion injury, mortality, or the presence of newborn pup, the Society will notify the NMFS SWRO Administrator and the NMFS Director of Office of Protected Resources immediately.

Aerial photographic surveys may provide the most accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. The Society will photograph the island from the same helicopter used to transport the Society's personnel to the island during restoration trips. A skilled photographer shall take photographs of all marine mammals hauled out on the island at an altitude greater than 300 meters (984 feet), prior to the first landing on each visit included in the monitoring program. The Society will provide to us photographic documentation of marine mammals present at the end of each three-day work session for a before and after comparison. The Society will forward these photographs to a biologist capable of discerning marine mammal species.

The Society shall provide the data to NMFS in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The Society will also provide the original photographs to us or other marine mammal experts for inspection and further analysis.

Reporting

The Society's personnel will record data to document the number of marine mammals exposed to helicopter noise and to document apparent disturbance reactions or lack

thereof. The Society and NMFS will use the data to estimate numbers of animals potentially taken by Level B harassment.

Interim Monitoring Report

The Society will submit interim monitoring reports to the NMFS SWRO Administrator and the NMFS Director of Office of Protected Resources no later than 30 days after the conclusion of each monthly session. The interim report will describe the operations that were conducted and sightings of marine mammals near the project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring.

Each interim report will provide:

- (i) A summary and table of the dates, times, and weather during all helicopter operations, and restoration and maintenance activities.
- (ii) Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.
- (iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic stimuli associated with the helicopter operations, restoration and maintenance activities.
- (iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

Final Monitoring Report

In addition to the interim reports, the Society will submit a draft Final Monitoring Report to us no later than 90 days after the project is completed to the Regional

Administrator and the Director of Office of Protected Resources at NMFS Headquarters. Within 30 days after receiving comments from NMFS on the draft Final Monitoring Report, the Society must submit a Final Monitoring Report to the Regional Administrator and the NMFS Director of Office of Protected Resources. If the Society receives no comments from us on the draft Final Monitoring Report, we will consider the draft Final Monitoring Report to be the final version.

The final report will provide:

- (i) A summary and table of the dates, times, and weather during all helicopter operations, and restoration and maintenance activities.
- (ii) Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.
- (iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic stimuli associated with the helicopter operations, restoration and maintenance activities.
- (iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the Authorization (if issued), such as an injury (Level A harassment), serious injury or mortality (e.g., stampede), the Society shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427-8401 and/or by email to Michael.Payne@noaa.gov and

ITP.Cody@noaa.gov and to the Southwest Regional Stranding Coordinator at (562) 980–3230 (Sarah.Wilkin@noaa.gov).

The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until we are able to review the circumstances of the prohibited take. We will work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Society discovers an injured or dead marine mammal, and the biologist (if present) determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), the Society will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427–8401 and/or by email to Michael.Payne@noaa.gov and ITP.Cody@noaa.gov and to the Southwest Regional Stranding Coordinator at (562) 980–3230 (Sarah.Wilkin@noaa.gov).

The report must include the same information identified in the paragraph above.

Activities may continue while we review the circumstances of the incident. We will work with the Society to determine whether modifications in the activities are appropriate.

In the event that the Society discovers an injured or dead marine mammal, and the lead biologist (if present) determines that the injury or death is not associated with or related to the activities authorized in the Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427–8401 and/or by email to Michael.Payne@noaa.gov and ITP.Cody@noaa.gov and to the Southwest Regional Stranding Coordinator at (562) 980–3230 (Sarah.Wilkin@noaa.gov), within 24 hours of the discovery. The Society will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We anticipate and authorize take by Level B harassment only for the proposed helicopter operations and restoration and maintenance activities on NWSR. Acoustic (i.e., increased sound) and visual stimuli generated during these proposed activities may have the potential to cause marine mammals in the harbor area to experience temporary, short-term changes in behavior.

Based on pinniped survey counts conducted by CCR on NWSR in the spring of 1997, 1998, 1999, and 2000 (CCR, 2001), we estimate that approximately 204 California sea lions (calculated by multiplying the average monthly abundance of California sea lions (zero in April, 1997 and 34 in April, 1998) present on NWSR by 6 months of the restoration and maintenance activities), 172 Steller sea lions (NMFS' estimate of the maximum number of Steller sea lions that could be present on NWSR with a 95-percent confidence interval), 36 Pacific harbor seals (calculated by multiplying the maximum number of harbor seals present on NWSR (6) by 6 months), and 6 northern fur seals (calculated by multiplying the maximum number of northern fur seals present on NWSR (1) by 6 months) could be potentially affected by Level B behavioral harassment over the course of the Authorization. Estimates of the numbers of marine mammals that might be affected are based on consideration of the number of marine mammals that could be disturbed appreciably by approximately 51 hours of aircraft operations during the course of the activity. For this Authorization, we authorize the take of 204 California sea lions, 172 Stellar sea lions, 36 Pacific harbor seals, and 6 northern fur seals.

There is no evidence that the Society's planned activities could result in injury, serious injury or mortality within the action area. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury or mortality. We expect all potential takes to fall under the category of Level B harassment only.

Encouraging and Coordinating Research

The Society will continue to coordinate monitoring of pinnipeds during the helicopter operations and restoration activities which contribute to the basic knowledge of marine mammal biology on NWSR.

Negligible Impact and Small Numbers Analysis and Determination

We typically include our negligible impact and small numbers analyses and determinations under the same section heading of our Federal Register notices. Despite co-locating these terms, we acknowledge that negligible impact and small numbers are distinct standards under the MMPA and treat them as such. The analyses presented below do not conflate the two standards; instead, each standard has been considered independently and we have applied the relevant factors to inform our negligible impact and small numbers determinations.

We have defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” In making a negligible impact determination, we consider:

- (1) The number of anticipated injuries, serious injuries, or mortalities;
- (2) The number, nature, and intensity, and duration of Level B harassment; and
- (3) The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- (4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- (5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that four species of marine mammals could be potentially affected by Level B harassment over the course of this Authorization. For each species, these numbers are small numbers (each, less than or equal to two percent) relative to the population size. These incidental harassment take numbers represent approximately 0.14 percent of the U.S. stock of California sea lion, 0.42 percent of the eastern U.S. stock of Steller sea lion, 0.11 percent of the California stock of Pacific harbor seals, and 0.06 percent of the San Miguel Island stock of northern fur seal.

For reasons stated previously in this document and in the notice for the proposed Authorization (78 FR 1838, January 9, 2013), the specified activities associated with the Society's helicopter operations and restoration/maintenance activities are not likely to cause permanent threshold shift, or other non-auditory injury, serious injury, or death because:

(1) The likelihood that, given sufficient notice through relatively slow helicopter approaches, we expect marine mammals to gradually move away from a noise source that is annoying prior to its becoming potentially injurious; and

(2) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the incorporation of the required monitoring and mitigation measures.

We do not anticipate takes by Level A harassment, serious injury, or mortality to occur as a result of the Society's specified activities. We are not authorizing Level A harassment for this specified activity. We only anticipate short-term behavioral disturbance to occur due to the brief and sporadic duration of the activities; the

availability of alternate areas near NWSR for marine mammals to avoid the resultant acoustic disturbance; and limited access to NWSR during the pupping season.

These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed activities to avoid the resultant acoustic and visual disturbances. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we have determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires us to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the MMPA.

Endangered Species Act (ESA)

On October 23, 2013, NMFS announced the removal of the eastern distinct population segment of Steller sea lions from the list of threatened species under the ESA. With the

delisting, federal agencies proposing actions that may affect the eastern Steller sea lions are no longer required to consult with NMFS under section 7 of the ESA.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to the Society, we prepared an Environmental Assessment (EA) in 2010 that was specific to conducting aircraft operations and restoration and maintenance work on the St. George Reef Light Station. The EA, titled “Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California,” evaluated the impacts on the human environment of our authorization of incidental Level B harassment resulting from the specified activity in the specified geographic region. At that time, we concluded that issuance of an Authorization November 1 through April 30, annually would not significantly affect the quality of the human environment and issued a Finding of No Significant Impact (FONSI) for the 2010 EA regarding the Society’s activities. In conjunction with the Society’s 2013 application, we have again reviewed the 2010 EA and determined that there are no new direct, indirect or cumulative impacts to the human and natural environment associated with the Authorization requiring evaluation in a supplemental EA and NMFS, therefore, reaffirms the 2010 FONSI. An electronic copy of the EA and the FONSI for this activity is available upon request (see ADDRESSES).

Determinations

We have determined that the impact of conducting the specific helicopter operations and restoration activities described in this notice and in the Authorization request in the

specific geographic region in the northeastern Pacific Ocean may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable impact on the availability of the affected species or stock of marine mammals for subsistence uses is not implicated for this action.

Authorization

As a result of these determinations, we, NMFS, have issued an Incidental Harassment Authorization to the Society to conduct helicopter operations and restoration and maintenance work on the St. George Reef Light Station on Northwest Seal Rock in the northeast Pacific Ocean from the period of November 25, 2013, through December 31, 2013, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: January 29, 2014.

Donna S. Wieting,
Director, Office of Protected Resources,
National Marine Fisheries Service.

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