



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

Mr. Tony Parisi  
Head, Sustainability Office  
Naval Air Warfare Center  
Weapons Division  
Code 52F00ME/Ser 4107  
575 "I" Avenue, Suite 1  
Point Mugu, California 93042-5049

JUN - 3 2009

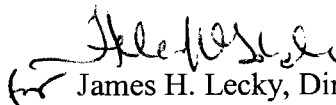
Dear Mr. Parisi:

Enclosed is a Letter of Authorization (LOA), issued to the Naval Air Warfare Center Weapons Division, U.S. Navy, under the authority of Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), to harass Pacific harbor seals, California sea lions and northern elephant seals incidental to missile launch activities on San Nicolas Island. This LOA is valid from June 4, 2009, through June 3, 2010.

You are required to comply with the conditions contained in the LOA and the regulations. In addition, you must cooperate with any Federal, state or local agency monitoring the impacts of your activities, and submit a draft report to the National Marine Fisheries Service (NMFS) Division of Permits, Conservation, and Education, Office of Protected Resources (PR) and NMFS' Southwest Regional Office (SWRO) no later than 60 days prior to the expiration of this Authorization. The LOA requires monitoring the presence of harbor seals, California sea lions, and northern elephant seals; reporting any behavioral modifications resulting from this activity as observed by a qualified individual; and the collection of acoustic measurements from missile launch activities. Modifications and future issuance of an LOA for this activity will be determined according to the outcomes documented under the current authorization and based on (a) regular monitoring of pinniped reactions from missile launches, (b) degree of implementation of mitigation requirements, and (c) marine mammal impacts associated with this action.

If you have any questions concerning the LOA or its requirements, please contact Candace Nachman, NMFS/PR at (301) 713-2289 or Monica DeAngelis, NMFS/SWRO at (562) 980-3232.

Sincerely,

  
James H. Lecky, Director  
Office of Protected Resources

Enclosure





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

## Letter of Authorization

The Department of the Navy, Naval Air Warfare Center Weapons Division, Point Mugu, 1 Administration Circle, China Lake, California 93555 is hereby authorized to take marine mammals incidental to missile launch activities at San Nicolas Island, California, in accordance with 50 CFR 216, Subpart N—Taking of Marine Mammals Incidental to Missile Launch Activities from San Nicolas Island, CA, subject to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) and the following conditions:

1. This Authorization is valid from June 4, 2009, through June 3, 2010.

2. This Authorization is valid only for activities associated with the launching of a maximum of 40 Coyote (or similar sized and smaller) missiles per year from San Nicolas Island, California.

3. General Conditions:

(a). The taking, by Level B harassment only, is limited to the species listed under condition 5 below. The taking by Level A harassment, serious injury (injury that is likely to lead to mortality) or death of these species and the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b). The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service (NMFS) at (301) 713-2289 and to the Southwest Regional Office, NMFS at (562) 980-3232.

(c). If a freshly dead or seriously injured pinniped is found during post-launch monitoring, it must be reported immediately to the parties listed above in 3(b). Additionally, the National Stranding Network must be notified immediately (telephone: (526) 980-4017). Every attempt will be made to collect pinniped carcasses discovered within 48 hours following a launch, provided that the collection does not result in the disturbance (flushing) of other animals on the site. Any carcasses collected will be transferred to Long Marine Laboratory in Santa Cruz, California for complete necropsy.

4. Cooperation:

The holder of this Authorization is required to cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The



holder must notify the Administrator, Southwest Regional Office, NMFS, by letter, e-mail, or telephone ((562) 980-3232) at least one (1) week prior to launches (unless constrained by the date of issuance of this Authorization).

5. The marine mammal species authorized for taking by incidental harassment are: northern elephant seals (*Mirounga angustirostris*); harbor seals (*Phoca vitulina*); and California sea lions (*Zalophus californianus*).

6. Mitigation Requirements: The Holder of this Authorization must ensure the least practicable adverse impacts on Pacific harbor seals, California sea lions, and northern elephant seals, by:

(a). Prohibiting personnel from entering pinniped haul-out sites below the missile's predicted flight path for two (2) hours prior to planned missile launches.

(b). Avoiding launch activities during harbor seal pupping season (February through April), unless constrained by factors including, but not limited to, human safety, national security, or for launch trajectory necessary to meet mission objectives.

(c). Limiting launch activities during other pinniped pupping seasons, unless constrained by factors including, but not limited to, human safety, national security, or for launch trajectory necessary to meet mission objectives.

(d). Not launching missiles from the Alpha Complex at low elevation (less than 1,000 feet (305 m)) on launch azimuths that pass close to pinniped haul-out site(s) when occupied.

(e). Avoiding the launch of multiple missiles in quick succession over haul-out sites, especially when young pups are present, except when required by mission objectives.

(f). Limiting launch activities during nighttime hours, except when required by mission objectives.

(g). Ensuring that aircraft and helicopter flight paths maintain a minimum altitude of 1,000 feet (305 m) from pinniped haul-outs and rookeries, except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting, adverse weather conditions), which may require approaching pinniped haul-outs and rookeries closer than 1,000 feet (305 m).

(h). Reviewing the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped discovered during post-launch surveys or indications of affects to the distribution, size, or productivity of the affected pinniped populations as a result of the authorized activities are thought to have occurred. If necessary, appropriate changes must be made through modification to this Authorization prior to conducting the next launch of the same vehicle.

7. Monitoring Requirements:

(a). General.

(1). The holder of this Authorization must designate biologically-trained, on-site individual(s), approved in advance by NMFS, to record the effects of the launch activities and the resulting noise on pinnipeds.

(2). NMFS must be informed immediately of any changes or deletions to any portions of the proposed monitoring plan.

(b). Visual Land-Based Monitoring.

(1). Prior to each missile launch, an observer(s) will place three (3) autonomous digital video cameras overlooking chosen haul-out sites located varying distances from the missile launch site. Each video camera will be set to record a focal subgroup within the larger haul-out aggregation for a maximum of four (4) hours or as permitted by the videotape capacity.

(2). Systematic visual observations, by those individuals described in condition 7(a)(1) above, on pinniped presence and activity will be conducted and recorded in a field logbook or recorded on digital video for subsequent analysis for no less than one (1) hour prior to the estimated launch time and for up to one (1) hour immediately following each missile launch.

(3). Documentation, both via autonomous video camera and human observer, will consist of:

- (i). numbers and sexes of each age class in focal subgroups;
- (ii). description and timing of launch activities or other disruptive event(s);
- (iii). movements of pinnipeds, including number and proportion moving, direction and distance moved, and pace of movement;
- (iv). description of reactions;
- (v). minimum distances between interacting and reacting pinnipeds;
- (vi). study location;
- (vii). local time;
- (viii). substratum type;
- (ix). substratum slope;
- (x). weather condition;
- (xi). horizontal visibility; and
- (xii). tide state.

(c). Acoustic Monitoring.

(1). During all missile launches, calibrated recordings of the levels and characteristics of the received launch sounds will be obtained from three (3) different locations of varying distances from the missile's flight path. To the extent practicable, these acoustic recording locations will correspond with the haul-out sites where video monitoring is done.

(2). Acoustic recordings will be supplemented by the use of radar and telemetry systems to obtain the trajectory of target missiles in three (3) dimensions, whenever data coverage allows.

(3). Acoustic equipment used to record launch sounds will be suitable for collecting a wide range of parameters, including the magnitude, characteristics, and duration of each missile.

8. Reporting:

(a). For each missile launch, the lead contractor or lead observer for the holder of this Authorization must provide a status report by telephone to the Southwest Regional Office, NMFS (562-980-3232), providing reporting items found under condition 8(b), unless other arrangements for monitoring are agreed in writing.

(b). An initial report must be submitted to the Office of Protected Resources, NMFS, and the Southwest Regional Office, NMFS, at least 60 days prior to the expiration of this Letter of Authorization. This report must contain the following information:

- (1). Timing and nature of launch operations;
- (2). Summary of pinniped behavioral observations;
- (3). Estimate of the amount and nature of all takes by harassment or by other means; and
- (4). Evidence of compliance with mitigation measures.

(c). A draft comprehensive technical report will be submitted to the Office of Protected Resources, NMFS, and the Southwest Regional Office, NMFS, 180 days prior to the expiration of this Authorization providing full documentation of the methods, results, and interpretation of all monitoring tasks for launches to date plus preliminary information for missiles launches planned during the first six (6) months of the final Letter of Authorization.

(d). A revised final comprehensive technical report, including all monitoring results during the entire period of the Letters of Authorization will be due 90 days after the end of the period of effectiveness of the regulations contained in 50 CFR 216.150 through 216.159.

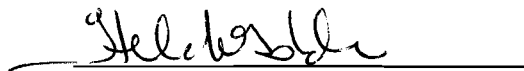
(e). The draft and final reports will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final comprehensive report prior to acceptance by NMFS.

(f). The draft final technical report must contain documentation on the effectiveness of the implementation of the mitigation measures described in condition 6 of this Authorization, including a description of launch activity during the harbor seal pupping season (February through April).

9. Activities related to the monitoring described in this Authorization and as described in the holders application, do not require a separate scientific research permit issued under section 104 of the Marine Mammal Protection Act.

10. Failure to comply with the terms and conditions contained in Subpart N--Taking of Marine Mammals Incidental to Missile Launch Operations from San Nicolas Island, CA (50 CFR 216.150-216.159) may result in the modification, suspension or revocation of this Authorization

11. A copy of this Authorization must be in the possession of each observer or group operating under the authority of this Letter of Authorization.

  
James H. Lecky  
Director, Office of Protected Resources,  
National Marine Fisheries Service

6/3/09  
Date