

Section 120 Evaluation and Task Force Instructions
(Final, October 4, 2010)

Purpose of Reconvening the Task Force

NMFS is reconvening the Task Force to review the accumulated data and evaluate the effectiveness of the program to lethally remove certain California sea lions below Bonneville Dam. NMFS is seeking specific recommendations from the Task Force related to continuing the program. In formulating those recommendations, NMFS asks the Task Force to follow the process and address the questions identified below in the section titled “NMFS’ Expectations of the Task Force.”

Background - History of the Current Application

On December 5, 2006, NMFS received an application co-signed by the Washington Department of Fish and Wildlife, the Oregon Department of Fish and Wildlife and the Idaho Department of Fish and Game, requesting authorization to kill individually identifiable California sea lions in the Columbia River, which are having a significant negative impact on the recovery of threatened and endangered Pacific salmon and steelhead, under Section 120 of the Marine Mammal Protection Act (MMPA). The application described the affected salmon and steelhead runs; the means of identifying individual pinnipeds; the problem interactions between pinnipeds and listed salmonids at and below Bonneville Dam; and the expected benefits of the potential taking of pinnipeds. The application also documented past non-lethal efforts to prevent the problem interactions.

NMFS determined that the application provided sufficient evidence to warrant establishing a Task Force and published the required *Federal Register* notice on January 30, 2007. In the notice NMFS solicited public comment on the States’ application and requested additional information. The Task Force, representing the academic, scientific, and conservation communities, Tribes, Federal and State agencies, considered the available information and public comments and formally transmitted its recommendations to NMFS on November 5, 2007. NMFS considered the Task Force recommendations and on March 17, 2008, notified the States of its partial approval of their application in a letter of authorization (LOA). The LOA specified the terms and conditions for authorized lethal removal of individually identifiable predatory California sea lions. Unless modified, extended, or suspended, the current LOA remains in effect through June 30, 2012.

MMPA Section 120(c)(5) requires Task Force evaluation of the effectiveness of the permitted lethal taking. Although the MMPA does not mandate the timing of the evaluation, NMFS adopted a recommendation from the Task Force and specified, in the LOA, that the evaluation take place following three years of implementation. The States have now conducted removal activities during part or all of three seasons of salmonid migration (2008 - 2010) since LOA issuance. During these activities, the States and the Columbia River Intertribal Fish Commission have conducted non-lethal on-water hazing of sea lions, and the U.S. Army Corps of Engineers has modified the fish passage facilities at the dam to exclude sea lions, conducted active hazing from the dam and

shoreline. The Corps has also continued to monitor predation and fish passage at Bonneville Dam. The States have permanently removed (transferred to public display or euthanized) a total of 37 individually identified predatory sea lions. NMFS has several times updated the list of identified predatory sea lions authorized for removal, to include animals that have met the criteria since the authorization was first issued. NMFS has provided the Task Force with periodic updates of these activities, including weekly updates on salmonid predation and passage, as well as predatory sea lion removal reports and updated lists of predatory sea lions.

The Role of the Task Force – Evaluating the Authorized Lethal Removal

The MMPA requires the Task Force to "...evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise NMFS, and NMFS shall disband the Task Force."

NMFS' Expectations of the Task Force

In evaluating the effectiveness of the lethal removal program, NMFS expects the Task Force to work together to develop recommendations that document the points of consensus reached by the group as well as the alternate points of view when consensus is not reached. Task Force recommendations should fairly reflect the full range of opinion of the group. NMFS expects the Task Force to acknowledge differences of opinion and include minority views with its recommendations. To enhance this process, NMFS is providing a professional facilitator to manage the meetings of the Task Force, record meeting notes, and assist the group in assembling its recommendations.

At the meeting the States, Corps, and Columbia River Intertribal Fish Commission will present information and analysis on implementation of lethal removals and non-lethal alternatives, sea lion presence at the dam, predation on salmonids, and fish passage at the dam. For the evaluation, NMFS requests that the Task Force review the available information in light of their prior recommendations and the terms and conditions of the current LOA. For the evaluation of the success of implementation NMFS requests that the Task Force consider the following questions as it determines whether to recommend modifications to the lethal removal program. In addition the Task Force may consider other issues related to effectiveness as it deems appropriate.

- (1) The Task Force previously recommended as an interim criterion for determining the effectiveness of the program that the average observed salmonid predation rate falls below one percent of the observed fish passage at Bonneville Dam. Does this criterion remain useful for evaluating effectiveness of the permitted lethal removal? If not, what changes do you recommend?
- (2) Does non-lethal hazing appear to be an effective aid in reducing sea lion predation on salmonids in the area? Should non-lethal efforts be modified (increased, reduced, or re-directed) to improve effectiveness? Have new non-lethal techniques been shown to be effective at deterring pinnipeds from predation that may be applicable to this interaction?

- (3) Do the criteria in the authorization for identifying predatory sea lions remain appropriate? If not, how could these criteria be modified to improve effectiveness?
- (4) Does the available evidence suggest removal activities may be displacing sea lions to other sites along the Columbia River? If so, does this displacement present predation issues at other sites where salmonids are vulnerable?
- (5) Are there other terms and conditions of authorization or aspects of the States' implementation of the removal activities that limit effectiveness of the permitted lethal removals? If so, what changes are recommended?

Public Participation

As required by the MMPA, Task Force meetings will be open to the public and the date, time and location of evaluation meetings have been posted for the public on the NOAA Fisheries Northwest Region website and will be announced through NOAA press releases. The public will not be allowed to discuss or debate issues with the Task Force during working sessions, but time will be allocated at the meetings to allow the public to provide or identify new or relevant information that may assist the Task Force in its deliberations.

NMFS' Decision and Implementation Process

Once the Task Force has completed its deliberations and submitted its recommendations, NMFS will determine a course of action informed by the Task Force recommendations. Decisions could include no modifications to the currently approved protocols, modification of the intentional removal authority through altered terms and conditions in the letter of authorization, modifications to the non-lethal deterrence measures, or determination that the permitted lethal removals have been effective.

Other Applicable Laws

Besides the MMPA process described above, in considering the States' application, NMFS must also comply with the National Environmental Protection Act, the Endangered Species Act and other relevant statutes. After considering the deliberations and/or recommendations of the Task Force NMFS could modify the terms and conditions of the lethal removal authority. Should that occur, NMFS would, as appropriate, evaluate the effects of the modification on the environment including threatened or endangered species.