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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE282

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys along the Oregon and California Coasts

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 regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the Partnership for Interdisciplinary Study of Coastal Oceans (PISCO) at the University of California (UC) Santa Cruz for an Incidental Harassment Authorization (IHA) to take three species of marine mammals, by harassment, incidental to rocky intertidal monitoring surveys.

DATES: This authorization is effective from February 3, 2016, through February 2, 2017.

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

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of PISCO's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at:

www.nmfs.noaa.gov/pr/permits/incidental/research.htm. In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

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 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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed

authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. 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 August 10, 2015 NMFS received an application from PISCO for the taking of marine mammals incidental to rocky intertidal monitoring surveys along the Oregon and California coasts. NMFS determined that the application was adequate and complete on October 9, 2015. In December 2012, NMFS issued a 1-year IHA to PISCO to take marine mammals incidental to these same proposed activities (77 FR 72327, December 5, 2012). In December 2013, NMFS issued a second 1-year IHA to PISCO to take marine mammals incidental to these same proposed activities (78 FR 79403, December 30, 2013). The 2013 IHA expired on December 16, 2014. A third IHA was issued to PISCO with an effective date of December 17, 2014 (79 FR 73048, December 9, 2014) to take animals for these identical activities and expires on December 16, 2015. The IHA announced in this notice is valid from February 3, 2016 through February 2, 2017.

The research group at UC Santa Cruz operates in collaboration with two large-scale marine research programs: PISCO and the Multi-agency Rocky Intertidal Network (MARINe). The research group at UC Santa Cruz (PISCO) is responsible for many of the ongoing rocky

intertidal monitoring programs along the Pacific coast. Monitoring occurs at rocky intertidal sites, often large bedrock benches, from the high intertidal to the water's edge. Long-term monitoring projects include Community Structure Monitoring, Intertidal Biodiversity Surveys, Marine Protected Area Baseline Monitoring, Intertidal Recruitment Monitoring, and Ocean Acidification. Research is conducted throughout the year along the California and Oregon coasts and will continue indefinitely. Most sites are sampled one to two times per year over a 4-6 hour period during a negative low tide series. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: presence of survey personnel near pinniped haulout sites and unintentional approach of survey personnel towards hauled out pinnipeds. Take, by Level B harassment only, of individuals of California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina richardii*) and northern elephant seals (*Mirounga angustirostris*) is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

PISCO requested an IHA for work to continue a rocky intertidal monitoring project that has been ongoing for 20 years. Research activities would include the presence of survey personnel near pinniped haulout sites as well as the unintentional approach of survey personnel towards hauled out pinnipeds. PISCO focuses on understanding the nearshore ecosystems of the U.S. west coast through a number of interdisciplinary collaborations. The program integrates long-term monitoring of ecological and oceanographic processes at dozens of sites with experimental work in the lab and field.

Dates and Duration

PISCO's research is conducted throughout the year but will begin no sooner than February 3, 2016 and end on February 2, 2017. Most sites are sampled one to two times per year over a 1-day period (4-6 hours per site) during a negative low tide series. Due to the large number of research sites, scheduling constraints, and the necessity for negative low tides and favorable weather/ocean conditions, exact survey dates are variable and difficult to predict. Some sampling is anticipated to occur in all months.

Specific Geographic Region

Sampling sites occur along the California and Oregon coasts. Community Structure Monitoring sites range from Ecola State Park near Cannon Beach, Oregon to Government Point located northwest of Santa Barbara, California. Biodiversity Survey sites extend from Ecola State Park south to Cabrillo National Monument in San Diego County, California. Exact locations of sampling sites can be found in Tables 1 and 2 of PISCO's application (see **ADDRESSES**).

Detailed Description of Activities

We provided a description of the proposed action in our **Federal Register** notice announcing the proposed authorization (80 FR 76448; December 9, 2015). Please refer to that document; we provide only summary information here.

Researchers will utilize a Community Structure Monitoring approach which is based largely on surveys that quantify the percent cover and distribution of algae and invertebrates that constitute these communities. This approach allows researchers to quantify both the patterns of abundance of targeted species, as well as characterize changes in the communities in which they reside. Such information provides managers with insight into the

causes and consequences of changes in species abundance. There are 47 Community Structure sites, each of which is surveyed over a 1-day period during a low tide series one to two times per year.

Biodiversity surveys are also part of a long-term monitoring project and are conducted every 3-5 years across 140 established sites. These surveys involve point contact identification along permanent transects, mobile invertebrate quadrat counts, sea star band counts, and tidal height topographic measurements. Additionally, California has established a network of Marine Protected Areas along the California coast which will require sampling at both new and established sites within and outside of marine protected areas. These sites were sampled using existing Community Structure and Biodiversity protocols for consistency. Resampling of these sites may take place as part of future marine protected area evaluation.

The intertidal zones where PISCO conducts intertidal monitoring are also areas where pinnipeds can be found hauled out on the shore at or adjacent to some research sites. Accessing portions of the intertidal habitat may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys.

Comments and Responses

A notice of NMFS' proposal to issue an IHA was published in the **Federal Register** on December 9, 2015 (80 FR 76448). During the 30-day public comment period, the Marine Mammal Commission (Commission) submitted a letter on December 15, 2015. The letter is available on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/research.htm*. The

Commission had no formal comments and concurred with NMFS's preliminary finding that recommended that NMFS issue an IHA to PISCO, subject to the inclusion of the mitigation, monitoring, and reporting measures.

Description of Marine Mammals in the Area of the Specified Activity

There are three marine mammal species known to occur in the vicinity of the project areas which may be subjected to Level B harassment. These are the California sea lion, harbor seal and northern elephant seal. Steller sea lions are also observed rarely but take for this animal is not requested.

We have reviewed PISCO's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to POA's application as well as the proposed incidental harassment authorization published in the **Federal Register** (80 FR 76448) instead of reprinting the information here. We have also provided information for the potentially affected stocks, including details of stock-wide status, trends, and threats, in our **Federal Register**. Please refer to NMFS' website (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts which provide information regarding the biology and behavior of the marine resources that occur in the vicinity of the project area.

Potential Effects of the Specified Activity on Marine Mammals

The **Federal Register** notice of proposed authorization (80 FR 76448) provides a general background on sound relevant to the specified activity as well as a detailed description of marine mammal hearing and of the potential effects of these construction activities on marine mammals, and is not repeated here.

Anticipated Effects on Habitat

We described potential impacts to marine mammal habitat in detail in our **Federal Register** notice of proposed authorization. In summary, the project activities would not modify existing marine mammal habitat. Because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences for individual marine mammals or their populations

Mitigation

In order to issue an IHA 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.

PISCO shall implement several mitigation measures to reduce potential take by Level B (behavioral disturbance) harassment. Measures include: (1) conducting slow movements and staying close to the ground to prevent or minimize stampeding; (2) avoiding loud noises (i.e., using hushed voices); (3) avoiding pinnipeds along access ways to sites by locating and taking a different access way and vacating the area as soon as sampling of the site is completed; (4) monitoring the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters; (5) using binoculars to detect pinnipeds before close approach to avoid being seen by animals; and (6) only approaching pinnipeds when are located in the sampling plots if there are no other means to accomplish the survey.

The methodologies and actions noted in this section shall be utilized and included as mitigation measures in the IHA to ensure that impacts to marine mammals are mitigated to the lowest level practicable. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. In no case will marine mammals be deliberately approached by survey personnel, unless they are located in sampling plots and there is no other method available and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. In general, researchers will stay inshore of pinnipeds whenever possible to allow maximum escape to the ocean. Each visit to a given study site will last for approximately 4-6 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of researchers. By arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

Mitigation Conclusions

We have carefully evaluated PISCO's mitigation measures and considered their effectiveness in past implementation to determine whether they are likely to effect 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: (1) the manner in which, and the degree to which, the successful implementation of the measure is expected to 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.

Any mitigation measure(s) we prescribe should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the number (total number or number at biologically important time or location) of individual marine mammals exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(3) A reduction in the number (total number or number at biologically important time or location) of times any individual marine mammal would be exposed to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(4) A reduction in the intensity of exposure to stimuli expected to result in incidental take (this goal may contribute to 1 above).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying particular attention to the prey base, blockage or limitation of passage to or from biologically important areas, permanent destruction of habitat, or temporary disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of PISCO's proposed measures, including information from monitoring of implementation of mitigation measures very similar to those described here under previous IHAs from other research projects, we have determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal 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 IHA 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 incidental take authorizations 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 action area.

PISCO can add to the knowledge of pinnipeds in California and Oregon by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Monitoring requirements in relation to PISCO's rocky intertidal monitoring will include observations made by project field biologists who will function as marine mammal observers (MMOs). Minimum qualifications for MMOs include an undergraduate degree in biology.

Information recorded will include species counts (with numbers of pups/juveniles when possible) of animals present before approaching, numbers of observed disturbances, and descriptions of the disturbance behaviors during the monitoring surveys, including location, date, and time of the event. Disturbances will be recorded according to a three-point scale of intensity including: (1) Head orientation in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position and/or slight movement of less than 1 m; "alert"; (2) Movements in response to or away from disturbance, over short distances (typically two times its body length) and including dramatic changes in direction or speed of locomotion for animals already in motion; "movement"; and (3) All flushes to the water as well as lengthier retreats (>3 m); "flight". However, only observations fitting the descriptions of #2 and #3 on the three-point scale need to be recorded as authorized takes. Observations regarding the number and species of any marine mammals observed, either in the water or hauled out, at or adjacent to the site, will be recorded as part of field observations during research activities. Observations of unusual behaviors, numbers, or distributions of pinnipeds will be reported to NMFS so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS. Information regarding physical and biological conditions pertaining to a site, as well as the date and time that research was conducted will also be noted.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the research, PISCO will suspend research activities and contact NMFS

immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

Summary of Previous Monitoring

PISCO complied with the mitigation and monitoring required under the previous authorization (2014-2015). However, in compliance with that Authorization, PISCO submitted a report on activities covering the period of December 17, 2014 through September 30, 2015. PISCO was authorized to take 60 California sea lions, 183 Pacific harbor seals and 30 Northern elephant seals and actual recorded takes were documented at 19, 37 and 4 respectively.

Reporting

PISCO must submit a draft final report to NMFS Office of Protected Resources within 60 days after the conclusion of the 2016-2017 field season or 60 days prior to the start of the next field season if a new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. 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

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].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. Animals hauled out close to the actual survey sites may be disturbed by the presence of biologists and may alter their behavior or attempt to move away from the researchers.

NMFS considers an animal to have been harassed if it moved greater than 2 times its body length in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that became alert without such movements were not considered harassed.

For the purpose of this IHA, only Oregon and California sites that are frequently sampled and have a marine mammal presence during sampling were included in generating take estimates. Sites where only Biodiversity Surveys are conducted did not provide enough data to confidently estimate takes since they are sampled infrequently (once very 3-5 years). A small number of harbor seal, northern elephant seal and California sea lion pup takes are anticipated as pups may be present at several sites during spring and summer sampling.

Take estimates are based on marine mammal observations from each site. Marine mammal observations are done as part of PISCO site observations, which include notes on physical and biological conditions at the site. The maximum number of marine mammals, by species, seen at any given time throughout the sampling day is recorded at the conclusion of

sampling. A marine mammal is counted if it is seen on access ways to the site, at the site, or immediately up-coast or down-coast of the site. Marine mammals in the water immediately offshore are also recorded. Any other relevant information, including the location of a marine mammal relevant to the site, any unusual behavior, and the presence of pups is also noted.

These observations formed the basis from which researchers with extensive knowledge and experience at each site estimated the actual number of marine mammals that may be subject to take. In most cases the number of takes is based on the maximum number of marine mammals that have been observed at a site throughout the history of the site (1-3 observation per year for 5-10 years or more). Section 6 in PISCO's application outlines the number of visits per year for each sampling site and the potential number of pinnipeds anticipated to be encountered at each site. Tables 3, 4, 5 in PISCO's application outlines the number of potential takes per site (see **ADDRESSES**).

Harbor seals are expected to occur at 15 locations in numbers ranging from 30 per visit (25 adults and 5 pups) at the Pebble Beach site to 5 per visit (all adults) at the Shelter Cove, Kibesillah Hill, Sea Ranch and Franklin Point sites (Table 3 in Application). These numbers are based on past observations at each site as well as input from researchers with extensive knowledge of individual sites. NMFS took the number of takes estimated at each site, based on past observations as well as input from researchers with extensive site knowledge, and multiplied by the number of site visits scheduled during the authorization period. Nine sites were scheduled for one visit while six sites were projected to have 2 sites. A total of 190 adults and 13 pups were anticipated for take and, therefore, NMFS has permitted the take of 203 harbor seals.

Due to the potentially significant effect of El Niño on California sea lions NMFS will increase the number of California sea lion takes beyond what PISCO requested. Changes in sea surface temperature associated with El Niño can have significant impacts throughout the food web. Historically, El Niño years have resulted in high numbers of marine mammal strandings, likely due to changes in prey availability and increased physiologic stress on the animals. NOAA fisheries west coast region office has reported elevated strandings at locations in central and southern California. For a five-month period from January to May 2015, strandings were over ten times higher than the average stranding level for the same 5 month period during 2004-2012. PISCO plans to conduct 8 visits under this authorization at 5 different sites during the one-year authorization period (see Table 2 in Application). PISCO had requested 90 takes for these 8 visits at five sites. However, given the increased numbers of California sea lions recorded earlier in 2015 during the current El Niño event, NMFS authorized 8 times that number for a total of 720 authorized takes. While all of the five sites may not experience numbers that are ten times greater than is typical, as was reported from January through May 2015, it is likely that observations will be significantly elevated. As such, NMFS has elected to increase the total number of takes originally anticipated by PISCO to 720 California sea lions.

Northern elephant seals are only expected to occur at one site this year, Piedras Blancs, which will experience two separate visits. Up to twenty takes are expected during each visit for a total of 40 authorized takes.

PISCO researchers report that they have very rarely observed Steller sea lions at any of their research sites and none have been seen the last several years. Given that the likelihood of taking Steller sea lions is extremely low, NMFS has not authorized take of Steller sea lions and

PISCO has agreed to re-schedule surveys if when Steller sea lions are present to avoid take of this species.

NMFS has authorized the take, by Level B harassment only, of 720 California sea lions, 203 harbor seals and 40 northern elephant seals. These numbers are considered to be maximum take estimates; therefore, actual take may be less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Analyses and Determinations

Negligible Impact Analysis

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, effects on habitat, and the status of the species.

No injuries or mortalities are anticipated to occur as a result of PISCO's rocky intertidal monitoring, and none are authorized. The risk of marine mammal injury, serious injury, or

mortality associated with rocky intertidal monitoring increases somewhat if disturbances occur during breeding season. These situations present increased potential for mothers and dependent pups to become separated and, if separated pairs do not quickly reunite, the risk of mortality to pups (through starvation) may increase. Separately, adult male elephant seals may trample elephant seal pups if disturbed, which could potentially result in the injury, serious injury, or mortality of the pups. The risk of either of these situations is greater in the event of a stampede.

Very few pups are anticipated to be encountered during the monitoring surveys. However, a small number of harbor seal, northern elephant seal and California sea lion pups have been observed at several of the monitoring sites during past years. Harbor seals are very precocious with only a short period of time in which separation of a mother from a pup could occur. Though elephant seal pups are occasionally present when researchers visit survey sites, risk of pup mortalities is very low because elephant seals are far less reactive to researcher presence than the other two species. Furthermore, pups are typically found on sand beaches, while study sites are located in the rocky intertidal zone, meaning that there is typically a buffer between researchers and pups. Finally, the caution used by researchers in approaching sites generally precludes the possibility of behavior, such as stampeding, that could result in extended separation of mothers and dependent pups or trampling of pups. No research would occur where separation of mother and her nursing pup or crushing of pups can become a concern.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. In any given study season, researchers will visit sites one to two times per year for a total of 4-6 hours per visit. Therefore, disturbance of pinnipeds resulting

from the presence of researchers lasts only for short periods of time and is separated by significant amounts of time in which no disturbance occurs.

Some of the pinniped species may use some of the sites during certain times of year to conduct pupping and/or breeding. However, some of these species prefer to use the offshore islands for these activities. At the sites where pups may be present, PISCO has shall implement certain mitigation measures, such as no intentional flushing if dependent pups are present, which will avoid mother/pup separation and trampling of pups.

Of the three marine mammal species most likely to occur in the activity areas, none are listed under the ESA. Taking into account the mitigation measures that are planned, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary abandonment of haulout sites. Pinnipeds are not expected to permanently abandon any area that is surveyed by researchers, as is evidenced by continued presence of pinnipeds at the sites during annual monitoring counts. 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, NMFS finds that the total marine mammal take from PISCO's rocky intertidal monitoring program will not adversely affect annual rates of recruitment or survival and therefore will have a negligible impact on the affected species or stocks.

Table 1. Population abundance estimates, total Level B take, and percentage of population that may be taken for the potentially affected species during the rocky intertidal monitoring program.

Species	Abundance*	Total Level B Take	Percentage of Stock or Population
Harbor seal	30,968[1] 24,732[2]	203	0.6 – 0.8
California sea lion	296,750	720	0.2
Northern elephant seal	179,000	40	<0.01

*Abundance estimates are taken from the 2014 U.S. Pacific Marine Mammal Stock Assessments (Carretta et al.,

2014).
[1] California stock abundance estimate; [2] Oregon/Washington stock abundance estimate from 1999-Most recent surveys

Small Numbers Analysis

Table 1 in this document presents the abundance of each species or stock, the authorized take estimates, the percentage of the affected populations or stocks that may be taken by harassment, and the species or stock trends. According to these estimates, PISCO would take less than 0.8% of each species or stock. Because these are maximum estimates, actual take numbers are likely to be lower, as some animals may select other haulout sites the day the researchers are present.

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, which are expected to reduce the number of marine mammals potentially affected by the action, 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)

None of the marine mammals for which incidental take is authorized are listed as threatened or endangered under the ESA. Therefore, NMFS has determined that issuance of the IHA to PISCO under section 101(a)(5)(D) of the MMPA will have no effect on species listed as threatened or endangered under the ESA.

National Environmental Policy Act (NEPA)

In 2012, NMFS prepared an EA analyzing the potential effects to the human environment from conducting rocky intertidal surveys along the California and Oregon coasts and issued a Finding of No Significant Impact (FONSI) on November 26, 2012 on the issuance of an IHA for PISCO's rocky intertidal surveys 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). We have reviewed the application for a renewed IHA for ongoing monitoring activities for 2016-17 as well as results from the 2014-15 monitoring report. Based on that review, we have determined that the action is very similar to that considered in the previous IHA. In addition, no significant new circumstances or information relevant to environmental concerns have been identified. Thus, we have determined that the preparation of a new or supplemental NEPA document is not necessary, and will, after review of public comments determine whether or not to reaffirm our 2012 FONSI. The 2012 NEPA documents are available for review at *www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

Authorization

As a result of these determinations, we have issued an IHA to PISCO for conducting the described activities related to rocky intertidal monitoring surveys along the Oregon and

Washington coasts from February 3, 2016 and end on February 2, 2017 provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: February 3, 2016.

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Perry Gayaldo,

Deputy Director,

Office of Protected Resources,

National Marine Fisheries Service.

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