



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

February 27, 2013

Ms. Helen Golde  
Acting 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 during 2012**

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

The Monterey Bay National Marine Sanctuary (MBNMS) has issued three Authorizations of other-agency permits for the discharge of pyrotechnic devices into Sanctuary waters during the 2012 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 2012 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. 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 31<sup>st</sup>.

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 2012 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, 2012 and found no marine mammals present. A post-event census on July 5, 2012 found one dead harbor seal with a large gash in its belly, presumed to have been attacked by a predator.

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, 2012. Given that, no data was collected.

Half Moon Bay / Pillar Point Independence Day Fireworks

Due to a number of factors, the Half Moon Bay / Pillar Point site did not conduct a fireworks display on July 4, 2012. Given that, no data was collected.

Pacific Grove Feast of Lanterns

A pre-event survey was conducted on July 27, 2012 and noted the presence of 8 harbor seals, and 5 sea otters. A post-event census was completed on July 28, 2012 and did not find any dead marine mammals.

Monte Foundation Annual Fireworks Display

A pre-event marine mammal survey was conducted on October 4, 2012. A post-fireworks injured or dead wildlife survey was completed on date October 6, 2012. No harbor seals were observed during the survey either in the water or pulled out on the foredeck near the swash zone toward the bow of the cement ship. 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

The Incidental Harassment Authorization is limited to Level B Harassment. Although previous IHA's allowed for harassment of no more than 6,170 California sea lions and 1,065 harbor seals, the *current* five-year permit allows incidental harassment of only 4,219 California Sea lions and 230 harbor seals annually. Although MBNMS staff indicated an interest in keeping consistency with the previously approved numbers during the renewal process, should the presence of marine mammals in the area fluctuate, ultimately this input was rejected by NMFS.

ESTIMATED NUMBER OF SEALS OR SEA LIONS TEMPORARILY DISTURBED BY FIREWORKS  
DURING 2012 CALENDAR YEAR

Site	2012 Harbor seal / CA sea lion presence
Cement ship / Aptos	0
Pacific Grove	8 / 0
Cambria	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 the MBNMS.

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 831-647-4207 or via email at [deirdre.whalen@noaa.gov](mailto:deirdre.whalen@noaa.gov).

Sincerely,



DEIRDRE WHALEN  
Permit Coordinator

cc: V. Weddel, ONMS  
M. Delaney, GFNMS  
M. DeAngelis, NMFS  
B. Laws, 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 as a result
The Cambria American Legion Annual 4 <sup>th</sup> of July Fireworks	07/04/2012	Shamel Park, Cambria, CA	0	0
Pacific Grove Feast of Lanterns	07/28/2012	Pacific Grove, CA	0	0
The Monte Foundation Annual Fireworks in Aptos	10/05/2012	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 07/03/2012

Time survey began 4:00 pm

Location Shamel Park

Tidal height not indicated

Time survey ended 5:00 pm

Site	Time Count began	Pinniped Species	Total Number of Individuals
400 meters North and South of the detonation area	4:00 pm	None	0
Waters immediately adjacent to the site	5:00 pm	None	0

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

Observer Ron Waltman

Date 07/05/2012

Time 9:45 am

Tidal height 0.11 ft

Marine Mammal Species	No. of Individuals	Alive? Y or N	Condition of Animal or Carcass	Location	Photos? Y or N
Seal	1	N	A dead seal with large gash in belly area, as if the animal had been attacked.	Shamel Park Beach-- was seen from the Park Bluff	N

Comments:

Marine Mammal Survey Form  
Pacific Grove Feast of Lanterns Fireworks

Observer Teri Nicholson Date 07/27/2012 Time survey began 8:00pm

Location PG Fireworks Launch site Tidal height 4.9 – 3.9-ft + Time survey ended 9:00 pm

Site	Time Count began	Pinniped Species	Total Number of Individuals
400 meters North and South of the detonation area	8:00 pm	none	0
Waters immediately adjacent to the site	8:00 pm	Harbor seal	8
		Sea otters	5

*Comments:*

No marine mammals were found hauled out on nearby offshore rocks or beaches within 400 meters of launch site. 8 harbor seals were observed swimming through waters adjacent to site from 8 – 9 pm.

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

Observer Teri Nicholson Date 07/28/2012 Time 9:30 pm Tidal height 4.46

Marine Mammal 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  
Monte Foundation Fireworks Display in Aptos

Observer Jon Toal Date 10/04/2012 Time survey began 4:15 pm

Location Seacliff Beach Tidal height 3.03 – 2.23 Time survey ended 5:05 pm

Site: (400 meters North and South of the detonation area)	Time Count began	Pinniped Species	Total Number of Individuals
South of Pier	4:15	0	0
North of Pier	4:45 pm	0	0
Berm	5:02	0	0

*Comments:*

Although not required as part of this survey, the monitor noted the presence of many live birds as well as many dead beach-cast seabirds.

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

Observer J. Toal Date 10/06/2012 Time 12:45 pm Tidal height 4.09 – 4.41

Marine Mammal 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
0					

*Comments:*

Many dead birds are present, (most long-dead) as noted in pre-survey comments. Photographs of dead beach-cast birds were taken in the field.