



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 12, 2009

Ms. Angela Somma
Deputy Director (Acting)
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

Mr. David Pereksta
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 the
Monterey Bay National Marine Sanctuary**

Dear Ms. Somma, Mr. McGinnis, Mr. Pereksta and Ms. Moore:

The Monterey Bay National Marine Sanctuary (MBNMS) has issued five Authorizations of other-agency permits for the discharge of pyrotechnic devices into Sanctuary waters during the 2008 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 five pyrotechnic displays conducted in the MBNMS during 2008 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 a 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). On June 26, 2008, the NMFS issued an annual Letter of Authorization (LOA) implementing requirements of 50 CFR 216, Subpart J for the period of July 4, 2008 through July 3, 2009.

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 2008 NMFS Letter of Authorization reporting requirement states “The holder of this Letter of 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 60 days after the conclusion of each calendar year. (This due date effectively translates to March 1st). 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 2008 is included here. Monitoring results detailed in this report fulfill both agencies' monitoring requirements, including the National Marine Fisheries Service (NMFS) Letter of Authorization requirements and regulations found in 50 CFR §216.115. In addition, the results include data on any injured or dead marine mammals 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. The results of these studies are included in detail in the Appendix. Summaries of each site are as follows:

Cambria Independence Day Fireworks

The Cambria American legion conducted a pre-event census on July 3, 2008 and found no marine mammals present. A post-event census on July 5, 2008 found no dead marine mammals or birds. Thus, it seems the Shamel Park fireworks event had no observed impact on marine mammals or birds. In a letter dated July 10, 2008, the Cambria American Legion reported that: "We are proud to report that like last year, the event and subsequent inspection went very smoothly without incident. We could not detect any detrimental impact the display had upon the beach, the surrounding plant life and most importantly any animals or their habitats. Consequently, with some minor adjustments this report will practically mirror that of the one submitted last year". See attached data sheets located in the Appendix for more detail.

City of Monterey Independence Day Fireworks

Gillian Rhett from the Moss Landing Marine Labs conducted a marine mammal survey on July 3, 2008. A post-firework injured or dead wildlife survey was completed on July 5, 2008, and there were no injured or dead wildlife reported on either survey. See attached data sheets located in the Appendix for more detail.

Half Moon Bay Fireworks Display

Volunteers from the Gulf of the Farallones Beachwatch program conducted the pre-event and post-event surveys at this location. The post-event beach survey revealed two injured brown pelicans. The Gulf of the Farallones National Marine Sanctuary Acting Superintendent reported the two injured Brown Pelicans to the USFWS in a letter dated July 8, 2008. See attached data sheets located in the Appendix for more detail.

Pacific Grove Feast of Lanterns

Ms. Teri Nicholson, Senior Research Biologist for the Monterey Bay Aquarium, conducted surveys for this event on both July 25, 2008 and on July 27, 2008. No dead or injured wildlife was reported. A letter dated August 15, 2008 from the Pacific Grove Feast of Lanterns stated: "Our inspection of the surrounding area did not reveal any damage to plant life, animals or property." See attached data sheets located in the Appendix for more detail.

Monte Foundation Fireworks Display

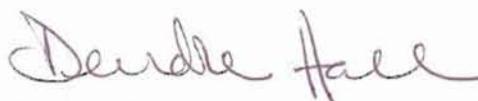
A pre-event marine mammal survey was conducted along the shoreline within 400 meters in both directions from the detonation area on October 11, 2008, consistent with the monitoring protocols. A post-fireworks injured or dead wildlife survey was completed on October 12, 2008. See attached data sheets located in the Appendix for more detail.

Future Action

The MBNMS remains interested in receiving the annual Letter of Authorization from NMFS so that we may continue to allow firework celebrations within the MBNMS. We believe that permitted activities within the Sanctuary went as expected for 2008 and look forward to receiving another letter of authorization for the 2009 season. Please begin the process of re-issuing the annual Letter of Authorization at your earliest convenience.

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.hall@noaa.gov.

Sincerely,



DEIRDRE HALL
Permit Coordinator

cc: D.Bizot, NMSP
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 | 07/04/2008 | Shamel Park, Cambria, CA | 0 | 0 |
| Half Moon Bay Annual 4 th of July Fireworks | 07/04/2008 | Pillar Point Harbor area | 0 | 0 |
| City of Monterey Annual 4 th of July Fireworks | 07/04/2008 | Offshore Wharf 2 Monterey, CA | 0 | 0 |
| The Pacific Grove Feast of Lanterns Annual Fireworks | 07/26/2008 | Lovers Point, Pacific Grove, CA | 0 | 0 |
| The Monte Foundation Annual Fireworks | 10/11/2008 | Cement Ship pier at Seacliff State Beach, Santa Cruz, CA | 0 | 0 |

Marine Mammal Survey Form
Cambria Independence Day Fireworks

Observer Steve Johnson

Date 07/03/2008

Time survey began 7:30 pm

Location Shamel Park

Tidal height low 4:23 pm

Time survey ended 8:10 pm

| Site | Time Count began | Species | Total Number of Individuals |
|---|------------------|---------------------|-----------------------------|
| 400 meters North and South of the detonation area | 1930 | No animals observed | 0 |
| Waters immediately adjacent to the site | | No animals observed | 0 |
| Other sites: Rocks ½ mile from site | 2000 | No animals observed | 0 |

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

Observer Steve Johnson

Date 07/05/2008 Time 1000 – 1030 hrs Tidal height low: 0647 high: 1330

| Species | No. of Individuals | Alive? Y or N | Condition of Animal or Carcass | Location | Photos? Y or N |
|---------|--------------------|------------------|-----------------------------------|-------------------|-------------------|
| None | N/A | N/A | N/A | Shamel Park Beach | N/A |
| | | | | | |

Comments: No animals were found injured or deceased

Marine Mammal Survey Form
Half Moon Bay Independence Day Fireworks

Observer J. Hall and N. Bubert Date 07-03-08 Time survey began 1600 pm

Location Pillar Point Harbor area Tidal height 3.08@1600 Time survey ended: 1950 pm

| Site | Time Count began | Species | Total Number of Individuals |
|-------------------|------------------|---------------|-----------------------------|
| Surfers Beach | not recorded | Harbor Seal | 0 |
| ↓ | | Sea Lion | 0 |
| ↓ | | Sea Otter | 0 |
| ↓ | | Brown Pelican | 4 |
| Harbor Beaches | 1822 | Harbor Seal | 0 |
| ↓ | | Sea Lion | 0 |
| ↓ | | Sea Otter | 0 |
| ↓ | | Brown Pelican | 158 |
| Harbor Breakwater | 1600 | Harbor Seal | 2 |
| ↓ | | Sea Lion | 0 |
| ↓ | | Sea Otter | 0 |
| ↓ | | Brown Pelican | 2760 |

Post-Fireworks Injured or Dead Wildlife Survey Form
Half Moon Bay Independence Day Fireworks

Observer J. Thompson & N. Bubert Date 07/05/2008 Time 1645 Tidal height 3.58@1645

| Species | No. of Individuals | Alive? Y or N | Condition of Animal or Carcass | Location | Photos? Y or N |
|---------------|--------------------|------------------|-----------------------------------|------------------------------------|-------------------|
| Brown Pelican | 1 | N | Not fresh. Present pre-event. | On inner jetty marker 39 | Y |
| Brown Pelican | 1 | Y | Broken left wing | Southern end of boat ramp | Y |
| Brown Pelican | 1 | Y | Broken left wing | Bayside of inner middle Breakwater | Y |

Comments:

The Gulf of the Farallones National Marine Sanctuary Acting Superintendent reported the two injured Brown Pelicans to the USFWS in a letter dated July 8, 2008.

Marine Mammal Survey Form
City of Monterey Fireworks Display

Observer Gillian Rhett Date 7/3/08 Time survey began 8:35

Location Monterey Harbor Tidal height 3.38 ft. Time survey ended 9:15

| Site | Time Count began | Species | Total Number of Individuals |
|----------------------------------|------------------|--------------|-----------------------------|
| CG Jetty & Water | 8:56 | Sea Lions | 209 |
| ↓ | | Sea Otters | 2 |
| ↓ | | Harbor Seals | 1 |
| CG Pier | 8:48 | Sea Lions | 185 |
| Other Sites: | | | |
| Santa Rosalita Beach and Wharf 1 | 8:40 | Harbor Seals | 8 |
| Wharf 2 | 9:10 | Harbor Seals | 1 |

Comments: No dead animals were observed.

Post-Fireworks Injured or Dead Wildlife Survey Form
City of Monterey Independence Day Fireworks

Observer Tish Sammon Date 7/5/2008 Time .8:51 am. Tidal height -1 ft.

| Species | No. of Individuals | Alive? Y or N | Condition of Animal or Carcass | Location | Photos? Y or N |
|---------------------------|--------------------|------------------|-----------------------------------|---|-------------------|
| No injured wildlife found | 0 | | | Monterey Beach Del Monte Beach San Carlos Beach | |
| | | | | | |

Marine Mammal Survey Form
Pacific Grove Feast of Lanterns Fireworks Display

Observer Teri Nicholson Date 7/25/08 Time survey began 20:00

Location Ocean View & Fountain Tidal height 3 ft Time survey ended 20:45

| Site | Time Count began | Species | Total Number of Individuals |
|---------------------------------------|------------------|-----------|-----------------------------|
| Berwick Park vicinity | 2025 | Sea otter | 1 |
| Launch site vicinity and Lovers Point | 2035 | Sea otter | 1 |
| | | | |

Comments:

More than 200 seals were observed resting at the Hopkins Marine Station West beach, well outside of the survey area.

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

Observer Teri Nicholson Date 7/27/08 Time ..1300 Tidal height 3 ft

| Species | No. of Individuals | Alive? Y or N | Condition of Animal or Carcass | Location | Photos? Y or N |
|---|--------------------|------------------|-----------------------------------|----------|-------------------|
| No injured or dead wildlife reported | | | | | |
| | | | | | |

Comments: No injured or dead wildlife reported

Marine Mammal Survey Form
Monte Foundation Fireworks Display

Observer Jon Toal

Date 10 October 2008

Time survey began 1728

Location Seacliff Beach

Tidal height 3.58 to 3.99

Time survey ended 1815

| Site | Time Count began | Species | Total Number of Individuals |
|--|------------------|--|--|
| South of Pier | 1733 | Dead Murre | 1 |
| 75 ft. offshore -- 125 yds S. of Pier | 1740 | Harbor Seal | 1 |
| | 1741 | Dead seagull | 1 |
| 500 yds offshore | 1745 | CA Sea lions | 1-2 dozen |
| South of Pier | 1750 | Sea lions started feeding in a school of diving pelicans | Lots of pelicans – unspecified amount – difficult to ascertain |
| Bow of Cement Ship | 1754 | Cormorants | >150 |
| Mid Structure | 1754 | Cormorants | >150 |
| 30 yds. Offshore – 30 yds N. of Pier | 1754 | Western Grebe | 4 |
| | 1800 | Dead Murre | 1 |
| 60 ft. offshore –500 yds N. Pier | 1809 | Harbor Seal | 1 |

Comments:

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

Observer J. Toal Date 10/12/2008 Time 1415 Tidal height 0.38 to 0.03

| Species | No. of Individuals | Alive? Y or N | Condition of Animal or Carcass | Location | Photos? Y or N |
|-----------|--------------------|------------------|-----------------------------------|---------------|-------------------|
| Cormorant | 1 | N | Dead cormorant | South of Pier | Y |
| Gull | 1 | Y | Injured juv. Gull | On wet sand | Y |
| | | | | | |

Comments:

Dead bird on the beach appeared to have been there a while.
Injured gull was reported to State Park Rangers