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February 25, 2015

Jolie Harrison, Division Chief
Permits and Conservation Division
NOAA Fisheries, Office of Protected Resources
1315 East-West Hwy
Silver Spring, MD 20910

Dear Ms. Harrison:

On behalf of the City of San Diego, I am requesting renewal of the Incidental Harassment Authority (IHA) issued to the City of San Diego on May 30, 2014 for demolition and construction of the new lifeguard station located at 827 Coast Boulevard, La Jolla, CA, 92037.

Demolition of the old lifeguard station has been completed and construction of the new lifeguard station has begun; however, the project has had several delays and was not be completed before harbor seal pupping season (December 15, 2014 through May 31, 2015) as a condition of the IHA. Therefore, the City is requesting a one- year renewal of the IHA prior to expiration of the current IHA on June 27, 2015.

Please find enclosed an updated application from the City of San Diego for renewal of Incidental Harassment Authority by Level B harassment for small numbers of harbor seals, sea lions, and elephant seals during construction activities of the Children's Pool lifeguard station. We appreciate your help in preparation and look forward to the timely and safe accomplishment of the required activities under Sections 101(a) (5) (A) and (D) of the MMPA (16 U.S.C. 1361 et seq.).

We have conferred with your staff and Southwest Region as the project has progressed. A plywood barrier has been in place; monitoring of pinniped numbers has continued; maximum seals counted have not shown declining trends; the City of San Diego project's sound levels have not exceeded allowable levels; and total pinnipeds harassed (level B) has not exceeded expected levels (sea lions 1, Elephant seals 0, harbor seals 5,095 alerts and flushes in the first year and 7,121 in the second year). There were no (0) takes by level A harassment.

Sincerely,

Doyle Hanan, PhD
Project Biologist
La Jolla Children's Pool Life Guard Station

APPLICATION for
INCIDENTAL HARASSMENT AUTHORIZATION
pursuant to the
MARINE MAMMAL PROTECTION ACT

Submitted to:
Jolie Harrison, Division Chief
Permits and Conservation Division
NOAA Fisheries, Office of Protected Resources
1315 East-West Hwy
Silver Spring, MD 20910

For
City of San Diego, Public Works Department
Engineering and Capital Projects Branch
Architectural Engineering and Parks Division

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February 25, 2015

Summary of the Request

Pursuant to the Marine Mammal Protection Act of 1972 (MMPA) as amended, the City of San Diego requests that NOAA Fisheries, Office of Protected Resources, issue a third Incidental Harassment Authorization (IHA) for incidental take of three pinniped species: Pacific harbor seal, California sea lion, and northern elephant seal during the construction of the La Jolla Children's Pool Lifeguard Station at 827 ½ Coast Boulevard, La Jolla CA 92037.

The previous lifeguard station was located on a bluff above Children's Pool (32° 50' 50.02" N 117° 16' 42.8" W) and used to oversee nearby reef, beach, and ocean areas (Figure 1). Because the building had deteriorated significantly, was unusable, and closed to entry; a temporary life guard tower was moved onto the bluff near the previous station.

During the first year of construction the temporary on-site tower was removed and two temporary towers were installed nearby (one about 500 meters south of the construction site and another about 1000 meters east of the construction site) to serve citizens utilizing the beaches and ocean waters nearby (Table 1). To accommodate basic year round working conditions for life guards and demand for life guard services a new station is still required.

Most of the above ground structure of the old station was demolished/removed during the first year of construction (2013-14). The building contractor utilized excavators, backhoes, concrete saws, and jackhammers for demolishing the old structure and has hauled the waste materials to an offsite landfill where it was separated into recycled content and waste. No material has washed into the marine environment as required by the US Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) and the California Stormwater Pollution Prevention Plan (SWPPP) developed for this construction site. During the second year of construction (2014-15) and in the same foot print as the old life guard station, the new station is being constructed within and adjacent to the previous facility. But the construction has not finished, has been postponed for harbor seal pupping, and a third year of construction is needed to finish the new station. Rough plumbing and electrical have been laid; the foundation has been poured and some of the steel structure has been erected.

The new three-story, partially subterranean 1,877 square-foot building will contain beach access-level public restrooms, showers, lifeguard lockers, and sewage pump room; a second level containing two work stations, ready/observation room, kitchenette, restroom, and first aid station; and a third 'observation' level with a 270° view of the beach and nearby reef areas and will include a single occupancy observation space, radio storage closet, and exterior catwalk. Interior stairs will link the floors. The existing below grade retaining walls will remain in place for the station and new retaining walls have been constructed for a ramp from street level to the lower level for emergency vehicle beach access and pedestrian access to the lower level restrooms and showers.

There are many activities along the shoreline, beaches, and reefs of La Jolla. Within this environment, Children's Pool and nearby shore areas are actively used by swimmers; sunbathers; SCUBA divers; snorkelers; shore/surf fishermen; school classes; tide pool explorers; kayakers; surfers; bogie boarders; seal, bird, and nature watchers (especially seal and sea lion enthusiasts) plus members of the public enjoying the environment as a whole. The proposed life guard facility is an optimal location to provide life guard service to the community. It will provide a 270° view of beaches, bluffs, and reefs for continued service to the public on shore, as well as, in the water as highlighted in summary of life guard activities (Table 1).

Children's Pool was established in 1932 by building a breakwater seawall which created a protected pool for swimming. With time, this pool has partially filled with sand but still has open water access for swimming, as well as, a beach for sunbathing and beachcombing. Harbor seals have taken up residence in Children's Pool and nearby reefs and rocks. They haul out, birth pups, molt their pelage (hair), forage for food, and mate in nearby ocean waters. This is one of three mainland harbor seal hauling sites in San Diego County (also observed at north end of Torrey Pines beach and in a cave and surrounding rocks on the exposed ocean side of Point Loma). The City has established Children's Pool as a shared beach for seals and people except during pupping season when the beach has been closed to the public (December 15- May 15). Swimming and other water activities are allowed the rest of the year as long as there is no direct harassment of the seals.

Pacific harbor seals, *Phoca vitulina*, haul out on nearby beaches and rocks below the station site. Seal numbers have increased since 1979 and seals are documented to give birth on these beaches during January through May (Hanan 2004, Hanan&Associates 2011, Hanan and Hanan 2014). Several studies have identified seal behavior and estimated seal numbers including patterns of daily and seasonal area use (Yochem and Stewart 1998; Hanan 2004, Hanan&Associates 2011; Linder 2011, Hanan and Hanan 2014).

California sea lions, *Zalophus californianus*, and northern elephant seals, *Mirounga angustirostris*, are occasionally observed on this beach and nearby areas (Yochem and Stewart, 1998; Hanan 2004, Hanan&Associates 2011, Hanan and Hanan 2014) in small numbers (less than 5). Although rare in the Children's Pool (CP), the City is requesting that these two species be included in the IHA because of potential Level B incidental harassment. Estimates of sea lion and elephant seal incidental take are based on the 100 dB re 20 µPa level recommended by NOAA Fisheries.

The City has pursued an extensive process of internal and public review of this lifeguard station project, including a biological review and proposed mitigation (Mitigated Negative Declaration, updated 11/30/2011). The IHA renewal would allow the incidental take of harbor seals, sea lions, and elephant seals under MMPA authority. These takes will not be lethal and would not have any population effects or subsistence harvest effects.

There are so many human visitors to this site at all hours of day and night, season, and weather that human scent and visual presence are generally not issues (Hanan 2004, Hanan&Associates 2011, Hanan and Hanan 2014). At this site, the harbor seals are disturbed when people get very close to them on the beach (from Dr. Hanan's personal observations and observations during demolition and construction: generally less than 2-3 meters). During demolition and construction seals have alerted and flushed into the water because of sound and/or visual stimuli (5,095 alerts and flushes in the first year and 7,121 in the second year).

Because the demolition and construction activities during 2013 were subject to delays and construction could not be completed by December 15, 2013, the City applied for and received a second IHA issuance (2014-15) and because of similar delays this past season is now applying for a third IHA to allow construction during 2015-16. Assuming all seals potentially hauled out at CP (Figures 2 and 3) are exposed to Level B harassment during days where sound is predicted to exceed 90 dB re 20 μ Pa at the source (65 days); there could be a maximum of 10,000 incidental harbor seal takes during 2015. The City requests that construction be allowed on weekends to ensure completion of the project during 2015-16. In conclusion, the City requests Incidental Harassment Authority for 10,000 harbor seals, 100 sea lions, and 25 elephant seals for June 2015 through June 2016.

Responses to IHA requirements mandated by section 7 of the Endangered Species Act and the National Environmental Policy Act (NEPA):

1. A detailed description of the specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

Demolition of the existing lifeguard station was completed during 2013-14. Construction of the new station is expected to be completed during 2015-16. Sound levels during all phases of the project's third year will not exceed 110 dB re 20 μ Pa at the source. The contractor used published or manufacturer's measurements to estimate sound levels. Equipment includes backhoe, dump truck, cement pump, air compressor, electric screw guns, jackhammer, concrete saw, chop saws, and hand tools. During 2013 and 2014, seals did alert and/or flush because of equipment noises or visual cues, while at other times, there were no reactions to the same stimuli. Therefore, it is difficult to predict which activities might cause noticeable behavioral reactions from harbor seals at this site. Children's Pool is a highly disturbed hauling site now; seals at this location do not respond to stimuli as observed with seals in other areas (Hanan 2004; Hanan&Associates 2011, Hanan and Hanan 2014, and see <http://www.youtube.com/watch?v=4IRUYVTULsg>). At some point during the working days, we estimate there will be sound source levels above 90 dB re 20 μ Pa (including 65 days of source level 100 – 110 dB re 20 μ Pa). On average, seals will be about 100 feet or more from the construction site with a potential minimum of about 50 feet. During 2013 and 2014, sound levels

reaching seals did not exceed 90 dB re 20 μ Pa at the hauling area closest to construction (50 feet) and a peak of about 83 dB re 20 μ Pa at the mean hauling distance (100 feet). Southall et al. (2007) recommends 149 dB re 20 μ Pa (peak) (flat) as the potential threshold for injury from in-air noise for all pinnipeds and this project has not and will not approach that sound level (Please see below).

Construction of the new life guard station was initially estimated to take seven months (148 actual construction days of the 214 total days during 2013); however, demolition did not start as planned during the first week of June 2013, nor June 2014 as requested because of the presence of nesting migratory birds (Western seagulls, *Larus occidentalis* and eggs/chicks). There were additional unexpected delays in the demolition due to unforeseen underground structures at the site making it impossible to finish the project by December 15, 2013 or 2014.

Construction activities were divided into phases: 1) mobilization & temporary facilities, 2) demolition & site clearing, 3) site preparation & utilities, 4) building foundation, 5) building shell, 6) building exterior, 7) building interior, 8) site improvements, 9) final inspection & demobilization. The project has completed phases 1) - 4) during the first and second year and a third year is necessary for construction to complete phases 4) – 9).

Detail summary (phases overlap in time). All construction has/will occur during daylight hours. Phases 1) – 3) and most of 4) were completed during 2013 and 2014; construction is expected to commence in June 2015 and if not complete, stop for pupping December 15, 2015.

1) Mobilization & temporary facilities:

Install: temporary perimeter fencing, temporary utilities and foundation, temporary life guard tower, temporary office trailer, temporary sanitary facilities, and temporary sound wall/visual barrier;

Equipment: truck, backhoe, trailer, small auger, hand/power tools, concrete truck;

Time frame: 6/3-6/18; completed

Maximum source decibel level: 100 dB re 20 μ Pa

2) Demolition & site clearing:

Dismantle and remove existing station, remove hardscape and landscape, trucks expected to haul off less than 5 loads of debris via Coast Boulevard;

Equipment: excavator, hydraulic ram, jackhammer, trucks, hand/power tools;

Time frame: 6/19-7/5; completed

Maximum source decibel level: 110 dB

3) Site preparation & utilities:

Rough grade building site, modify underground utilities;

Equipment: loader, backhoe, truck;

Time frame: 7/8-7/30; completed

Maximum source decibel level: 110 dB re 20 μ Pa

- 4) Building foundation:
Dig/shore foundation, pour concrete, waterproofing, remove shoring;
Equipment: backhoe, concrete pump/truck, hand/power tools, small drill rig, crane;
Time frame: 7/23-8/21/2013; mostly complete; to be determined in 2014
Maximum source decibel level: 110 dB re 20 μ Pa
- 5) Building shell:
Precast concrete panel walls, rough carpentry and roof framing, wall board, cable railing, metal flashing, roofing;
Equipment: crane, truck, fork lift, hand/power tools;
Time frame: 8/22-10/9/2013; to be determined in 2014
Maximum source decibel level: 100 dB re 20 μ Pa
- 6) Building exterior:
Doors and windows, siding, paint, light fixtures, plumbing fixtures;
Equipment: truck, hand/power tools, chop saw;
Time frame: 4 weeks;
Maximum source decibel level: 100 dB re 20 μ Pa
Building interior: walls, sewage lift station, rough and finish MEPs (Mechanical Electrical Plumbing Structural), wall board, door frames, doors, paint;
Equipment: truck, hand/power tools, chop saw;
Time frame: 10/3-11/22/2013; to be determined in 2014
Maximum source decibel level: 100 dB re 20 μ Pa
- 7) Site improvements:
Modify storm drain, concrete seat walls, curbs, and planters, fine grade, irrigation, hardscape, landscape, hand rails, plaques, benches;
Equipment: backhoe, truck, hand/power tools, concrete pump/truck, fork lift;
Time frame: 10/3-11/22/2013;
Maximum source decibel level: 110 dB re 20 μ Pa
- 8) Final inspection, demobilization:
System testing, remove construction equipment, inspection, corrections;
Equipment: truck, hand/power tools;
Time frame: 10/18-12/23/2013; to be determined in 2014
Maximum source decibel level: 100 dB re 20 μ Pa

2. The date(s) and duration of such activity and the specific geographical region where it will occur;

Because the City of San Diego and NOAA Fisheries are already requiring a moratorium on all construction activities during harbor seal pupping and weaning (December 15 - May 30; see Negative Declaration page 5, November 30, 2011; NOAA Fisheries IHA issued June 28, 2013); work on this project is anticipated to be performed between June 1 and December 14 of any year. The City is requesting the project at Children's Pool, La Jolla resume June 1, 2015 (see Negative

Declaration page 30-31) with completion of the new station by December 15, 2015 (see time frames for construction phases above). All construction will be performed at 827 ½ Coast Boulevard, La Jolla CA 92037: Children's Pool (32° 50' 50.02" N 117°16' 42.8" W).

3. The species and numbers of marine mammals likely to be found within the activity area;

The rocks and beaches at or near Children's Pool, La Jolla, are almost exclusively harbor seal hauling sites. On rare occasions, one or two California sea lions, *Zalophus californianus*, or juvenile elephant seals, *Mirounga angustirostris*, have been observed on the sand or rocks at/near Children's Pool. However, these sites are not currently normal haul-out locations for either of these two species. The City commissioned two studies for harbor seal abundance trends at his site. Both studies and observations for the past two years have reported rare appearances of sea lions and elephant seals (Yochem and Stewart 1998; Hanan & Associates 2004, 2011).

During 2013, we observed only one juvenile sea lion and no elephant seals at CP; during 2014, we observed 22 sea lions out of the water at CP during 19 days. During 2014, we observed a total of 30 juvenile elephant seals on 29 separate days (2 on one day). We also observed adult sea lions hauling out on rocks and cliffs near children's Pool. There were many instances when Sea World captured harbor seals with wounds or line wrapped around them and a few abandoned pups. NOAA Fisheries collected still born and dead pups a few times. One adult dead sea lion was observed during February 2015 (well after construction stopped for the pupping closure) and we observed 6 still/premature births during November 2014-January 2015.

Harbor seals haul out on the sand, rocks, and breakwater base at/near Children's Pool in small numbers of 0-15 seals to a maximum of about 150-250 seals depending on time of day, season, and weather conditions. Because space is limited behind the breakwater at Children's Pool, Linder (2011) predicted it unlikely that numbers would exceed 250 seals; we observed 12 counts totaling more than 200 and a maximum of 238 seals during this construction season 2014-2015. At low tide, additional hauling space is available on the rocky reef areas outside the retaining wall and on beaches immediately southward. Radio tagging and photographic studies have revealed that only a portion of seals utilizing a hauling site are present at any specific moment or day (Hanan 1996, 2005; Gilbert et.al. 2005; Harvey and Goley 2011; Linder 2011). These studies further indicate that seals are constantly moving along the coast including to/from the offshore islands and that there may be as many as 600 harbor seals using Children's Pool during a year, but certainly not all at one time.

We have fitted a polynomial curve to show potential seals hauling out at Children's Pool by month (Figure 2) based on counts at CP by (Hanan 2004, Hanan&Associates 2011), Yochem and Stewart (1998), and the Children's Pool docents (Hanan 2004). A three percent annual growth rate was applied to the Yochem and Stewart counts to normalize them to H&A and docent counts

during 2003-2004. Based on personal observations and monitoring during 2013 and 2014, Dr. Hanan estimated similar numbers of seals hauling out at CP during 2011 and would expect similar numbers 2015.

4. A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks of marine mammals likely to be affected by such activities;

Pacific harbor seals are not “depleted” under the MMPA or “threatened/endorsed” under the Endangered Species Act (Carretta, et. al. 2014). They are found from Baja California, Mexico to Alaska, USA and are one of the most frequently observed marine mammals along this coastal environment. There is a subspecies (*P. v. stejnegeri*) extending harbor seal range to Japan in the Western North Pacific. Harbor seals are also common on both sides of the North Atlantic Ocean with three subspecies and are one of the most common marine mammals in those areas. As mentioned above, harbor seal presence at hauling sites is seasonal with peaks in abundance during their pupping and molting periods. Pupping and molting periods are first observed to the south and progress northward up the coast with time (e.g. January – May near San Diego, Hanan 2004, Hanan&Associates 2011; April – June in Oregon and Washington; Jeffries 1984; Jeffries 1985; Huber *et al.* 2001).

California sea lions, *Zalophus californianus*, are not “depleted” under the MMPA or “threatened/endorsed” under the Endangered Species Act (Carretta, et. al. 2014). They are found from southern Mexico to Alaska. There are no sea lion rookeries at or near Children’s Pool, although in the past two years, sea lion births have been reported at La Jolla Cove (about 0.75 km east of Children’s Pool).

Northern elephant seals, *Mirounga angustirostris*, are not “depleted” under the MMPA or “threatened/endorsed” under the Endangered Species Act (Carretta, et. al. 2014). They are found from Baja California, Mexico to the Gulf of Alaska, USA. There are no rookeries at or near Children’s Pool.

5. The type of incidental taking authorization that is being requested (i.e., takes by harassment only; takes by harassment, injury and/or death) and the method of incidental taking;

All takes of harbor seals, sea lions, and elephant seals during this project will be Level B harassment only. There will be no intrusive, injurious, or lethal takes. There is a high likelihood that many of the harbor seals when present during project activity will not be flushed off the beach, as seals at this site are conditioned to human presence and loud noises (Hanan 2004, Hanan&Associates 2011, monitoring during 2012-2015, and see <http://www.youtube.com/watch?v=4IRUYVTULsg> although the beach is now closed to people during pupping season). The City is requiring additional mitigation visual barriers as did the

two previous two IHAs to shield construction activities from beach view; daily work hours 08:30-15:30 (IHA allowed 07:00-19:00); along with onsite monitoring.

6. By age, sex, and reproductive condition (if possible), the number of marine mammals (by species) that may be taken by each type of taking identified in paragraph (a)(5) of this section, and the number of times such takings by each type of taking are likely to occur;

With construction beginning June 1, 2015, we would expect a range of 0-190 harbor seals present daily during June and a seasonal decline through November to about 0-50 seals present daily (Figure 2). If all estimated seals present are incidentally harassed each day, there could be a maximum of 10,000 harbor seal incidental takes (approximately 2,800 adult males and 2,100 juvenile males; 2,700 adult females and 1,900 juvenile females based on age and sex ratios presented in Härkönen *et. al.*, 1999). We would expect about 90% of the adult females to be pregnant after June/July (Greig 2002). An unknown proportion of the incidental takes would be from repeated exposures as seals return to CP. A polynomial curve fit to counts by month was used to estimate harbor seals expected to be hauled out by day (Figure 2).

Because so few sea lions or elephant seals are ever observed at Children's Pool, the City requests a maximum incidental take of 100 sea lions and 25 elephant seals.

7. The anticipated impact of the activity upon the species or stock;

This type of Level B taking is not expected to affect nor impact harbor seals, sea lions, or elephant seals at the population or stock level.

Since construction will be prohibited during the pupping and weaning season (Dec 15 through May 30) there will be no impacts on birthing rates nor pup survivorship at Children's Pool. There will be no in water construction activities in or near the water so pinniped activities in the water should not be affected.

Additionally seals utilizing this beach are a small portion of the California seal stock and any impacts here would have little effects on the harbor seal population as a whole (maximum 500 seals utilizing La Jolla out of 30,196 seals estimated in California (CV=0.157) waters) or less than 2% of the California stock which does not include significant numbers of seals in waters off Mexico, Oregon, Washington, Canada, and Alaska. We have also requested a potential maximum take of 100 sea lions which is an insignificant portion of the estimated 296,750 California sea lions in California waters, not including sea lions in Mexican waters. We have requested a maximum take of 25 elephant seals which is also an insignificant portion of the estimated 124,000 elephant seals in U.S. waters (Carretta, *et. al.* 2014) when considering stock or population level impacts.

At the individual level a newly arrived seal (swam in from another area) may not have habituated to humans and noise as seals that have been on site for a while. These recent arrivals may alert

to these stimuli, perhaps flushing to the water. But after a few days using this beach, we would expect them to habituate and generally not react to humans (unless very close to them) or noises from the construction site (Hanan 2004, Hanan&Associates 2011, Hanan and Hanan 2014).

8. The anticipated impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses;

There will be no impact on subsistence uses as there are no anticipated effects on natality or mortality of pinniped stocks because of this project.

9. The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

All construction activities are beyond or outside areas physically occupied by harbor seals. Visual barriers will be erected to shield most construction activities from seal view; these barriers will also dampen but not exclude sound and once station walls are constructed, nearly all visual and sound stimuli will be significantly reduced.

This year, Children's Pool Beach was closed to the public during December 15th through May 15th by the City and approved by the California Coastal Commission. During construction, the NOAA Fisheries certified monitors will make observations and attempt to attribute any observed harassment to the public or to the construction activities and give all details in the observation report. Monitors will follow NOAA fisheries suggested reporting criteria for seal responses to construction: flushing into the water; moving more than 1 meter, but not into the water; becoming alert and moving, but do not move more than 1 m; and changing direction of current movement. Additionally, monitors will estimate the number of seals that were observed to exhibit the behavior, as well as, the apparent source of the stimulus as we anticipate harassment from the public and the construction.

10. The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

We do not project any loss or modification of habitat for these species as there is no changes to the beach or rocks utilized by the pinnipeds.

11. The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

All project activity will occur outside harbor seal pupping and weaning periods. Visual barriers will be constructed to screen seal's views of construction activities. However, because the site is a beach with construction along the cliff and additional flat construction areas above the cliff, we don't think a complete barrier can be constructed to hide all activities. Once the walls of the building are in place, much of the construction activity will take place on the bluff above the

beach (thus out of sight) and inside the building: thus providing a visual and partial sound barrier.

There will be no activities in the ocean or close to water's edge and since harbor seals mate underwater, there will be no takes or impacts.. Sea lions and elephant seals (no adult Elephant seals have been observed at Children's Pool) are such infrequent users of this area and their rookeries are so far away (at least 65 miles at offshore islands) that there will be no adverse impact on these species mating activities.

12. Where the proposed activity would take place in or near a traditional Arctic subsistence hunting area and/or may affect the availability of a species or stock of marine mammal for Arctic subsistence uses, the applicant must submit either a "plan of cooperation" or information that identifies what measures have been taken and/or will be taken to minimize any adverse effects on the availability of marine mammals for subsistence uses.

There will not be any activities in Arctic areas, and there are no subsistence uses of seals in the vicinity of Children's Pool.

13. The suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity. Monitoring plans should include a description of the survey techniques that would be used to determine the movement and activity of marine mammals near the activity site(s) including migration and other habitat uses, such as feeding. Guidelines for developing a site-specific monitoring plan may be obtained by writing to the Director, Office of Protected Resources;

The City has developed a monitoring plan (see attached: Appendix II. Mitigated Negative Declaration, 11/30/2011) based on discussions between the project biologist, Dr. Doyle Hanan, and NOAA Fisheries biologists. The plan has been vetted by City planners and reviewers. The plan has been formally presented to the public for review and comment. The City has responded in writing and in public testimony (City Council Hearing, December 14, 2011) to all public concerns. The plan has been in place and utilized during 2013, 2014, and 2015 with no problems or suggested changes.

The basic plan is to survey prior to construction activities and then monitor construction activities by NOAA Fisheries approved monitors with binoculars and handheld digital sound level devices. These units will measure in the 30 – 130 dB re 20 µPa range.

Observers will make hourly counts of seals present and record sound levels during those counts and during any periods of apparent seal harassment. They will make and record observations of any apparent responses to sound or visual events that result in behavior changes whether during public or construction stimuli. During these events pictures and video will also be taken when possible. The City's Negative Declaration states: "Monitoring shall assess behavior and potential behavioral responses to construction noise and activities. Visual digital recordings and photographs shall be used to document individuals and behavioral responses to construction."

Observations will be entered into and maintained on Hanan&Associates computers. For the city reporting requirements, we will follow the City's Negative Declaration: "In addition, the biologist shall document field activity via the Consultant Site Visit Record (CSV). The CSV shall be either emailed or faxed to the City's Mitigation Monitoring Coordination (MMC) section on the 1st day of monitoring, the 1st week of each month, the last day of monitoring, and immediately in the case of any undocumented discovery." And additionally: "The project biologist shall submit a final construction monitoring report to MMC within 30 days of construction completion." These same reports would be sent to NOAA Fisheries using the same schedule or on whatever schedule NOAA requires. Daily monitoring reports will be maintained at Hanan&Associates for the periodic summary reports to the City and to NOAA Fisheries.

14. Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

Each demolition/construction phase and potential harassment activity will be evaluated as to observed sound levels and any seal reaction by type of sound source. If there is any flushing due to construction, it will be documented. These data will provide instructional for IHA permitting in future projects. Potential additional mitigation will be discussed and suggested in the final report.

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Table 1. Life guard summary report of the area at and near Children’s Pool, La Jolla, California.

CASA 2012

CROWD COUNT	1,351,371
PREVENTIVE ACTIONS	8,613
TOTAL WATER RESCUES	114
MINOR MEDICAL AID	110
SERIOUS MEDICAL AID	14

CASA 2011

CROWD COUNT	1,529,082
PREVENTIVE ACTIONS	7,978
TOTAL WATER RESCUES	86
MINOR MEDICAL AID	90
SERIOUS MEDICAL AID	17

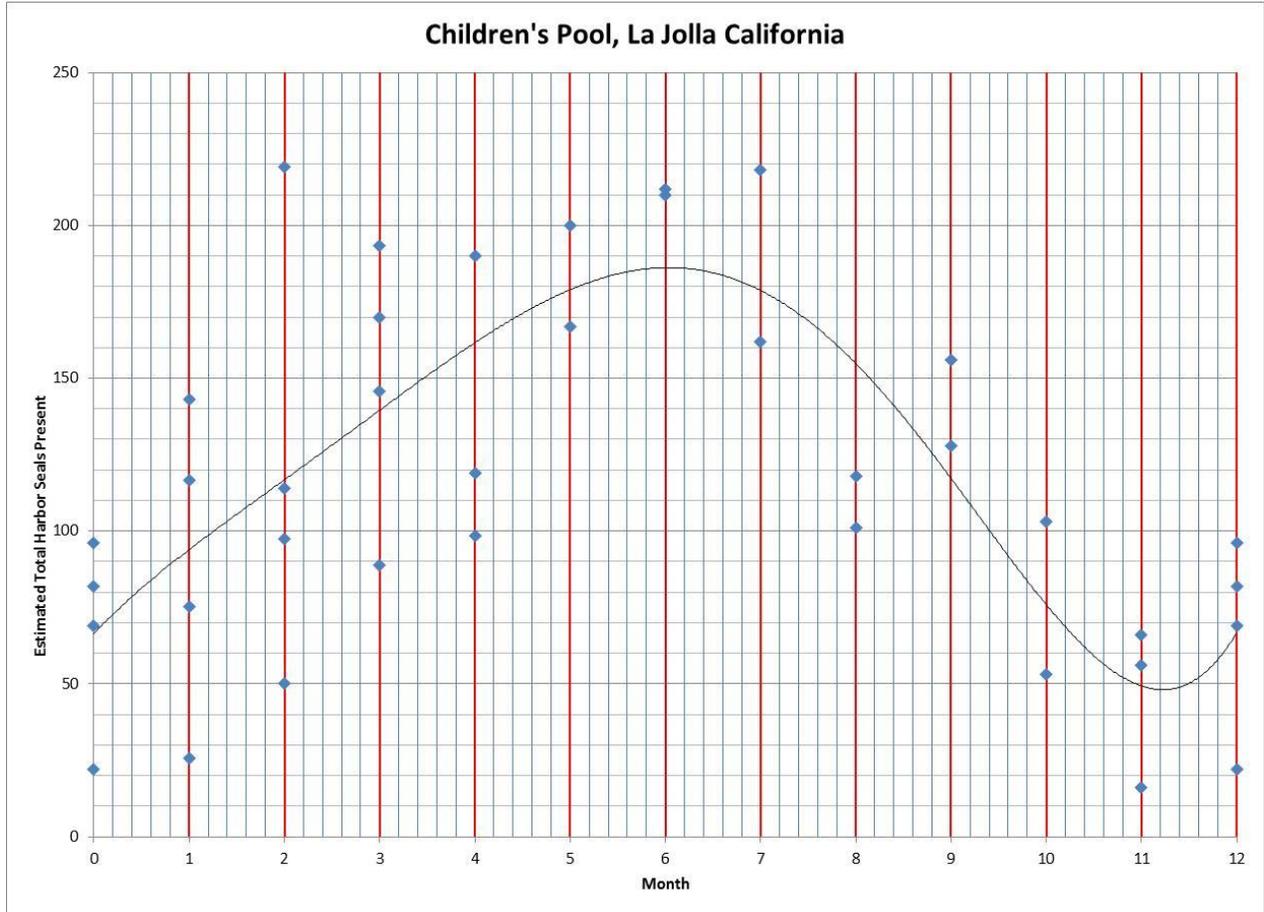
CASA 2010

CROWD COUNT	1,788,100
PREVENTIVE ACTIONS	7,849
TOTAL WATER RESCUES	57
MINOR MEDICAL AID	76
SERIOUS MEDICAL AID	10

Figure 1. Construction site measurements.



Figure 2. Estimated total seals by month based on counts at the site by Hanan&Associates, Yochem and Stewart, and Children's Pool docents. Polynomial curve fit to counts by month was used to estimate harbor seals potentially hauled out by day.



2014-15 Daily Peak Counts and Long Term Trend with 95% Confidence Intervals

