



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

MAR 17 2008

Mr. Roy Elicker
Director
Oregon Department of Fish and Wildlife
3406 Cherry Avenue, Northeast
Salem, Oregon 97303

Dear Mr. Elicker:

Your co-signed request to the Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS) to authorize the intentional lethal taking of California sea lions that prey on salmon and steelhead (salmonids), listed under the Endangered Species Act (ESA), below Bonneville Dam in the lower Columbia River has been partially approved with specific conditions.

As you are aware, a pinniped fishery-interaction task force was established under section 120 of the Marine Mammal Protection Act (MMPA) to review your application and make recommendations to NMFS on whether lethal removal should be approved and suggest non-lethal alternatives, if available and practicable. The task force convened three meetings, which were open to the public, and reviewed and discussed pertinent information on California sea lions, ESA listed and unlisted salmonids, and the nature and extent of the interaction between these species at the dam, as well as past measures and considerations for reducing or eliminating the sea lion - salmonid interaction. Applying these factors and considerations, all but one member of the task force concluded that California sea lions are having a significant negative impact on the recovery of Columbia Basin threatened and endangered salmonids (the dissenting member maintained that the level of pinniped predation at Bonneville Dam is not significant when considered in the context of other sources of mortality, such as hydropower operations and harvest).

After reviewing and considering (1) the States' application, (2) public comment on the States' application, (3) the task force report, (4) comments and information presented by the Marine Mammal Commission, and (5) other information related to sea lion predation on salmon and steelhead at Bonneville Dam, NMFS prepared a draft Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA). The draft EA, Reducing the Impact on At-risk Salmon and Steelhead by California Sea Lions in the Area Downstream of Bonneville Dam on the Columbia River, Oregon, and Washington, was released for public comment on January 18, 2008 (73 FR 3453). After considering the comments on the draft EA and completing its regulatory reviews under NEPA, ESA, and the MMPA, NMFS has decided to grant authority to the States to lethally remove identified California sea lions. This letter serves as authorization under MMPA section 120 for the lethal removal of individually identifiable predatory California sea lions that are having a significant negative impact on the decline or recovery of ESA listed salmonids at Bonneville Dam. Lethal removal is authorized only if the States are in compliance with the following terms and conditions.



Terms and Conditions

- 1) The States may lethally remove individually identifiable predatory California sea lions that are having a significant negative impact on ESA-listed salmonids. NMFS considers California sea lions to be individually identifiable predatory California sea lions 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 California sea lions and;
 - a) have been observed eating salmonids in the “observation area” below Bonneville Dam between January 1 and May 31 of any year; and
 - b) have been observed in the observation area below Bonneville Dam on a total of any five days (consecutive days, days within a single season, or days over multiple years) between January 1 and May 31 of any year; and
 - c) are sighted in the observation area below Bonneville Dam after they have been subjected to active non-lethal deterrence.
- 2) The California sea lions currently identified as meeting the description in paragraph 1 are included in the Appendix. In consultation with the states, the NMFS Northwest Regional Administrator may periodically amend the Appendix to accurately report those individuals that meet the description in paragraph 1 and thus are authorized for removal. Such amendments shall be in writing.
- 3) The States may not lethally remove more than one percent of the potential biological removal level (PBR) annually. The current PBR for this population of California sea lions is 8,511. NMFS periodically revises the PBR of California sea lions as new information becomes available. Any revised PBR calculations would be reported in annual marine mammal stock assessment reports.
- 4) The States shall appoint a standing Animal Care Committee (ACC), to be approved by NMFS, composed of qualified veterinarians and biologists to advise the States on protocols for capturing, holding, and euthanizing predatory sea lions.
- 5) The States, in consultation with NMFS, will assume the lead role for the capture of predatory sea lions. Individually identifiable predatory sea lions that are captured in a trap must be held in a temporary holding facility approved by the ACC for at least 48 hours prior to being euthanized; pending a determination of the availability of NMFS pre-approved permanent holding facilities. Such sea lions may, in coordination with NMFS, be transferred to a NMFS pre-approved holding facility (research, zoo, aquarium) to be maintained in permanent captivity. If no pre-approved research, zoo, or aquarium facility is willing to accept an animal within 48 hours of its capture, the States may euthanize it. The method of euthanizing captured predatory sea lions must be approved by the ACC.
- 6) Free-ranging individually identifiable predatory sea lions may be shot by a qualified marksman when hauled out on the concrete apron along the North side of Cascade Island, on the flow deflectors along the base of the dam's spillway, or in the water within 50 feet of the concrete apron or the face of the dam at power houses one and two. In all cases the

marksman must shoot from land, the dam, or other shoreline structures. Potential options for lethal removal using firearms are: 1) the marksman may shoot sea lions at close range (less than 25 yards) using a shotgun loaded with a slug or 00 buckshot, when the animal is on shore; 2) the marksman may shoot sea lions from the powerhouse deck or other shoreline area at ranges greater than 25 yards using a hunting rifle with a minimum caliber of .240, when the animal is on shore or in the water as described above. Ammunition shall not contain lead.

- 7) The States shall make all reasonable efforts to retrieve carcasses of animals that have been shot. The States shall monitor nearby downstream areas for stranded animals that have been shot but not retrieved immediately.
- 8) Safety and security during lethal removal activities shall be provided by the States of Oregon and Washington in coordination with the Columbia Basin Law Enforcement Council. The States shall establish an Incident Command Center (ICC) during lethal removal activities. The ICC shall direct safety and security and provide a media interface. The ICC shall coordinate security and safety activities with the Corps of Engineers, the Coast Guard, and other agencies as necessary.
- 9) The States shall notify the Corps of Engineers, Portland District, and the Project Manager at Bonneville Locks and Dam, prior to lethal removal operations. The ICC shall consult with the Corps regarding road closures or changes to visitation on Corps of Engineers property/dam facilities.
- 10) The States shall ensure that the transfer or disposal of any carcasses is in accordance with applicable law. At NMFS' request and to the extent practicable the States shall make the carcasses, or tissues from them, of sea lions killed pursuant to this authorization available for use in scientific research or for educational purposes.
- 11) The States shall report any permanent removals of predatory sea lions (either transferred to permanent captivity or lethally) to the Regional Administrator, NMFS Northwest Region, within three days following removal.

- 12) The States shall develop and implement a monitoring plan to evaluate 1) the impacts of predation, 2) the effectiveness of non-lethal deterrence, and 3) the effectiveness of permanent removal of individually identifiable predatory sea lions as a method to reduce adult salmonid mortality. To the extent practicable the States shall use data collected by the Corps or other agencies to help fulfill the monitoring requirement, avoid duplication of effort, and ensure data consistency across programs.
- 13) The States shall submit monitoring reports to the Regional Administrator, NMFS Northwest Region, annually, on or before November 1. The reports shall include a summary of actions taken to reduce predation (non-lethal and lethal), the States' compliance with the terms and conditions of this authorization, and plans for future actions in compliance with this authorization.
- 14) The States shall periodically review observation data collected by the Corps Fisheries Field Unit to determine if additional individually identifiable California sea lions qualify as predatory (as defined in paragraph 1) and notify the NMFS Northwest Regional Administrator if any additional sea lions are identified. NMFS may amend the Appendix, as described in paragraph 2.
- 15) After the third year of sea lion removals (in June of 2011), the States and NMFS shall review whether the average observed salmonid predation rate has fallen below one percent of the observed fish passage at the dam. If the Regional Administrator, NMFS Northwest Region determines that such predation rate has fallen below one percent, no lethal removal is authorized for the following year.
- 16) This authorization may be modified or revoked by NMFS at any time with 72 hours notice.
- 17) This authorization is valid until June 30, 2012, at which time it may be extended for an additional period of five years.

Pursuant to MMPA section 120(c)(5), and after receipt of reports from the States covering the first three years of authorized activity, NMFS will reconvene the Task Force to evaluate the States' reports and the effectiveness of the actions and any lethal take. NMFS will consider the reports, the Task Force recommendations, and the issues set out in section 120(c) of the MMPA, and may modify the authorization and conditions for the coming year(s), or revoke the authorization for lethal take.

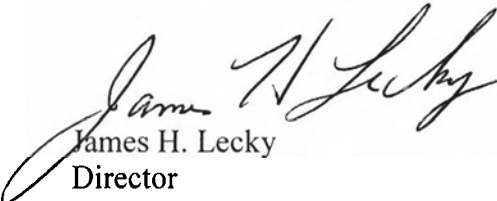
NMFS requests that the States continue to cooperate in the pursuit of alternative technologies or methods to reduce California sea lion predation on salmonids in order to reduce the number of permanent removals of sea lions to the extent practicable. Additionally, if resources are available, the States are encouraged to monitor pinniped impacts on salmonids elsewhere in the lower Columbia River.

NMFS understands there may be state administrative procedures to be completed before the States implement the authorized lethal removal program. NMFS requests the States of Washington and Oregon confer on any necessary state procedures, provide an outline of the steps

that must be completed, and estimate the earliest date you would begin implementing the authorized lethal removal program. Please submit this description in writing to the NMFS Northwest Regional Administrator by March 21, 2008.

I look forward to working cooperatively with the States, as we have in the past, on implementing measures needed to protect salmonids from sea lion predation at Bonneville Dam. Please contact Garth Griffin, NMFS Northwest Region, Protected Resources Division, at (503) 231-2005, if you have any questions on this authorization.

Sincerely,



James H. Lecky
Director
Office of Protected Resources

Appendix (1)

APPENDIX 1

The following list of individually identifiable predatory sea lions was compiled by the National Marine Fisheries Service as informed by R. Stansell, ACOE, Appendix D, Table 3.3 of the Final Report and Recommendations of the Pinniped-Fishery Interaction Task Force: Columbia River (November 5, 2007).

Predatory California Sea Lions Authorized For Immediate Removal

Sea lions identified with brands applied by ODFW at Astoria, Oregon.

C319	C322	C287	C579
C265	C440	C554	C644
C309	C417	C379	C586
C643	C247	C640	C645
C404	C398	C668	C653
C192	C444	C360	C669
C699	C257	C455	C652
C443	C390	C622	
C507	C635	C578	

Sea lions identified from the Corps database with highly distinguishable natural markings.

B130	B32	B220	B221
B9	B46	B127	B40
B108	B137	B198	B132
B63	B2	B88	B97
B66	B47	B81	
B214	B208	B204	
B136	B194	B216	

Sea lions identified with brands applied by NMFS at San Miguel Island, California.

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4140