



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232

August 14, 2020

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Director, Oregon Department of Fish and
Wildlife
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Confederated Tribes of the Umatilla Reservation
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Ed Schriever
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Phillip Rigdon
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Toppenish, WA 98948

Dave Johnson
Fisheries Program Manager,
Nez Perce Tribe
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Lapwai, ID 83540

**RE: Permit Authorizing the Intentional Taking on the Waters of the Columbia River
and its Tributaries of California Sea Lions and Steller Sea Lions**

Dear Mr. Melcher, Mr. Susewind, Mr. Schriever, Mr. Johnson, Mr. Scheeler, Mr. Brunoe, and
Mr. Rigdon:

After consideration of your June 13, 2019, application requesting a permit for the lethal removal
of California sea lions and eastern stock of Steller sea lions (sea lions) to reduce or eliminate sea
lion predation on certain at-risk fish species in the Columbia River Basin, the National Marine
Fisheries Service (NMFS) hereby issues you a permit under Marine Mammal Protection Act¹
(MMPA) section 120(f) to carry out lethal removal activities consistent with the terms and
conditions set forth below. The purpose of the permit is to protect from sea lion predation the
following species listed as threatened or endangered under the Endangered Species Act (ESA):

¹ 16 U.S.C. Section 1389 et seq.



Lower Columbia River Chinook salmon evolutionarily significant unit (ESU)², Snake River Fall-run Chinook salmon ESU, Snake River Spring/Summer-run Chinook salmon ESU, Upper Columbia River Spring-run Chinook salmon ESU, Upper Willamette River Chinook salmon ESU, Lower Columbia River steelhead distinct population segment (DPS), Middle Columbia River steelhead DPS, Snake River Basin steelhead DPS, Upper Columbia River steelhead DPS, Upper Willamette River steelhead DPS, Columbia River chum salmon ESU, Lower Columbia River coho salmon ESU, Snake River sockeye salmon ESU, eulachon DPS, and species of lamprey or sturgeon that are not listed as endangered or threatened but are listed as a species of concern.

As you are aware, NMFS established a Pinniped Fishery-Interaction Task Force (Task Force) under MMPA sections 120(f)(2)(B) and 120(c)(1) to review your application and make a recommendation to NMFS on whether to approve or deny your request for lethal removal. The Task Force met for three days on May 12, 2020, through May 14, 2020³. During those meetings, which were open to the public, the Task Force reviewed and discussed pertinent information on sea lions, at-risk fish stocks, the nature and extent of the interaction between these species in the Columbia River Basin, as well as measures and considerations for reducing or eliminating pinniped-fishery interactions. On May 14, 2020, the majority of Task Force members present at the meeting (16 of 22) recommended approving the application requesting authorization for lethal removal with certain terms and conditions, while two (2) Task Force members recommended denying the application, and one (1) Task Force member abstained. Three (3) Force members were intermittently absent and did not provide a recommendation.

NMFS has determined that the application as modified by terms and conditions recommended by the Task Force and with the additional modifications set forth below, meets the requirements of MMPA section 120(f). Therefore, NMFS grants authority to the Oregon Department of Fish and Wildlife, the Washington Department of Fish and Wildlife, the Idaho Department of Fish and Game; the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes and Bands of the Yakama Nation; and the Willamette Committee⁴ (hereafter called – “eligible entities”) to remove (i.e., place in permanent captivity or kill) sea lions that are located in the mainstem of the Columbia River between river mile 112 (I-205 bridge) and river mile 292

² The ESA defines a “species” to include any distinct population segment (DPS) of any species of vertebrate fish or wildlife. For Pacific salmon, NMFS considers an evolutionarily significant unit, or ESU, a “species” under the ESA.

³ Due to COVID-19, the Task Force meeting was in a virtual format.

⁴ MMPA section 120(f)(6)(D) Committee. NMFS hereby recognizes and concurs that the Committee is duly established in accordance with section 120(f)(6)(D). Pursuant to this section of the statute, the Committee members include the Oregon Department of Fish and Wildlife, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes of the Grand Ronde Community, and the Confederated Tribes of the Siletz Indians of Oregon. The Confederated Tribes of the Grand Ronde Community and the Confederated Tribes of the Siletz Indians of Oregon will coordinate lethal removal activities in the Willamette River Basin with the member co-managers, but as they are not stand-alone eligible entities, will not coordinate lethal removal activities elsewhere in the Columbia River Basin.

(McNary Dam), or in any tributary (below river mile 292) to the Columbia River that includes spawning habitat for threatened or endangered salmon or steelhead, consistent with the terms and conditions set forth below. Our decision was informed by: (1) the application; (2) public comments on the application; (3) the Task Force Report and Recommendations; and (4) other information related to the pinniped-fishery interaction in the Columbia River Basin.

Terms and Conditions

1) Authorization. This permit authorizes the Eligible Entities, as defined below, consistent with the terms and conditions set forth herein, to lethally remove sea lions that are located in the mainstem of the Columbia River between river mile 112 and river mile 292, or in any tributary (below river mile 292) to the Columbia River that includes spawning habitat of threatened or endangered salmon or steelhead.

2) Permit Duration. This permit is valid beginning **August 14, 2020, through August 14, 2025**, unless renewed or revoked.

3) Eligible Entities.

- a) For removal of sea lions located in the mainstem Columbia River, from river mile 112 to river mile 292, and its tributaries in the state of Washington and in the state of Oregon above Bonneville Dam, the Eligible Entities are: the state of Washington; the state of Oregon; the State of Idaho; the Nez Perce Tribe; the Confederated Tribes of the Umatilla Indian Reservation; the Confederated Tribes of the Warm Springs Reservation of Oregon; and the Confederated Tribes and Bands of the Yakima Nation.
- b) For removal of sea lions located in the Willamette River and other tributaries of the Columbia River within the state of Oregon below Bonneville Dam, the Eligible Entity is a Committee composed of Oregon Department of Fish and Wildlife, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, the Confederated Tribes of the Grand Ronde Community, and the Confederated Tribes of the Siletz Indians of Oregon.

4) Delegation of Authority. The Eligible Entities described in paragraph 3(a) above may delegate their removal authority to the Columbia River Inter-Tribal Fish Commission. In order to delegate their authority, the Eligible Entities must submit a request to NMFS in writing, and NMFS will respond in writing either approving or denying the request.

5) Limit on Removals.

- a) The Eligible Entities shall not remove (i.e., place in permanent captivity or kill) more than **540 California sea lions** and not more than **176 Steller sea lions** over the 5-year period of this permit.
- b) The number of sea lions removed under this permit, combined with the number of sea lions removed under any other permits issued by NMFS under MMPA section 120(f), may not exceed 10 percent of the potential biological removal (PBR) levels for either the CSL or SSL stocks. If at any time NMFS determines that removals under this permit may result in cumulative removals in excess of 10 percent of PBR, NMFS shall reduce the allowable number of removals under this permit to ensure that cumulative removals under MMPA section 120(f) do not exceed 10 percent of PBR levels. If NMFS determines that reducing the number of removals identified in paragraph 5(a) above is required, NMFS shall provide the Eligible Entities with 72 hours' notice of the new removal limits.

6) Manner of Removals.

- a) The Eligible Entities may capture and remove sea lions by trapping or by live capture of free ranging sea lions using established wildlife darting techniques.
- b) The Eligible Entities may capture and remove sea lions at any time of year.
- c) Under this permit, lethal removal of sea lions is not contingent on nonlethal measures.
- d) The use of firearms by the Eligible Entities to kill sea lions is prohibited.
- e) The Eligible Entities shall appoint an Institutional Animal Care and Use Committee (IACUC) composed of veterinarians, marine mammal biologists, and a non-affiliated member who shall represent the community, to advise the Eligible Entities on protocols for capture, darting, anesthetizing, holding, transferring, and euthanasia of sea lions.
- f) Prior to implementation, the IACUC shall develop, and NMFS shall approve, the methods for chemical euthanasia of sea lions.
- g) Prior to implementation, the IACUC shall develop, and NMFS shall approve, the specific methods and protocols for darting and removal of free-ranging sea lions subject to this authorization.
- h) Annually, the IACUC shall reevaluate the methods and protocols and determine any needed modifications.
- i) Annually, NMFS will review the IACUC methods and protocols for darting and removal of free-ranging sea lions administered by the Eligible Entities and affirm that lethal removals are consistent with the definition of humane within the meaning of section 3(4) of the MMPA.

- j) The Eligible Entities will notify and coordinate with local law enforcement/governments and tribes prior to sea lion removal activities as part of a communications strategy to maximize coordination and public awareness.
- k) Any intentional taking must be implemented by qualified individuals. Qualified individuals include the Eligible Entities and their employees and other qualified individuals under contract to such entities.

7) Disposition. Sea lions removed under this permit shall be relocated or disposed of as follows:

- a) Should NMFS notify the Eligible Entities that a pre-approved permanent holding facility (research, zoo or aquarium) is willing to accept an animal(s); the Eligible Entities shall maintain the animal in a temporary holding facility approved by the IACUC for up to 48 hours. If the pre-approved research, zoo or aquarium facility (or their designee) does not collect or make arrangements to collect an animal within 48 hours of its capture, the Eligible Entities may euthanize it.
- b) Like other marine mammals, sea lions are susceptible to a variety of environmental contaminants that bioaccumulate upward through marine food webs to high-level predators. These substances include organochlorines (e.g., polychlorinated biphenyls, dioxins, dichloro-diphenyl-trichloroethane and its derivatives, various other pesticides and herbicides), polybrominated dephenyl ethers, heavy metals (e.g., mercury, copper, selenium, zinc), and may have harmful zoonotic organisms, all of which may have negative health consequences if not handled with appropriate protective gear. Thus, to reduce these risks, we recommend that the Eligible Entities use protective gear to reduce the risk of contamination when handling dead marine mammals. The Eligible Entities shall ensure that the disposal of carcasses, tissues, organs, or parts is in accordance with applicable laws.
- c) If a tribe that is party to this permit has interest in a sea lion carcass for educational and cultural uses⁵, the Eligible Entities may make sea lion carcasses killed pursuant to this permit available to the requesting tribe(s) for educational and cultural uses. *See* 50 CFR 216.22.

8) Monitoring and Reporting.

- a) The Eligible Entities may collect biological samples of sea lions killed pursuant to this permit for scientific research or for educational purposes.

⁵ As proposed in the June 13, 2019, application.

- b) The Eligible Entities shall report all removals of sea lions (i.e., placed in permanent captivity or killed) to the Regional Administrator, NMFS, West Coast Region, within 3 days following removal.
- c) The Eligible Entities shall provide reports to the Regional Administrator, NMFS, West Coast Region, consistent with the marine mammal regulations at 50 CFR 216.22(b) and 50 CFR 216.22(c) regarding all sea lion carcasses provided to tribes for educational and cultural uses.
- d) **Annually, on or before December 1st**, the Eligible Entities shall submit a monitoring report to the Regional Administrator, NMFS, West Coast Region, that includes:
 - i. The number of sea lions observed in the action area.
 - ii. The specific locations (e.g., latitude-longitude or river mile) where the Eligible Entities captured individual sea lions.
 - iii. The number of sea lions killed or transferred by species.
 - iv. The method of removal.
 - v. The number of prey observed⁶ taken by sea lions throughout the action area.
 - vi. The impacts of sea lion predation (e.g., percent predation) on affected at-risk fish stocks in the Columbia River Basin.
 - vii. The preemptive measures, e.g., non-lethal deterrence, taken to reduce sea lion predation on at-risk fish stocks.
 - viii. The Eligible Entity's compliance with the terms and conditions of this authorization, and plans for future actions in compliance with this authorization.
- e) The Eligible Entities shall evaluate the impacts of sea lion predation on at-risk fish species, and the effectiveness (benefits) of permanent removal of predatory sea lions as a method to reduce mortality on at-risk fish species.
 - i. The Eligible Entities shall evaluate key population parameters for at-risk fish species by means of a population viability analysis or equivalent method to estimate the effectiveness of permanent removal of predatory sea lions as a method to reduce or eliminate mortality on at-risk fish species and estimate extinction risks to at-risk fish species.

⁶ When predation impacts cannot be observed, an eligible entity shall use a bioenergetics model or equivalent method.

- ii. **By December 1, 2023**, the Eligible Entities shall submit a 3-year comprehensive report to NMFS on the above-mentioned requirements so NMFS and the Task Force can evaluate the effectiveness of the authorized lethal removal or alternative actions implemented, as required pursuant to section 120(c)(5) of the MMPA.

9) NMFS may modify, suspend, or revoke this authorization at any time with 72 hours' notice to the Eligible Entities.

Recommendations

The following recommendations listed herein are a subset of the recommendations received from the Task Force. NMFS did not adopt these recommendations as mandatory terms and conditions, but we determined that this subset of Task Force recommendations warrant consideration by the Eligible Entities as they will help achieve the goal of reducing/eliminating sea lion predation on at-risk fish species in the Columbia River Basin. Therefore, NMFS requests that the Eligible Entities, to the maximum extent practicable, implement the following recommendations to minimize sea lion predation on at-risk fish species in the Columbia River Basin and-or to help evaluate the effectiveness of the authorized lethal removals or alternative actions. **By December 1, 2023**, the Eligible Entities shall submit a report to NMFS that identifies which recommendations the Eligible Entities have implemented, will implement in the future, or did not implement and any supporting information or data. The report will help inform the program evaluation by NMFS and the Task Force of the authorized lethal removal or alternative actions implemented, pursuant to section 120(c)(5) of the MMPA.

1. Consistent with the intent of the Endangered Salmon Predation Prevention Act, NMFS requests that the Eligible Entities develop a long-term management strategy to prevent the future recruitment of sea lions into the 120(f) geographic area.
2. As recommended by the Task Force, NMFS requests that the Eligible Entities continue to pursue non-lethal methods to reduce sea lion predation on at-risk fish stocks.
3. As recommended by the Task Force, NMFS requests that the Eligible Entities conduct necropsies on euthanized sea lions to monitor sea lion age, disease, diet, and health trends in sea lion populations.
4. As recommended by the Task Force, NMFS requests that the Eligible Entities explore opportunities to displace and-or minimize the use of manmade haul outs by sea lions in the Columbia River.

5. As recommended by the Task Force, NMFS requests that the Eligible Entities look at the rate of sea lion recruits after habituated animals are removed to understand the effectiveness of the lethal removal program.
6. As recommended by the Task Force, NMFS requests that the Eligible Entities, in coordination with the Alaska Fisheries Science Center, monitor Steller sea lion rookeries in northern California (Saint George Reef and Sugarloaf Island), Oregon (Three Arch Rocks, Orford Reef and Rouge Reef), and Washington (Carroll Island and Sea Lion Rock) to assess the population status of Steller sea lions at these rookeries.
7. As recommended by the Task Force, NMFS requests that the Eligible Entities consider creating a way to collect public input and observations on the problem interactions in areas identified as Categories 2 and Category 3.
8. As recommended by the Task Force, NMFS requests that the Eligible Entities consider setting up a program, in coordination with NMFS, which would support or help secure the funds needed for monitoring to evaluate success of the lethal removal program.
9. As recommended by the Task Force, NMFS requests that the Eligible Entities conduct a management strategy evaluation on the performance of the bioenergetics model used to estimate the expected benefits of the MMPA section 120 program.

I look forward to continuing to work cooperatively with the Eligible Entities on implementing measures needed to protect at-risk fish stocks from sea lion predation in the Columbia River Basin. Please contact Robert Anderson, NMFS, West Coast Region, Protected Resources Division, at 503-231-2226 or robert.c.anderson@noaa.gov, if you have any questions about this permit.

Sincerely,



Barry A. Thom
Regional Administrator

cc: Chris Oliver, Assistant Administrator for Fisheries, NMFS
Donna Wieting, Director, Office of Protected Resources, NMFS
Shannon Bettridge, Chief, Marine Mammal and Sea Turtle Conservation Division
Office of Protected Resources, NMFS
Chris Yates, Robert Anderson, Robert Markle, Diana Dishman, West Coast Region,
Protected Resources Division, NMFS
Laurie Beale, NOAA General Counsel Northwest Section
(continued next page)

Jaime Pinkham, Executive Director, Columbia River Inter-Tribal Fish Commission
Kelly Dirksen, Confederated Tribes of the Grand Ronde Community of Oregon
Robert Kentta, Confederated Tribes of Siletz Indians of Oregon
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