

**FINDING OF NO SIGNIFICANT IMPACT  
FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION TO THE  
ST. GEORGE REEF LIGHTHOUSE PRESERVATION SOCIETY TO TAKE MARINE MAMMALS  
BY HARASSMENT INCIDENTAL TO LIGHTHOUSE RESTORATION AND MAINTENANCE ACTIVITIES  
ON ST. GEORGE REEF LIGHTHOUSE STATION IN DEL NORTE COUNTY, CALIFORNIA**

**NATIONAL MARINE FISHERIES SERVICE**

**BACKGROUND**

On October 13, 2006, NMFS received an application from the St. George Reef Lighthouse Preservation Society (SGRLPS) requesting an authorization for the harassment of small numbers of pinnipeds incidental to the conduct of restoration and maintenance work on the historic St. George Reef Light Station (hereinafter, Station) on Northwest Seal Rock (NWSR) in the northeast Pacific Ocean.

In response to a receipt of the request from the SGRLPS, NMFS proposes to issue an incidental harassment authorization (IHA) that authorizes takes by level B harassment of marine mammals in the wild pursuant to section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1631 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 Code of Federal Regulations (CFR) Part 216). NMFS' IHA issuance criteria require that activities authorized by an IHA are consistent with the purposes and polices of these federal laws; will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and will not have a significant adverse impact on the species or stock pursuant to the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*). In addition, the IHA must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat and monitoring and reporting of such takings.

In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), NMFS has prepared a Environmental Assessment (EA) titled, "*Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California*," (hereinafter, the 2010 SGRLPS EA). NMFS proposes to issue the IHA with mitigation measures, as described in Alternative 2 of the 2010 SGRLPS EA.

In addition, NMFS issued a Biological Opinion under the ESA summarizing the results of an interagency consultation. The analyses in the 2010 SGRLPS EA, as informed by the Biological Opinion, support the findings and determination.

**ANALYSIS**

National Oceanographic and Atmospheric Administration Administrative Order (NAO) 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR § 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:



**1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans (FMP)?**

Response: NMFS does not anticipate that the action (i.e., issuing an IHA to SGRLPS as described in Alternative 2 of the 2010 SGRLPS EA) would cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH).

Restoration and maintenance activities would be restricted to the Station's tower which is 44.5 m (146 ft) above the surrounding rocks and marine sediment of NWSR. In addition, helicopter landings and takeoffs would occur on a concrete base that is approximately 11 m (37 ft) above the surrounding rocks and marine sediment of NWSR. These activities –temporary in nature– are not expected to disturb the geology of NWSR nor the water quality of the surrounding Pacific Ocean. The area is void of soil and vegetation, and is subject to intense wave energy and is frequently inundated by waves that crash over the peak elevations of NWSR.

NMFS has designated EFH for groundfish species (or species assemblages) along more than 130,000 square miles of marine waters off the West Coast. EFH consists of both the water column and the underlying surface (e.g. seafloor) of a particular area. Although NWSR is located adjacent to the EFH (water column), the restoration and maintenance activities will occur from 11 m (37 ft) to 44.5m (146 ft) above the designated EFH for groundfish species. Hence, the effects of restoration and maintenance activities would not occur in the surrounding water column and would not significantly impact fish populations or habitat in accordance with NEPA.

**2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?**

Response: NMFS has considered the effects of issuing an IHA on target and non-target species, including marine invertebrates, fish, sea turtles, seabirds, sea otters, and marine mammals. NMFS does not expect the action to affect an animal's susceptibility to predation, alter dietary preferences or foraging behavior, or change distribution or abundance of predators or prey. Accordingly, NMFS does not expect the action to have a substantial impact on biodiversity or ecosystem function on NWSR.

The impacts of the action on marine mammals are specifically related to: (1) disturbance of marine mammals from helicopter operations; (2) disturbance of marine mammals related to noise from maintenance and restoration activities; and (3) disturbance of marine mammals related to human presence (acoustic and visual contact). The helicopter operations and maintenance and restoration activities are well planned to minimize impacts to the biological and physical environment of the areas by implementing mitigation and monitoring protocols. NMFS considers these disturbances to be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B Harassment) of small numbers of certain species of marine mammals. NMFS expects that these acoustic and visual disturbances would not result in substantial impact to marine mammals or to their role in the ecosystem.



**3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?**

Response: NMFS does not expect the issuance of an IHA to SGRLPS to have a substantial adverse impact on public health or safety. The action area is located approximately 7 km (4.4 mi) offshore from the Californian coastline and is situated in a relatively remote location.

Restoration activities would include the removal of lead-based paint and peeling plaster, restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary. The SGRLPS will encapsulate all construction waste, broken glass, dirt, wood, metal, and including paint and rust shavings within specially marked bags and will transport the bags by helicopter to Crescent City, CA for proper disposal. Disposal of the lead based paint will comply with municipal and/or state laws and ordinances. The authorized activity does not pose a risk to public health or human safety.

**4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?**

Response: NMFS has concluded that the issuance of an IHA is: (1) not likely to jeopardize the continued existence of threatened eastern District Population Segment (DPS) Steller sea lions (*Eumetopias jubatus*); and (2) not likely to adversely modify critical habitat, as NWSR is neither within nor nearby designated critical habitat for Steller sea lions. NMFS expects that issuance of an IHA may result in some incidental, Level B harassment (in the form of short-term and localized changes in behavior) of small numbers, relative to the stock size of Steller sea lions, which are listed as threatened under the ESA and are categorized as depleted under the MMPA.

In a 2010 Biological Opinion (BiOp) titled, “*Maintain St. George Reef as a Private Aid to Navigation; Conduct Maintenance and Renovation Activities at St. George Reef Lighthouse, November 1 - April 30,*” the NMFS Southwest Regional Office concluded that that PR1’s issuance of an IHA to SGRLPS for conducting aircraft operations, and lighthouse renovation and light maintenance activities was likely to adversely affect, but not likely to jeopardize, the continued existence of Steller sea lions. The BiOp provides supporting analysis for this FONSI.

NWSR is located adjacent to the designated critical habitat (DCH) (water column) for the southern DPS of green sturgeon. Restoration and maintenance activities would be restricted to the Station’s tower which is 44.5 m (146 ft) above the surrounding DCH. In addition, helicopter operations would occur on a concrete base that is approximately 11 m (37 ft) above the surrounding water column. The effects of restoration and maintenance activities would not occur in the surrounding water column and would not significantly impact green sturgeon DCH.

Issuance of the IHA and the SGRLPS’ conduct of restoration and maintenance activities, are not likely to affect, destroy, or adversely modify designated critical habitat for the southern DPS of green sturgeon.



**5) Are significant social or economic impacts interrelated with natural or physical environmental effects?**

Response: NMFS does not expect the issuance of an IHA to SGRLPS to result in significant social or economic impacts interrelated with natural or physical environmental effects. Effects of the maintenance and restoration activities would be limited to the short-term harassment of the pinniped species authorized by the permit. Authorization of the proposed maintenance and restoration activities could result in a low level of economic benefit to individual aviation companies that transport personnel and tourists to NWSR or to industries that supply hardware and renovation equipment. However, such impacts would likely be negligible on a regional or local level.

The activities authorized would not substantially impact use of the environment or use of natural or depletable resources, such as might be expected from large scale construction or resource extraction activities. Further, issuance of the IHA would not result in inequitable distributions of environmental burdens or access to environmental goods.

NMFS has determined that issuance of the IHA will not adversely affect low-income or minority populations. There will be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses.

**6) Are the effects on the quality of the human environment likely to be highly controversial?**

Response: The effects of issuing an IHA to SGRLPS as described in Alternative 2 of the 2010 SGRLPS EA on the quality of the human environment are not likely to be highly controversial. There is no known scientific controversy over the impacts of the proposed action.

For more than twenty years, NMFS has issued MMPA authorizations to applicants for actions that could result in the incidental take of marine mammals by Level B harassment and has developed relatively standard mitigation and monitoring requirements for authorized activities. The IHA includes mitigation and monitoring measures that are designed to: (a) eliminate the potential for serious injury or mortality; (b) minimize Level B behavioral harassment to marine mammals found on NWSR; and (c) gather additional data from comprehensive monitoring reports to inform future decision-making. The IHA does not authorize lethal takes of marine mammals.

To allow other agencies and the public the opportunity to review and comment on the actions, NMFS published a notice of receipt of the SGRLPS application and proposed IHA in the *Federal Register* on September 29, 2009 (74 FR 49852). During the 30-day comment period, NMFS received a letter from the Marine Mammal Commission (Commission) which recommended that NMFS issue the requested authorization, provided that the required monitoring and mitigation measures are implemented.

**7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?**

Response: No substantial impacts to park land, prime farmlands, wetlands, or wild and scenic rivers are anticipated as a result of the proposed restoration and maintenance activities as none of these areas are found in the area. Similarly, as described in the response to question 1 above, no substantial impacts to EFH, DCH or ecologically critically areas are expected as the maintenance and restoration activities would not occur at or near the water surface and would not substantially affect bottom habitat or any biological, physical or chemical property of such habitat.



**8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?**

Response: The the action of issuing an IHA to the SGRLPS for the incidental take, by Level B harassment only, of small numbers of marine mammals is not expected to have significant effects on the human environment that would be unique or involve unknown risks. For more than twenty years, NMFS has issued MMPA authorizations to applicants for actions that could result in the incidental take of marine mammals by Level B harassment and has developed relatively standard mitigation and monitoring requirements for authorized activities.

While NMFS' judgments on impact thresholds for marine mammals on NWSR are based on limited data, the risks are known and would involve the temporary, minimal harassment of pinnipeds. No deaths or injuries to animals have been documented due to past helicopter operations conducted by the SGRLPS or by the U.S. Coast Guard on NWSR. The most common response to helicopter approaches and landings of pinnipeds present on NWSR is to depart NWSR temporarily into the water.

The maintenance and restoration activities are well planned to minimize any impacts to the biological and physical environment of the areas by implementing mitigation and monitoring protocols which ensure the least practicable adverse impact on the affected species or stocks of marine mammals.

**9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?**

Response: The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. While the stocks of marine mammals to which the animals on NWSR have the potential to be impacted by other human activities in northern California (i.e., scientific research activities, geophysical seismic surveys, seabird research, commercial and recreational fishing, and subsistence hunting) described in the cumulative impacts analysis in the 2010 SGRLPS EA, these activities are generally separated both geographically and temporally from the proposed actions at NWSR and are not occurring simultaneously on the same individuals of the population on NWSR.

The short-term stresses (separately and cumulatively when added to other stresses the marine mammals on NWSR face in the environment) resulting from the restoration and maintenance activities would be expected to be minimal. Thus, NMFS concluded that the impacts of issuing an IHA to the SGRLPS for the incidental take, by Level B harassment only, of small numbers of marine mammals are expected to be no more than a minor and short-term.

**10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?**

Response: The issuance of an IHA is not expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources.

The St. George Reef Lighthouse Station is listed in the NPS' National Register of Historic Places (Reference Number 93001373). The SGRLPS aims to restore the St. George Reef Lighthouse Station by removing peeling paint, restoring interior plaster, refurbishing structural and decorative metal support beams, replacing glass, and upgrading the electrical system. Although these restoration efforts would serve as a benefit to the integrity of the structure, NMFS considers these



effects as negligible. The SGRLPS restoration efforts would serve as a benefit to the integrity and of the structure. NMFS does not expect SGRLPS actions to cause the loss or destruction of the Station and no significant impacts are expected from the proposed action of issuing an IHA to SGRLPS.

**11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?**

Response: The issuance of an IHA is not expected to lead to the introduction or spread of any non-indigenous species into the environment. SGRLPS intends to completely automate the Station's Private Aid to Navigation (PATON) in order to minimize the number of maintenance and emergency repair visits to NWSR. The SGRLPS also plans to use high-quality, durable materials and thoroughly weatherproof the Station to minimize trips for maintenance and repair in the future. Finally, all tools and supplies are stored on the island so that a minimal number of transport trips for emergency maintenance will be necessary.

**12) Is the proposed action likely to establish a precedent for future actions with significant effects or does it represent a decision in principle about a future consideration?**

Response: The issuance of an IHA is not expected to set a precedent for future actions with significant effects nor represent a decision in principle regarding future considerations. To ensure compliance with statutory and regulatory standards, NMFS' actions under section 101(a)(5)(D) of the MMPA must be considered individually and be based on the best available information, which is continuously evolving. Issuance of an IHA to a specific individual or organization for a given activity does not guarantee or imply that NMFS will authorize others to conduct similar activities. Subsequent requests for incidental take authorizations would be evaluated upon their own merits relative to the criteria established in the MMPA, ESA, and NMFS implementing regulations on a case-by-case basis.

This project has no unique aspects that would suggest it be a precedent for any future actions. For these reasons, the issuance of an IHA to the SGRLPS to conduct helicopter operations and restoration and maintenance activities are not precedent setting.

**13) Can the proposed action reasonably be expected to violate any Federal, State, or local law or requirements imposed for the protection of the environment?**

Response: The issuance of an IHA would not violate any federal, state, or local laws for environmental protection. NMFS has fulfilled its section 7 responsibilities under the ESA (see response to Question 4). The SGRLPS has fulfilled its responsibilities under MMPA for this action and the IHA currently contains language stating that the applicant is required to obtain any state and local permits necessary to carry out the action which would remain in effect upon issuance of the proposed amendment. Also, all requirements have been met to prevent the spread of non-indigenous species into the action area (see response to Question 11).

**14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?**

Response: The issuance of an IHA is not expected to result in any significant cumulative adverse effects on target or non-target species. Although NMFS acknowledges that marine mammals are exposed to other human activities, the proposed restoration and maintenance activities are not expected to result in any cumulative adverse effects to these species that could have substantial

effects. Past monitoring reports for scientific research activities and research seismic activities conducted in the Pacific Ocean along the California coast have concluded that no marine mammals were taken beyond authorized harassment levels nor were significantly affected by these activities.

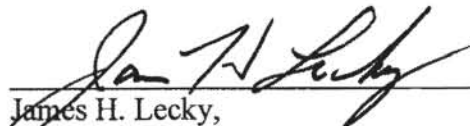
The short-term stresses (separately and cumulatively when added to other stresses the marine mammals on NWSR face in the environment) resulting from the restoration and maintenance activities would be expected to be minimal. Thus, NMFS concluded that the impacts of issuing an IHA to the SGRLPS for the incidental take, by Level B harassment only, of small numbers of marine mammals are expected to be no more than a minor and short-term. Therefore, no cumulative adverse effects that could have a substantial effect on any species would be expected.

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### **DETERMINATION**

In view of the information presented in this document and the analysis contained in the supporting Final Environmental Assessment titled, "*Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California,*" prepared by NMFS, it is hereby determined that the issuance of an IHA for the take, by harassment, of small numbers of marine mammals incidental to the SGRLPS' conduct of helicopter operations and maintenance and restoration activities on NWSR will not significantly impact the quality of the human environment, as described in this document and in the 2010 SGRLPS EA.

In addition, all beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary. The EA, thereby, provides a supporting analysis for this FONSI.

  
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James H. Lecky,  
Director, Office of Protected Resources,  
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**JAN 22 2010**

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Date