FINDING OF NO SIGNIFICANT IMPACT
FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION
TO POINT BLUE CONSERVATION SCIENCE AND PARTNERS
TO TAKE MARINE MAMMALS INCIDENTAL TO
CONDUCTING SEABIRD AND PINNIPED RESEARCH OPERATIONS
IN CENTRAL CALIFORNIA

NATIONAL MARINE FISHERIES SERVICE

BACKGROUND

The National Marine Fisheries Service (NMFS) received an application from Point Blue Conservation Science (Point Blue) and its private and Federal partners[1] (hereafter, we refer to the entire group as Point Blue) requesting an Incidental Harassment Authorization (Authorization) under the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1631 *et seq*.) for the incidental taking of small numbers of marine mammals, incidental to the conduct of seabird and pinniped research in central California (*i.e*., Southeast Farallon Island, West End Island, Año Nuevo Island, Point Reyes National Seashore, San Francisco Bay, and Russian River in Sonoma County) for one year.

Under the MMPA, we, NMFS, shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The Authorization must prescribe, where applicable, methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking.

Our proposed action is a direct outcome of Point Blue requesting an Authorization to take marine mammals, by harassment, incidental to conducting both seabird and pinniped research within central California year round. Point Blue's research activities, which have the potential to behaviorally disturb marine mammals, warrant an incidental take authorization from us under section 101(a)(5)(D) of the MMPA.

In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq*.), the Council on Environmental Quality regulations in 40 CFR §§ 1500-1508, and National Oceanographic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6, we completed an Environmental Assessment (EA) titled, *Issuance of an Incidental Harassment Authorization to Point Blue Conservation Science and Partners to Take Marine Mammals by Harassment Incidental to Seabird and Pinniped Research Conducted in Central California*. We incorporate this EA in its entirety by reference.

We have prepared this Finding of No Significant Impact (FONSI) to evaluate the significance of the impacts of our selected alternative—Alternative 1 (Preferred Alternative) titled, "Issuance of an Authorization with Mitigation Measures," and our conclusions regarding the impacts related to our

[1] Partners include Oikonos Ecosystem Knowledge; Point Reyes National Seashore with the National Park Service; and the Gulf of the Farallones National Marine Sanctuary, within NOAA's National Ocean Service.

proposed action. Under this Alternative, we would issue an Authorization under the MMPA with required mitigation, monitoring, and reporting measures. Based on our review of Point Blue's proposed action and the measures contained within Alternative 1, we have determined that no direct, indirect, or cumulatively significant impacts to the human environment would occur from implementing the Preferred Alternative.

ANALYSIS

NAO 216-6 (May 20, 1999) 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 this section is relevant to making a finding of no significant impact. We have considered each criterion individually, as well as in combination with the others. We analyzed the significance of this action 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: We do not expect that our limited action of issuing an Authorization to Point Blue or Point Blue's proposed action would cause substantial damage to the ocean and coastal habitats and/or essential fish habitat. The proposed action would only use small watercraft for transportation to and from the proposed research areas. The proposed action would involve minimal pedestrian traffic on land and would not have a substantial impact to habitat. The mitigation and monitoring measures required by the Authorization would not affect habitat or essential fish 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: We do not expect that our limited action of issuing an Authorization to Point Blue or Point Blue's proposed action would have a substantial impact on biodiversity and/or ecosystem function within the affected environment. The proposed action may temporarily disturb pinnipeds hauled out on the perimeter of the research areas, but the 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: We do not expect that our limited action of issuing an Authorization to Point Blue or Point Blue's proposed action would have a substantial adverse impact on public health or safety. The proposed action would only involve trained researchers who will take the necessary precautions to ensure their safety within the action areas.

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: We have determined that our issuance of an Authorization and Point Blue's proposed action would likely result in limited adverse effects to California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina richardsi*), northern elephant seals (*Mirounga angustirostris*), and Stellar sea lions (*Eumetopias jubatus*). The EA evaluates the affected environment and potential effects of both proposed actions, indicating that only the presence and approach of the researchers during the research activities have the potential to affect marine mammals in a way that requires authorization under the MMPA. The research activities and any required mitigation measures would not affect physical habitat features, such as substrates and water quality.

We have determined that the proposed activities 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 four species of marine mammals—none of which are listed as threatened or endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq*.).

Because Point Blue's research activities take place on land and do not overlap with offshore designated critical habitat areas, their proposed action would have no effect on critical habitat which remains in place as a transitional matter until NMFS amends the designation for the area in a future rulemaking.

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities, Point Blue and/or its designees have proposed to implement the following monitoring and mitigation measures for marine mammals included in the EA. Taking these measures into consideration, we expect that the responses of marine mammals from the Preferred Alternative would be limited to temporary avoidance of the area and short-term behavioral changes, falling within the MMPA definition of "Level B harassment."

We do not anticipate that take by injury (Level A harassment), serious injury, or mortality would occur, nor would we authorize take by injury, serious injury, or mortality. We expect that harassment takes would be at the lowest level practicable due to the incorporation of the mitigation measures proposed by Point Blue.

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

Response: We expect that the primary impacts to the natural and physical environment would be temporary in nature (and not significant) and not interrelated with significant social or economic impacts. Issuance of an Authorization would not result in inequitable distributions of environmental burdens or access to environmental goods because Point Blue would conduct research only in a marine sanctuary, wildlife refuges, a National Park, and other conservation areas, which are relatively protected from commercial or residential activities.

We have determined that issuance of the Authorization would not adversely affect low-income or a minority population— as our action only affects 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, we expect that no significant social or economic effects would result from our issuance of an Authorization or Point Blue's proposed action.

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

Response: The effects of our issuance of an Authorization for the take of marine mammals incidental to seabird and pinniped research are not highly controversial. Point Blue has conducted this type of research for decades and we are unaware of any party characterizing their activities as controversial. Specifically, we did not receive any comments raising substantial questions or concerns about the size, nature, or effect of potential impacts from our proposed action or Point Blue's 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: We do not expect that our issuance of an Authorization and Point Blue's proposed action would 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.

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

Response: The potential risks of equipment resulting in elevated sound levels are not unique or unknown, nor do we expect there to be significant uncertainty about impacts. We have issued five Authorizations to Point Blue for the same activities since 2007 and have conducted NEPA analyses on those actions. Each Authorization required marine mammal monitoring and monitoring reports which we reviewed 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 our previous determinations under the MMPA and our analyses under the NEPA. Therefore, the effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks.

We do not expect the effects on the human environment to be uncertain or involve unique or unknown risks. The seabird researchers would use standard research methodologies for observation and censusing of common Murres (*Uria aalge*). The pinniped researchers are participating in a 30-year old monitoring effort conducted by Point Blue, the National Park Service, and the U.S. Fish and Wildlife Service.

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

Response: Issuance of an Authorization to Point Blue is not related to other actions with individually insignificant, but cumulatively significant impacts. While other research projects in central California may result in harassment to marine mammals, we do not expect that the impacts would be cumulatively significant. Any future Authorizations would have to undergo the same permitting process and would take the Point Blue's proposed action into consideration when addressing cumulative effects.

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: We have determined that the proposed action is not an undertaking with the potential to affect historic resources. The proposed action is limited to the authorization to harass marine mammals consistent with the MMPA definition of "Level B harassment." The issuance of an Authorization and Point Blue's activities would not adversely affect entities listed in or eligible for listing in the National Register of Historic Places or to allow substantial damage to the ocean and coastal habitats and/or essential fish habitat per the Magnuson-Stevens Act.

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

Response: Our action is the issuance of an Authorization to Point Blue—one cannot reasonably expect that our office-based action would result in the introduction or spread of a non-indigenous species into the human environment. Further, Point Blue is not using any type of equipment that would cause such effect.

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: Our proposed action of issuing an Authorization would not set a precedent for future actions with significant effects or represent a decision in principle. Each MMPA authorization applied for under 101(a)(5)(D) must contain information identified in our implementing regulations. We consider each activity specified in an application separately and, if we issue an Authorization to an applicant, we must determine that the impacts from the specified activity would result in a negligible impact to the affected species or stocks. Our issuance of an Authorization 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 violate any Federal, State, or local law or requirements imposed for the protection of the environment?

Response: The issuance of an Authorization would not result in any violation of federal, state, or local laws for environmental protection. The applicant is required to obtain any additional federal, state and local permits necessary to carry out the seabird and pinniped research.

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 research trial. We have determined that marine mammals may exhibit behavioral changes such as avoidance of or changes in movement within the action area. However, we do not expect the authorized harassment to result in significant cumulative adverse effects on the affected species or stocks. We do not expect that the issuance of an Authorization would result in any significant cumulative adverse effects on target or non-target species incidentally taken by harassment due to elevated sound levels or 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 ensonification and human interaction along with the corresponding mitigation measures, the action would not result in synergistic or cumulative adverse effects that could have a substantial effect on any species.

The proposed action does not target any marine species, and we do not expect it to result in any 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 we expect no long-term displacement of marine mammals as a result of the proposed action conducted under the requirements of the Authorization. Thus, we do not expect any cumulative adverse effects on any species as a result of our action.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA titled, *Issuance of an Incidental Harassment Authorization to Point Blue Conservation Science and Partners to Take Marine Mammals by Harassment Incidental to Seabird and Pinniped Research Conducted in Central California*, we, NMFS, have determined that issuance of an Incidental Harassment Authorization to Point Blue Conservation Science for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting seabird and pinniped research in accordance with Alternative 1 in the 2014 EA would not significantly impact the quality of the human environment, as described in this FONSI and in the EA.

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

Donna S Wieting

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

JAN 29 2014

Date