



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

February 28, 2012

Mr. James Lecky
Director
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Mr. Rodney McInnis
Regional Administrator
Southwest Region
National Marine Fisheries Service
501 West Ocean Blvd, Ste 4200
Long Beach, CA 90802

Ms. Diane Noda
Field Supervisor
US Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

Ms. Susan Moore
Field Supervisor
US Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

**SUBJECT: Reporting Required by the USFWS Biological Opinion and the NMFS
Incidental Harassment Authorization for Fireworks Displays within Monterey
Bay National Marine Sanctuary**

Dear Mr. Lecky, Mr. McGinnis, Ms. Noda and Ms. Moore:

The Monterey Bay National Marine Sanctuary (MBNMS) has issued four Authorizations of other-agency permits for the discharge of pyrotechnic devices into Sanctuary waters during the 2011 calendar year. Authorizations are issued by the Sanctuary Superintendent under special circumstances for non-research, or non-education related activities, that would be otherwise prohibited by Sanctuary regulations. In the instance of fireworks displays within the MBNMS, an Authorization is issued in conjunction with a valid lease, permit, license, approval or other authorization issued by any Federal, State, or local authority of competent jurisdiction.

The pyrotechnic displays conducted in the MBNMS during 2011 were at locations where these activities have occurred for many years, in some cases, before MBNMS designation. As stated in previous reports, these sites were approved for each display based on their proximity to urban areas and the pre-existence of high human use patterns; seasonal considerations, acclimation of wildlife to human activities; elevated ambient noise levels in the area; and previous usage for fireworks detonation.



Background

In March of 2001 the MBNMS initiated consultation with both the National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (USFWS) on fireworks impacts to species within the Monterey Bay National Marine Sanctuary that are protected by the Endangered Species Act and the Marine Mammal Protection Act.

The US Fish and Wildlife Service issued its Biological Opinion on June 22, 2005. This Biological Opinion is effective into perpetuity unless re-initiation is necessary (pers. comm. D. Pereksta, June 24, 2005). The USFWS Biological Opinion requires a monitoring requirement for visual post-event monitoring census to determine if any protected species have been injured or killed as a result of fireworks displays.

On July 19, 2006, the NMFS issued regulations (50 CFR 216, Subpart J) authorizing harassment of seals and sea lions incidental to fireworks displays in the MBNMS for a period of five years (effective July 4, 2006—July 3, 2011).

Although MBNMS staff requested re-issuance of a 5-year NMFS permit (both informally and later in writing on February 28, 2011), it was not available in advance of the July 3, 2011 expiration date. Thus, on June 23, 2011, the NMFS issued a one-year Incidental Harassment Authorization under the authority of Section 101(a)(5)(D) of the Marine Mammal Protection Act to harass small numbers of California sea lions and harbor seals incidental to the permitting of coastal commercial fireworks displays in the vicinity of the MBNMS. This IHA is valid from July 4, 2011 through July 3, 2012.

Reporting requirements

Both the USFWS and the NMFS require annual reporting related to these authorizations. Conditions of both agencies reports are outlined below.

The US Fish and Wildlife Service Biological Opinion states “The Administration must provide a written annual report to the Ventura and Sacramento Fish and Wildlife Offices within 90 days following the end of each calendar year that this biological opinion is in effect”. This due date effectively translates to March 31st.

The USFWS would like the following information contained in the report:

1. The number of listed animals that are killed or injured as a result of fireworks events and
2. Describe the number and location of fireworks events that are authorized each year.

The 2011 NMFS Incidental Harassment Authorization reporting requirement states the holder of the Authorization must implement the following reporting requirements:

1. Submit a draft annual monitoring report to the Division of Permits, Conservation and Education, Office of Protected Resources and the Regional Administrator, Southwest Region, no later than 120 days prior to the conclusion of this authorization (This due date effectively translates to March 2nd). This report must contain:
 2. Dates, locations, and authorized entity conducting fireworks; and
 3. An estimate of the number of marine mammals disturbed by the authorized activities, based on the pre-fireworks census and other available information.

Summary of Monitoring Results

In order to meet the reporting requirements and needs of both agencies, a synthesized comprehensive report for fireworks authorizations conducted within the MBNMS during calendar year 2011 is included here. Monitoring results detailed in this report fulfill both agencies' monitoring requirements, including the National Marine Fisheries Service (NMFS) Incidental Harassment Authorization requirements and regulations found in 50 CFR Part 216. In addition, the results include data on any injured or dead protected species as required by the US Fish & Wildlife Service.

Authorized permit holders were required to perform pre-event live marine mammal surveys and post-event injured or dead wildlife censuses. These surveys are typically conducted 400 meters to the north and south of the firework detonation area. Summaries of each site are as follows:

Cambria Independence Day Fireworks

The Cambria American legion conducted a pre-event survey on July 3, 2011 and found no marine mammals present. A post-event census on July 5, 2011 found no dead marine mammals or birds.

City of Monterey Independence Day Fireworks

Due to a number of factors, including budget and public safety issues, the City of Monterey did not conduct a fireworks display on July 4, 2011. Given that, no data was collected.

Half Moon Bay / Pillar Point Independence Day Fireworks

A pre-event survey was conducted on July 3, 2011 and no marine mammals were present. A post-event census was completed on July 5, 2011 and did not find any dead marine mammals.

Pacific Grove Feast of Lanterns

A pre-event survey was conducted on July 29, 2011 and noted the presence of 2 harbor seals, and 9 sea otters. A post-event census was completed on July 31, 2011 and did not find any dead marine mammals.

Monte Foundation Annual Fireworks Display

A pre-event marine mammal survey was conducted on October 6, 2011. A post-fireworks injured or dead wildlife survey was completed on date October 8, 2011. No harbor seals were observed during the pre-survey as tidal height did not allow harbor seals to access the haul out area as it was submerged. Many dead birds were noted during the pre-survey and are unrelated to the fireworks display.

See attached data sheets located in the Appendix for more detail.

Comprehensive Monitoring Summary

In summary, the Incidental Harassment Authorization is limited to the Level B Harassment of no more than 6,170 California sea lions and 1,065 harbor seals.

ESTIMATED NUMBER OF SEALS OR SEA LIONS TEMPORARILY DISTURBED BY FIREWORKS DURING 2011 CALENDAR YEAR

Site	2011 Harbor seal / CA sea lion presence
Pillar Point/ Half Moon Bay	0
Cement ship / Aptos	0
Pacific Grove	2 / 0
Cambria	0

It is clear from the annual reporting that the original estimates of marine mammal takings were not reached, and on average only an infinitesimal percentage of animals have been temporarily disturbed, relative to the population size.

MBNMS staff are confident, based upon annual monitoring results, that the annual fireworks activities within the MBNMS have only a negligible short-term adverse impact on pinnipeds. The MBNMS has not observed any evidence of injury or mortality upon pinnipeds as a result of these permitted activities.

Future Action from NMFS

Although MBNMS originally requested re-issuance of a 5-year NMFS permit more than a year ago, it has not yet been completed. MBNMS staff understand it is currently being evaluated and processed. We are hopeful this action can be completed in advance of the coming July 4th fireworks celebrations. Ideally, a 5-year Letter of Authorization for the incidental take of marine mammals will be issued through July 4, 2017 so that our office may continue to facilitate firework celebrations within and adjacent to Monterey Bay National Marine Sanctuary.

In most instances the MBNMS authorizes Marine Event Permits from the US Coast Guard, the lead federal agency from the permitting perspective. The USCG issues permits for marine events, including annual coastal fireworks celebrations, on both the Atlantic and Pacific coasts, upon the nation's navigable waterways, and within the MBNMS.

As we have discussed over the telephone with NMFS staff the MBNMS will continue to serve a Coordinator role in securing permission for the incidental take of marine mammals from NMFS, and will provide this permit-securing service on behalf of area municipalities, organizations, and local American Legions, for the mutual benefit of fireworks organizers and the NMFS. This service will allow NMFS to simply issue one approval to the MBNMS and will not require

individual groups conducting fireworks, at least within the MBNMS along the central coast of California, to seek individual approval from NMFS.

Should you have any questions regarding the reporting requirements or the content of this report, please contact me in the MBNMS office by phone at 831-647-4207 or via email at deirdre.whalen@noaa.gov.

Sincerely,



DEIRDRE WHALEN
Permit Coordinator

cc: V. Weddel, ONMS
I. Kogan, GFNMS
M. DeAngelis, NMFS
J. Harrison, NMFS

Appendix

Summary of Mortality Events for
Fireworks Displays within the MBNMS

Event Title	Date	Display Location	Number of animals killed or injured as a result	Reports of pinniped injury or mortality
The Cambria American Legion Annual 4 th of July Fireworks	07/04/2011	Shamel Park, Cambria, CA	0	0
Pillar Point Independence Day Fireworks	07/04/2011	Half Moon Bay, CA	0	0
Pacific Grove Feast of Lanterns	07/30/2011	Pacific Grove, CA	0	0
The Monte Foundation Annual Fireworks in Aptos	10/07/2011	Cement Ship pier at Seacliff State Beach, Santa Cruz, CA	0	0

Comments:

Marine Mammal Survey Form
Cambria Independence Day Fireworks

Observer Steve Johnson

Date 07/03/2011

Time survey began 6:00 pm

Location Shamel Park

Tidal height -2.14 ft

Time survey ended 6:25 pm

Site	Time Count began	Species	Total Number of Individuals
400 meters North and South of the detonation area	6:00 pm	No animals observed	0
Waters immediately adjacent to the site	6:00 pm	No animals observed	0

Post-Fireworks Injured or Dead Wildlife Survey Form
Cambria Independence Day Fireworks

Observer Ron Waltman

Date 07/05/2011 Time 9:00 am Tidal height 0.11 ft

Species	No. of Individuals	Alive? Y or N	Condition of Animal or Carcass	Location	Photos? Y or N
0	0			Shamel Park Beach	

Comments:

Marine Mammal Survey Form
Pillar Point Independence Day Fireworks

Observer Nicole Brandt

Date 07/03/2011

Time survey began 7:25 pm

Location Pillar Point

Tidal height (not recorded)

Time survey ended 8:00 pm

Site	Time Count began	Species	Total Number of Individuals
400 meters North and South of the detonation area		No animals observed	0
Waters immediately adjacent to the site		No animals observed	0

Comments:

Many beach-goers. Moderate marine debris on beach. Marine birds in area- on beach and adjacent waters. No marine mammals sighted.

Post-Fireworks Injured or Dead Wildlife Survey Form
Pillar Point Independence Day Fireworks

Observer Sarah Lenz Date 07/05/2011 Time 10:00am Tidal height 0.6 ft

Species	No. of Individuals	Alive? Y or N	Condition of Animal or Carcass	Location	Photos? Y or N
0	0				

Comments:

Marine Mammal Survey Form
Pacific Grove Feast of Lanterns Fireworks

Observer Teri Nicholson Date 07/29/2011 Time survey began 7:15pm

Location PG Fireworks Launch site Tidal height 4-ft + Time survey ended 7:45 pm

Site	Time Count began	Species	Total Number of Individuals
400 meters North and South of the detonation area	7:15 pm	Harbor seal	2 (in the water)
		Sea otter	7 adults & 2 pups
		CA sea lion	0
Waters immediately adjacent to the site	7:15 pm	Harbor seal	0
		Sea otter	0
		CA sea lion	0

Comments:

Post-Fireworks Injured or Dead Wildlife Survey Form
Pacific Grove Feast of Lanterns Fireworks

Observer Teri Nicholson Date 07/31/2011 Time 7:15 pm Tidal height 3-ft +t

Species	No. of Individuals	Alive? Y or N	Condition of Animal or Carcass	Location	Photos? Y or N
0	0				

Comments:

No observed injured or dead harbor seals, sea otters, or sea lions.

Marine Mammal Survey Form
Monte Foundation Fireworks Display

Observer Jon Toal

Date 10/06/2011

Time survey began 4:30 pm

Location Seacliff Beach

Tidal height 2.51 to 3.25

Time survey ended 5:30 pm

Site: (400 meters North and South of the detonation area)	Time Count began	Species	Total Number of Individuals
South of Pier	4:30 pm	Harbor Seal	1 (dead & very decomposed)
North of Pier	5:04 pm	Sea otter	1

Comments:

22 dead birds noted south of pier, and 15 dead birds(primarily cormorants) noted north of pier during pre-survey:

Post-Fireworks Injured or Dead Wildlife Survey Form
Monte Foundation Fireworks Display

Observer J. Toal Date 10/08/2011 Time 12:39 pm Tidal height 2.62 to 1.98

Species	No. of Individuals	Alive? Y or N	Condition of Animal or Carcass	Location: 400 meters North and South of the detonation area	Photos? Y or N
Harbor Seal	1	N	Dead & decomposed	In same location as pre-survey	Y

Comments:

Many dead birds are present, as noted in pre-survey—primarily cormorants.