

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XK07

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 4.2 “Thresholds of Change in Ecosystems”

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft report titled, U.S. Climate Change Science Program Synthesis and Assessment Product 4.2 “Thresholds of Change in Ecosystems.”

This draft report is being released solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by NOAA. It does not represent and should not be construed to represent any Agency policy or determination. After consideration of comments received on the draft report, a revised version along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by October 17, 2008.

ADDRESSES: The draft Synthesis and Assessment Product: 4.2 is posted on the CCSP Web site at: <http://www.climatechange.gov/Library/sap/sap4-2/default.php>

Detailed instructions for making comments on this draft report are provided on the CCSP web site. Comments must be prepared in accordance to these instructions and must be submitted to:

4.2-threshold@climatechange.gov

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202) 419–3481.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues.

Dated: August 25, 2008.

William J. Brennan,

Assistant Secretary of Commerce for Oceans and Atmosphere, and Director, Climate Change Science Program.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XH04

Incidental Takes of Marine Mammals During Specified Activities; Rat Population Eradication at Rat Island, AK

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

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, NMFS has issued an Incidental Harassment Authorization (IHA) to the U.S. Fish and Wildlife Service (USFWS) for the take of marine mammals, by Level B harassment only, incidental to the eradication of non-native rat populations at Rat Island, AK.

DATES: The IHA is effective from September 1, 2008 through December 31, 2008.

ADDRESSES: A copy of the IHA and the application are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow,

upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds 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 certain subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has 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 small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA 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].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On February 29, 2008, NMFS received a letter from the USFWS, requesting an IHA. The proposed 2008 IHA was published, and comments solicited on June 18, 2008 (73 FR 34705). The final IHA would authorize the take, by harassment only, of small numbers of Steller sea lions (*Eumetopias jubatus*), and Pacific harbor seals (*Phoca vitulina richardsi*), incidental to non-native rat

population eradication via bait application operations. Operations will be conducted by a field crew of USFWS personnel on foot, by watercraft (boat), and by aircraft (helicopter).

Additional information on the eradication operations is contained in the application and Environmental Assessment (EA), which is available upon request (see **ADDRESSES**).

In their application, the USFWS explains that restoration of natural ecosystem function on Rat Island promises to re-establish native seabirds and other native species, thus returning this wilderness island to a healthy natural community. This restoration cannot occur until the island is cleared of the invasive non-native Norway rats that now dominate the living community. Introduced non-native species are a leading cause of extinctions in island communities worldwide. Increasingly, land managers are removing introduced species to aid in the restoration of native ecosystems. Rats are responsible for 40–60 percent of all recorded bird and reptile extinctions worldwide. Given their widespread successful colonization on islands and

the resulting impact to native species, introduced rats are identified as key species for eradication.

Most of the Aleutian Islands lying within the Alaska Maritime National Wildlife Refuge (AMNWR) provide important breeding habitat for seabirds, including many for which the Aleutians provide a substantial portion of their worldwide range. Norway rats are established on at least 10 Aleutian islands or island groups, and the diversity and numbers of breeding seabirds occurring on those islands are now conspicuously low. Rat-caused modifications to other components of the island ecosystems (e.g., other birds, plants, and invertebrates) are also evident.

The restoration of Aleutian ecosystems through introduced predator eradications has long been identified as a priority for AMNWR, and the initial efforts have been directed to removing introduced Arctic foxes. The focus now has turned to rats. The intent of the proposed operations is to facilitate the restoration of the natural island ecosystem by improving habitat quality for native species.

Dates, Duration, and Region of Activities

Rat Island is located in the western Aleutian Islands approximately 51° 80' North, 178° 30' West, approximately 1,931 km (1,200 mi) west of Anchorage, Alaska. The Ayugadak Point rookery is located on an islet approximately one mile southeast of Rat Island at 51° 45.5' North, 178° 24.5' East.

The location and time duration of the project activities are shown in the table below. Also shown are the estimated numbers of marine mammals affected by each activity. The timeline for the Rat Island rat eradication operations is shown in Table 1. Actual dates of activity occurrence are subject to weather conditions suitable for safe and effective flying of helicopters. While 5 days (approximately 35 helicopter flight hours) will be required to complete the two aerial bait applications on the island, the operation is likely to be interrupted by weather unsuitable for flying. Therefore, a maximum of 45 days will be allotted to achieve the 5 day operations window. The dates for bait application and demobilization will be weather dependent.

TABLE 1. TIMELINE FOR THE RAT POPULATION ERADICATION AT RAT ISLAND, AMNWR.

Location	Rat Island			Islet near Ayugadak Pt.
Project activity	staging	bait application	demobilization	bait application
Time duration	2 days	5 days	2 days	15 minutes
Type of disturbance	helicopter	helicopter	helicopter	helicopter
# of takes (Steller sea lions/ harbor seals)	0/25	130/200	0/25	320/0

Description of the Specified Activity (Rat Eradication)

Rats were first introduced to Alaska over 200 years ago at Rat Island in the western Aleutian Island archipelago. Prior to this introduction, the island likely supported significant populations of breeding seabirds and other ground nesting birds which evolved in the absence of mammalian predators. Since their introduction, rats and foxes have extirpated breeding seabirds and had detrimental impacts on vegetation and intertidal life on the island. AMNWR personnel eradicated foxes on Rat Island in 1984. Working with others, the USFWS proposes to eradicate rats from the island using removal techniques based on successful island rat eradications elsewhere in the U.S. and globally.

The purpose of eradicating rats from Rat Island is to conserve, protect and enhance habitat for native wildlife species, especially nesting habitat for seabirds, and to restore the biotic

integrity of the island. The overarching goal in a successful eradication is to ensure the delivery of a lethal dose of toxicant to every rodent on the island. The primary method for eradicating rats from Rat Island is delivery of compressed-grain bait pellets containing rodenticide to every rat territory on the island through aerial broadcast. The bait pellets will contain 25 ppm brodifacoum and will be applied according to Environmental Protection Agency (EPA) approved label directions.

The need for caution near the marine and freshwater environments requires a buffer when broadcasting the rodenticide. As a result, some areas may not receive the optimal bait coverage with helicopter broadcast. In cases where it is evident or suspected that any land area on Rat Island or offshore islets did not receive full coverage, there will be supplemental systematic hand broadcast either by foot, boat, helicopter, or any combination of the above. All bait application activities

will be conducted by, or under the supervision of, a Pesticide Applicator certified by the State of Alaska.

Staging and Preparation for Rat Eradication Operations

Field crews will visit Rat Island in the end of summer or beginning of autumn prior to the rat eradication to install temporary infrastructure and storage sites. These will include: (1) a camp site capable of supporting 20 people for up to seven weeks; (2) three bait staging areas, where bait will be contained in up to 200 storage units at each staging area; and (3) a fuel storage site that will comply with all appropriate safety standards and regulations.

Additional material may be brought to the island at that time and staged for the fall application of bait. Helicopters will deliver most of the necessary materials to each site on the island from a vessel anchored nearby. Staging procedures in summer will be conducted using a helicopter capable of lifting a 700 kg (1,543 lbs) payload. Helicopter

operations during project staging will be localized to discrete flight paths and landing sites servicing the camp, three bait staging locations, and a fuel storage site.

It is possible that some of the material needed for eradication will not be available in the summer. In this case, that material will be staged on the island during the week prior to the fall application of bait.

Staging and Preparation at Rat Island

The summer staging and preparation activities for Rat Island are expected to take 5 days during September. Dates for activities at Rat Island are subject to change due to scheduling and logistics concerns. Helicopter support during this period is estimated to take two days. Wooden storage boxes and platform construction materials will be staged at three areas, as indicated in Figure 1 in USFWS' IHA application. Fuel and all other camp materials will be delivered to the Gunner's Cove field camp location. The R/V *Tiglax* will be providing vessel support for the activities.

A field camp will be installed at a site 600 m (1,968 ft) inland to Gunner's Cove. A loading zone for the staging of bait and fuel storage will be placed inland 500 m (1,640 ft) from the coast. The field camp will be 800 m (2,624 ft) from the loading zone and 600 m from the beach site. The anchorage in Gunner's Cove is 800m from the loading zone and 700 m (2,296 ft) from the beach site. The helicopter will transport cargo from ship to shore at each of the three major project zones (field camp, loading zone, and Gunner's Cove beach site).

All materials not available during the summer staging and preparation periods will be transported to Rat Island during the week of September 22–27, 2008. Helicopter support during this period is estimated to take two days.

Demobilization

Once eradication has been completed operational demobilization and clean-up will commence. A charter vessel will be employed to transport all crew and equipment off the island. Demobilization and clean-up will include deconstructing and removing: (1) field camp; (2) garbage and human waste; (3) staging areas; and (4) fuel. All tents, weatherports, and other field camp equipment will be disassembled, packed, and returned to the vessel by helicopter. All equipment will be removed from bait staging areas and transported off the island. The wooden storage boxes will be disassembled, bound, and transported by helicopter

back to the vessel. Excess fuel will also be transported back to the vessel by helicopter. There will be no demobilization at the islet near Ayugadak Point.

Additional details regarding the rat eradication operations can be found in the Environmental Assessment (EA): "Restoring Wildlife Habitat on Rat Island", USFWS 2007 (EA). The EA can also be found online at: <http://alaskamaritime.fws.gov/news.htm>

Demobilization at Rat Island

Demobilization and clean-up activities will commence once the eradication operations are complete. The demobilization is estimated to take five days and is scheduled for the week of November 1–7. If favorable weather conditions allow the eradication operation to be completed prior to October 31st, demobilization could begin during the month of October.

Bait Application During Specified Activities

Bait application operations will be conducted using two single-primary-rotor/single tail-rotor helicopters. Bait will be applied from specialized bait hoppers slung 15–20 m (49–66 ft) beneath the helicopter. Helicopter operations for the bait application will necessitate low-altitude overflights of the entire land area of Rat Island and adjacent vegetated islets. The helicopter will fly at a speed ranging from 25–50 knots (46–93 km/hr or 29–58 mph) at an average altitude of approximately 50 m (164 ft) above the ground.

To make bait available to all possible rat home ranges on the island, bait will need to be applied evenly across emergent land area, with every reasonable effort made to prevent bait spread into the marine environment. The baiting regime will follow common practice in which parallel, overlapping flight swaths are flown across the interior island area and overlapping swaths with a deflector attached to the hopper (to prevent bait spread into the marine environment) flown around the coastal perimeter. Flight swaths will be defined by the uniform distance of bait broadcast from the hopper, ranging from 50–75 m (164–246 ft). Flight swaths will be flown in a parallel pattern, with subsequent flight swaths overlapping the previous by approximately 25–50% to ensure no gaps in bait coverage.

Bait Application at Rat Island

Bait application will commence once staging and preparation have been accomplished as planned. The application will occur during a 45-day time period from September 28–

November 11, 2008. The bait application is estimated to take approximately 35 hours total flight time; however, the implementation will likely be interrupted by typical fall weather patterns in the central Aleutians, which are notoriously unsettled. Therefore, a maximum of 45 days will be allotted to achieve the 35 hour operation window.

Bait Application of the Rookery on the Islet off Ayugadak Point

The islet located 1.6 km (1 mi) off Ayugadak Point is a Steller sea lion rookery, designated as Critical Habitat under the Endangered Species Act (ESA). The islet is also potential rat habitat and the thick kelp beds between the main island and this islet make rat migration to and from the islet possible. Bait, via the installation of bait stations, was planned to be delivered to the islet off Ayugadak Point with an adaptive alternative-baiting strategy designed to minimize helicopter disturbance. Due to timing constraints, USFWS was not able to install the bait stations as originally planned in the proposed IHA application. During fall operations, project field crews will treat the islet as necessary by aerial broadcast in October. This would take place during the October 1–November 11 time frame and require approximately 15 minutes of helicopter flight time. No other equipment will be used that requires demobilization at the islet.

Description of Marine Mammals in Activity Area

The marine mammals that occur in the project area belong to four taxonomic groups: odontocetes (toothed cetaceans, such as dolphins and sperm whale), mysticetes (baleen whales), pinnipeds (seals, sea lions, and walrus), and fissipeds (sea otter). Of the 18 cetacean species in the area, several are common.

Six cetacean species are listed as endangered under the ESA, including the humpback, sei, fin, blue, North Pacific right, and sperm whales. Other cetacean species that potentially could occur in the western Aleutian islands includes Cuvier's, Baird's, and Stejneger's beaked whales, beluga, killer, and short-finned pilot whales, Pacific white-sided and Risso's dolphin, and harbor and Dall's porpoises. Because the proposed activity will occur predominantly over land, however, and because of the low probability of cetaceans occurring in the immediate vicinity of the island shore and the fact that USFWS will follow established procedures to ensure that bait is not released into the marine environment, NMFS believes it is unlikely that any

cetaceans will be harassed by the proposed activity. Therefore, cetaceans will not be addressed further.

Four species of pinnipeds potentially could occur in the western Aleutian Islands, including Steller sea lions, Pacific harbor seals, northern fur seals, and ribbon seals. Numbers of Steller sea lions, harbor seals, and northern fur seals have been decreasing in the North Pacific over the last several decades (Springer *et al.*, 2003). Although causes of the declines are poorly understood, it

is evident that incidental mortality attributable to commercial fisheries and intentional harvesting during the 1960s and 1970s have played a role in the initial declines, and that predation by killer whales is a contributing factor (Springer *et al.*, 2003).

The Pacific walrus, California sea lion, and ringed, spotted, bearded, and northern elephant seals likely will not be encountered in the study area, but they are known to occur in the eastern Aleutians. The northern sea otter

(*Enhydra lutris*) and walrus are managed by the USFWS. Walrus are unlikely to be encountered in the study area and any potential take of sea otters will either be authorized by the USFWS or avoided. Few surveys have examined the distribution and abundance of marine mammals inhabiting the waters around the Aleutian Islands, although a few reports are available (e.g., Forney and Brownell, 1996; Moore, 2001; Wade *et al.*, 2003).

TABLE 2. THE HABITAT, AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE PROPOSED STUDY AREA IN THE ALEUTIAN ISLANDS.

Species	Habitat	ESA ¹
Mysticetes		
North Pacific right whale (<i>Eubalaena japonica</i>)	Coastal and shelf	EN
Gray whale (<i>Eschrichtius robustus</i>)	Coastal, lagoons	NL
Humpback whale (<i>Megaptera novaeangliae</i>)	Mainly nearshore waters and banks	EN
Minke whale (<i>Balaenoptera acutorostrata</i>)	Shelf, coastal	NL
Blue whale (<i>Balaenoptera musculus</i>)	Pelagic and coastal	EN
Sei whale (<i>Balaenoptera borealis</i>)	Primarily offshore, pelagic	EN
Fin whale (<i>Balaenoptera physalus</i>)	Slop, mostly pelagic	EN
Odontocetes		
Sperm whale (<i>Physeter macrocephalus</i>)	Pelagic, deep seas	EN
Cuvier's beaked whale (<i>Ziphius cavirostris</i>)	Pelagic	NL
Baird's beaked whale (<i>Berardius bairdii</i>)	Pelagic	NL
Stejneger's beaked whale (<i>Mesoplodon stejnegeri</i>)	Likely pelagic	NL
Beluga whale (<i>Delphinapterus leucas</i>)	Coastal, ice edges	NL
Pacific white-sided dolphin (<i>Lagenorhynchus obliquidens</i>)	Offshore, inshore	NL
Risso's dolphin (<i>Grampus griseus</i>)	Offshore, inshore, >400m	NL
Killer whale (<i>Orcinus orca</i>)	Widely distributed	NL
Short-finned pilot whale (<i>Globicephala macrorhynchus</i>)	Inshore and offshore	NL
Harbor porpoise (<i>Phocoena phocoena</i>)	Coastal, inland waters	NL
Dall's porpoise (<i>Phocoenoides dalli</i>)	Slope, offshore waters	NL
Pinnipeds		
Northern fur seal (<i>Callorhinus ursinus</i>)	Pelagic, breeds coastally	NL
California sea lion (<i>Zalophus californianus</i>)	Widely distributed	NL
Steller sea lion (<i>Eumetopias jubatus</i>)	Mostly pelagic, high-relief	NL
Pacific Walrus (<i>Odobenus rosmarus divergens</i>)	Ice	NL
Bearded seal (<i>Erignathus barbatus</i>)	Ice	NL
Pacific harbor seal (<i>Phoca vitulina richardsi</i>)	Coastal	NL
Spotted seal (<i>Phoca largha</i>)	Ice	NL

TABLE 2. THE HABITAT, AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE PROPOSED STUDY AREA IN THE ALEUTIAN ISLANDS.—Continued

Species	Habitat	ESA ¹
Ringed seal (<i>Pusa hispida</i>)	Ice	NL
Ribbon seal (<i>Histiophoca fasciata</i>)	Ice	NL
Northern elephant seal (<i>Mirounga angustirostris</i>)	Coastal, pelagic when migrating	NL

¹ U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed

Not all these species (listed in Table 3 above) are expected to be harassed from the described operations. Because most of the activities occurring on or over land and most species are considered rare in the project area, only Steller sea lions and Pacific harbor seals are expected to be disturbed by the project.

Steller Sea Lion

Steller sea lions range along the North Pacific Rim from northern Japan to California. They are most abundant in the Gulf of Alaska and Aleutian Islands (NMFS, 2006). Two separate stocks of Steller sea lions are recognized in U.S. waters; an eastern U.S. stock that includes animals east of Cape Suckling, Alaska (144 West), and a western U.S. stock which includes animals west of Cape Suckling. The western Distinct Population Segment (DPS) of Steller sea lions has experienced a major decline of 75% over the past 20 years (Calkins *et al.*, 1999; USFWS, 1997; NMFS, 2007). Consequently the western DPS of Steller sea lions were listed as Endangered under the ESA in 1997. The reasons for this decline are not entirely known and are currently under investigation.

Aerial survey data from 2004–2005 were used to calculate a minimum population estimate of 39,988 animals for the western U.S. waters stock. The Bering Sea/Aleutian Islands area population estimate for the same period is 20,578 (NMFS, 2006).

Steller sea lions are considered non-migratory with dispersal generally limited to juveniles and adult males. In the Aleutian Islands, Steller sea lions

generally breed and give birth from late May to early July (Pitcher and Calkins, 1981), and pups remain at rookeries until about early to mid-September (Calkins *et al.*, 1999). Non-reproductive animals congregate at haul out sites.

At Rat Island, a persistent haul-out site is known at the west end of the island near Krysi Point and a rookery is known from the islet off Ayugadak Point. Both sites were active in 2007 (Buckelew *et al.*, 2007). Rat Island and the islet off Ayugadak Point, which have a haul-out and rookery, are designated critical habitat for Steller sea lions and “no entry” zones have been established. Critical habitat includes a terrestrial zone and air zone, that extends 3,000 ft (914 m) landward, and above each major rookery and haul-out in Alaska. For the major rookery and haul-out west of 144 W (Ayugadak Point), critical habitat includes an aquatic zone that extends 20 nm (37 km) in State and Federally managed waters from the from the baseline or basepoint of the rookery and/or haul-out.

USFWS has consulted with NMFS and NMFS determined that AMNWR did not need a permit to conduct routine refuge operations within the boundaries of the sea lion rookery closure zones and personnel conducting eradication operations in Steller sea lion habitat avoid direct confrontation. The determination relates to 50 CFR 223.202 (b)(2) which states “Paragraph (a) of this section does not prohibit or restrict a Federal, state or local government official, or his or her designee, who is acting in the course of official duties from: (ii) Entering the buffer areas to

perform activities that are necessary for national defense, or performance of other legitimate governmental activities.” The USFWS and NMFS consider rat eradication a routine refuge operation to which 50 CFR 223.202 is applicable.

Pacific Harbor Seal

In the Pacific Ocean, harbor seals occur in coastal waters and estuaries from Baja California north along the west coast of the U.S. and Canada to Alaska including the Aleutian Islands, southern Bristol Bay and the Pribilof Islands. Harbor seals living in the Aleutian Islands are part of the Gulf of Alaska stock. The Gulf of Alaska stock has experienced significant declines ranging from 50–85% over the past 30 years (NMFS, 2006). Limited information suggests some modest recovery from initial declines and the stock has not been listed under the ESA. The current statewide population estimate for Alaska harbor seals is 180,017 (NMFS, 2006).

Harbor seals are generally non-migratory with some local movements related to season, weather, and food availability (NMFS, 2006). In Alaska, harbor seals typically give birth to a single pup between May and mid-July. Pups are generally weaned within one month and separate from their mother. Harbor seals in the Gulf of Alaska undergo an annual molt which peaks between the first week in August and the first week in September (Daniel *et al.*, 2003). Harbor seals are found in scattered locations along the shores of Rat Island and some offshore islets.

TABLE 3. RECENT SURVEY RESULTS FOR PINNIPEDS IN THE RAT ISLAND AREA.

Species	Number	Year	Source	Comments
Harbor seal	93	1999	Small <i>et al.</i> in press	Aerial survey.
Steller sea lion	“Fairly common”	2007	Buckelew <i>et al.</i> 2007	Often seen in water, not seen hauled out Aerial survey for Rat Is. (adults and juveniles)
	45	2004	NMFS database	
	254 present	2005 2007	NMFS database Buckelew, 2007	Aerial survey for Ayugadak Point Rookery (includes 83 pups) Seen from boat offshore at Rat Is. And Ayugadak Pt.

Further information on the biology and distribution of these species and others in the region can be found in USFWS' application and EA, which is available upon request (see **ADDRESSES**), and the Marine Mammal Stock Assessment Reports, which are available online at http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/individual_sars.html.

Potential Effects of the Proposed Activity on the Marine Mammals

Effects of Rodenticide

Pinnipeds are not expected to be impacted by the use of the rodenticide (brodifacoum) during the rat eradication operations. Brodifacoum is a vertebrate toxicant that is commonly used widely available in the United States. Most vertebrates are less susceptible to brodifacoum than are rats, and would have to consume a higher dose, relative to body mass, before reaching a toxicity threshold. The rodenticide bait pellets, which are primarily composed of grain, are not part of the natural diet of carnivorous (almost exclusively piscivorous) pinnipeds and therefore are not expected to be consumed. Also, pinnipeds are not expected to prey or scavenge on other animals that have consumed and succumb to the effects of the rodenticide as they do not feed while hauled out on land. The only possible routes for bait ingestion are accidental. The rodenticide bait will not be broadcast into the marine environment, and if it were to enter the water it will disperse and disintegrate within hours. The effects of sublethal exposure to the rodenticide is negligible and warrants little concern given the very slight risk during the length of the operations.

Behavioral Disturbance

It is well known that human activity can flush pinnipeds off haul-out sites (Allen *et al.*, 1984; Calambokidis *et al.*, 1991; Suryan and Harvey, 1999; Mortenson *et al.*, 2000). Researchers have observed that human disturbances in the form of boat and aircraft traffic and people on the beach can flush pinnipeds into the water from haul-out sites and impact pinnipeds haul-out numbers (Renouf *et al.*, 1981; Schneider and Payne, 1983; Terhune and Almon, 1983).

Helicopter disturbances are mainly in the forms of airborne and underwater noise generated by the engine of the aircraft and the physical presence of the aircraft (Richardson *et al.*, 1995; Born *et al.*, 1999). Noise generated from helicopter activities may cause

harassment of pinnipeds, both hauled out and in the water, at or directly below the surface. Airborne sound from a low-flying helicopter may be heard by marine mammals while at the surface or underwater. In general, helicopters tend to be noisier than fixed-wing aircraft of similar size, and larger aircraft tend to be louder than those that are smaller. Underwater sounds from aircraft are strongest just below the surface and directly under the aircraft. Noise from aircraft would not be expected to cause direct physical effects, but have the potential to affect behavior. The primary factor that may influence abrupt movements of animals is engine noise, specifically changes in engine noise.

Studies on many wildlife species responses to aircraft approaches showed that flight altitude, noise output, speed, and approach pattern are the most important factors in determining an animal's reaction to an overflight (McKechnie and Gladwin, 1995).

Steller Sea Lions

The response of pinnipeds, like Steller sea lions, to aircraft overflights varies from no discernable reaction to completely vacating haul outs after a single overflight (Calkins, 1979; Efrogmson and Suter, 2001). Approaching aircraft generally flush animals into the water. In one case, Withrow *et al.* (1985 in Richardson *et al.*, 1995) reported Steller sea lions left a beach in response to a Bell 205 helicopter ≤ 1.6 km away, but the noise from a helicopter is typically directed down in a "cone" underneath (Richardson *et al.*, 1995) so disturbance at such great distance is probably uncommon.

At Rat Island, known persistent haul out sites will be avoided during staging operations as will any other haul out sites discovered prior to helicopter operations. In spite of these precautions, sea lions encountered unexpectedly during helicopter operations could be flushed from land temporarily. An individual sea lion's exposure to peak noise from the helicopter will be limited to animals that remain ashore, and is likely to be of short duration, as the elevation and speed of the helicopter will limit the time that any single location is exposed to maximum noise.

It will be more difficult to avoid known haul sites on Rat Island with the helicopter during bait application because of the need for thorough coverage of the island and islet. No pups are expected on Rat Island. The impacts of disturbance to sea lions during molting (a sensitive period to disturbance, Richardson *et al.*, 1995)

will be minimized by timing overflights after the peak molting period is over.

The installation of bait stations on the islet off Ayugadak Point in August will not occur as planned in the proposed IHA (73 FR 34705). The island will be baited with the helicopter as described in the EA, in the fall after the pupping and primary molting season. This is likely to result in flushing sea lions from the islet resulting in short-term displacement. However, as helicopter baiting will be a very short process (approximately 15 minutes), disturbance to Steller sea lions is likely to be very short-term, allowing the animals to return to land quickly.

Risks to Steller sea lions from personnel camps on Rat Island will be minimal as camps and storage sites will be located well inland away from possible Steller sea lion haul-out areas.

Overall, the effects of the operations described in the EA on Steller sea lions will vary depending on the number of disturbance events. For the purpose of estimating the potential numbers of pinnipeds taken by these proposed activities, NMFS assumes that pinnipeds that move (meaning move their whole body from one location to another, not just move their head from left to right, for example) or change the direction of their movement in response to the presence of the field crew personnel are taken by Level B Harassment. However, the short-term displacement from haul-outs that is likely to occur as a result of helicopter noise and personnel is not anticipated to have any effect on overall energy balance or fitness of any individual animals.

It is not likely that any Steller sea lions will suffer injury or the potential for injury as a result of the proposed activities. The potential disturbance associated with the project would result in Steller sea lions entering the water, which they do as part of their normal pattern of behavior. Flushing of groups of animals at pinniped haul-outs is also possible. Stampingeding is not anticipated to occur with the implementation of monitoring and mitigation measures by USFWS personnel. NMFS has determined that the implementation of rat eradication activities as described in the application and the Environmental Assessment (EA) will have a negligible impact on Steller sea lions on an individual or population level.

Pacific Harbor Seals

The response of pinnipeds to proposed aircraft overflights varies from no discernable reaction to completely vacating haul outs after a single overflight (Calkins, 1979; Efrogmson

and Suter, 2001). Approaching aircraft generally flush animals into the water.

During staging operations, project managers will plan helicopter flight lines and boat travel to minimize the potential for disturbance to harbor seal haul-outs known from existing databases and surveys conducted prior to operations. However, in spite of these precautions, seals encountered unexpectedly during helicopter operations could be flushed from land temporarily. An individual seal's exposure to peak noise from the helicopter will be limited to animals that remain ashore, and is likely to be of short duration, as the elevation and speed of the helicopter (see Description of Activities, above) will limit the time that any single location is exposed to maximum noise.

It will be more difficult to avoid known haul-out sites of Rat Island with the helicopter during proposed bait application because of the need for thorough coverage of the entire island. No young pups are expected on Rat Island during the fall. The impacts of disturbance to seals during molting (another sensitive period) will be minimized by timing overflights after the peak molting period is over.

The sporadic personnel presence and temporary infrastructure installations that may be necessary near seal haul-outs during both staging and bait application operations may result in localized disturbances, although this is much less likely to disturb animals than helicopter overflights. The camps and staging areas themselves will be well inland and will have negligible impacts on seals hauled out on the coastline.

Overall, the short-term displacement from haul-out sites that is likely to occur as a result of helicopter noise and personnel activities is anticipated to have a negligible impact on the overall energy balance or fitness of any individual animals.

It is not likely that any harbor seals will suffer injury or the potential for injury as a result of project activities. NMFS has determined that the implementation of rat eradication activities as described in the application and the EA will have a negligible impact on Pacific harbor seals on an individual or population level.

Pinnipeds in the Rat Island Project Area

Variable numbers of sea lions and harbor seals typically haul out near bait application sites used for eradication operations, with breeding activity occurring at one known site. Pinnipeds likely to be affected by rat eradication activity are those that are hauled-out on land at or near bait application sites.

Incidental harassment may result if hauled animals move away from the field crew personnel, watercraft, and aircraft. For the purpose of estimating the potential numbers of pinnipeds taken by these proposed activities, NMFS assumes that pinnipeds that move (meaning move their whole body from one location to another, not just move their head from left to right, for example) or change the direction of their movement in response to the presence of field crew personnel activities are taken by Level B Harassment. Although marine mammals will not be deliberately approached by field crew personnel during proposed operations, approach may be unavoidable if pinnipeds are hauled out directly upon the bait application sites. If disturbed, hauled-out animals may move toward the water without risk of encountering significant hazards. In these circumstances, the risk of injury or death to hauled animals is very low.

The risk of marine mammal injury or mortality associated with rat eradication operations increases somewhat if disturbances occur during breeding season, as it is possible that mothers and dependent pups could become separated. If separated pairs don't reunite fairly quickly, risks of mortality to pups (through starvation) may increase. Also, adult Steller sea lions may trample sea lion pups if disturbed, which could potentially result in the injury or death of pups. However, to mitigate this risk, NMFS and USFWS shall include time of year restrictions to limit the presence of field crew personnel activities to months that Steller sea lion and harbor seal dependent pups are not present at the bait application sites.

The risk of marine mammal injury mortality associated with rat eradication operations increases somewhat if disturbances occur in steep areas with precipitous cliffs where pinnipeds haul-out. However, there are no steep or precipitous areas that animals would be flushed from during the operations. The beach at Krysi Point on Rat Island consists of mixed small boulders and cobble. The terrain behind the beach gradually sloped upward 38 m (125 ft). There are offshore rocks which the animals also use at that persistent haul-out location. The islet near Ayugadak Point has boulder beaches that are backed by steep grass covered slopes. The animals at the rookery only use the beach areas and do not access the steep areas. Field crew personnel are to use great care approaching sites with pinnipeds and will leave as soon as possible to minimize effects. Because of the circumstances and the proposed

IHA requirements discussed above, NMFS believes it highly unlikely that the activities would result in the injury or mortality of pinnipeds.

For the purposes of estimating take in the IHA, NMFS assumes that pinnipeds that move (meaning move their whole body from one location to another, not just move their head from left to right, for example) or change the direction of their movement in response to the presence of field crew personnel activities are taken by Level B Harassment. As discussed further in the Monitoring and Reporting section below, the responses of the pinnipeds will be recorded by USFWS personnel during the specified activities.

Comments and Responses

On June 18, 2008 (73 FR 34705), NMFS published in the **Federal Register** a notice of a proposed IHA for USFWS' request to take marine mammals incidental to conducting non-native rat eradication operations at Rat Island, and requested comments regarding this proposed IHA (FRNOR). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and Judith Lee from Environmental Planning Strategies, Inc. (EPS).

Commission Comment: The Commission states that because the applicant is requesting authority to take marine mammals by harassment only, NMFS should require that operations be suspended immediately if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the non-native rat eradication program. The Commission further recommends that any such suspension should remain in place until NMFS has: (1) reviewed the situation and determined that further mortalities or serious injuries are unlikely to occur; or (2) issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

Response: NMFS concurs with the Commission's recommendations and has included a requirement to this effect in the IHA.

Commission Comment: The Commission additionally recommends that prior to issuing the IHA, NMFS require the applicant to expand its monitoring plan to detect the effects of disturbance and short- and long- term exposure to the rodenticide, and all mitigation, monitoring, and reporting measures identified in the proposed notice are included in the IHA and the approach be supplemented by the measures described to avoid disturbance and detect problems that may arise after

the rodenticide has been dispersed over the island.

Response: NMFS disagrees with the Commission's assessment that rodenticide poses any short- and long-term exposure pathway for harassment, injury, and/or mortality. Pinnipeds are not expected to be impacted by the use of rodenticide (brodifacoum) during the rat eradication operations. Most vertebrates are less susceptible to brodifacoum than are the rats, and would have to consume a higher dose, relative to body mass, before reaching a toxicity threshold. Therefore, pinnipeds would have to directly consume ten's, if not hundreds of bait pellets, to be affected by the rodenticide. The rodenticide bait pellets, which are primarily composed of grain, are not part of the natural diet of carnivorous (almost exclusively piscivorous) pinnipeds and therefore are not expected to be consumed. Also, pinnipeds are not expected to prey or scavenge on other animals that have consumed and succumb to the effects of the rodenticide as they do not feed while hauled out on land. The only possible routes for bait ingestion are accidental. The rodenticide bait will not be broadcast into the marine environment, and if it were to enter the water it will disperse and disintegrate within hours. For secondary exposure through marine fish, which are part of the diet of pinnipeds inhabiting Rat Island, the risk is similarly remote and rodenticide impacts are considered negligible. The number of bait pellets that will enter the marine environment as a result of application activities will be low as a result of the mitigation measures described in the EA and application for avoiding bait application in the ocean.

The probability that fish will consume bait pellets is considered to be very low, and bait pellets will disintegrate rapidly upon contact with the water. In tests conducted by researchers in the Aleutians, as well as in California, Hawaii, and the equatorial Pacific, marine fish species demonstrated almost no interest in placebo bait pellets that entered the water nearby (Buckelew *et al.*, 2007a; Howald *et al.*, 2005; USFWS, 2005). Some marine invertebrates are also included in the diet of pinnipeds inhabiting Rat Island.

Most invertebrate species are not known to be susceptible to toxic effects from the use of brodifacoum in the field (Hoare and Hare, 2006). However, both marine and terrestrial invertebrates (i.e., filter feeders and crabs) are known to consume bait pellets. During a catastrophic accidental spill of 20 tons of brodifacoum into nearshore waters in

New Zealand (Primus *et al.*, 2005), a peak concentration of the toxicant measured in mussels occurring at the spill site was 0.41 ppm one day after the spill; this equates to 1/60th of the brodifacoum found in one pellet. Within 30 days, the concentration had dropped to just above 0.002 ppm or 200 times less than peak. The effects of sublethal exposure to the rodenticide is negligible and warrants little concern given the very slight risk during the length of the operations.

Also, sea lions at Rat Island are not anticipated to haul-out in areas that include potentially dangerous steep areas or precipitous cliffs. The persistent haul out at Krysi Point is a beach composed of mixed small boulders and cobbles. Offshore rocks are used by animals. The terrain behind the beach gradually slopes upward to 38 m (125 ft). The islet near Ayugadak Point has boulder beaches backed by steep grass covered slopes. The animals only use the beach areas and do not access the steep areas. NMFS and USFWS has determined that there are no steep or precipitous areas that animals would be flushed from during the rat eradication operations. Also, monitoring and cautionary mitigation measures will be implemented to avoid any potential harassment and report and document disturbances during the authorized field crew activities.

EPS Comment: EPS recommends that NMFS deny issuing the IHA for the rat eradication project in order to protect the endangered Steller sea lions on Rat Island and their designated critical habitat. The incidental take of Steller sea lions with and without an aerial application of rodenticide is unnecessary, with the potential for Level A harassment never discussed. Because of the excessive level, timing, and kind of incidental take, including the potential for Level A and Level B harassment, an EIS should be prepared by AMNWR for the project, with full and appropriate public and agency involvement and comment.

Response: The purpose and use of rodenticide during rat eradication operations and its potential to not result in Level A harassment is discussed in the proposed IHA's FRNOR (73 FR 34705), USFWS' EA, and this document. The discussion of whether or not the aerial application of the rodenticide is necessary is outside the scope of this IHA. By implementing the monitoring and mitigation measures described in the IHA, Level A takes of marine mammals are highly unlikely and short-term Level B harassment would occur at most. The number of animals taken by Level B harassment would be

considered small, and the takes will have a negligible impact on the species and/or stock of marine mammals. If needed (i.e., if the activity did result in injury, which is not authorized), the IHA can be modified, suspended, or withdrawn from the applicant. An EA prepared by USFWS for the Rat Island project was completed and released for full public review. Public comments were considered and a finding of no significant impact (FONSI) was issued by USFWS in March 2008. NMFS adopted the USFWS' EA and issued a FONSI. The NEPA requirements for the issuance of an IHA to USFWS for the Rat Island project have been fulfilled by NMFS.

EPS Comment: The potential for all rodents to be exposed to rodenticide with the proposed project, including buffers on Rat Island and the rookery islet and the bait station application, is extremely low. The potential for reinvasion from the islet especially is extremely high. Therefore, the resultant high impacts/takes, including pups and subadults at both Level A and Level B, with little to no short-term or long-term positive results on Rat Island is unacceptable.

Response: Comments regarding whether or not the rat eradication program is likely to be effective are outside the scope of determinations that NMFS must make regarding the issuance of an IHA. However, the Rat Island project has been planned for several years with several rounds of review by an independent and international team of experts. The methods proposed have been used to successfully eradicate rodents from hundreds of islands worldwide. The methods proposed for the Rat Island project were developed to successfully eradicate non-native rodents while minimizing secondary impacts to wildlife. The AMNWR has consulted with NMFS representatives regarding the level of disturbance associated with the Rat Island Project. These consultations concluded that Level A Harassment is unlikely to result from this project.

EPS Comment: Rat Island was invaded by rats over 200 years ago and the ecological damage has been in place for centuries- the pristine condition has no way to be known- so this project has little potential for improving the ecological condition of the island in any major way, with associated high levels of impacts to endangered Steller sea lions.

Response: Whether or not the project has the potential to improve the ecological condition of the island is outside the scope of the IHA. However,

the application indicated that most of the islands in the Aleutian archipelago, including those very near Rat Island, do not have rats and provide a good indication of what the island was like prior to the introduction of rats. If rats are successfully removed, habitat is anticipated to recover and native wildlife species will likely re-colonize the island. The USFWS and its partners would not commit the time, staff, funding, and other resources to a project that had no tangible natural resource benefits. National Wildlife Refuge System lands are mandated to be managed for natural biodiversity.

EPS Comment: EPS states that sufficient time has not been allowed to plan, monitor, stage, or implement the project sufficiently for implementation in September or even November 2008. Losing funding is not an appropriate reason to rush a project that is complex, logistically extremely difficult, has a high potential for failure, has high potential for unacceptable impacts, including injury and possibly death to individual Steller sea lions on Rat Island and at the rookery, and is on an extremely large island on which neither the USFWS nor Island Conservation has ever attempted an aerial broadcast.

Response: This project has been planned for several years with guidance from and review by an independent, international team of experts. The equipment, supplies, and staff needed for the project to be successful have been secured. The AMNWR and its partners have many years of experience operating in the Aleutian Islands, fully understand the challenges associated with a project of this magnitude and expect to be successful. Also, as mentioned previously, NMFS does not expect the planned activity to result in the injury or death of any marine mammals.

EPS Comment: EPS states that the impacts and takes of marine mammals could be higher than evaluated in the application based on pre- and post-monitoring activities and conducted surveys; and suggests that monitoring activities should occur over many years. EPS also states that takes could be higher than evaluated in the application based on and the potential for fuel spills during staging and after project completion.

Response: Based on aerial surveys conducted at Rat Island and on the islet off of Ayugadak Point, NMFS determined that numbers of pinnipeds potentially taken by Level B harassment incidental to rat eradication operations is small relative to the population of the species and stock. Activities related to pre- and post project activities have not

and will not result in the take of any marine mammals. Due to the remote location of Rat Island as well as the inclement and unpredictable weather in the region, long term pre- and post-monitoring activities would be very difficult to conduct. Marine mammal take related to the Rat Island project is expected to be much lower than requested in the IHA application and will be carefully monitored. Fuel for the Rat Island project will be handled in accordance with all applicable laws and USFWS Region 7 Fuel Policy. Fuel storage areas will use secondary containment that prevents a catastrophic release into the environment. Spill response equipment and 40 hour HAZWOPER trained personnel will be available to all locations where fuel is located and on the Refuge research vessel to be used in the unlikely event of a fuel spill.

Incidental Take Authorization Requested

The rat eradication effort and associated operations may result in the taking of marine mammals by Level B incidental harassment only. As a result, the USFWS has requested an IHA for Level B harassment. For this authorization, Level B harassment occurs if an animal moves away any distance in response to the presence of field crew personnel, watercraft, and/or aircraft, or if the animals was already moving and changed direction. Animals that raise their head and look at field crew personnel and/or operated vehicle without moving are not considered disturbed. Most incidental takings will be related to harassment from the noise and visual presence/movement of helicopter operations during the bait application period. A small number of takes could also occur as a result of human presence and boat operations during the course of the project.

Level A take (i.e., injury or mortality) due to stampeding or mother-pup separation is not anticipated during the rat eradication operations. Since the activities will occur after the rookery season, the abundance of pinnipeds should be lower. Injuries or mortalities by stampedes due to field crew personnel, watercraft, and/or aircraft approaches are not anticipated because animals are likely to be more spaced apart, thus when being flushed into the water, it is not likely that they would trample one another.

The use of a rodenticide is not expected to result in any Level A harassment or death of marine mammals. Marine mammals are unlikely to ingest bait pellets of rodenticide opportunistically or

accidentally because they are strictly carnivorous and are not carrion eaters. Additionally, the rodenticide is retained at low levels in body tissues and numerous large exposures (on the order of directly consuming tens to hundreds of bait pellets) would have to occur in order to result in injury or death. Based on their known dietary habits, Steller sea lions and harbor seals are not expected to ingest either bait pellets or rat carcasses resulting from rodenticide application.

Estimated Number of Marine Mammal Takes

As discussed above, NMFS anticipated that take of marine mammals will occur in the form of disturbance resulting from the presence of helicopters, vessel or pedestrian traffic in the vicinity of the pinnipeds. As also discussed above, no take is expected to result from exposure to rodenticide.

Rat Island

Most of the disturbance associated with the Rat Island eradication will be a result of aircraft noise. The helicopters used to apply bait to the island will make two passes across most of the island to ensure success of the project. This could result in two harassment incidents of Steller sea lions and harbor seals that are hauled out at that time. The area surrounding a known Steller sea lion haul out at Krysi Point will be avoided by all activities other than bait application. Harbor seals use many parts of Rat Island shoreline and could also be affected by boat operations and personnel movements. Thus the number of takes was estimated at 2.5 for each individual of this species to account for their sporadic distribution in the water and at haul-outs around the island.

Steller sea lions at Rat Island were counted during an aerial survey in 2004. The number of animals counted during that survey was increased to allow for potential population growth and then used to calculate the total take in Table 4 (below).

The composition of Steller sea lions, which haul out away from rookeries, shifts between seasons and is not well understood. Although no pups are expected at Rat Island, determining the age and sex ratio of animals using the known haul out near Krysi Point in October is difficult at best. For this reason the number is calculated as adult and sub-adult animals without reference to the sex of these animals.

Harbor seals at Rat Island were counted by an aerial survey in 1999 (see Table 4). The number of animals (93 individuals) recorded during that survey

was increased to allow for potential population growth and then used to calculate the total take in Table 4

(below). Information regarding the demographics of harbor seals on Rat Island is not available. The number of

animals recorded in the 1999 survey was used to calculate a total number of harbor seal takes.

TABLE 4. ESTIMATED NUMBER OF MARINE MAMMALS AFFECTED BY AIRCRAFT OPERATIONS ON RAT ISLAND.

Species	# of animals at Rat Island	# of take events per animal	Pups		Subadults		Adults		Total # of Takes
					M	F	M	F	
Steller sea lion	65	2	0	0	-	-	-	-	130
Pacific harbor seal	100	2.5	0	0	-	-	-	-	250

M= male, F= female

Ayugadak Point Rookery

Project crews will not attempt to access the Ayugadak Point islet by boat in early August and install bait stations as described in the proposed IHA notice (73 FR 34705). The application of bait will be conducted in a manner that will attempt to minimize the disturbance of animals (adults and pups) on the rookery itself. Previous surveys at the islet have sometimes encountered one or two non-breeding bulls outside of the rookery area near the landing area. These were young or old bulls unable to hold a territory at the rookery. A female with a dependent pup has not been encountered outside the rookery area on the islet. However, marine mammals can be unpredictable and this remote possibility cannot be completely discounted. A survey of Steller sea lions was conducted by NMFS in 2005. This

survey data was increased to allow for potential population growth and then used to calculate the number of animals anticipated to be affected by this proposed operation plan in the table below. The numbers in the table below also reflect the remote possibility of encountering a female with a dependent pup outside the rookery area.

There are no location-specific population estimates available for harbor seals on the islet off Ayugadak Point. However, the total take estimate of harbor seals in Table 4 (above) already takes proposed personnel activities, such as boat operation and bait station installation, into account. The Level B take of harbor seals at the islet is not anticipated. Recent investigations in the area have not sighted harbor seals using the islet near Ayugadak Point and no animals are

expected to be disturbed by operations at that location during the project.

Since project crews will not be able to visit the islet off Ayugadak Point during either of the proposed planned visits in August and October, the islet will be aurally treated at the same time at Rat Island in October. The aerial broadcast will require approximately 15 minutes of flight time, but would likely disturb all sea lions present at the time. Survey numbers from the NMFS survey in 2005 indicate the presence of 83 pups. By October, the pups will be of an adequate size to avoid being trampled by other animals and largely independent of their mothers. NMFS survey data was increased to allow for potential population growth and then used to calculate the number of animals affected by an aerial treatment of the islet in Table 5 (below).

TABLE 5. ESTIMATED NUMBER OF STELLER SEA LIONS AFFECTED BY POSSIBLE AERIAL BROADCAST OF THE ISLET NEAR AYUGADAK POINT, OCTOBER.

Species	# of animals	# of take events per animal	Pups	Subadults	Adults	Total # of takes
Steller sea lion	320	1	100	0	220	320

The distribution of pinnipeds hauled-out along the shorelines is not even between sites or at different times of the year. The number of marine mammals disturbed will vary by month and location, and, compared to animals hauled-out on the shoreline farther away from proposed operations, only those animals hauled-out closest to the actual proposed operation sites are likely to be disturbed by the presence of field crew personnel activities and alter their behavior or attempt to move out of the way.

As discussed earlier, the take estimates consider an animal to have been harassed if it moved away any distance in response to the presence of field crew personnel, watercraft, and/or aircraft, or if the animal was already

moving and changed direction. Based on past observations and assuming a maximum level of incidental harassment of marine mammals at each site during periods of visitation, NMFS estimates that the maximum total possible numbers of individuals that will be incidentally harassed during the effective dates of the proposed IHA would be 385 Steller sea lions (450 total Level B takes), and 100 Pacific harbor seals (250 total Level B takes) may be taken.

The populations size of the U.S. western stock of Steller sea lions is estimated to be 44,780, with a minimum population estimate of 38,988 animals (Angliss and Outlaw, 2007). Population estimates for the U.S. Gulf of Alaska stock of Pacific harbor seals range from

a minimum of 44,453 to an average of 45,975 animals (Angliss and Outlaw, 2007). The estimated total possible number of individuals that will be incidentally harassed during the proposed project is 0.009 and 0.002 percent of the respective Steller sea lion and harbor seal U.S. stock populations for these species. NMFS has determined that these are small numbers, relative to population estimates, of Steller sea lions and Pacific harbor seals.

Anticipated Impacts to Subsistence Users

In the Aleutian Islands, rural residents use marine mammal resources for subsistence purposes. The proposed rat eradication operations described in the EA should have no effect on marine

mammal subsistence uses or needs. Rat Island is uninhabited and is located more than 322 km (200 mi) from the nearest rural community of Adak, Alaska. The subsistence resources used by rural residents in the Aleutian Islands are harvested near the islands where the communities are located and no subsistence use of the pinniped species at Rat Island is expected. Rat Island is not known to have been used for marine mammal subsistence purposes since the 1800s.

Anticipated Impact of the Activity Upon Marine Mammal Habitat

NMFS anticipates the proposed rat eradication operations described in the IHA application and this document will result in no impacts to the habitat of marine mammals in the Rat Island area beyond rendering the areas immediately around each of the baiting application and broadcasting sites less desirable as haul-out sites for a short time period during the length of the action. Helicopter and field crew operations will occasionally need to enter the Steller sea lions designated critical habitat. USFWS has obtained permission from NMFS for operations within the "no-entry zones" established by 50 CFR 223.202. Although Level B Harassment is expected to occur in some instances, these proposed activities will not result in the physical alteration of habitat or lead to any effects on the prey base of Steller sea lions or harbor seals. The rat eradication project should not result in the loss or modification of marine mammal habitat and the application of rodenticide bait are not likely to affect marine mammals during the described operations.

Mitigation

Several mitigation measures to reduce the potential for harassment from rat population eradication operations would be (or are proposed to be implemented) implemented as part of the proposed USFWS activities. The potential risk of injury or mortality would be avoided with the following proposed measures.

Timing

The eradication will take all measures possible to minimize marine mammal disturbance. This will be especially critical during periods when Steller sea lions and harbor seals are giving birth, mating, rearing young, and molting. Disturbances to females with dependent pups (in the cases of Steller sea lions and Pacific harbor seals) will be mitigated to the greatest extent practicable by avoiding visits to baiting sites with resident pinnipeds during periods of breeding, lactation, and molting when possible. During this period, rat eradication operations would be limited to mostly sites where pinniped breeding, post-partum nursing, and molting does not occur.

The reproductive period for Steller sea lions is generally late May through early July, with a peak in the second and third weeks of June (Pitcher and Calkins, 1981; Gisiner, 1985). Pups stay on land for about two weeks after which they spend increasing time in nearshore waters until they begin to disperse from rookeries to haul-outs with females at about 2.5 months of age (Raum-Suryan *et al.*, 2004; Maniscalco *et al.*, 2002, 2006). In the Aleutian Island area, most pupping is complete by the last week of June and dispersal should occur by mid-

September. Molting in Steller sea lions varies by age and sex of animal and is known to last about 45 days. Juveniles molt first, followed by adult females, bull and pups (Daniel, 2003). The molt should be nearly completed during the planned bait application period.

Harbor seals typically give birth during May and June. Pups are usually weaned within a month and no longer need to be close to their mothers. The peak molting period occurs between August and September (Jemison and Kelly, 2001; Daniel *et al.*, 2003).

Conducting bait application operations after marine mammal breeding and molting is complete reduces the potential for disturbances to these species during the sensitive periods of breeding, pup rearing, and molting. Most pinnipeds in the project area are expected to have completed pupping by July, and some young animals that still have associations with their mothers may be present during field operations in September, October, and November. The density of animals will be less during the scheduled operations in the autumn than during the peak breeding season, because animals will no longer be giving birth or holding territories. Limiting visits to the breeding, lactation, and molting sites to periods when these activities do not occur will reduce the possibility of incidental harassment and the potential for injury or mortality of dependent Steller sea lion pups and Pacific harbor seals to near zero. See Table 6 (below) for additional information regarding the limitation and timing of field operations and biologically sensitive periods during the rat eradication project.

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Table 6. Timing of USFWS Rat Eradication Operations and Biology at Rat Island, AK.

		Restoring Wildlife Habitat on Rat Island - Invasive Norway Rat Eradication Project: Approx. Sept 25 - Nov 15, 2008																																											
		April				May				June				July				August				September				October				November				December											
2008 (by weeks)		7	14	21	28	4	11	18	25	1	8	15	22	29	6	13	20	27	3	10	17	24	31	7	14	21	28	5	12	19	26	2	9	16	23	30	7	14	21	28					
▼ Species under IH																																													
SSL - Pupping																																													
Breeding																																													
Rearing																																													
Dispersing																																													
Molting																																													
HASE - Pupping																																													
Weaning																																													
Molting																																													

KEY:

- Staging period.
- Application of rodenticide - best case scenario.
- Application of rodenticide - longer weather window.
- Demobilization, earliest possible start date is October 21.
- SSL = Steller sea lion
- HASE = Pacific harbor seal

Eradication Operations

Mitigation of the impacts on affected pinnipeds requires that field crew personnel be judicious in the route of approach to haul-out sites and/or rookeries, avoiding close contact with pinnipeds hauled-out on shore. In no case will marine mammals be deliberately approached by field crew personnel, and in all cases every possible measure will be taken to select a pathway of approach to baiting sites that minimizes the number of marine mammals harassed. After each visit to a given baiting site, the site will be vacated as soon as possible so that it can be re-occupied by hauled-out marine mammals that may have been disturbed by the presence of field crew personnel.

Steller sea lions have a persistent haul-out at Krysi Point at the west end of Rat Island and a rookery on the islet off Ayugadak Point. Steller sea lions are likely to haul-out at other locations on Rat Island as well. During staging operations, helicopter flight lines will avoid the rookery, the known traditional haul-out site (i.e., Krysi Point), and any haul-out sites discovered prior to helicopter operations. Unlike during staging, it will be more difficult to avoid known haul-out sites on Rat Island with the helicopter during bait application because of the need for thorough coverage of the island. In order to minimize the possibility of disturbance to marine mammals, USFWS will be judicious in the route of approach to bait application and broadcast sites, especially those near known haul-out sites and rookeries, during rat eradication operations.

The islet off Ayugadak Point will be baited with the helicopter as described in the EA and IHA application. The helicopter baiting will likely be completed in approximately 15 minutes and disturbance to Steller sea lions is likely to be very short term.

Harbor seals will also be avoided to the greatest extent possible during helicopter operations. During staging operations, project managers will plan helicopter flight lines and boat travel to minimize the potential for disturbance to harbor seal haul-outs known from existing databases and surveys conducted prior to the operations. Unlike during staging it will be more difficult to avoid known haul sites on Rat Island with the helicopter during bait application because of the need for thorough coverage of the entire island. In order to minimize the possibility of disturbance to marine mammals, USFWS will be judicious in the route of approach to bait application and broadcast sites, especially those near

known haul-out sites and rookeries, during rat eradication operations.

Field Crew Personnel

The Steller sea lion haul-out at Krysi Point on Rat Island will be avoided by personnel involved with this project. The sporadic personnel presence and temporary infrastructure installations that may be necessary near harbor seal haul-outs during both staging and bait application operations may result in localized disturbances, although this is much less likely to disturb animals than proposed helicopter overflights. The camps and staging areas themselves will be well inland and will have negligible impacts on Steller sea lions and harbor seals hauled out on the coastline.

Monitoring, and Reporting

When marine mammals are encountered during the project, personnel will record information regarding species, distribution, behavior, and number of animals. When conditions permit, information regarding sex, age (pup, sub-adult, adult) and any marked animals will also be recorded. As part of the monitoring, USFWS will record the numbers of disturbed animals that flush into the water, the number that move more than 1 m (3.3 ft), but do not enter the water, the number that become alert and move, but do not move more than 1 m, and the number that were previously moving and change direction. Upon completion of the project, this information will be compiled and provided to NMFS.

Aircraft and personnel activities related to the proposed project will be coordinated to reduce potential take. The staff of AMNWR and their partners will evaluate incidental take and stop any operations should the potential for incidental take be too great.

Monitoring requirements in relation to USFWS rat eradication operations will include observations made by the applicant and field crew personnel associated with the action. Information recorded will include species counts (with numbers of pups), numbers of observed disturbances, and descriptions of the disturbance behaviors during the proposed rat eradication operations. Observations of unusual behaviors, numbers, or distributions of pinnipeds on Rat Island will be reported to NMFS, so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS.

If at any time injury or death of any marine mammal occurs that may be a

result of the proposed rat population eradication operations, USFWS will suspend baiting application and broadcasting activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur, and to ensure that the applicant remains in compliance with the MMPA. Also, if any injured or dead marine mammal is found at anytime, USFWS will notify NMFS immediately, even if it was likely caused by something other than the specified activities.

A draft final report must be submitted to NMFS within 90 days after the conclusion of the field season. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

ESA

For the reasons already described in this **Federal Register** Notice, NMFS has determined that the described rat population extermination operations and the accompanying IHA may have an effect on species or critical habitat protected under the ESA (specifically, the Steller sea lion). Therefore, consultation under Section 7 is required. A Biological Opinion (BiOp) has been prepared by NMFS' Alaska Region. The BiOp reached a no jeopardy determination for listed species and the activity is not likely to result in the destruction or adverse modification of critical habitat, and an incidental take statement was issued for Steller sea lions.

National Environmental Policy Act (NEPA)

USFWS prepared an Environmental Assessment (EA) of Restoring Wildlife Habitat on Rat Island, AK, and issued a Finding of No Significant Impact (FONSI) for the preferred alternative. NMFS has adopted the EA and it adequately addressed the effects on the human environment of the proposed action on the issuance of an IHA, for their preferred alternative. NMFS also issued a FONSI, for our preferred alternative. A copy of the EA and FONSI are available upon request (see **ADDRESSES**). A copy of the NMFS prepared FONSI is also available upon request (see **ADDRESSES**).

Conclusions

Based on the USFWS' application, as well as the analysis contained herein, NMFS has determined that the taking will have a negligible impact on the affected marine mammal species or stocks. The impact of the described non-native rat extermination at Rat Island will result, at most, in a temporary modification in behavior of small numbers of Steller sea lions and Pacific harbor seals, in the form of head alerts, movement away from personnel, watercraft and aircraft, and/or flushing from the beach. In addition, no take by injury or death is anticipated, and take by harassment will be at the lowest level practicable due to incorporation of the monitoring and mitigation measures mentioned previously in this document. NMFS has further also determined that the anticipated takes not have an unmitigable impact on the availability of affected species or stocks for subsistence use.

Authorization

NMFS has issued an IHA to the USFWS for the harassment of Steller sea lions and Pacific harbor seals incidental to non-native rat population eradication operations, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 26, 2008.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. E8-20276 Filed 8-29-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Foothill/Eastern Transportation Corridor Agency

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of public hearing.

SUMMARY: This announcement provides notice of a public hearing to be held by the National Oceanic and Atmospheric Administration (NOAA) in California. The hearing involves an administrative appeal filed with the Department of Commerce by the Foothill/Eastern Transportation Corridor Agency (TCA).

DATE AND LOCATION: NOAA will conduct the public hearing on September 22, 2008, from 10:30 a.m. to 8:30 p.m., in O'Brien Hall at the Del Mar Fairgrounds,

2260 Jimmy Durante Boulevard, Del Mar, CA 92014.

ADDRESSES: Materials from the appeal record will be available at the NOAA Office of General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910 and on the following Web site: <http://www.ogc.doc.gov/czma.htm>.

Comments: This notice reopens the comment period for public and Federal agency comments. The public comment period will remain open until October 2, 2008. Comments on issues relevant to the Secretary's decision of this appeal may be sent by mail to Thomas Street, Attorney-Advisor, NOAA Office of General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Comments may also be sent via e-mail to gcos.comments@noaa.gov.

FOR FURTHER INFORMATION CONTACT:

Thomas Street, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, gcos.inquiries@noaa.gov or Stephanie Campbell, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, gcos.inquiries@noaa.gov.

SUPPLEMENTARY INFORMATION: On February 15, 2008, TCA filed notice of an appeal with the Secretary of Commerce (Secretary), pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. TCA appealed an objection by the California Coastal Commission (Commission) to TCA's proposed construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.

Under the CZMA, the Secretary may override the Commission's objection if he determines that the project is consistent with the objectives or purposes of the CZMA or is otherwise necessary in the interest of national security. To make the determination that the proposed activity is "consistent with the objectives or purposes" of the CZMA, the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with enforceable policies of the state's coastal management program. 15 CFR 930.121.

On March 17, 2008, NOAA published a notice in the **Federal Register** announcing, among other things, that a public hearing might be held concerning this appeal. The hearing will be held. This notice provides scheduling and procedural information about the hearing. Because NOAA anticipates a large number of attendees at the public hearing, NOAA has established the following rules to ensure an orderly and efficient process and to maximize the public input and viewpoints that are received during time allotted.

Members of the public, elected officials, and individuals representing organizations or tribes may give oral testimony at the hearing. Anyone wishing to provide oral testimony at the hearing must submit a written request via United States mail or commercial carrier (Federal Express/UPS/Airborne Express or similar means) to NOAA no later than September 12, 2008. No requests received after close-of-business on September 12, 2008, or requests submitted via e-mail, facsimile, or voicemail will be considered. The written request should be sent to: Thomas Street, Attorney Advisor, NOAA Office of General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Although the submission of a written request is a prerequisite to providing oral testimony, it is not a guarantee that an individual will be afforded the opportunity to testify due to the hearing's time constraints.

A written request must include the individual's full name, address, and a statement of whether the testimony will be provided on behalf of: (i) An individual; (ii) an organization; (iii) an elected official; or (iv) a tribe. In his or her request to testify, an elected official must identify his or her official title and public office. An elected official must testify in person. A public hearing participant who wishes to provide testimony on behalf of an organization must submit the request on the organization's letterhead, identify his or her title within the organization, and certify that the individual is authorized to provide testimony on behalf of the organization. A participant who wishes to provide testimony on behalf of a tribe must identify the tribe and certify that he or she is authorized to provide testimony on behalf of the tribe.

After receipt of written requests to provide testimony, NOAA staff will separate the requests into four general categories: Individuals, elected officials, organizations, and tribes. NOAA will then create a testimony schedule with speakers randomly selected from within each of the general categorical