



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274
November 14, 2018

Mr. Curtis E. Melcher
Director, Oregon Department of Fish and Wildlife
4034 Fairview Industrial Drive SE
Salem, Oregon 97302

Dear Mr. Melcher:

I approve, with conditions, the state of Oregon's (state) October 6, 2017, request for lethal removal of individually identifiable predatory California sea lions (CSL) in the vicinity of Willamette Falls to minimize pinniped predation on Upper Willamette River (UWR) spring-run Chinook salmon and UWR winter steelhead in the Willamette River. The National Marine Fisheries Service (NMFS) has conducted a thorough analysis in accordance with Section 120 of the Marine Mammal Protection Act (MMPA) and has determined that certain individually identifiable CSL are having a significant negative impact on the decline or recovery of UWR spring-run Chinook salmon and UWR winter steelhead listed under the Endangered Species Act (ESA).

As you are aware, a Pinniped Fishery-Interaction Task Force (Task Force) was established under section 120 of the MMPA to review your application and make recommendations to NMFS on whether your request for lethal removal should be approved or denied. The Task Force met for three days, August 20, 2018 through August 22, 2018. During these meetings, the Task Force reviewed and discussed pertinent information on CSL, ESA-listed UWR spring-run Chinook salmon and UWR winter steelhead, the nature and extent of the interactions between these species in the vicinity of Willamette Falls, and past measures and considerations for reducing or eliminating the pinniped-fishery interaction. On August 22, 2018, the majority of Task Force members present at the meeting (12 of 16) recommended approving the state's application requesting authorization for lethal removal, while one Task Force member recommended denying the state's application and three Task Force members abstained. Two Task Force members were absent.

NMFS has decided to grant conditional authority to the state to lethally remove qualified CSL. NMFS makes this determination after reviewing and considering: (1) the state's application, (2) public comments on the state's application, (3) the Task Force Report and Recommendations, (4) comments submitted by the Marine Mammal Commission, and (5) other information related to the pinniped-fishery interaction in the vicinity of Willamette Falls.

This letter serves as authorization under section 120 of the MMPA for the lethal removal of individually identifiable predatory CSL that are having a significant negative impact on the decline or recovery of ESA-listed UWR spring-run Chinook salmon and UWR winter steelhead



in the vicinity of Willamette Falls. Lethal removal is authorized only if the state is in compliance with the following terms and conditions.

Terms and Conditions

1) Beginning on November 14, 2018, the state may lethally remove wherever found (except at breeding rookeries) individually identifiable predatory CSL that are having a significant negative impact on ESA-listed salmonids. NMFS considers such animals to be individually identifiable predatory CSL that are having a significant negative impact on ESA-listed salmonids if they display natural or applied features that allow them to be individually distinguished from other CSL and:

- a) have been observed eating at least one salmonid between Willamette Falls and the mouth of the Clackamas River between November 1 and August 15, or
- b) have been observed between Willamette Falls and the mouth of the Clackamas River on a total of any two calendar days (consecutive days, days within a single season, or days over multiple years) between November 1 and August 15.

Removals will not be contingent on any nonlethal hazing activities, as the state has demonstrated that no feasible and prudent nonlethal alternatives exist.

2) The CSL currently identified as meeting the description in condition 1 are included in the Appendix to this letter. In consultation with the state, the Regional Administrator, NMFS West Coast Region, may periodically amend the Appendix to accurately report those individuals that meet the description in condition 1 and thus are authorized for removal. Such amendments shall be in writing.

3) The state may not remove more than 1 percent of the CSL potential biological removal level (PBR) annually under this authorization. The current PBR for CSL is 9,200 animals. NMFS periodically revises the PBR of CSL as new information becomes available. Any revised PBR calculations would be reported in annual marine mammal stock assessment reports and be provided to the state by NMFS.

4) The state shall appoint an Institutional Animal Care and Use Committee (IACUC) composed of a veterinarian, marine mammal biologists, and a non-affiliated member who shall represent the community, to advise the state on protocols for capture, holding, and euthanasia of individually identifiable CSL.

5) The state, in consultation with NMFS, will assume the lead role for the capture of predatory CSL. The state may immediately euthanize individually identifiable predatory CSL that are captured in a trap. However, should NMFS notify the state that a pre-approved permanent holding facility (research, zoo, or aquarium) is willing to accept the animal(s), the state shall maintain the animal in a temporary holding facility approved by the IACUC for up to 48 hours. If the pre-approved research, zoo, or aquarium facility (or their designee) does not collect an animal within 48 hours of its capture, the state may euthanize it. The method of euthanizing captured predatory CSL must be approved by the IACUC.

6) The state shall ensure that the transfer or disposal of any carcass, tissue, or parts is in accordance with applicable law. At NMFS' request, and to the extent practicable, the state shall make the carcasses, tissue, or parts of CSL killed pursuant to this authorization available for use in scientific research or for educational purposes.

7) The state shall report any permanent removals of predatory CSL (either transferred to permanent captivity or euthanized) to the Regional Administrator, NMFS, West Coast Region, within 3 days following removal.

8) The state shall develop and implement a monitoring plan to evaluate: 1) the impacts of CSL predation on UWR spring-run Chinook salmon and UWR winter steelhead; and (2) the effectiveness of permanent removal of individually identifiable predatory CSL as a method to reduce adult salmonid mortality. Furthermore, the state shall:

- a) monitor and report on specific (i.e., individually identifiable) CSL observed, including when animals were removed and residence time at Willamette Falls;
- b) monitor and report on the number of prey observed and estimated to have been taken;
- c) monitor, evaluate, and report on expediency (number of days animal present before removal) of removal;
- d) monitor and report on key population parameters for UWR spring-run Chinook salmon and UWR winter steelhead populations so that changes in population status can be detected;
- e) ensure that monitoring efforts include other pinnipeds that may occur in the vicinity of Willamette Falls; and
- f) update the population viability analyses for UWR spring-run Chinook salmon and UWR winter steelhead after 5 years of implementation to determine, to the extent possible, any changes in the estimated extinction risk to the salmonid stocks in question.

9) Annually, the state shall submit monitoring reports to the Regional Administrator, NMFS, West Coast Region, on or before November 1. The annual reports shall include a summary of actions taken to reduce CSL predation on UWR spring-run Chinook salmon and UWR winter steelhead, the state's compliance with the terms and conditions of this authorization, and plans for future actions in compliance with this authorization.

10) Periodically, the state shall review the observation data from Willamette Falls to determine if additional individually identifiable CSL qualify as predatory (as defined in condition 1) and, if so, notify the Regional Administrator, NMFS West Coast Region. As a result, NMFS may amend the Appendix, as described in condition 2.

11) This authorization may be modified, suspended, or revoked by NMFS at any time with 72 hours' notice to the state.

12) This authorization is valid until November 14, 2023.

NMFS requests that the state continue to cooperate to the maximum extent practicable in the pursuit of alternative technologies or methods to reduce both CSL predation on salmon and steelhead and the number of permanent removals of CSL. Additionally, the state is encouraged to monitor pinniped impacts on salmon and steelhead elsewhere in the Willamette River.

I look forward to continuing to work cooperatively with the state on implementing measures needed to protect UWR spring-run Chinook salmon and UWR winter steelhead from pinniped predation at Willamette Falls. Please contact Robert Anderson, NMFS, West Coast Region, Protected Resources Division, at 503-231-2226 or robert.c.anderson@noaa.gov, if you have any questions about this authorization.

Sincerely,



Barry A. Thom
Regional Administrator

Attachment (1):
Appendix 1

cc: Scott Rumsey, Deputy Regional Administrator, NMFS West Coast Region (WCR)
Chris Yates, Assistant Regional Administrator for Protected Resources, NMFS WCR
Robert Markle, Portland Branch Chief, Protected Resources Division, NMFS WCR
Robert Anderson, Fishery Biologist, Protected Resources Division, NMFS WCR
Laurie Beale, Attorney, NOAA General Counsel
Administrative File: 151416WCR2017PR00255

APPENDIX 1 - 2018 MMPA Section 120 Authorization – Willamette Falls - November 14, 2018.
PREDATORY CALIFORNIA SEA LIONS AUTHORIZED FOR IMMEDIATE REMOVAL

<u>Serial Number</u>	<u>Appendix Date</u>	<u>Appendix Id.</u>	<u>aka</u>	<u>Mark Date</u>	<u>Mark Type</u>	<u>Removal Date</u>	<u>Disposition</u>
162	11/14/2018	C038	B391	4/16/2014	brand		
16	11/14/2018	C257		3/15/2002	brand		
W1	11/14/2018	C942		4/24/2009	brand		
W2	11/14/2018	U190		8/29/2011	brand		
W3	11/14/2018	U449		2/25/2014	brand		
120	11/14/2018	C010	B355	3/31/2011	brand		
W4	11/14/2018	C025		4/23/2013	brand		
158	11/14/2018	C030		4/30/2013	brand		
W5	11/14/2018	U65		5/14/2010	brand		
164	11/14/2018	U68		5/14/2010	brand		
W6	11/14/2018	C997		9/8/2009	brand		
W7	11/14/2018	U110		8/26/2010	brand		
W8	11/14/2018	U163		5/18/2011	brand		
W9	11/14/2018	U322		3/24/2013	brand		
W10	11/14/2018	U78		5/16/2010	brand		
W11	11/14/2018	1-68		5/19/2015	brand		
W12	11/14/2018	1-69		5/19/2015	brand		
W13	11/14/2018	U117		8/26/2010	brand		
W14	11/14/2018	U404		5/22/2013	brand		
W15	11/14/2018	X139		9/22/2015	brand		
W16	11/14/2018	1-07		4/22/2015	brand		
268	11/14/2018	1-37		5/14/2015	brand		
W17	11/14/2018	1-63		5/19/2015	brand		
W18	11/14/2018	1-64		5/19/2015	brand		
W19	11/14/2018	1-78		5/19/2015	brand		
W20	11/14/2018	1-82		5/19/2015	brand		
W21	11/14/2018	1-89		5/3/2016	brand		
W22	11/14/2018	2-27		5/17/2016	brand		
W23	11/14/2018	2-50		5/10/2017	brand		
335	11/14/2018	2-51		5/11/2017	brand		
190	11/14/2018	C057		4/7/2015	brand		
W24	11/14/2018	C064		4/8/2015	brand		
W25	11/14/2018	C099		4/22/2015	brand		
W26	11/14/2018	C742		9/24/2007	brand		
W27	11/14/2018	C885		9/29/2008	brand		
W28	11/14/2018	FT-8-0		2/13/2018	flipper_tag_only		
W29	11/14/2018	FT-8-1		2/27/2018	flipper_tag_only		
W30	11/14/2018	FT-8-2		3/8/2018	flipper_tag_only		
W31	11/14/2018	FT-8-3		3/14/2018	flipper_tag_only		
W32	11/14/2018	R03		NA	natural		
W33	11/14/2018	U111		8/26/2010	brand		
W34	11/14/2018	U221		5/18/2012	brand		
W35	11/14/2018	U253		8/21/2012	brand		
W36	11/14/2018	U278		9/11/2012	brand		
W37	11/14/2018	U642		8/27/2014	brand		
W38	11/14/2018	U727		2/18/2015	brand		
W39	11/14/2018	U835		3/11/2015	brand		

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W40	11/14/2018	U942		8/12/2015	brand		
W41	11/14/2018	U971		8/24/2015	brand		
W42	11/14/2018	X297		2/29/2016	brand		
W43	11/14/2018	X551		8/15/2016	brand		
W44	11/14/2018	X668		9/9/2016	brand		
W45	11/14/2018	X980		6/2/2017	brand		

NOTES:

Serial numbers in red = predatory CSL that are also on the states' Bonneville Dam MMPA Section 120 Authorization.

Appendix 1, "Predatory California Sea Lions Authorized For Immediate Removal" was compiled by the National Marine Fisheries Service as informed by Bryan Wright, Oregon Department of Fish and Wildlife.

Serial Number = A tally of the California sea lions authorized for removal.

Appendix Date = The issuance date of the Appendix 1 list that first included this animal.

Appendix Id. = The unique alpha-numeric brand number or identification code assigned to this animal when first listed

aka = Other known identification codes or brands applicable to this animal.

Mark Date = The date a unique alpha-numeric brand or other identifying feature was applied to this animal.

Removal Date = The date the animal was permanently removed (killed, transferred to captivity, found dead).