

has been maintained during interruption of seismic activity.

#### *Marine Mammal Monitoring*

Scripps must have at least four observers on board the vessel, and at least one must be an experienced marine mammal observer that NMFS approves. At least two observers will monitor marine mammals near the seismic source vessel during all daytime airgun operations and during any nighttime start-ups of the airguns. During daylight, vessel-based observers will watch for marine mammals near the seismic vessel during periods with shooting (including ramp-ups), and for 30 minutes prior to the planned start of airgun operations after an extended shut-down.

The observers will be on duty in shifts of no longer than 4 hours. Use of two simultaneous observers will increase the likelihood that marine mammals near the source vessel are detected. Scripps bridge personnel will also assist in detecting marine mammals and implementing mitigation requirements whenever possible (they will be given instruction on how to do so), especially during ongoing operations at night when the designated observers are not on duty.

The observers will watch for marine mammals from the second level on the vessel, which is approximately 10.4 m (34 ft) above the waterline which allows for a 240-degree view. From the bridge of the *Roger Revelle*, the observer's eye level will be approximately 15 m (49 ft). The observer(s) will systematically scan the area around the vessel with reticle binoculars (e.g., 7 X 50 Fujinon) and with the naked eye during the daytime. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Big Eye binoculars will also be mounted from the bridge of the *Roger Revelle*. The observers will be used to determine when a marine mammal is in or near the safety radii so that the required mitigation measures, such as course alteration and power-down or shut-down, can be implemented. If the airguns are powered or shut down, observers will maintain watch to determine when the animal is outside the safety radius.

If the airguns are ramped-up at night, two marine mammal observers will monitor for marine mammals for 30 minutes prior to ramp-up and during the ramp-up using night vision equipment that will be available (ITT F500 Series Generation 3 binocular image intensifier or equivalent).

#### **Reporting**

Scripps will submit a report to NMFS within 90 days after the end of the cruise, which is predicted to occur on or around May 17, 2004. The report will describe the operations that were conducted and the marine mammals that were detected. The report must provide full documentation of methods, results, and interpretation pertaining to all monitoring tasks. The report will summarize the dates and locations of seismic operations, marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential take of marine mammals by harassment or in other ways.

#### **ESA**

Under section 7 of the ESA, NMFS has begun consultation on the proposed issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to the issuance of an IHA.

#### **National Environmental Policy Act (NEPA)**

The NSF has prepared an EA for the southern Gulf of California surveys. NMFS is reviewing this EA and will either adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA.

#### **Preliminary Conclusions**

NMFS has preliminarily determined that the impact of conducting the seismic survey in the southern Gulf of California will result, at worst, in a temporary modification in behavior by certain species of marine mammals. This activity is expected to result in no more than a negligible impact on the affected species or stocks.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document. In addition, the proposed seismic program is not expected to interfere with any subsistence hunts, since operations in the whaling and sealing areas will be limited or nonexistent.

#### **Proposed Authorization**

NMFS proposes to issue an IHA to Scripps for conducting seismic surveys in the southern Gulf of California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed activity would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of species or stocks for subsistence uses.

#### **Information Solicited**

NMFS requests interested persons to submit comments and information concerning this request (see **ADDRESSES**).

Dated: March 12, 2004.

**Phil Williams,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

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#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

[I.D. 031204D]

#### **Marine Mammals; File No. 1042-1736**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of application.

**SUMMARY:** Notice is hereby given that Animal Training and Research, International, Moss Landing Marine Laboratories, 8272 Moss Landing Road, Moss Landing, CA 95039, (Jennifer Hurley, Ph.D., Principal Investigator), has applied in due form for a permit to obtain up to four stranded, releasable California sea lions (*Zalophus californianus*) and up to two stranded, releasable Pacific harbor seals (*Phoca vitulina*) for the purposes of public display.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before April 19, 2004.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301-713-2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California 90802, (562-980-4021).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1042-1736.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Amy Sloan, (301-713-2289).

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests authorization to obtain California sea lion and Pacific harbor seal pups post-rehabilitation, stranded in the earlier stages of maternal care with decreased chances of post-release survival due to their extended period of human care and possible imprintation on people. California sea lion pups would be primarily females. Harbor seal pups of either sex will be considered. The applicant requests this permit for the purpose of public display. The receiving facility, Animal Training and Research, International is: (1) open to the public on regularly scheduled basis with access that is not limited or restricted other than by charging for an admission fee; (2) offers an educational program based on professionally accepted standards of the Alliance for Marine Mammal Parks and Aquariums; and (3) holds an Exhibitor's License, number 93-C-0626, issued by the U.S. Department of Agriculture under the Animal Welfare Act (7 U.S.C. 2131-59).

In addition to determining whether the applicant meets the three public display criteria, NMFS must determine whether the applicant has demonstrated that the proposed activity is humane

and does not represent any unnecessary risks to the health and welfare of marine mammals; that the proposed activity by itself, or in combination with other activities, will not likely have a significant adverse impact on the species or stock; and that the applicant's expertise, facilities and resources are adequate to accomplish successfully the objectives and activities stated in the application.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 12, 2004.

**Amy C. Sloan,**

*Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 040227075-4075-01; I.D. 022304B]

### National Marine Fisheries Service National Gravel Extraction Guidance

**AGENCY:** National Marine Fisheries Service (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability to review and comment on draft National Marine Fisheries Service Gravel Extraction Guidance.

**SUMMARY:** NOAA Fisheries encourages all stakeholders, users, and the public to review the draft NOAA Fisheries Gravel Extraction Guidance. All comments received will be reviewed and considered in the final drafting of the Gravel Extraction Guidance.

**DATES:** Public comments must be received on or before 5 p.m., local time, May 3, 2004.

**ADDRESSES:** Comments on this guidance document may be submitted by email to *Gravel.guidance@noaa.gov*, or faxed to 301-427-2571, or mailed to Gravel Guidance, 1315 East-West Hwy, Room 14108, Silver Spring, MD 20910.

The draft NOAA Fisheries Gravel Extraction Guidance is available at <http://www.nmfs.noaa.gov/habitat> or by sending a request to *Gravel.guidance@noaa.gov*. Please include appropriate contact information when requesting the document.

**FOR FURTHER INFORMATION CONTACT:** Kerry Griffin at 301-713-4300.

**SUPPLEMENTARY INFORMATION:** NOAA Fisheries is responsible for protecting, managing and conserving marine, estuarine, and anadromous fish resources and their habitats. The watersheds of the United States where sand and gravel mining takes place provide essential spawning and rearing habitat for anadromous fish including salmon, shad, sturgeon, and striped bass. A national guidance document on gravel extraction will assist NOAA Fisheries staff in determining whether proposed gravel extraction operations will be conducted in a manner that is consistent with Federal law, and that eliminates or minimizes any adverse impacts to anadromous fish and their habitats.

The recommendations incorporated into the guidance document are suggestions, and are not intended to be binding in any way. This guidance does not specify the measures, if any, that would need to be implemented by parties engaged in gravel extraction activities in any given case to comply with applicable statutory requirements. In formulating its recommendations or prescriptions, NOAA Fisheries will determine the acceptable means of demonstrating compliance with statutory requirements based on information available to the agency, as appropriate under the circumstances presented. As such, the language of the guidance document should not be read to establish any binding requirements on agency staff or the regulated community. The recommendations should not be regarded as static or inflexible, and are meant to be revised as the science upon which they are based improves and areas of uncertainty are resolved. Furthermore, the recommendations are meant to be adapted for regional or local use, so a degree of flexibility in their interpretation and application is necessary.

Dated: March 11, 2004.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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