



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD66

Takes of Marine Mammals Incidental to Specified Activities; Seabird Research Activities in Central California, 2015-2016

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

ACTION: Notice; revision of an incidental harassment authorization; request for comments.

SUMMARY: We, NMFS, have received a request from Point Blue Conservation Science (Point Blue) to revise an issued Incidental Harassment Authorization (Authorization) to take marine mammals, by harassment, incidental to conducting seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California. Point Blue's current Authorization is effective until January 30, 2016, and authorizes the incidental harassment, by Level B harassment only, of approximately 9,871 California sea lions (*Zalophus californianus*). Current environmental conditions in the Pacific Ocean offshore California—which researchers have attributed to an impending El Nino event—have contributed to unprecedented numbers of California sea lions hauled out in areas where Point Blue conducts surveys and maintains critical infrastructure. As such, Point Blue has requested a modification to their current Authorization to increase the number of authorized take for California sea lions to continue critical operations and research. Per the Marine Mammal Protection Act, we are

requesting comments on our proposal to revise the Authorization to Point Blue to incidentally harass, by Level B harassment only, a total of 44,871 California sea lions.

DATES: NMFS must receive comments and information on or before **[INSERT DATE 30 CALENDAR DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Address comments on the application to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Cody@noaa.gov*. Please include 0648-XD66 in the subject line. Comments sent via email to *ITP.Cody@noaa.gov*, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here.

Instructions: All submitted comments are a part of the public record and NMFS will post them to <http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application containing a list of the references used in this document, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or visit the internet at:

<http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm>.

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

SUPPLEMENTARY INFORMATION:

Summary of Request

On December 23, 2014, NMFS published a **Federal Register** notice of a proposed Authorization to Point Blue (79 FR 76975) and subsequently published a **Federal Register** notice of issuance of the Authorization on February 25, 2015 (80 FR 10066), effective from January 31, 2015, through January 30, 2016. To date, we have issued six one-year Authorizations to Point Blue, along with partners Oikonos Ecosystem Knowledge and Point Reyes National Seashore, for the conduct of the same activities from 2007 to 2015 (72 FR 71121, December 14, 2007; 73 FR 77011, December 18, 2008; 75 FR 8677, February 19, 2010; 77 FR 73989, December 7, 2012; 78 FR 66686, November 6, 2013; and 80 FR 10066, February 25, 2015).

On September 22, 2015, NMFS received a request from Point Blue seeking to revise the Authorization issued on January 31, 2015 (80 FR 10066, February 25, 2015) to increase the number of authorized take of small numbers of California sea lions from approximately 9,871 to a total of 44,871 for the duration of the current Authorization which expires on January 30, 2016. Current environmental conditions in the Pacific Ocean offshore California—which researchers have attributed to an impending El Nino event—have contributed to unprecedented numbers of California sea lions hauled out in areas where Point Blue conducts surveys and maintains critical infrastructure. As such, Point Blue has requested a modification to their current Authorization to increase the number of authorized take for California sea lions to continue their critical operations and research. This is the only requested change to the current Authorization.

This **Federal Register** notice sets forth only a proposed change in the numbers of take for California sea lions. There are no other changes to the current Authorization as described in

the February 25, 2015, **Federal Register** notice of an issued Authorization (80 FR 10066): the specified activity; description of marine mammals in the area of the specified activity; potential effects on marine mammals and their habitat; mitigation and related monitoring used to implement mitigation; reporting; estimated take by incidental harassment for Pacific harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), or Steller sea lions (*Eumetopias jubatus*); negligible impact and small numbers analyses and determinations; impact on availability of affected species or stocks for subsistence uses and the period of effectiveness remain unchanged and are herein incorporated by reference.

Description of the Specified Activity

Overview

Point Blue will continue to monitor and census seabird colonies; observe seabird nesting habitat; restore nesting burrows; and resupply a field station annually in central California (*i.e.*, Southeast Farallon Island, West End Island, Año Nuevo Island, Point Reyes National Seashore, San Francisco Bay, and the Russian River in Sonoma County). The purpose of the seabird research is to continue a 30-year monitoring program of the region's seabird populations.

NMFS outlined the purpose of Point Blue's activities in a previous notice for the proposed authorization (79 FR 76975, December 23, 2014). Point Blue's activities and level of survey effort have not changed since the publication of the **Federal Register** notice announcing the issuance of the Authorization (80 FR 10066, February 25, 2015). For a more detailed description of the authorized action, we refer the reader to that notice of Authorization (80 FR 10066, February 25, 2015).

Need for Modification to the Authorization

The Authorization requires Point Blue to monitor for marine mammals in order to implement mitigation measures to effect the least practicable adverse impact on marine mammals. Monitoring activities consist of conducting and recording observations on pinnipeds within the vicinity of the research areas. The monitoring reports provide dates, location, species, and the researcher's activities. The reports will also include the behavioral state of marine mammals present, numbers of animals that moved greater than one meter, and numbers of pinnipeds that flushed into the water.

Point Blue reports that between January and March, 2015, California sea lion incidental take patterns were relatively normal at the South Farallon Islands survey locations. However, during the summer of 2015, warm water conditions along the California coast in summer have resulted in more California sea lions hauling out in areas where Point Blue conducts its activities. Point Blue reports that throughout the summer months, sea lion numbers continued to grow, with greater numbers hauled out in areas where researchers have not normally recorded sea lion attendance. For example, since August 15, 2015 at the South Farallon Islands, Point Blue reports that thousands of sea lions hauled out in unusual locations high on the islands. Many California sea lions climbed onto critical infrastructure, including boat landings, a water storage structure, and main access paths.

Point Blue reports that for the period between August 15 and September 20, 2015, they recorded 13,559 Level B harassment takes; 16 percent involved animals slowly flushing into the water, and the remaining 84 percent of recorded take involved California sea lions moving greater than one meter (3.2 feet) on land.

During this period, Point Blue has restricted their activities as much as possible to still perform basic maintenance and monitoring duties, while trying to minimize pinniped

disturbance. It is critical for Point Blue to keep the California sea lions off of these structures to prevent severe damage and ensure the safety of island staff. However, to do so would be impossible for Point Blue and its partners without disturbing a larger number of California sea lions. Thus, NMFS proposes to modify the current Authorization to increase the number of take by Level B harassment only for California sea lions to a total of 44,871 for the duration of the current Authorization which expires on January 30, 2016.

Findings

Marine Mammal Protection Act (MMPA)—As required by the MMPA, for the original Authorization, NMFS determined that: (1) The required mitigation measures are sufficient to reduce the effects of the specified activities to the level of least practicable impact; (2) the authorized takes will have a negligible impact on the affected marine mammal species; (3) the authorized takes represent small numbers relative to the affected stock abundances; and (4) Point Blue's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

Negligible Impact: For reasons stated previously in the **Federal Register** notices for the proposed authorization (79 FR 76975, December 23, 2014) and the issued Authorization (80 FR 10066, February 25, 2015), NMFS anticipates that impacts to hauled-out California sea lions during Point Blue's activities would be behavioral harassment of limited duration (*i.e.*, less than one day) and limited intensity (*i.e.*, temporary flushing at most). NMFS does not expect Point Blue's specified activities to cause long-term behavioral disturbance, abandonment of the haul out area, or stampeding, and therefore injury or mortality to occur.

With the exception of a proposed increase in the number of authorized takes for California sea lions, no other substantive changes have occurred in the interim. 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 preliminarily finds that the total marine mammal take from Point Blue's survey activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers: For reasons stated previously in the **Federal Register** notices for the proposed authorization (79 FR 76975, December 23, 2014) and the issued Authorization (80 FR 10066, February 25, 2015), NMFS estimates that four species of marine mammals could be potentially affected by Level B harassment over the course of the proposed Authorization. With the exception of a proposed increase in authorized take for California sea lions, no other substantive changes have occurred in the interim. For California sea lions, the proposed increase in take is small relative to the population size. The revised incidental harassment number represents approximately 15.1 percent of the U.S. stock of California sea lion.

National Environmental Policy Act (NEPA)—In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), NMFS prepared an Environmental Assessment (EA) analyzing the potential effects to the human environment from the issuance of a proposed Authorization to Point Blue for their seabird research activities. In January 2014, NMFS issued a Finding of No Significant Impact (FONSI) on the issuance of an Authorization for Point Blue's research activities in accordance with section 6.01 of the NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). No substantive changes have occurred in the interim.

Endangered Species Act (ESA)—No marine mammal species listed under the ESA occur in the action area. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required. No substantive changes have occurred in the interim.

Request for Public Comments

NMFS invites comment on the proposed revised Incidental Harassment Authorization to Point Blue. Please include with your comments any supporting data or literature citations to help inform NMFS' final decision on Point Blue's request for a revised Authorization.

Dated: October 7, 2015.

Donna S. Wieting,

Director, Office of Protected Resources,

National Marine Fisheries Service.

BILLING CODE 3510-22-P

[FR Doc. 2015-25942 Filed: 10/9/2015 08:45 am; Publication Date: 10/13/2015]