



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service
Monterey Bay National Marine Sanctuary
99 Pacific Street, Building 455 A
Monterey, California 93940

March 8, 2016

Ms. Donna S. Wieting
Director
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

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

Mr. Steve Henry
Field Supervisor
US Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

Ms. Jennifer Norris
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 during 2015.

Dear Ms. Wieting, Mr. Stelle, Mr. Henry and Ms. Norris:

Three (3) Monterey Bay National Marine Sanctuary (MBNMS) Authorizations of other-agency permits for the discharge of pyrotechnic devices into Sanctuary waters were active during the 2015 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 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 MBNMS during 2015 were at locations that 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 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. 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 June 28, 2012 the NMFS issued regulations under the authority of Section 101(a)(5)(A) 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 adjacent to the MBNMS (effective July 4, 2012—July 3, 2017).

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 NMFS would like the following information contained in the report:

1. Dates, locations, and permitted entity conducting fireworks; and
2. Results of the monitoring required under Condition 6 of the Authorization, including an estimate of the number of pinnipeds 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 2015 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:

Pacific Grove Feast of Lanterns

A pre-event survey was conducted on July 24, 2015 and noted the presence of five harbor seals. A post-event census was completed on July 26, 2015 and did not find any dead marine mammals.

Monte Foundation Fireworks Fundraising Event

In 2015 the launch site was shifted from the Aptos cement ship pier to the end of the City-owned Capitola Municipal Wharf. A pre-event survey was conducted on October 10, 2015 and did not observe any marine mammals but did note the presence of two dead Grebes and one dead Cormorant. A post-event census was completed on October 12, 2015 and did not find any dead marine mammals but did note four dead Grebes.

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

Comprehensive Monitoring Summary

The Incidental Harassment Authorization is limited to Level B Harassment. The current five-year permit allows incidental harassment of 4,219 California Sea lions and 230 harbor seals annually.

ESTIMATED NUMBER OF SEALS OR SEA LIONS TEMPORARILY DISTURBED BY FIREWORKS
DURING 2015 CALENDAR YEAR

Site	2015 Harbor seal / CA sea lion presence
Pacific Grove	5 / 0
Capitola - Monte Foundation	0 / 0

It is clear from annual reporting that 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 annual fireworks activities within or adjacent to 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

MBNMS is poised to continue Authorizing other-agency permits allowing fireworks displays to occur adjacent to, or within, the 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 Monterey Bay National Marine Sanctuary.

Given the current NMFS Letter of Authorization remains in effect until July 3, 2017, no immediate action from NMFS is required at this time. 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 831-647-1286 or via email at sophie.debeukelaer@noaa.gov.

Sincerely,



SOPHIE DE BEUKELAER

Permit Coordinator

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 as a result
Pacific Grove Feast of Lanterns	07/25/15	Near Lovers Point, Pacific Grove, CA	0	0
Monte Foundation Fundraiser	10/11/2015	Capitola Municipal Wharf , Capitola, CA	0	0

Comments:

Due to drought, no fireworks were conducted in Shamel County Park in Cambria during 2015 but the permit, MBNMS-2012-016 is still active.

Marine Mammal Survey Form
Pacific Grove Feast of Lanterns Fireworks

Observer Jonathan Dale

Date 07/24/2015

Time survey began 2:00 pm

Location Fountain Ave / Ocean Ave Tidal height low

Time survey ended 2:35pm

Site	Time Count began	Pinniped Species	Total Number of Individuals
400 meters North and South of the detonation area	2:00 pm	Harbor seal	5

Comments:

All animals observed in water or hauled out on rocks.

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

Observer Jonathan Dale

Date 07/26/2015

Time 1:00pm

Tidal height low

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

Comments:

No injured or dead animals observed. Five Harbor seals observed in water or resting on rock near the shoreline.

Marine Mammal Survey Form
 Monte Foundation Fundraiser Fireworks

Observer Jon Toal

Date 10/10/2015

Time survey began 2:50 pm

Location Capitola Beach

Tidal height ebbing tide from +1.41 to +1.12 feet

Time survey ended 3:45 pm

Site	Time Count began	Pinniped Species	Total Number of Individuals
400 meters North and South of the detonation area	2:50 pm	0	0

Comments: A marine mammal survey was required as part of the terms and conditions for the MBNMS permit (MBNMS-2015-020) authorizing the Monte Foundation to present a fireworks display within the sanctuary. The survey was conducted along the shoreline within 400 meters (in both directions) from the detonation area on 10 October 2015 between 14:50 and 15:45. The ebbing tide was approximately +1.41↓ feet MLLW at 14:50 and falling to +1.12↓ feet MLLW at 15:45. The low tide of +1.11 feet was approximately fifteen minutes later at 15:57.

No marine mammals were observed during the survey. Three dead birds, two Grebes and one Cormorant were observed on the beach during the survey. All three were observed washed up on the beach east of the wharf. In addition, what appeared to be an *Aplysia californica* (Sea Hare) was found lying on the beach.

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

Observer Jon Toal

Date 10/12/2015

Time 11:55 am

Tidal height ebbing tide from +4.61 to +3.97 ft

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

Comments: Observations were made between 11:55 and 12:45 with an ebbing tide of +4.61↓ feet MLLW (11:55) to +3.97↓ feet MLLW (12:45). This additional follow up field work repeated the MBNMS marine mammal survey to attempt to discern if there were any changes attributable to the

fireworks show. As with the pre-survey, no marine mammals were observed during this follow up postsurvey.

Four dead birds, all Grebes, were observed on the beach during this post-survey. The Cormorant observed during the pre-survey was not observed. It is likely that some of the dead Grebes observed were the same observed during the pre-survey. The kelp wrack on the beach is obviously getting pushed up and down the beach with the changing tides and likely burying and unburying dead birds that get tangled up in the kelp. Another dead Sea Hare (*Aplysia californica*) was observed but was obviously smaller than the specimen observed during the pre-survey.