FINDING OF NO SIGNIFICANT IMPACT
FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION
TO THE GULF OF THE FARALLONES NATIONAL MARINE SANCTUARY TO TAKE MARINE MAMMALS
BY HARASSMENT INCIDENTAL TO ROCKY INTERTIDAL MONITORING
ON THE SOUTH FARALLON ISLANDS

NATIONAL MARINE FISHERIES SERVICE

BACKGROUND

The National Marine Fisheries Service (NMFS) received an application from the Gulf of the Farallones National Marine Sanctuary (GFNMS) for an Incidental Harassment Authorization (IHA) to take marine mammals, by Level B harassment, incidental to rocky intertidal monitoring surveys on the South Farallon Islands. Pursuant to the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1631 *et seq*.), authorization for incidental taking shall be granted provided that NMFS: (1) determines that the action would have a negligible impact on the affected species or stocks of marine mammals; (2) finds the action would not have an unmitigable adverse impact on the availability of those species or stocks of marine mammals for taking for subsistence uses; and (3) sets forth the permissible methods of taking, other means of effecting the least practicable impact on affected species and stocks and their habitat, and requirements pertaining to the mitigation, monitoring, and reporting of such takes.

In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq*.), NMFS completed an Environmental Assessment (EA) titled "*Issuance of Incidental Harassment Authorizations to the Gulf of the Farallones National Marine Sanctuary and University of California Santa Cruz to Take Marine Mammals by Harassment Incidental to Rocky Intertidal Monitoring along the U.S. Pacific Coast*." The EA is hereby incorporated by reference in its entirety.

NMFS has prepared this Finding of No Significant Impact (FONSI) to evaluate the significance of the impacts of NMFS' action. It is specific to Alternative 2 in the EA, identified as the Preferred Alternative. Under this alternative, NMFS would issue an IHA with required mitigation, monitoring, and reporting measures. Based on NMFS' review of the GFNMS' proposed action and the measures contained in Alternative 2, NMFS has determined that no direct, indirect or cumulatively significant impacts to the human environment would occur from implementing the Preferred Alternative.

ANALYSIS

National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) (NAO 216-6) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR § 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a FONSI and has been considered individually, as

well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans (FMP)?

Response: NMFS' limited action of issuing an IHA is not expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat because activities will occur on land and only non-destructive research methods are utilized. The GFNMS' proposed action would take place on land and not have a substantial impact to habitat, as only non-destructive research methods are utilized. The mitigation and monitoring measures required by the IHA would not affect habitat.

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: NMFS does not expect either the GFNMS' proposed action or NMFS' proposed action (i.e., issuing an IHA to the GFNMS that authorizes Level B harassment) to have a substantial impact on biodiversity or ecosystem function within the affected environment. The proposed action area may temporarily disturb pinnipeds hauled out on the perimeter of the islands, but effects would be short-term and localized.

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: NMFS does not expect either the GFNMS' proposed action or NMFS' proposed action (i.e., issuing an IHA) to have a substantial adverse impact on public health or safety. The survey area is not open to public access, and the researchers involved in the proposed action would take the necessary precautions to ensure their safety.

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: Issuance of the IHA is likely to result in limited adverse effects to harbor seals, California sea lions, northern elephant seals, northern fur seals, and Steller sea lions. The EA evaluates the affected environment and potential effects of NMFS' (i.e., issuing an IHA to the GFNMS) and the GFNMS' proposed actions, indicating that only the presence and approach of the researchers during the surveys have the potential to affect marine mammals in a way that requires authorization under the MMPA. The short-term surveys and any required mitigation measures would not affect physical habitat features, such as substrates and water quality.

NMFS has determined that the proposed activity may result in some Level B harassment (in the form of short-term and localized changes in behavior) of small numbers, relative to the population sizes, of five species of marine mammals, one of which is listed under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq*.). NMFS' Office of Protected Resources Permits and Conservation Division consulted formally under Section 7 of the Endangered Species Act internally with the NMFS Southwest Regional Office on the issuance of an IHA to authorize the take of an ESA-listed

species: the eastern U.S. stock of Steller sea lion.

The following mitigation and monitoring measures are planned for the proposed action to minimize adverse effects to protected species:

(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) 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) observers to record presence and reactions of pinnipeds.

Taking these measures into consideration, responses of marine mammals from the preferred alternative are expected to be limited to temporary avoidance of the area and short-term behavioral changes, falling within the MMPA definition of "Level B harassment."

NMFS does not anticipate that marine mammal take by injury (Level A harassment), serious injury, or mortality would occur and expects that harassment takes would be at the lowest level practicable due to the incorporation of the mitigation measures required by the IHA. Numbers of individuals of all marine mammal species taken by harassment are expected to be small (relative to species or stock abundance), and the take is anticipated to have a negligible impact on any species or stock. The impacts of the proposed action on marine mammals are specifically related to the presence of researchers, and these are expected to be temporary in nature, negligible, and would not result in substantial impact to marine mammals or to their role in the ecosystem.

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: The primary impacts to the natural and physical environment are expected to be temporary in nature (and not significant) and not interrelated with significant social or economic impacts. Issuance of the IHA would not result in inequitable distributions of environmental burdens or access to environmental goods because GFNMS will solely be conducting research on harbor seals, California sea lions, northern elephant seals, northern fur seals, and Steller sea lions in an area where there is no commercial or residential activity.

NMFS has determined that issuance of the IHA would not adversely affect low-income or minority populations, as impacts would only be incurred by marine mammals. Further, there would be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses, as there are no such uses of marine mammals in the proposed action area. Therefore, no significant social or economic effects are expected to result from issuance of the IHA or the proposed action.

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: The effects of NMFS' issuance of an IHA for the take of marine mammals incidental to the rocky intertidal monitoring are not highly controversial. Specifically, NMFS did not receive any comments raising substantial questions or concerns about the size, nature, or effect of potential impacts from NMFS's proposed action or the GFNMS' proposed project. There is no substantial dispute over effects to marine mammals.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: Issuance of the IHA is not expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas as none of the activities would occur in any of the aforementioned areas, with the exception of ecologically critical areas. Some of the activities will occur on designated critical habitat for the eastern U.S. stock of Steller sea lion. However, based on the fact that no motorized equipment will be used and researchers will be in the area for short periods of time (i.e., 3-4 hours for 4-8 days in November and February), no substantial impacts will occur in the critical habitat area. While pinniped haul-outs may be temporarily undesirable to the animals due to the presence of researchers, their presence would be localized and short-term.

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: The potential risks regarding the presence of researchers and the survey methods are not unique or unknown, nor is there significant uncertainty about impacts. NMFS has issued several IHAs for similar research (e.g., rocky intertidal surveys in other locations, bird monitoring research) and conducted NEPA analysis on those projects. Each of these projects required marine mammal monitoring and monitoring reports have been reviewed by NMFS to ensure that activities have a negligible impact on marine mammals. In no case have impacts to marine mammals, as determined from monitoring reports, exceeded NMFS' analysis under the MMPA and NEPA. Therefore, the effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: Issuance of an IHA to the GFNMS is not related to other actions with individually insignificant but cumulatively significant impacts. While other research projects on the Farallones may result in harassment to marine mammals, the impacts are not expected to be cumulatively significant. Any future authorizations would have to undergo the same permitting process and would take the GFNMS' proposed action into consideration when addressing cumulative effects. The proposed issuance of an IHA to the University of California's Partnership for Interdisciplinary Study of Coastal Oceans would not have significant synergistic effects because different sites will be sampled in the two projects, and both entities would be required to implement mitigation and monitoring measures to ensure the least practicable impact on affected species. The issuance of an

IHA to GFNMS in conjunction with the other IHAs that have been issued or are proposed for issuance in the region would not result in cumulatively significant impacts.

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: The proposed action would not take place in any areas listed in or eligible for listing in the National Register of Historic Places and would not cause loss or destruction of significant scientific, cultural, or historical resources.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: The proposed action cannot be reasonably expected to result in the introduction or spread of a non-indigenous species as equipment that could cause such effects are not anticipated to be used.

12) Is the proposed action likely to establish a precedent for future actions with significant effects or does it represent a decision in principle about a future consideration?

Response: The proposed action would not set a precedent for future actions with significant effects or represent a decision in principle. Each MMPA authorization applied for under section 101(a)(5) must contain information identified in NMFS' implementing regulations. NMFS considers each activity specified in an application separately and, if it issues an IHA to the applicant, NMFS must determine that the impacts from the specified activity would result in a negligible impact to the affected species or stocks per the requirements of the MMPA. NMFS' issuance of an IHA, may inform the environmental review for future projects but would not establish a precedent or represent a decision in principle about a future consideration.

13) Can the proposed action reasonably be expected to threaten a violation of any Federal, State, or local law or requirements imposed for the protection of the environment?

Response: Issuance of the proposed IHA would not result in any violation of Federal, State, or local laws for environmental protection. The applicant consulted with the appropriate Federal, State, and local agencies during the application process and would be required to follow associated laws as a condition of the IHA.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: The proposed action allows for the taking, by incidental harassment, of marine mammals during the proposed rocky intertidal monitoring. NMFS has determined that marine mammals may exhibit behavioral changes such as avoidance of or changes in movement within the action area. However, NMFS does not expect the authorized harassment to result in significant cumulative adverse effects on the affected species or stocks. Issuance of an IHA is not expected to result in any significant cumulative adverse effects on target or non-target species incidentally taken by harassment due to human presence.

Cumulative effects refer to the impacts on the environment that result from a combination of past, existing, and reasonably foreseeable human activities and natural processes. Human activities in the region of the proposed action are limited to research because the Farallones are not open to public access. Because of the relatively small area of potential impacts and mitigation measures, the action would not result in synergistic or cumulative adverse effects that could have a significant effect on any species.

The proposed action does not target any marine species and is not expected to result in individual, long-term, or cumulative adverse effects on the species incidentally taken by harassment due to these activities. The potential temporary behavioral disturbance of marine species might result in short-term behavioral effects for these marine species within the disturbed areas, but no long-term displacement of marine mammals, endangered species, or their prey is expected as a result of the proposed action conducted under the requirements of the IHA. Therefore, NMFS does not expect any cumulative significant effects on any species as a result of the proposed action.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA titled "*Issuance of Incidental Harassment Authorizations to the Gulf of the Farallones National Marine Sanctuary and University of California Santa Cruz to Take Marine Mammals by Harassment Incidental to Rocky Intertidal Monitoring along the U.S. Pacific Coast,*" and documents that it references, NMFS has determined that issuance of an IHA to the GFNMS for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting rocky intertidal monitoring surveys on the South Farallon Islands in accordance with Alternative 2 in NMFS' 2012 EA would not significantly impact the quality of the human environment, as described in this FONSI and in the EA.

In addition, all beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

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Date