



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MAY 25 2018

Sean Paver
City of San Diego
Public Works - Engineering
525 B Street, Suite 750, MS 908A
San Diego, CA 92101

Dear Mr. Paver:

Enclosed is an Incidental Harassment Authorization (IHA) issued to the City of San Diego, under the authority of Section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) to take, by Level B harassment only, small numbers of three species of marine mammals incidental to Coast Boulevard improvements in La Jolla, California. The IHA is valid from June 1, 2018 through December 14, 2018.

You are required to comply with the conditions contained in the IHA, including all mitigation, monitoring and reporting requirements. Along with mitigation measures, the IHA requires monitoring for the presence and behavior of marine mammals during all activities associated with the project.

If you have any questions concerning the IHA or its requirements, please contact Amy Fowler, Office of Protected Resources, NMFS at (301) 427-8461.

Sincerely,

Donna S. Wieting, Director
Office of Protected Resources

Enclosure



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INCIDENTAL HARASSMENT AUTHORIZATION

The City of San Diego is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to a Boulevard Walkway Improvements Project in La Jolla, California, when adhering to the following terms and conditions.

1. This Incidental Harassment Authorization (IHA) is valid from June 1, 2018 through December 14, 2018.
2. This IHA is valid only for demolition and construction activities associated with the public parking lot, sidewalk, and landscaping improvement project at Coast Boulevard in La Jolla, California.
3. General Conditions
 - (a) A copy of this IHA must be in the possession of the City, its designees, and work crew personnel operating under the authority of this IHA.
 - (b) The species authorized for taking are the Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and northern elephant seal (*Mirounga angustirostris*). See Table 1 for numbers of take authorized.

Table 1. Authorized Take Numbers by Species

Species	Level B authorized takes	Total authorized takes
Harbor seal	1,620	1,620
California sea lion	36	36
Northern elephant seal	14	14

- (c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b).



- (d) The take by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal not listed in condition 3(b), is prohibited and may result in the modification, suspension, or revocation of this IHA.
- (e) The City shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and acoustical monitoring team prior to the start of all demolition and construction activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures.

- (a) Demolition and construction shall be prohibited during the Pacific harbor seal pupping season (December 15th to May 15th) and for an additional two weeks to accommodate lactation and weaning of late season pups.
- (b) Demolition and construction shall be limited to daylight hours only (7:00 a.m. to 7:00 p.m., or 30 minutes before sunset depending on time of year).
- (c) Construction and demolition activity involving use of very loud equipment (*e.g.*, jackhammers) shall be scheduled between the hours of 8:30 a.m. to 3:30 p.m., to the maximum extent practical, but may be extended from 7:00 a.m. to 7:00 p.m. (daylight hours only).
- (d) Monitoring shall be conducted by a trained marine mammal observer (MMO).
 - (i) The MMO shall have no other construction-related tasks while conducting monitoring and shall be trained on species identification, how to observe, and how to fill out the data sheets prior to any construction or demolition activities.
 - (ii) Monitoring shall take place from 30 minutes prior to initiation of demolition or construction activity through 30 minutes post-completion of such activity.
 - (iii) The MMO shall have the following minimum qualifications:
 1. Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
 2. A minimum of a Bachelor's degree in biological science, wildlife management, mammalogy, or related field;

3. Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);
4. Experience or training in the field identification of marine mammals, and identification of marine mammal behavior;
5. Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
6. Writing skills sufficient to prepare a report of observations; and
7. Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

4. Monitoring

The holder of this Authorization is required to implement the following monitoring measures:

- (a) The City shall collect sighting data and shall record observed behavioral responses to project activities for marine mammal species observed in the region of activity during the period of activity;
- (b) All visual marine mammal information shall be recorded by the MMO at least 30 minutes prior to project activities, every hour during project activities, and at least 30 minutes after cessation of project activities, as described in the Monitoring Plan (Appendix C, Section 4 of the IHA Application) and shall include the following:
 - (i) Dates and times of marine mammal observations;
 - (ii) Location of observations (description);
 - (iii) Construction activities occurring during each observation period including any substantial change in construction activities;
 - (iv) Human activity in the area;
 - (v) Counts by species of pinnipeds, and if possible sex and age class;
 - (vi) Number and type of marine mammal responses to disturbance; and
 - (vii) Apparent causes of marine mammal responses (*e.g.*, construction project, aircraft, human activity, other pinniped, other animal, swimmer/diver, watercraft, or other with a description).
- (c) In the event that a fur seal is observed on the rocks, beach, or in the water prior to commencement of activities or during activities, the MMO shall alert the

stranding network and all activities shall be postponed until coordination with the stranding network is complete (including any potential 24-hour or 48-hour wait/observation period) and the animal either leaves or is collected by the stranding network.

- (d) Acoustic recordings shall include the following:
 - (i) One location (at minimum) will be monitored close to the construction site (near field) and adjacent to the edge of the bluff overlooking Children's Pool. This will be a mobile station that will move based on the actual location of construction activities;
 - (ii) If the loudest construction activities are more than 15 m (49 ft) from the edge of the bluff, acoustic data also will be recorded at an additional near-field location closer to the construction / demolition activities;
 - (iii) Three fixed monitoring stations will be established parallel to the guideline rope (far-field);
 - (iv) If SPLs of 90 dB rms or greater are measured at any far-field monitoring station, additional monitoring will be conducted to determine the far-field extent of the 90 dB isopleth, and 100 dB isopleth, as applicable; and
 - (v) Acoustic monitor shall record time of observations, environmental conditions, and SPLs at applicable monitoring stations 30 minutes prior to the start of demolition / construction, every hour during demolition / construction, and 30 minutes after cessation of demolition / construction activities.

5. Reporting

The holder of this Authorization is required to:

- (a) Submit a draft report on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal and acoustic monitoring or 60 days prior to the issuance of any subsequent IHA for this project, whichever comes first;
- (b) Submit a final report within 30 days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan at minimum, and shall also include:
 - (i) Results of the marine mammal monitoring plan including the elements described in 4(b); and
 - (ii) Results of acoustic monitoring as described in the Monitoring Plan.
- (c) 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 manner prohibited by this IHA, such as injury or mortality, the City will 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:

1. Time and date of the incident;
2. Description of the incident;
3. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
5. Species identification or description of the animal(s) involved;
6. Fate of the animal(s); and
7. 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 the City to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City may not resume their activities until notified by NMFS.

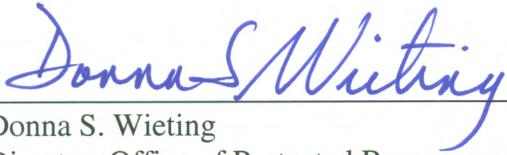
(ii) In the event that the City discovers an injured or dead marine mammal, and the MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), the City will immediately report the incident to the Office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

The report must include the same information identified in 5(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the City to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that the City discovers an injured or dead marine mammal, and the MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City will report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator,

NMFS, within 24 hours of the discovery. The City will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

6. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.



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

MAY 24 2018

Date