



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

LETTER OF AUTHORIZATION

The Sonoma County Water Agency and their designees are hereby authorized under section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(A)) to incidentally harass marine mammals, subject to the provisions of the MMPA and the Regulations Governing Taking of Marine Mammals Incidental to Russian River Estuary Management Activities (50 CFR Part 217, Subpart A) (Regulations).

1. This Letter of Authorization (LOA) is valid from April 21, 2022, through April 20, 2027.
2. This LOA authorizes take incidental to the specified estuary management activities in Sonoma County, California, and described in the preamble to the Regulations.
3. General Conditions
 - (a) A copy of this LOA must be in the possession of the Holder of the Authorization (Holder), supervisory work crew, lead monitoring personnel, and any other relevant designees of the Holder operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.
 - (b) The Holder is hereby authorized to incidentally take, by Level B harassment only, 5,517 harbor seals (*Phoca vitulina*), 34 California sea lions (*Zalophus californianus californianus*), and 34 northern elephant seals (*Mirounga angustirostris*). These numbers represent the annual take authorization for five years.
 - (c) The taking by Level A harassment, serious injury or death of any of the species listed in 3(b) of this LOA or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this LOA. Any taking exceeding the authorized amounts listed in 3(b) of this LOA is prohibited and may result in the modification, suspension, or revocation of this LOA.
 - (d) If SCWA observes a pup that may be abandoned, it shall contact the National Marine Fisheries Service (NMFS) West Coast Regional Stranding Coordinator immediately (562-980-3230; Justin.Viezbicke@noaa.gov) and also report the incident to NMFS Office of Protected Resources (301-427-8425;



Benjamin.Laws@noaa.gov) within 48 hours. Observers shall not approach or move the pup.

4. Mitigation Requirements

- (a) SCWA crews shall cautiously approach the haul-out ahead of heavy equipment.
- (b) SCWA staff shall avoid walking or driving equipment through the seal haul-out.
- (c) Crews on foot shall make an effort to be seen by seals from a distance.
- (d) All work shall be completed as efficiently as possible, with the smallest amount of heavy equipment possible.
- (e) Boats operating near river haul-outs during monitoring shall be kept within posted speed limits and driven as far from the haul-outs as safely possible.
- (f) SCWA shall implement the following mitigation measures during pupping season (March 15-June 30):
 - (i) SCWA shall maintain a one week no-work period between water level management events (unless flooding is an immediate threat). During the no-work period, equipment must be removed from the beach.
 - (ii) A water level management event may not occur for more than two consecutive days unless flooding threats cannot be controlled.
 - (iii) If a pup less than one week old is on the beach where heavy machinery will be used or on the path used to access the work location, the management action shall be delayed until the pup has left the site or the latest day possible to prevent flooding while still maintaining suitable fish rearing habitat. In the event that a pup remains present on the beach in the presence of flood risk, SCWA shall consult with NMFS and CDFW to determine the appropriate course of action. SCWA shall determine if pups less than one week old are on the beach prior to a breaching event.
 - (iv) Physical and biological monitoring shall not be conducted if a pup less than one week old is present at the monitoring site or on a path to the site.

5. Monitoring Requirements

- (a) Marine mammal monitoring and reporting shall be conducted in accordance with the approved Pinniped Monitoring Plan (attached) and this LOA.

6. Reporting

- (a) The Holder shall submit an annual summary report to NMFS not later than ninety days following the end of a given calendar year. SCWA shall provide a final report within thirty days following resolution of comments on the draft report.
- (b) All draft and final monitoring reports shall be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Laws@noaa.gov*.
- (c) These reports shall contain, at minimum, the following:
 - (i) The number of seals taken, by species and age class (if possible);
 - (ii) Behavior prior to and during water level management events;
 - (iii) Start and end time of activity;
 - (iv) Estimated distances between source and seals when disturbance occurs;
 - (v) Weather conditions (*e.g.*, temperature, wind, etc.);
 - (vi) Haul-out reoccupation time of any seals based on post-activity monitoring;
 - (vii) Tide levels and estuary water surface elevation; and
 - (viii) Seal census from haul-out monitoring.
- (d) Reporting injured or dead marine mammals:
 - i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a prohibited manner, SCWA shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:
 - A. Time and date of the incident;
 - B. Description of the incident;

- C. Environmental conditions;
- D. Description of all marine mammal observations in the 24 hours preceding the incident;
- E. Species identification or description of the animal(s) involved;
- F. Fate of the animal(s); and
- G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with SCWA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SCWA may not resume their activities until notified by NMFS.

- ii. In the event that SCWA discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), SCWA shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(d)(i) of this LOA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SCWA to determine whether additional mitigation measures or modifications to the activities are appropriate.

- iii. In the event that SCWA discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to the specified activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SCWA shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. SCWA shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.
- iv. Pursuant to sections 6(d)(ii-iii), SCWA may use discretion in determining what injuries (i.e., nature and severity) are appropriate for reporting. At minimum, SCWA must report those injuries considered to be serious (i.e., will likely result in death) or that are likely caused by human interaction (e.g., entanglement, gunshot). Also pursuant to sections 6(d)(ii-iii), SCWA

may use discretion in determining the appropriate vantage point for obtaining photographs of injured/dead marine mammals.

7. This Authorization may be modified, suspended or revoked if the Holder fails to abide by the conditions prescribed herein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines: (1) the authorized taking is likely to have or is having more than a negligible impact on the species or stocks of affected marine mammals or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat.

For Kimberly Damon-Randall,
Director, Office of Protected Resources
National Marine Fisheries Service