

England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The HMS AP also includes 22 ex-officio participants: 20 representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the HMS AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the HMS AP meetings.

### C. Meeting Schedule

Meetings of the HMS AP will be held as frequently as necessary but are routinely held twice each year—once in the spring, and once in the fall. The meetings may be held in conjunction with public hearings.

Dated: November 1, 2013.

**James P. Burgess,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XC837**

### Takes of Marine Mammals Incidental to Specified Activities; Seabird and Pinniped Research Activities in Central California, 2013–2014

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

**ACTION:** Notice; proposed incidental harassment authorization; request for comments.

**SUMMARY:** We, NMFS, have received an application from Point Blue Conservation Science (Point Blue, formerly PRBO Conservation Science), requesting an Incidental Harassment Authorization (Authorization) to take marine mammals, by harassment, incidental to conducting proposed seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California from

December 2013 through December 2014. Per the Marine Mammal Protection Act, we are requesting comments on our proposal to issue an Authorization to Point Blue to incidentally harass, by Level B harassment only, four species of marine mammals during the year-long research project.

**DATES:** We must receive comments and information no later than December 5, 2013.

**ADDRESSES:** Address your comments on the application to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Cody@noaa.gov*. Please include 0648-XC837 in the subject line. We are not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and we will generally post them to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or access the documents on our Web page at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

We will prepare a separate NEPA analysis to evaluate the environmental effects related to the scope of our federal action, which is the proposed issuance of an Authorization to Point Blue for their proposed seabird and pinniped research activities. This notice presents detailed information on the scope of our federal action under NEPA (i.e., the proposed Authorization including mitigation measures and monitoring) and we will consider comments submitted in response to this notice as we prepare our NEPA analysis.

The public can view documents cited in this notice by appointment, during regular business hours, at the previously mentioned address.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Cody, Office of Protected Resources, NMFS (301) 427-8401.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(D) of the Marine Mammal

Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if: (1) We make certain findings; (2) the taking is limited to harassment; and (3) we provide a notice of a proposed authorization to the public for review.

We shall allow 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 set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (i.e., mitigation); and requirements pertaining to the monitoring and reporting of such takings. We have defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take marine mammals by harassment. Section 101(a)(5)(D) of the Act establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorization for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

## Summary of Request

We received an application on July 17, 2013, from Point Blue requesting the taking by harassment of small numbers of marine mammals incidental to conducting seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California. Point Blue, along with partners Oikonos Ecosystem Knowledge and Point Reyes National Seashore, plan to conduct the proposed activities for one year. These partners are conducting this research under cooperative agreements with the U.S. Fish and Wildlife Service in consultation with the Gulf of the Farallones National Marine Sanctuary. We determined the application complete and adequate on August 27, 2013.

Their proposed research activities would involve monitoring and censusing seabird colonies; observing seabird nesting habitat; restoring nesting burrows; observing breeding elephant seals, and resupplying a field station. The proposed activities would occur in the vicinity of pinniped haul out sites located on Southeast Farallon Island (37°41'54.32" N; 123°0'8.33" W), Año Nuevo Island (37°6'29.25" N; 122°20'12.20" W), or within Point Reyes National Seashore (37°59'38.61" N; 122°58'24.90" W) in central California.

Acoustic and visual stimuli generated by: (1) Noise generated by motorboat approaches and departures; (2) noise generated during restoration activities and loading operations while resupplying the field station; and (3) human presence during seabird and pinniped research activities, have the potential to cause California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore to flush into the surrounding water or to cause a short-term behavioral disturbance for marine mammals in the proposed areas. These types of disturbances are the principal means of marine mammal taking associated with these activities. Point Blue has requested an authorization to take 5,390 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions (*Eumetopias jubatus*) by Level B harassment only.

To date, we have issued five 1-year Incidental Harassment Authorizations to Point Blue (formerly known as PRBO Conservation Science) for the conduct of the same activities from 2007 to 2013.

The current Authorization expires on December 5, 2013 (77 FR 73989, December 7, 2012). This is the organization's sixth request for an Authorization and they will submit a monitoring report to us no later than 90 days after the expiration of the current Authorization.

## Description of the Specified Geographic Region

The proposed action area consists of the following three locations in the northeast Pacific Ocean:

### *South Farallones Islands*

The South Farallon Islands consist of Southeast Farallon Island located at 37°41'54.32" N; 123°0'8.33" W and West End Island. These two islands are directly adjacent to each other and separated by only a 30-foot (ft) (9.1 meter (m)) channel. The South Farallon Islands have a land area of approximately 120 acres (0.49 square kilometers (km)) and are part of the Farallon National Wildlife Refuge. The islands are located near the edge of the continental shelf 28 miles (mi) (45.1 km) west of San Francisco, CA, and lie within the waters of the Gulf of the Farallones National Marine Sanctuary.

### *Año Nuevo Island*

Año Nuevo Island located at 37°6'29.25" N; 122°20'12.20" W is one-quarter mile (402 m) offshore of Año Nuevo Point in San Mateo County, CA. This small 25-acre (0.1 square km) island is part of the Año Nuevo State Reserve, all of which is owned and operated by California State Parks. The Island lies within the Monterey Bay National Marine Sanctuary and the Año Nuevo State Marine Conservation Area.

### *Point Reyes National Seashore*

Point Reyes National Seashore located is approximately 40 miles (64.3 km) north of San Francisco Bay and also lies within the Gulf of the Farallones National Marine Sanctuary. The proposed research areas (Life Boat Station, Drakes Beach, and Point Bonita) are within the headland coastal areas of the National Park.

## Description of the Specified Activity

### *Seabird Research on Southeast Farallon Island*

Point Blue proposes to conduct: (1) Daily observations of seabird colonies at a maximum frequency of three 15-minute visits per day; and (2) conduct daily observations of breeding common murre (*Uria aalge*) at a maximum frequency of one, 5-hour visit per day between September 2013, and September 2014. These activities

usually involve one or two observers conducting daily censuses of seabirds or conducting mark/recapture studies of breeding seabirds on Southeast Farallon Island. The researchers plan to access the island's two landing areas, the North Landing and the East Landing, by 14 to 18 ft (4.3 to 5.5 m) open motorboats which are hoisted onto the island using a derrick system and then travel by foot to coastal areas of the island to view breeding seabirds from behind an observation blind.

The potential for incidental take related to the mark/recapture studies is very low as these activities are conducted within the interior of the island away from the intertidal areas where the pinnipeds haul out. Most potential for incidental take would occur when the researchers approach or depart the intertidal area by motorboat or when the researchers walk within 50 ft (15.2 m) of the haulout areas to enter the observation blinds to observe shorebirds.

### *Field Station Resupply on Southeast Farallon Island*

Point Blue proposes to resupply the field station once every two weeks at a maximum frequency of 26 visits. Resupply activities involve personnel approaching either the North Landing or East Landing by motorboat. At East Landing—the primary landing site—all personnel assisting with the landing would stay on the loading platform approximately 30 ft (9.1 m) above the water. At North Landing, loading operations would occur at the water level in the intertidal areas. Most potential for incidental take would occur when the researchers approach the area by motorboat or when the researchers load or unload supplies onshore.

### *Seabird Research on Año Nuevo Island*

Point Blue and its partners propose to monitor seabird burrow nesting habitat quality and to conduct habitat restoration at a maximum frequency of 20 visits per year. This activity involves two to three researchers accessing the north side of the island by a 12 ft (3.7 m) Zodiac boat. Once onshore, the researchers will check subterranean nest boxes and restore any nesting habitat for approximately 15 minutes.

Most potential for incidental take would occur at the landing beach on the north side of the island when the researchers arrive and depart to check the boxes. Non-breeding pinnipeds may occasionally be present, including California sea lions that may be hauled out near a small group of subterranean seabird nest boxes on the island terrace.

In both locations researchers are located more than 50 ft (15.2 m) away from any pinnipeds which may be hauled out.

#### *Seabird Research on Point Reyes National Seashore*

The National Park Service in collaboration with Point Blue monitors seabird breeding and roosting colonies; conducts habitat restoration; removes non-native plants; monitors intertidal areas; maintains coastal dune habitat. Seabird monitoring usually involves one or two observers conducting the survey by small boats (12 to 22 ft; 3.6 to 6.7 m) along the Point Reyes National Seashore shoreline. Researchers would visit the site at a maximum frequency of 20 times per year, with an emphasis on increasing monitoring during the nesting season. Researchers would conduct occasional, intermittent visits during the rest of the year.

A majority of the research occurs in areas where marine mammals are not present. However, the potential for incidental harassment will occur at the landing beaches along Point Reyes Headland, boat ramps, or parking lots where northern elephant seals, harbor seals, or California sea lions may be hauled out in the vicinity.

#### *Pinniped Research on West End Island*

Pinniped research activities involve surveying breeding northern elephant seals on West End Island between early December and late February. At least three researchers would visit the site at a maximum frequency of five times per year. To conduct the census, the researchers would travel by foot approximately 1,500 ft (457.2 m) above the site to conduct the census. Historically, a few juvenile Steller sea lions may haul out on a spit of rocks called Shell Beach Rocks below the transit path to the northern elephant seal haul out. Thus, the potential for incidental harassment of Steller sea lions may occur when the researchers transit above Shell Beach Rocks.

We expect that acoustic and visual stimuli resulting from the proposed motorboat operations and human presence has the potential to harass marine mammals. We also expect that these disturbances would be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

#### **Description of the Marine Mammals in the Area of the Proposed Specified Activity**

The marine mammals most likely to be harassed incidental to conducting

seabird and pinniped research at the proposed research areas on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore are primarily California sea lions, northern elephant seals, Pacific harbor seals, and to a lesser extent the eastern distinct population segment (DPS) of the Steller sea lion, which NMFS has removed from the list of threatened species under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), effective November, 2013.

We refer the public to Carretta *et al.*, (2013) for general information on these species which we present below this section. The publication is available at: <http://www.nmfs.noaa.gov/pr/sars/pdf/po2012.pdf>.

#### *Northern Elephant Seal*

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California Breeding Stock is approximately 124,000 animals and the maximum population growth rate is 11.7 percent (Carretta *et al.*, 2013).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 1,000 to 2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.*, 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N. (Stewart and Huber, 1993; Le Boeuf *et al.*, 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

At Point Reyes, the population ranges from 1,500 and 2,000 animals (NPS, 2013a). Adult northern elephant seals visit Point Reyes twice a year (NPS, 2013a). They arrive in early winter from their feeding grounds off Alaska and the largest congregations occur in the winter, when the females arrive to deliver their pups and nurse them, and

in spring when immature seals and adult females return to molt. During the time they are onshore they are fasting (NPS, 2013b).

At Southeast Farallon, the population consists of approximately 500 animals (FNMS, 2013). Northern elephant seals began recolonizing the South Farallon Islands in the early 1970s (Stewart *et al.*, 1994) at which time the colony grew rapidly. In 1983 a record 475 pups were born on the South Farallones (Stewart *et al.*, 1994). Since then, the size of the South Farallones colony has declined, stabilizing in the early 2000s and then declining further over the past six years (USFWS, 2013). In 2012, a total of 90 cows were counted on the South Farallones, and 60 pups were weaned (USFWS, 2013). Point Blue's average monthly counts from 2000 to 2009 ranged from 20 individuals in July to nearly 500 individuals in November (USFWS, 2013).

Northern elephant seals are present on the islands and in the waters surrounding the South Farallones year-round for either breeding or molting; however, they are more abundant during breeding and peak molting seasons (Le Boeuf and Laws 1994, Sydeman and Allen, 1997). They live and feed in deep, offshore waters the remainder of the year.

In mid-December, adult males begin arriving on the South Farallones, closely followed by pregnant females on the verge of giving birth. Females give birth to a single pup, generally in late December or January (Le Boeuf and Laws, 1994) and nurse their pups for approximately four weeks (Reiter *et al.*, 1978). Upon pup weaning, females mate with an adult male and then depart the islands. The last adult breeders depart the islands in mid-March. The spring peak of elephant seals on the rookery occurs in April, when females and immature seals (approximately one to four years old) arrive at the colony to molt (a one month process) (USFWS, 2013). The year's new pups remain on the island throughout both of these peaks, generally leaving by the end of April (USFWS, 2013).

The lowest numbers of elephant seals present on the rookery occurs during June, July, and August, when sub-adult and adult males molt. Another peak of young seals return to the rookery for a haul-out period in October, and at that time some individuals undergo partial molt (Le Boeuf and Laws, 1994). At Año Nuevo Island the population ranges from 900 to 1,000 adults.

Observers first sighted elephant seals on Año Nuevo Island in 1955 and today the population ranges from 900 to 1,000 adults (M. Lowry, unpubl. data). Males

began to haul out on the mainland in 1965. California State Park reports that by 1988/1989, approximately 2,000 elephant seals came ashore to Año Nuevo (CSP, 2012).

#### California Sea Lion

California sea lions are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wolfebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner 2003, Wolf *et al.*, 2007, Schramm *et al.*, 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et al.*, 2012).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southern Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.*, 2012). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between four and 10 months of age (NMML, 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

The U.S. stock of California sea lion is the only stock present in the proposed research area and in recent years, California sea lions have begun to breed annually in small numbers at Southeast Farallon and Año Nuevo Islands.

On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. California sea lions at Point Reyes National Seashore haul out at only a few locations, but will occur on human structures such as boat ramps. The annual population averages around 300 to 500 during the fall through spring

months, although on occasion, several thousand sea lions can arrive depending upon local prey resources (S. Allen, unpublished data). On Año Nuevo Island, California sea lions may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in the Application). The island's average population ranges from 4,000 to 9,500 animals (M. Lowry, unpublished data).

#### Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California stock of Pacific harbor seals is approximately 26,667 animals (Carretta *et al.*, 2012).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental United States, including: The outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.*, 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.*, 2005). On the Farallon Islands, approximately 40 to 120 Pacific harbor seals haul out in the intertidal areas (Point Blue unpublished data). Harbor seals at Point Reyes National Seashore haul out at nine locations with an annual population of up to 4,000 animals (M. Lowry, unpublished data). On Año Nuevo Island, harbor seals may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in Point Blue's Application) and the island's average population ranges from

100 to 150 animals (M. Lowry, unpublished data).

#### Steller Sea Lion

Steller sea lions consist of two distinct population segments: the western and eastern distinct population segments divided at 144° West longitude (Cape Suckling, Alaska). On October 23, 2013 NMFS found that the eastern distinct population segment of Steller sea lions has recovered. As a result of the finding, NMFS removed them from the list of threatened species under the ESA. The eastern distinct population segment is depleted under the MMPA.

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.*, 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (e.g., Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon.

In 2012, the estimated population of the eastern distinct population segment ranged from a minimum of 52,847 up to 72,223 animals and the maximum population growth rate is 12.1 percent (Allen and Angliss, 2012).

The eastern distinct population segment of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington state. Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.*, 2004; Hoffman *et al.*, 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.*, 2007).

The current population of Steller sea lions in the proposed research area is

estimated to number between 50 and 750 animals. Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Allen and Angliss, 2012).

Point Blue estimates that between 50 and 150 Steller sea lions live on the Farallon Islands. On Southeast Farallon Island, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999).

The National Marine Fisheries Service's Southwest Fisheries Science Center estimates between 400 and 600 live on Año Nuevo Island (Point Blue unpublished data, 2008; Southwest Fisheries Science Center unpublished data, 2008). At Año Nuevo Island off central California, a steady decline in ground counts started around 1970, and there was an 85 percent reduction in the breeding population by 1987 (LeBoeuf *et al.*, 1991).

Pup counts at Año Nuevo Island declined five percent annually through the 1990s (NOAA Stock Assessment, 2003), and have apparently stabilized between 2001 and 2005 (M. Lowry, SWFSC unpublished data). In 2000, the combined pup estimate for both islands was 349. In 2005, the pup estimate was 204 on the Island. Pup counts on the Farallon Islands have generally varied from five to 15 (Hastings and Sydeman, 2002; Point Blue unpublished data). Pups have not been born at Point Reyes Headland since the 1970s and Steller sea lions are seen in very low numbers there currently (S. Allen, unpublished data).

#### *Other Marine Mammals in the Proposed Action Area*

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the Endangered Species Act and categorized as depleted under the Marine Mammal Protection Act, usually range in coastal waters within two km of shore. Point Blue has not encountered California sea otters on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore during the course of seabird or pinniped research activities over the past five years. This species is managed by the U.S. Fish and Wildlife Service and is not considered further in this notice.

#### **Potential Effects on Marine Mammals**

Acoustic and visual stimuli generated by: (1) Motorboat operations; and (2) the appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore. The

effects of sounds from motorboat operations and the appearance of researchers might include hearing impairment or behavioral disturbance (Southall, *et al.*, 2007).

#### *Hearing Impairment*

Marine mammals produce sounds in various important contexts—social interactions, foraging, navigating, and responding to predators. The best available science suggests that pinnipeds have a functional aerial hearing sensitivity between 75 hertz (Hz) and 75 kilohertz (kHz) and can produce a diversity of sounds, though generally from 100 Hz to several tens of kHz (Southall, *et al.*, 2007).

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (Southall *et al.*, 2007).

Pinnipeds have the potential to be disturbed by airborne and underwater noise generated by the small boats equipped with outboard engines (Richardson, Greene, Malme, and Thomson, 1995). However, there is a dearth of information on acoustic effects of motorboats on pinniped hearing and communication and to our knowledge there has been no specific documentation of hearing impairment in free-ranging pinnipeds exposed to small motorboats during realistic field conditions.

#### *Behavioral Disturbance*

Disturbances resulting from human activity can impact short- and long-term pinniped haul out behavior (Renouf *et al.*, 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.*, 1984; Stewart, 1984; Suryan and Harvey, 1999; Mortenson *et al.*, 2000; and Kucey and Trites, 2006). Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity,

reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007; Weilgart, 2007). If a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007).

Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.*, 1984; Calambokidis *et al.*, 1991; Suryan and Harvey, 1999; and Mortenson *et al.*, 2000). The Hawaiian monk seal (*Monachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972). And in one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (i.e., kayaks, canoes, motorboats and sailboats) on harbor seal haulout behavior in Métis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks-canoes which approach slowly, quietly and low on water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels has only a temporary effect on the haulout behavior of harbor seals in the Métis Bay area.

In 2004, Johnson and Acevedo-Gutierrez (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haulout sites on Yellow Island, Washington state. The authors estimated the minimum distance between the vessels and the haul-out sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the seven-weekend study, the authors recorded 14 human-related disturbances which were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138

and 371 m) respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haulout site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007).

As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels re: 20  $\mu$ Pa) non-pulse sounds often leave haulout areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.*, 2007). Based on the available data, previous monitoring reports from Point Blue, and studies described here, we anticipate that any pinnipeds found in the vicinity of the proposed project could have short-term behavioral reactions to the noise attributed to Point Blue's motorboat operations and human presence related to the seabird and pinniped research. We would expect the pinnipeds to return to a haulout site within 60 minutes of the disturbance (Allen *et al.*, 1985). The effects to pinnipeds appear at the most, to displace the animals temporarily from their haul out sites and we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of the proposed research. The maximum disturbance to Steller sea lions would result in the animals slowly flushing into the water in response to presence of the researchers.

Finally, no research activities would occur on pinniped rookeries. Breeding animals are concentrated in areas where researchers would not visit. Therefore, we do not expect mother and pup separation or crushing of pups during flushing.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the "Proposed Mitigation" and "Proposed Monitoring and Reporting" sections).

### Anticipated Effects on Habitat

We do not anticipate that the proposed operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (i.e., fish and invertebrates). While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

### Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

Point Blue has based the mitigation measures which they will implement during the proposed research, on the following: (1) Protocols used during previous Point Blue seabird and pinniped research activities as required by our previous authorizations and Incidental Take Statement for the Biological Opinion for these activities; (2) recommended best practices in Richardson *et al.* (1995); and (3) the Terms and Conditions of NMFS Scientific Research Permit 17152-00.

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities Point Blue and/or its designees has proposed to implement the following mitigation measures for marine mammals:

(1) Abide by the Terms and Conditions of NMFS Scientific Research Permit 17152-00.

(2) Postpone beach landings on Año Nuevo Island until pinnipeds that may be present on the beach have slowly entered the water.

(3) Select a pathway of approach to research sites that minimizes the number of marine mammals harassed.

(4) Avoid visits to sites used by pinnipeds for pupping.

(5) Monitor for offshore predators and do not approach hauled out pinnipeds

if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*). If Point Blue and/or its designees see predators in the area, they must not disturb the animals until the area is free of predators.

(6) Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds.

(7) Conduct seabird observations at North Landing on Southeast Farallon Island in an observation blind, shielded from the view of hauled out pinnipeds.

(8) Crawl slowly to access seabird nest boxes on Año Nuevo Island if pinnipeds are within view.

(9) Coordinate research visits to intertidal areas of Southeast Farallon Island (to reduce potential take) and coordinate research goals for Año Nuevo Island to minimize the number of trips to the island.

(10) Coordinate monitoring schedules on Año Nuevo Island, so that areas near any pinnipeds would be accessed only once per visit.

(11) Have the lead biologist serve as an observer to evaluate incidental take.

We have carefully evaluated the applicant's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on our evaluation of Point Blue's proposed measures, we have preliminarily determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

### Proposed Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the Marine Mammal Protection Act states that we must set forth "requirements pertaining to the monitoring and reporting of such taking." The Act's implementing

regulations at 50 CFR 216.104(a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

As part of its 2013 application, Point Blue proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the incidental harassment authorization.

The Point Blue researchers will monitor the area for pinnipeds during all research activities. Monitoring activities will consist of conducting and recording observations on pinnipeds within the vicinity of the proposed research areas. The monitoring notes would provide dates, location, species, the researcher's activity, behavioral state, numbers of animals that were alert or moved greater than one meter, and numbers of pinnipeds that flushed into the water.

Point Blue has complied with the monitoring requirements under the previous authorizations for the 2007 through 2013 seasons. The results from previous Point Blue's monitoring reports support our findings that the proposed mitigation measures, which we also required under the 2007–2012 Authorizations provide the means of effecting the least practicable adverse impact on the species or stock.

Point Blue will submit a monitoring report on the December 6, 2012 through December 5, 2013 research period by January, 2014. Upon receipt and review, we will post this annual report on our Web site at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

#### *Proposed Reporting*

Point Blue will submit a final monitoring report to us no later than 90 days after the expiration of the Incidental Harassment Authorization, if we issue it. The final report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The final report will provide:

- (i) A summary and table of the dates, times, and weather during all seabird and pinniped research activities.
- (ii) Species, number, location, and behavior of any marine mammals

observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic or visual stimuli associated with the seabird and pinniped research activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), Point Blue shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980–3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Point Blue shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with Point Blue to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. Point Blue may not resume their activities until notified by us via letter, email, or telephone.

In the event that Point Blue discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), Point Blue will

immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980–3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with Point Blue to determine whether modifications in the activities are appropriate.

In the event that Point Blue discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to [Jolie.Harrison@noaa.gov](mailto:Jolie.Harrison@noaa.gov) and [ITP.Cody@noaa.gov](mailto:ITP.Cody@noaa.gov) and the Southwest Regional Stranding Coordinator at (562) 980–3230 ([Sarah.Wilkin@noaa.gov](mailto:Sarah.Wilkin@noaa.gov)), within 24 hours of the discovery. Point Blue staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

#### **Estimated Take by Incidental Harassment**

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We propose to authorize take by Level B harassment only for the proposed pinniped and seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. Acoustic (i.e., increased sound) and visual stimuli generated during these proposed activities may have the potential to cause marine mammals in the harbor area to experience temporary, short-term changes in behavior.

Based on Point Blue's previous research experiences, with the same activities conducted in the proposed research area, and on marine mammal research activities in these areas, we estimate that approximately 5,104 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20

Steller sea lions could be potentially affected by Level B behavioral harassment over the course of the effective period of the proposed Authorization.

We base these estimates by multiplying three components: (1) The maximum number of animals that could

be present; (2) the maximum number of disturbances; and (3) the estimated number of days that an animal could be present in the proposed area. We derived these estimates from the results of the 2007–2012 monitoring reports and anecdotal information from Point Blue scientists.

TABLE 1—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO ACOUSTIC AND VISUAL STIMULI DURING POINT BLUE'S PROPOSED SEABIRD AND PINNIPED RESEARCH DURING DECEMBER, 2013–DECEMBER, 2014

Activity	Maximum estimated number present	Maximum estimated number of disturbances	Estimated number of days with animal presence	Requested number of incidental takes
<b>California sea lions: Requested take = 5,104</b>				
SEFI Daily Observations	27	3	E. Landing—15 N. Landing—22 Other Areas—4	E. Landing—1,215. N. Landing—1,782. Other Areas—324.
SEFI Murre Research	26	1	Other Areas—17	Other Areas—442.
SEFI Field Station Resupply	31	1	E. Landing—13	E. Landing—403.
ANI Seabird Monitoring	68	1	Other Areas—12	Other Areas—816.
ANI Intermittent Activities	110	1	Other Areas—1	Other Areas—110.
PRNS Seabird Monitoring	3	1	Other Areas—4	Other Areas—12.
<b>Harbor seals: Requested Take = 526</b>				
SEFI Daily Observations	5	3	E. Landing—4 N. Landing—7 Other Areas—18	E. Landing—60. N. Landing—105. Other Areas—270.
SEFI Murre Research	2	1	N. Landing—9	N. Landing—18.
SEFI Field Station Resupply	12	1	E. Landing—2 N. Landing—2	E. Landing—24. N. Landing—24.
ANI Seabird Monitoring	2	1	Other Areas—5	Other Areas—10.
PRNS Seabird Monitoring	15	1	Other Areas—1	Other Areas—15.
<b>Northern elephant seals: Requested Take = 190</b>				
SEFI Daily Observations	2	3	E. Landing—4 N. Landing—7 N. Landing—5	E. Landing—24. N. Landing—42. N. Landing—20.
SEFI Murre Research	4	1	N. Landing—5	N. Landing—20.
SEFI Field Station Resupply	2	1	E. Landing—1	E. Landing—2.
ANI Seabird Monitoring	10	1	Other Areas—10	Other Areas—100.
PRNS Seabird Monitoring	2	1	Other Areas—1	Other Areas—2.
<b>Steller sea lions: Requested Take = 20</b>				
SEFI Daily Observations	2	3	Other Areas—1	Other Areas—6.
SEFI Murre Research	9	1	Other Areas—1	Other Areas—9.
SEFI Field Station Resupply	1	1	E. Landing—1	E. Landing—1.
ANI Seabird Monitoring	1	1	Other Areas—2	Other Areas—2.
ANI Intermittent Activities	1	1	Other Areas—1	Other Areas—1.
PRNS Seabird Monitoring	1	1	Other Areas—1	Other Areas—1.

Other Areas: Elephant Seal Colony (SEFI), Sea Lion Cove (SEFI), Landing Cove (ANI), and Drakes Beach (PRNS).

Estimates of the numbers of marine mammals that might be affected are based on consideration of the maximum number of marine mammals that could be disturbed by approximately 1,908 visits to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the course of the proposed activity.

There is no evidence that Point Blue's planned activities could result in injury, serious injury or mortality within the action area. The required mitigation and monitoring measures will minimize any

potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury or mortality. We expect all potential takes to fall under the category of Level B harassment only.

**Encouraging and Coordinating Research**

Point Blue will continue to coordinate monitoring of pinnipeds during the research activities occurring on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National

Seashore. Point Blue conducts bone fide research on marine mammals, the results of which may contribute to the basic knowledge of marine mammal biology or ecology, or are likely to identify, evaluate, or resolve conservation problems.

**Negligible Impact and Small Numbers Analyses and Determinations**

We typically include our negligible impact and small numbers analyses and determinations under the same section heading of our Federal Register notices.



Despite co-locating these terms, we acknowledge that negligible impact and small numbers are distinct standards under the MMPA and treat them as such. The analyses presented below do not conflate the two standards; instead, each standard has been considered independently and we have applied the relevant factors to inform our negligible impact and small numbers determinations.

We have defined “negligible impact” in 50 CFR 216.103 as “. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” In making a negligible impact determination, we consider:

- (1) The number of anticipated injuries, serious injuries, or mortalities;
- (2) The number, nature, and intensity, and duration of Level B harassment; and
- (3) The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- (4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- (5) Impacts on habitat affecting rates of recruitment/survival; and
- (6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that four species of marine mammals could be potentially affected by Level B harassment over the course of the proposed Authorization. For each species, these numbers are small numbers (each, less than or equal to two percent) relative to the population size. These incidental harassment numbers represent approximately 1.82 percent of the U.S. stock of California sea lion, 1.74 percent of the California stock of Pacific harbor seal, 0.15 percent of the California breeding stock of northern elephant seal, and 0.04 percent of the eastern distinct population segment of Steller sea lion.

For reasons stated previously in this document and based on the following factors, Point Blue’s specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout area, injury, serious injury, or mortality because:

- (1) The effects of the pinniped and seabird research activities would be limited to short-term startle responses and localized behavioral changes due to the short and sporadic duration of the

research activities. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) The availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the research operations. Results from previous monitoring reports also show that the pinnipeds returned to the various sites and did not permanently abandon haul-out sites after Point Blue conducted their pinniped and research activities.

(3) There is no potential for large-scale movements leading to injury, serious injury, or mortality because the researchers must delay ingress into the landing areas until after the pinnipeds present have slowly entered the water.

(4) The limited access of Point Blue’s researchers to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the pupping season.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of Point Blue’s proposed activities, and we do not propose to authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed seabird and pinniped research activities to avoid the resultant acoustic and visual disturbances. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we have preliminarily determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

#### **Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses**

Section 101(a)(5)(D) of the MMPA also requires us to determine that the taking will not have an unmitigable adverse effect on the availability of

marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the MMPA.

#### **Endangered Species Act**

On October 23, 2013 NMFS announced the removal of the eastern distinct population segment of Steller sea lions from the list of threatened species under the ESA. With the delisting, federal agencies proposing actions that may affect the eastern Steller sea lions are no longer required to consult with NMFS under section 7 of the ESA. This delisting will be effective by the time that we make our final determinations on the proposed issuance of an Authorization to Point Blue.

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

To meet our NEPA requirements for the issuance of an Authorization to Point Blue, we intend to prepare an Environmental Assessment (EA) titled “Environmental Assessment for the Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Seabird and Pinniped Research in Central California.” Prior to making a final decision on the issuance of an Authorization, we would decide whether or not to issue a Finding of No Significant Impact (FONSI).

#### **Proposed Authorization**

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to Point Blue’s proposed seabird and pinniped research activities in the northeast Pacific Ocean, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements. The duration of the Incidental harassment Authorization would not exceed one year from the effective date.

#### **Information Solicited**

We request interested persons to submit comments and information concerning this proposed take authorization (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, we will forward copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 1, 2013.

**Donna S. Wieting,**

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

[FR Doc. 2013-26596 Filed 11-5-13; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF ENERGY

[OE Docket No. PP-362]

### Notice of Availability for the Draft Environmental Impact Statement and Announcement of Public Hearings for the Proposed Champlain Hudson Power Express Transmission Line Project; Correction

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of availability and public hearings; correction.

**SUMMARY:** The Department of Energy (DOE) published a document in the **Federal Register** of November 1, 2013, announcing the availability for the Draft Environmental Impact Statement and public hearings for the proposed Champlain Hudson Power Express transmission line project. This document corrects an error in that notice.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Brian Mills at [Brian.Mills@hq.doe.gov](mailto:Brian.Mills@hq.doe.gov).

#### Correction

In the **Federal Register** of November 1, 2013 in FR Doc. 2013-26080, 78 FR 65622, please make the following correction:

On page 65622, third column, under the heading **DATES**, the second sentence is corrected to read: "The public comment period started on November 1, 2013, with the publication in the **Federal Register** by the U.S. Environmental Protection Agency of its Notice of Availability of the Draft EIS, and will continue until December 16, 2013."

Issued in Washington, DC, on November 1, 2013.

**Brian Mills,**

*NEPA Compliance Officer, Office of  
Electricity Delivery and Energy Reliability.*

[FR Doc. 2013-26573 Filed 11-5-13; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Loveland Area Projects, Colorado River Storage Project, Pacific Northwest-Pacific Southwest Intertie Project, Central Arizona Project, and Parker-Davis Project—Rate Order No. WAPA-163

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of Proposed Formula Rates for Western Area Power Administration (Western) Transmission Projects to Enter into WestConnect's Point-to-Point Regional Transmission Service Participation Agreement (PA).

**SUMMARY:** Western is proposing new formula rates to participate in WestConnect's PA. The proposed formula rates under Rate Schedule WC-8 would become effective June 1, 2014, and remain in effect through May 30, 2019. Western, along with other WestConnect participants (Participants), has participated in the WestConnect Pricing Experiment (Experiment) since its inception in June 2009. On June 28, 2013, the Federal Energy Regulatory Commission (FERC) issued an order (143 FERC ¶ 61,291) conditionally accepting the PA and regional tariffs. FERC ordered that the Participants in the filing submit separate compliance filings. Western has determined that no changes are necessary to Western's Open Access Transmission Tariff (Tariff) because Western will continue to offer this transmission service under the existing Tariff Schedule 8. For Western to implement the permanent arrangement, however, Western needs to adopt new formula rates. Publication of this **Federal Register** notice begins the formal process for the proposed formula rates.

**DATES:** The consultation and comment period will begin today and will end December 6, 2013. Western will accept written comments any time during the consultation and comment period. The proposed action constitutes a minor rate adjustment as defined by 10 CFR part 903. As such, Western has determined it is not necessary to hold a public information or public comment forum.

**ADDRESSES:** Send written comments to: Ms. Lynn C. Jeka, Colorado River Storage Project Manager, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111-1580, fax (801) 524-5017, or email [WestConnect@wapa.gov](mailto:WestConnect@wapa.gov). Western will post information about the rate process on its Web site at <http://www.wapa.gov/dsw/>

[pwrmkt/WestConnect/Default.htm](http://www.wapa.gov/dsw/pwrmkt/WestConnect/Default.htm).

Western will post official comments received to its Web site after the close of the comment period. Western must receive comments by the end of the consultation and comment period to ensure they are considered in Western's decision process.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Hackett, Rates Team Lead, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111-1580, telephone (801) 524-5503, or email [hackett@wapa.gov](mailto:hackett@wapa.gov).

#### SUPPLEMENTARY INFORMATION:

WestConnect consists of a group of electric utilities currently providing transmission service in the Western Interconnection. Its members are a mixture of investor- and consumer-owned utilities and Western. The WestConnect membership encompasses an interconnected grid stretching from western Nebraska to southern California and from Wyoming to the United States-Mexico border. Western began participating in the Experiment in June 2009, which offered potential customers the option of scheduling a single transaction for hourly, non-firm, point-to-point transmission service over multiple transmission providers' systems at a single rate. The original term of the Experiment was 2 years and expired on June 30, 2011. In 2011, WestConnect filed with FERC to extend the term of the Experiment for 2 additional years, until June 30, 2013.

To participate in the Experiment during its total 4-year term, Western had to convert its "all-hours," non-firm, point-to-point transmission rates into on-peak and off-peak rates, similar to other Participants. Western's FERC-approved Tariff transmission rate designs for all regions yield an "all-hours" transmission rate. Western's transmission rates do not make a rate distinction between on-peak and off-peak, but rather spread the annual revenue requirements over all hours of the year. Western established these on-peak and off-peak rates using the authority granted to Western's Administrator in Delegation Order No. 00-037.00A to set rates for short-term sales.

On April 16, 2013, WestConnect submitted to FERC an Amended and Restated PA that, in essence, offers the coordinated hourly, non-firm, point-to-point transmission service at a single rate on a permanent basis, effective July 1, 2013. On June 28, 2013, FERC issued an order conditionally accepting the PA and regional tariffs. In its order, FERC stated it was approving the proposal