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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD123

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to San Nicolas Island Roads and Airfield Repairs Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Department of the Navy (Navy), Naval Base Ventura County (NBVC), California, to take marine mammals, by harassment, incidental to the San Nicolas Island (SNI) roads and airfield repairs project.

DATES: Effective August 1, 2014, through November 30, 2014.

ADDRESSES: Electronic copies of the IHA, application, and associated Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) may be obtained by writing to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, telephoning the contact listed below (see FOR FURTHER INFORMATION CONTACT), or visiting the internet at: http://www.nmfs.noaa.gov/pr/permits/incidental.htm. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

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

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has 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."

Except with respect to certain activities not pertinent here, the MMPA 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

On October 23, 2013, we received an application from the Navy for the taking of marine mammals incidental to the SNI roads and airfield repairs project. NMFS determined that the application was adequate and complete on November 6, 2013.

The Navy proposes to repair roads and the airfield on SNI, California. The activity would occur from August 1 through November 30, 2014, with two separate deliveries of materials to the island during this time period. Each delivery requires approximately 5 days to complete. The following specific aspects of the activities are likely to result in the take of marine mammals: barge beach landings, offloading, and removal and construction activities to prepare for barge landings. Take, by Level B harassment only, of northern elephant seal (Mirounga angustirostris), California sea lion (Zalophus californianus), and Pacific harbor seal (Phoca vitulina richardsi) is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

NBVC plans to perform a maintenance and mission-critical infrastructure project at SNI to repair the roads and airfield. The proposed action would repair up to 12.45 mi of roads and culverts during two phases and one million ft^2 of airfield surface, shoulders, and culverts. The SNI roads and shoulder repairs will require approximately 43,500 tons of aggregate materials. Airfield repairs require approximately 151,500 tons of aggregate material. The required aggregate is not available on the island and must be delivered from the mainland. The pier at Daytona Beach is used for transfer of supplies to the island but is not designed to handle large

volumes of heavy aggregate. The Navy, therefore, proposes to use barge beach landings on Daytona and Coast Guard Beaches for offloading materials and equipment needed to complete this maintenance and mission-critical infrastructure project. Aggregate would be shipped from the mainland U.S. to the off-shore area of SNI on a primary shipping barge (13,000-ton capacity). The aggregate would be transferred from the primary shipping barge to a smaller "tender" barge (2,000-ton capacity) that would land on the beach. Aggregate would be transferred from the shipping barge to the tender barge using a conveyor belt or loaders, then from the tender barge to dump trucks on shore using either loaders or conveyor belts. A typical barge landing operation includes: re-grading the existing road from the beach; constructing a temporary ramp and berm on the beach; landing the barge; offloading the barge; removing the ramp and berm; and restoring the beach to its pre-barge landing condition.

The Navy identified the work as critical to maintaining mission readiness: the current degraded road is a safety concern for ordnance and operations transport; culvert repairs are necessary to reduce erosion and sedimentation; and mission-critical repairs are required at the SNI runway that is currently degraded by sinkholes and surface deformations.

Dates and Duration

Up to four separate deliveries would occur each year for 5 years. One shipment of 13,000 tons of aggregate would require eight beach landings over 5 days (approximately two landings per day, 4 hours for each operation). Site preparation would take approximately 1 day, and the landings would occur over the remaining 4 days. Because both beaches are haul-out sites for California sea lions, Pacific harbor seals and northern elephant seals, beach landings would occur from August 1 through November 30, outside the breeding season, when these species are present only sporadically, and in lower numbers than in other times of the year.

This IHA is only for the period of August 1 through November 30, 2014. NBVC has submitted an application requesting regulations and a Letter of Authorization to cover these and other activities for a 5-year period. Table 1 outlines the proposed delivery schedule for this project.

Table 1. Barge Delivery Summary Over the 5-Year Span of the Project.

Project	Material Required	# of Primary Shipping Barge Deliveries	Estimated Delivery Schedule	
Roads Repair (Phase I and Phase II)	43,500 tons	3*	Year 1	2 x 13,000 tons
			Year 2	1 x 8,100 tons
			Year 3	1 x 9,400 tons
Airfield Repairs	151,500 tons	12**	Year 2	2 x 13,000 tons 1 x 4,900 tons
			Year 3	3 x 13,000 tons 1 x 3,600 tons
			Year 4	3 x 13,000 tons
			Year 5	3 x 13,000 tons

* Three primary barge shipments for roads repair includes two full 13,000 ton shipments, and two co-mingled shipments, shared with airfield aggregate material (8,100 tons in Year 2 and 9,400 tons in Year 3).

** Twelve primary barge shipments for airfield repairs includes eleven full 13,000 ton shipments, and two co-mingled shipments shared with road repair aggregate material (4,900 tons in Year 2 and 3,600 tons in Year 3).

Specified Geographic Region

SNI is the outermost of eight Channel Islands off the coast of southern California, 63 nautical miles south-southwest of Laguna Point at NBVC Point Mugu and 75 nautical miles southwest of Los Angeles (see Figure 1 in the IHA application). SNI is owned by the Navy and is under the jurisdiction of NBVC. The island is approximately 9 mi long and 3.6 mi wide. Access to the island by the public is strictly controlled for security reasons and to safeguard against potential hazards associated with military operations. The main support and operational facilities on SNI include an airfield runway and terminal, housing and administration facilities, a power plant, a fuel farm, a reverse osmosis potable water system, and a public works and

transportation department.

Daytona Beach is a wide sandy beach at the south end of SNI, the most sheltered part of the island (see Figure 1 in the IHA application). Water depth and soft bottom conditions off-shore support barge anchoring and beach landings. Beach Road is an all-weather paved access road that terminates at Daytona pier and a staging area. The equipment staging area is paved and equipped with electric light poles and adequate space for pier offloads. The staging area is enclosed by k-rails that would be temporarily moved to allow access to the beach-landed barge. The Navy has made barge beach landings at Daytona Beach many times in the past.

Coast Guard Beach is a sandy beach in a relatively sheltered part of the island at the east side of SNI, accessible by Beach Road (see Figure 1 in the IHA application). The Navy has used this site successfully in the past for barge deliveries. On Coast Guard Beach, there is approximately 300 ft from the access road to the high tide line. Coast Guard Beach has a gentler slope than Daytona Beach. The nearshore bottom is soft, and water depths of 2 to 5 ft are suitable for beach landings. Existing moorings in the area may potentially be used as anchorage points for the primary shipping barge. A short (0.1 mi) unpaved road that connects Coast Guard Beach to the proposed asphalt batch plant site would require re-grading to facilitate materials transport. To facilitate re-grading the access road, approximately 400 yd^3 of dirt would be used from the Former Borrow Pit, and additional material would be sourced from the Monroe Borrow Pit if necessary. A shallow surface scrape of six inches would occur across the Former Borrow Pit site to collect material for the access road. Re-grading would provide access widths from 30 to 12.5 ft wide and a smoother surface for hauling.

Detailed Description of Activities

The Notice of Proposed IHA (79 FR 10777, February 26, 2014) contains a full detailed

description of the repair project, including descriptions of the steps in the delivery process. That information has not changed and is therefore not repeated here.

Comments and Responses

A Notice of Proposed IHA was published in the Federal Register on February 26, 2014 (79 FR 10777) for public comment. During the 30-day public comment period, NMFS received one letter from the Marine Mammal Commission. No other persons or organizations provided comments on the proposed issuance of an IHA for this activity. The Marine Mammal Commission recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation and monitoring measures. NMFS has included all of the mitigation and monitoring measures proposed in the Notice of Proposed IHA (79 FR 10777, February 26, 2014) in the issued IHA.

Description of Marine Mammals in the Area of the Specified Activity

Three species of pinnipeds occur regularly on SNI: northern elephant seal; California sea lion; and Pacific harbor seal. These species are protected under the MMPA and are not listed under the Endangered Species Act (ESA). These three species are expected in small numbers on Daytona and Coast Guard Beaches from August 1 through November 30. One northern fur seal (Callorhinus ursinus) has been seen hauling out with a pup on SNI the past few years (G. Smith, Navy biologist, pers. comm.); however, the sightings are infrequent and not expected to occur within the activity area. Single individuals of Guadalupe fur seal (Arctocephalus townsendi) have been intermittently observed over the last few years hauled out along the southwest portion of SNI. Records indicate that they are not likely to occur on the eastern portion of SNI, where the activities would occur. Therefore, these two species are not considered further in this notice.

There are not expected to be any "takes" of cetaceans due to their rare occurrence in the

inshore waters at SNI. Any cetaceans or marine mammals in the water surrounding barge landing areas would not be affected by the activities, since the distance from the project site precludes the potential for visual disturbance. A small translocated population of approximately 50 southern sea otters (Enhydra lutris nereis) occurs on SNI. This species is managed by the U.S. Fish and Wildlife Service and is not considered further in this IHA notice.

Table 2 in this document outlines the status, occurrence, seasonality, and abundance of the three marine mammal species most likely to occur in the project area. The Navy's IHA application contains additional detail on the presence and life history of these species. More information can also be found in the Notice of Proposed IHA (79 FR 10777, February 26, 2014) and the NMFS Stock Assessment Report available online at: http://www.nmfs.noaa.gov/pr/sars/pdf/po2012.pdf.

Table 2. ESA status, occurrence, seasonality in the project area, and abundance of the species most likely to occur in the proposed project area.

Common Name	Scientific Name	Status	Occurrence	Seasonality	Abundance
Northern elephant seal	Mirounga angustirostris	NL	Common	Mostly December-mid-May	124,000
California sea lion	Zalophus californianus	NL	Common	Year round	296,750
Pacific harbor seal	Phoca vitulina richardsi	NL	Occasional to common	Mostly February-June	30,196

NL=Not listed under the ESA

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., barge beach landings, offloading, and barge removal) have been observed to or are thought to impact marine mammals. This section may include a discussion of known effects that do not rise to the level of an MMPA take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to

sound or exhibiting barely measurable avoidance). The discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take. This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented or how either of those will shape the anticipated impacts from this specific activity. The "Estimated Take by Incidental Harassment" section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The "Negligible Impact Analysis" section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the "Estimated Take by Incidental Harassment" section, the "Proposed Mitigation" section, and the "Anticipated Effects on Marine Mammal Habitat" section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

The majority of impacts are likely to occur from the presence of personnel and equipment during the proposed activities. Barge beach landings and associated construction could affect pinnipeds hauled out at Daytona and Coast Guard beaches in two main ways:

1. Potential displacement of haul-out areas at the barge landing site; and

2. Potential impacts of sound associated with barge landing and construction.

Acoustic impacts, such as hearing impairment, are not anticipated, as equipment is located far enough away from pinnipeds that sound levels will not occur at injurious levels. In the "Potential Effects of the Specified Activity on Marine Mammals" section of the Notice of Proposed IHA (79 FR 10777, February 26, 2014), NMFS included a qualitative discussion of the different ways that the Navy's repairs project may potentially affect marine mammals. The

information contained in that document has not changed. Please refer to the proposed IHA for the full discussion (79 FR 10777, February 26, 2014).

Anticipated Effects on Marine Mammal Habitat

No critical habitat exists in the area of the proposed activities. During the period of the activity, marine mammals may use various haul-outs around the barge landings and around SNI as places to rest and molt. The pinnipeds do not feed when hauled out. California sea lions and elephant seals displaced into water usually move down-beach and haul out farther away from activity, while harbor seals will most likely stay in the water (G. Smith, personal communication). Therefore, it is not expected that the barge activities will have any impact on the food or feeding success of the marine mammals. Although breeding occurs on SNI, the project dates have been planned to avoid the breeding/pupping season.

The sandy bottom would be disturbed offshore when the shipping barge dropped anchors and when the tender barge landed on the beach. Contact with the seafloor would temporarily increase turbidity, but no long-term adverse effects would result. Turbidity events would be limited to the duration of barge landing and offload.

The Navy anticipates and NMFS agrees that there will be no loss or permanent modification of the habitat used by marine mammal populations that haulout in the barge landing areas. Temporary sand ramps would be constructed at Daytona and Coast Guard beaches to allow for transfer of material from the barge to dump trucks on the beach. Additionally, two tractors would be positioned on either side of the landing area before the tender barge arrives to provide stable anchorage for the tender barge. The area of the temporary sand ramps would be re-shaped on completion of each shipping barge offload, at the end of the 5 day period. Disturbance to marine mammal habitat would be only temporary. Because impacts are

anticipated to be temporary, such that conditions will return to pre-activity conditions in a short amount of time, and food sources will not be impacted, the activity is not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant). This section summarizes the required mitigation measures contained in the IHA.

Mitigation Measures in the Navy's Application

In the IHA application, the Navy described a variety of measures, which are designed to reduce the level of disturbance for marine mammals that might be hauled out near the proposed barge landing sites. Additionally, all operations will be coordinated with the NBVC Point Mugu Environmental Division. The mitigation measures include:

● All construction activity will take place within the proposed action footprint. Contractors will be provided with maps showing the centerlines and limits of surveys that were used for the environmental analyses in the final EA prepared by the Navy for this project (U.S. Navy, 2012) and informed that construction activity shall be confined to those corridors. Stakes will be used to delineate heavy equipment work and driving zones. Maps will include the locations of U.S. Army Corps of Engineers jurisdictional waters.

● All construction personnel must attend a mandatory environmental briefing at the start of the work day for work to be performed in sensitive habitats, and personnel attendance must be

documented. For work in non-sensitive habitats, environmental briefings will occur weekly or as needed. Federal regulations regarding protected biological species must be emphasized, along with the importance of honoring environmental closure areas. The Environmental briefing would be given by Naval Facilities Engineering Command (NAVFAC) Southwest and NBVC personnel or the project biologist before work begins. If the training is given by the project biologist, then NAVFAC Southwest or NBVC staff would brief the project biologist, and the biologist would brief the crew on the resources and avoidance and compensation measures involved in the project. Environmental training will include a description of sensitive species and habitats potentially on or near the project site, and the surrounding habitat; details on each species' habitat requirements; the protective measures to be implemented for each species; and the responsibilities of the project biologist and of those on site to protect biological resources. The training will describe the requirements and boundaries of the project, the importance of complying with compensation measures, and the requirements for reporting non-compliance and any resolution methods. Training will provide information on and legal consequences of the potential effects of trash, trespassing, and harassing or harming designated sensitive habitat areas and species in or outside of the project footprint.

● Construction equipment will be inspected before mobilization to ensure no pinnipeds are under or near equipment.

● During barge landings and offloadings, the Navy biologist or qualified project biologist will displace pinnipeds from the landing site as necessary for the safety of the marine mammals and construction workers. Temporary barriers will be used, if necessary, to keep the displaced pinnipeds from re-entering the area. This effort will greatly minimize the potential for pinnipeds to be affected by project activities.

● No oil, fuel, or chemicals will be allowed to discharged to waters of the state. Vessels will be equipped with spill kits and cleanup materials, and operators will be trained in responding to an accidental release of oil, fuel, or chemicals. Offloading equipment will be checked for leaks at the start of beach grading and aggregate offloading each day.

● Measures will be taken to prevent spillage of aggregate during the barge to barge transfer process. Measures may include, but are not limited to, the use of a tarp or other barrier between the two barges, to capture spillage.

Additional Mitigation Measures Required by NMFS

In addition to the mitigation measures contained in the Navy's IHA application, NMFS has required the following mitigation measures:

● Displacement must be conducted in such a way as to avoid stampedes. Approach of pinnipeds must be conducted gradually.

● Displacement or flushing of pinnipeds should be avoided, whenever possible, if dependent pups are present.

● The Navy will suspend activities immediately if an injured marine mammal is found in the vicinity of the activity area and the activities could aggravate its condition further. The incident must be reported to NMFS immediately.

Mitigation Conclusions

NMFS has carefully evaluated the Navy's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable 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:

● The manner in which, and the degree to which, the successful implementation of the measures are expected to minimize adverse impacts to marine mammals;

● The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

● The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the required mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth "requirements pertaining to the monitoring and reporting of such taking". The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. The Navy submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Sections X and XII of the application.

Monitoring Measures

The Navy biologist will monitor pinniped reactions to beach barge landings to ensure pinniped protection and project compliance with the MMPA, and to ensure no Level A take occurs. The project biologist will monitor heavy equipment operation on the beach, as needed,

to ensure compliance with compensation measures and will keep the project engineer, NAVFAC Southwest, and NBVC informed about construction that may threaten significant biological resources. The project biologist will record activities daily and provide electronic versions of biological monitoring reports at least weekly to NAVFAC Southwest and NBVC. The project biologist will be available to monitor construction activities to ensure compliance with sensitive biological resource avoidance and minimization measures, including implementation of specific measures for protection of marine mammals. The biologist will: (1) ensure impacts on sensitive resources are minimized; (2) educate workers about sensitive habitats and how to implement avoidance and minimization measures; and (3) attend road repair-related meetings as needed.

Additionally, the Navy will implement the following three objectives from the 2010 Integrated Natural Resources Management Plan for NVBC, San Nicolas Island, California (INRMP):

1. Continue to monitor marine mammal populations and evaluate interactions related to island activities.

2. Monitor and protect island-wide pinniped breeding and haul-out sites.

3. Maintain adaptive management strategies to address complex issues related to marine mammal resource conflicts and occurrence.

More information regarding the INRMP and these monitoring goals can be found in the Navy's IHA application (see ADDRESSES).

Reporting Measures

A draft final report must be submitted to NMFS Office of Protected Resources within 90 days after the conclusion of the project. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. The report must also

summarize the results of the activities, marine mammal behavioral observations, and the estimated number of marine mammal takes. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS West Coast Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

The Navy must also immediately report to NMFS the sighting of any injured marine mammals found in the vicinity of the activity area and the activities could aggravate the animal's condition further. Activities cannot resume until notified by NMFS via email or telephone.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA 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]. Only take by Level B behavioral harassment is anticipated as a result of the roads and airfield repairs project. The barge landing and materials offload could temporarily displace marine mammals from their onshore haulouts, resulting in their movement into the water or down-beach. During barge landings, marine mammals may avoid the project area and haul out at other beach areas.

The Navy requested authorization and NMFS has authorized the take, by Level B (behavioral) harassment only, of Pacific harbor seals, California sea lions, and northern elephant seals. The Navy's IHA application and the Notice of Proposed IHA (79 FR 10777, February 26, 2014) contain a full discussion of how the take estimates were derived. Nothing has changed

from the proposed IHA; therefore, the discussion is not repeated here.

Based on the survey data collected in 2011 and the number of days of activities, the Navy estimates that no more than 50 harbor seal displacements will occur each day, with the potential for take to be higher in August and lower in November, when harbor seal numbers are very low on SNI (Stewart and Yochem, 1984). It is estimated that 75 sea lion displacements will occur each day, but haul-out numbers at Coast Guard Beach are intermittent in fall. It is estimated that 25 elephant seal displacements will occur each day, with numbers increasing in October and November. Estimates include displacements during site preparation and off-loading. These numbers will likely include the displacement of returning individuals, such as elephant seals that will likely move back into the hazard area and have to be displaced multiple times. Table 3 presents the numbers of authorized takes by Level B (behavioral) harassment, the abundance of the stocks, the percentage of the stock potentially affected, and the population trend for each species or stock.

Table 3. Authorized Level B harassment take levels, species or stock abundance, percentage of population proposed to be taken, and species trend status.

Common Species Name	Authorized Level B Take	Abundance of Stock	Percentage of Stock Potentially Affected	Population Trend
Northern elephant seal	250	124,000	0.2	Increasing
California sea lion	750	296,750	0.3	Increasing
Pacific harbor seal	500	30,196	1.7	Stable

Analysis and Determinations

Negligible Impact

Negligible impact is "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" (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or

survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, feeding, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

These activities are anticipated to result in Level B harassment of hauled out pinnipeds in the form of displacement or behavioral disturbance. These activities are not anticipated to result in injury, serious injury, or mortality of any marine mammal species and none is authorized. The activities would only occur twice in a 4-month period, and each time, activities would only occur for 5 consecutive days. Therefore, activities would only occur for 10 days between August 1 and November 30.

None of the species for which take is authorized are listed as threatened or endangered under the ESA or as depleted under the MMPA. No critical habitat exists for these species. While certain beaches and haulouts on SNI have been used for mating, breeding, and pupping, the project dates have been selected to avoid these sensitive time periods.

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 required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the Navy's roads and airfield repairs project will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

Based on survey counts of marine mammals anticipated to be present at the two proposed activity sites and the number of times the activity would occur, the Navy estimates that a total of 750 California sea lions, 500 Pacific harbor seals, and 250 northern elephant seals may be taken by Level B (behavioral) harassment during the course of the activities. These estimates represent less than 1% of the California breeding stock of northern elephant seals and the U.S. stock of California sea lions and represents 1.7% of the California stock of Pacific harbor seals. These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment if each animal is taken only once. The numbers of marine mammals taken are small relative to the affected species or stock sizes. In addition, the mitigation and monitoring measures (described previously in this document) required in the IHA are expected to reduce even further any potential disturbance to marine mammals. NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No species listed under the ESA are expected to be affected by these activities. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

In June 2012, the Navy prepared a final EA for the San Nicolas Island Roads and Airfield

Repairs Project Naval Base Ventura County, California. This EA is available on our website (see ADDRESSES). In June 2014, NMFS prepared its own EA that includes an analysis of potential environmental effects associated with NMFS' issuance of an IHA to the Navy to take marine mammals incidental to conducting the SNI roads and airfield repairs project. NMFS has finalized the EA and prepared a FONSI for this action. Therefore, preparation of an Environmental Impact Statement is not necessary.

Authorization

As a result of these determinations, NMFS has issued an IHA to the Navy for the take of marine mammals incidental to conducting a road and airfield repairs project on SNI, California, from August 1 through November 30, 2014, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: July 7, 2014.

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Perry F. Gayaldo,
Deputy Director,
Office of Protected Resources,
National Marine Fisheries Service.

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