



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF520]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Mal Coombs Stairway Replacement Project in Shelter Cove, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Bureau of Land Management (BLM) for authorization to take marine mammals incidental to the Mal Coombs Stairway Replacement Project in Shelter Cove, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in **Request for Public Comments** at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments should be addressed to Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to *ITP.Fleming@noaa.gov*. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>*. In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *<https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>* without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Kate Fleming, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary

of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking; other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below (see also 16 U.S.C. 1362; 50 CFR 216.3, 216.103).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion

Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On January 15, 2026, NMFS received a request from BLM for an IHA to take marine mammals incidental to Mal Coombs Stairway Replacement Project in Shelter Cove, CA. Following NMFS' review of the application, BLM submitted a revised version on January 28, 2026. The application was deemed adequate and complete on February 23, 2026. BLM's initial request was for authorization of take of California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), and harbor seal (*Phoca vitulina*). Following additional analysis, NMFS is proposing to authorize take of these species and northern elephant seal (*Mirounga angustirostris*), by Level B harassment only. Neither BLM nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

BLM is proposing construction to replace a pre-existing wooden stairway that was removed in 2022 with a prefabricated staircase at Mal Coombs Park in Shelter Cove, California. The staircase provides visitors with access to the beach and tidepools.

The presence of construction crews and noise from equipment may result in incidental take via behavioral disturbance (take by Level B harassment) of pinnipeds that haul out near the construction site.

Dates and Duration

The proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness. It will become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. Construction is anticipated to occur between August 1, 2026 and October 31, 2026. However, project delays may occur due to a number of factors, including project funding, permitting requirements, availability of equipment and/or materials, weather-related delays, equipment maintenance and/or repair, and other contingencies.

Construction is planned to take place for up to 4 days, for up to 8 daylight hours each day. Two construction segments consisting of two days each will be separated by a 2-week curing period. However, to account for unforeseen delays due to inclement weather, mechanical failures, or slower production rates, NMFS and BLM estimate that the project would be completed in up to 5 days.

Specific Geographic Region

Mal Coombs Park is one of four coastal locations and green spaces that BLM manages within Shelter Cove, California. The BLM maintains a large parking area, two restrooms, an information kiosk, interpretive panels, trash cans, and a large picnic area with barbeque facilities at Mal Coombs Park. The park receives approximately 95,000 visitors annually. The project is planned along the Mal Coombs Stairway Trail, which is a steep coastal access path that leads down to a small, rocky beach and tide pools.



Figure 1 -- Project location at Mal Coombs Park in relation to beach and intertidal rocks where pinnipeds haul out

Detailed Description of the Specified Activity

Stairway replacement on the Mal Coombs Stairway Trail would require construction at three sites:

1. Upper landing: located at the top of the bluff, within a 10 by 10 foot (ft; 3 by 3 meter (m)) section that is south and east of the Mal Coombs Stairway Trail trailhead. The Upper Landing is approximately 90 ft (27 m) from the nearest harbor seal haulout on the beach and approximately 388 ft (118 m) from the sea lion haulout on the intertidal rocks.

2. Middle landing: A 6 by 6 ft (1.8 by 1.8 m) area along the stretch of the Mal Coombs Stairway Trail located halfway between the Upper Landing and the Lower Landing. The Middle Landing is approximately 62 ft (19 m) from the harbor seal haulout on the beach and approximately 375 ft (114 m) from the sea lion haulout on the intertidal rocks.

3. Lower landing: Existing concrete pad at the top of the current staircase. The Lower Landing is approximately 48 ft from the nearest harbor seal haul-out and 348 ft from the sea lion haulout on the intertidal rocks.

A landing would be installed at the Upper Landing site and Middle Landing site (two landings total), as no current landing pad exists at these locations. Concrete piers and steel posts would also be installed at the Upper and Middle landings, in locations that have been determined as not likely to contain cultural resources. Two sets of stairs would be installed between the Upper and Middle landings and the Middle and Lower landings so that they “float” above the existing trail, limiting further erosion.

On the first day of construction, the Upper and Middle Landing sites would be cleared of vegetation and leveled using hand tools, weed eaters, and shovels.

On the second day of construction, a two-person crew would use an auger to excavate eight 8-inch (in; 20 centimeter (cm)) diameter holes at the Upper landing site and eight 8-inch (20 cm) diameter holes at the Middle landing site to create space for the installation of 8-in by 4 ft (20 cm by 1.2 m) deep concrete piers. BLM estimates that the drilling of each hole could take 30 minutes to 1 hour.

As the auger crew drills and moves to the next pier location, another two- to four-person crew would insert a Sono tube form and pump concrete from a concrete mixing truck located in the parking lot (280 ft (85 m) from the nearest harbor seal haulout), to construct concrete piers. Posts would be set into the concrete piers.

The concrete piers would need a two-week curing period. During this time, no construction activities would be planned at the project site.

After the curing period (approximately 18 days into the construction project), construction would resume at the project site. BLM estimates approximately 2 days of construction would be needed to anchor a metal or Fiber Reinforced Polymer stair landing to the posts and float above the ground and piers, using crews of two to four people. All of these components would be installed manually with standard power tools.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see **Proposed Mitigation** and **Proposed Monitoring and Reporting**).

Description of Marine Mammals in the Area of Specified Activities

The application summarizes available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader

to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual mortality and serious injury (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs. All values presented in table 1 are the most recent available at the time of

publication (including from the draft 2024 SARs) and are available online at:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

Table 1 -- Species, Stocks, and the Status of Marine Mammals¹ with Estimated Take from the Specified Activities

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Carnivora – Pinnipedia						
<i>Family Otariidae (eared seals and sea lions)</i>						
California sea lion	<i>Zalophus californianus</i>	U.S.	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller sea lion	<i>Eumetopias jubatus</i>	Eastern	-, -, N	36,308 (N/A ⁵ , 36,308, 2022)	2,178	93.2
<i>Family Phocidae (earless seals)</i>						
Harbor seal	<i>Phoca vitulina</i>	CA	-, -, N	30,968 (N/A, 27,348, 2012)	1,641	43
Northern elephant seal	<i>Mirounga angustirostris</i>	CA Breeding	-, -, N	187,386 (N/A, 85,369, 2013)	5,122	13.7

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

⁵ N_{est} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys. Estimates provided are for the U.S. only.

As indicated above, all four species (with four managed stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.

California Sea Lion

California Sea lions breed on the offshore islands of southern and central California from May through July (Heath and Perrin, 2008). During the non-breeding season, adult and subadult males and juveniles migrate northward along the coast to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson, *et al.* 1993). Females and some juveniles tend to remain closer to rookeries (Melin *et al.*, 2008). In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

In preparation for this project, BLM conducted pinniped census surveys of the beach and intertidal rocks on 12 days between June 3 and September 29, 2025. California sea lions were regular visitors, with animals present on the intertidal rocks on 10 out of 12 survey days. An average of 21 adult California sea lions were present each day (ranging between 0 and 56 adults). A total of 3 California sea lion pups were documented on a single day in late June.

Steller Sea Lion

Steller sea lions are most typically found in coastal waters on the continental shelf, but they also occur and sometimes forage in much deeper continental slopes and pelagic waters. Haulout and rookery sites consist of beaches (gravel, rocky, or sand), ledges, and rocky reefs. They usually return to their natal rookery sites to breed. The eastern stock of Steller sea lions has historically bred on rookeries located in Southeast Alaska, British Columbia, Oregon, and California. Within the last several years a new rookery has become established on the outer Washington coast (Muto *et al.*, 2020).

During BLM's pinniped census surveys (described above), a total of 7 adult Steller sea lions were observed on the intertidal rocks on just one survey day in mid-July.

Harbor Seal

Harbor seals tend to exhibit strong site fidelity within seasons and across years, generally forage close to haulout sites, and repeatedly visit specific foraging areas (Suryan and Harvey, 1998; Thompson *et al.*, 1998). Harbor seals tend to forage at night and return to the haulout during the day with the highest proportion of seals coming ashore around low tide (Brown and Mate 1983, Schneider and Payne 1983).

During BLM's pinniped census surveys (described above), harbor seals were found to be regular visitors, with animals hauled out on the beach on 10 out of 12 survey days. An average of 32 adult harbor seals were present each day (ranging between 0 and 104 adults). A total of six harbor seal pups were documented across the first 2 survey days in June.

Northern Elephant Seal

Northern elephant seals (*Mirounga angustirostris*) range widely throughout the eastern Pacific for most of the year to forage. They return to haulout locations along the west coast of the continental United States including the Channel Islands, the central California coast, and islands off Baja California, to breed and molt. Breeding occurs from mid-December through the end of March, with males returning to haulout locations earlier than females to establish dominance hierarchies. Molting occurs from late April to August, with juveniles and adult females returning to haulout locations earlier than adult males.

During BLM's pinniped census surveys (described above), no northern elephant seals were observed. However, single northern elephant seals occasionally haul out on beaches to molt or rest, and there is a known northern elephant seal colony just 35 km to

the north of Mal Coombs Park, on the beach below Punta Gorda Lighthouse. As such, it is possible that northern elephant seals could occur in the project area during the project period.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The **Estimated Take of Marine Mammals** section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The **Negligible Impact Analysis and Determination** section considers the content of this section, the **Estimated Take of Marine Mammals** section, and the **Proposed Mitigation** section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Presence of Humans

Visual and acoustic stimuli generated by the appearance of construction personnel and construction equipment may have the potential to cause Level B harassment of pinnipeds hauled out on the beach and intertidal rocks at Mal Coombs Park. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.*, personnel presence and noise from use of construction equipment) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take. This section provides background information on

potential effects of these activities. For a discussion of the manner in which the mitigation measures will be implemented, and how the mitigation measures will shape the anticipated impacts from this specific activity, see the **Proposed Mitigation** section below.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Southall *et al.*, 2007; Weilgart 2007). These behavioral reactions from marine mammals are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle responses or aggressive behavior; avoidance of areas; and/or flight responses (*e.g.*, pinnipeds flushing into the water from haulouts or rookeries). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder 2007; Weilgart, 2007). Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.*, 1984; Suryan and Harvey, 1999; Ruiz-Mar *et al.*, 2022; Bankhead *et al.*, 2023). The Hawaiian monk seal (*Neomonachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972; Gerrodette and Gilmartin, 1990). In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at

Northeast Point on St. Paul Island, Alaska (Kenyon, 1962), a behavior demonstrated at other locations as well (Kucey, 2005; Chayahara *et al.*, 2024).

The appearance of personnel may have the potential to cause Level B harassment of any pinnipeds hauled out at research sites. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of field personnel (*e.g.*, turning the head, assuming a more upright posture) to flushing from the haulout site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that flee some distance or change the speed or direction of their movement in response to the presence of field personnel are behaviorally harassed, and thus subject to the taking by Level B harassment. Animals that respond to the presence of field personnel by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Avoidance

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). Avoidance is qualitatively different from the flight response, but also differs in the magnitude of the response (*i.e.*, directed movement, rate of travel, *etc.*). Often avoidance is temporary, and animals return to the area once the noise has ceased. Acute avoidance responses have been observed in captive porpoises and pinnipeds exposed to a number of different sound sources (Kastelein *et al.*, 2001; Finneran *et al.*, 2003; Kastelein *et al.*, 2006a; Kastelein *et al.*, 2006b; Kastelein *et al.*, 2015a; Kastelein *et al.*, 2015b; Kastelein *et al.*, 2018). Short-

term avoidance of seismic surveys, low frequency emissions, and acoustic deterrents have also been noted in wild populations of odontocetes (Bowles *et al.*, 1994; Goold, 1996; Goold and Fish, 1998; Morton and Symonds, 2002; Hiley *et al.*, 2021) and to some extent in mysticetes (Malme *et al.*, 1984; McCauley *et al.*, 2000; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006). While NMFS acknowledges that most research and literature cited here is related to cetaceans, who are not expected to be harassed or taken by BLM's specified activities, we include these to provide context as pinnipeds behaviorally react in a similar manner when expected to an external stimulus (*e.g.*, human presence, noise, *etc.*) when onshore or in the water.

While NMFS expects that hauled out pinnipeds may avoid the BLM field personnel, we expect these effects would be temporary. Harbor seals in particular have high site fidelity; any external stimuli would be fleeting, and easily avoidable, meaning that the pinnipeds, if performing avoidance behaviors during activities, would be able to resume their original behaviors once the stimulus has ended.

Flight Response

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the

presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). There are limited data on flight response for marine mammals in water; however, there are examples of this response in species on land. For instance, the probability of flight responses in Dall's sheep (*Ovis dalli dalli*) (Frid, 2003), hauled out ringed seals (*Phoca hispida*) (Born *et al.*, 1999), Pacific brant (*Branta bernicla nigricans*), and Canada geese (*B. canadensis*) increased as a helicopter or fixed-wing aircraft more directly approached groups of these animals (Ward *et al.*, 1999). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been observed in marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates and efficiency (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998).

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007).

Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding (which is typically a response to startle and/or avoidance behaviors), a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are: (1) pinnipeds falling when entering the water at high-relief locations (*e.g.*, cliffs); (2) extended separation of mothers and pups; and (3) crushing of pups by larger animals during a stampede. However, NMFS does not expect any of these scenarios to occur at Mal Coombs Park. As stated, there is the risk of injury if animals stampede towards shorelines with precipitous relief; however, at Mal Coombs Park, pinniped out sites are primarily offshore rocks that have little relief, with the harbor seal sites becoming

submerged at high tide. While the sea lion haul outs are always exposed, they are not very steep.

Habituation

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a “progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,” rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud impulsive sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Stress Response

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and “distress” is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” However, distress is an unlikely result of these projects based on observations of marine mammals during previous, similar research and monitoring projects.

Marine Mammal Habitat Effects

There are no habitat modifications associated with the proposed activity other than the presence of project personnel to perform the proposed activities and to monitor animals. No substantial construction is anticipated to occur for this proposed project, only activities that rise to the level of maintenance, removal, and installation, which are all expected to occur within a small footprint when compared to the entire size of the available habitat at Mal Coombs Park. Moreover, construction is planned for just 4 days across a 3-week period. Thus, NMFS does not expect that the proposed activity would

have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat at Mal Coombs Park

Proposed Activities on Potential Foraging Habitat

Marine mammal prey (*e.g.*, fish) varies by species, season, and location. However, as all of the BLM's proposed activities are occurring onshore and the prey species for pinnipeds are located in the ocean, NMFS does not expect the proposed activities to affect the habitat, availability, or presence of prey for pinnipeds.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of behavioral reactions for individual marine mammals resulting from exposure to construction crew and noise associated with the operation of their equipment. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below, in the *Take Estimation* section, we describe how the proposed take numbers are estimated.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations.

As described in the **Description of Marine Mammals in the Area of Specified Activities** section, BLM conducted pinniped census surveys of the beach and intertidal rocks at Mal Coombs Park on 12 days between June 3 and September 29. Counts of California sea lions, Steller sea lions, and harbor seals are presented below:

Table 2 -- Pinniped census counts at Mal Coombs Park

Survey Date	Number of Harbor seals (pups)	Number of California sea Lions (pups)	Number of Steller sea lions
June 3, 2025	80 (4)	6	0
June 20, 2025	85 (2)	10	0
June 25, 2025	12	56 (3)	0
July 9, 2025	104	0	0
July 17, 2025	14	0	0
July 23, 2025	32	16	7
August 19, 2025	0	24	0
August 27, 2025	0	34	0
August 31, 2025	4	28	0
September 16, 2025	11	35	0
September 23, 2025	36	25	0
September 29, 2025	6	15	0
Average daily count	33	21	1
Maximum daily count	104	56	7

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization.

Generally, take estimates are the product of marine mammal occurrence and the proposed number of days of construction. Specifically, take estimates are calculated by multiplying the expected daily occurrence of marine mammals in the activity area by the number of construction days planned. A summary of the method is illustrated with the following formula:

$$\text{Estimated take} = \text{Marine mammal occurrence} \times \# \text{ of construction days.}$$

In its application, BLM bases marine mammal occurrence assumptions on the daily average occurrence reported during BLM's 2025 census surveys described above. However, since the duration of this project is very short (just 5 construction days), NMFS bases marine mammal occurrence assumptions on the maximum daily occurrence observed during BLM's 2025 census surveys described above to account for the possibility that larger numbers of pinnipeds could occur on site on the few days when construction activities are implemented.

BLM estimates take by Level B harassment for each species according to Level 2 and Level 3 of the Levels of Pinniped Behavioral Disturbance Scale (see table 4). However, NMFS does not differentiate between these levels when estimating take by Level B harassment. As such, NMFS and BLM have agreed to revise estimated take by Level B harassment according to the inputs displayed in table 3. Therefore, NMFS proposes to authorize 280 takes by Level B harassment of California sea lions, 35 takes

by Level B harassment of Steller sea lions, and 520 takes by Level B harassment of harbor seals.

BLM has not documented northern elephant seals at the haul outs at Mal Coombs Park and BLM and NMFS are not aware of reports of this species occurring at the project site from other sources. However, NMFS proposes to authorize a total of two takes by Level B harassment of northern elephant seals to account for the potential that this species occurs at the project site during the construction period.

Table 3 -- Take by stock and as a percentage of stock abundance

Species	Stock	Construction Days	Marine mammal occurrence ¹	Total take estimated and proposed for authorization	% Stock
California sea lion	U.S.	5	56	280	<1
Steller sea lion	Eastern	5	7	35	<1
Harbor seal	California	5	104	520	<1
Northern elephant seal	California breeding	N/A	N/A	2	<1

¹Occurrence of California sea lions, Steller sea lions, and harbor seals is based on the maximum daily occurrence reported from BLM's 2025 pinniped census data.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

The mitigation requirements described in the following were proposed by BLM in its adequate and complete application or are the result of subsequent coordination between NMFS and BLM. BLM has agreed that all of the mitigation measures are practicable. NMFS has fully reviewed the specified activities and the mitigation measures to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat, as required by the MMPA, and has determined the proposed measures are appropriate. NMFS describes these below as proposed mitigation requirements and has included them in the proposed IHA:

- BLM intends to implement the project outside of the harbor seal pupping season, in the late summer, to ensure that any hauled-out harbor seal pups would be old enough to be self sufficient if the colony temporarily flushes into the water. This is described here due to the beneficial effects of project timing, but is considered part of BLM's described specified activity rather than a mitigation measure.

- At least one professional wildlife biologist employed by BLM would serve as a Protected Species Observer (PSO) to monitor for marine mammals.

- The PSO must observe the site from a distance to detect any marine mammals prior to approach to determine if mitigation is required.

- BLM would delay visits to the project site if offshore pinniped predators are observed in the area prior to commencing work.

- BLM would cease or delay visits to the project site if a species for which the number of takes that have been authorized for a species are met, or if a species for which takes were not authorized, is observed.

- Training would be required to ensure that construction supervisors and crews, monitors, and relevant BLM staff are trained prior to the start of activities subject to this IHA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood, and

- Operations would be suspended if a dead or injured marine mammal is found near the project area and the death or injury of the animal could be attributable to BLM activities. Any such takes will immediately be reported to the Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.fleming@noaa.gov*) and the West Coast Regional Stranding Coordinator (562-980-3264).

NMFS conducted an independent evaluation of the proposed measures, and has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described in the following were proposed by BLM in its adequate and complete application and/or are the result of subsequent coordination between NMFS and BLM. BLM has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed IHA.

Monitoring would be conducted by at least one trained wildlife biologist employed by BLM. Prior to the work crew arriving on site to commence work each day, the PSO would conduct counts of hauled out pinnipeds for at least 10 minutes. The PSO would record all observations of marine mammals, regardless of distance to construction activities.

In addition to the daily pre-activity count data, at least one PSO would monitor for haulout disturbances. This monitoring would continue through the duration of the construction activity. Methods for recording disturbances would follow a three-point scale as shown in table 4. For each disturbance event, the disturbance source and seal response would be recorded and tallied. We specifically note that only observations of disturbance levels 2 and 3 would be recorded as takings.

Table 4 -- Levels of Pinniped Behavioral Disturbance

Level	Type of Response	Definition
0	Observation	Observation by PSO; no disturbance to pinniped
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Note: Only Levels 2 and 3 would be recorded as takes by Level B harassment.

Reporting

A draft marine mammal monitoring report would be submitted to NMFS within 90 days following the end of the project activities or 60 calendar days prior to the requested issuance of any subsequent IHA for similar activity at the same location, whichever comes first. The draft summary report would include an overall description of the construction activities completed, a narrative regarding marine mammal sightings,

and associated raw PSO data sheets (in electronic spreadsheet format). Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Start and end time of activity;
- PSO location during marine mammal monitoring;
- Environmental conditions during monitoring periods;
- Seal census data from pre-activity haul-out monitoring including
 - Time of the sighting;
 - Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), observer confidence in identification, the composition of the group if there is a mix of species;
 - Estimated number of animals (min/max/best estimate);
 - Estimated number of animals by cohort (*e.g.*, adults, juveniles, neonates, group composition, *etc.*);
- Details of any marine mammal behavioral disturbances, including information regarding the activity, the estimated distances between the activity and seals when disturbance occurs, the type of behavioral response to the disturbance (according to the 3-point scale as shown in table 2), and the estimated number of seals taken (by species and age class if possible); and
- Detailed information about implementation of any mitigation, a description of specified actions that ensured, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days after the submission of the draft summary report, the draft report would constitute the final report. If BLM receives comments from NMFS, a final summary report addressing NMFS' comments must be submitted within 30 days after receipt of comments.

Additionally, BLM would report all observations of marked or tag-bearing pinnipeds or carcasses and unusual behaviors, or numbers of pinnipeds to the NMFS West Coast Regional Office.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, BLM would report the incident to the NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Fleming@noaa.gov*) and the NMFS West Coast Regional Stranding Coordinator ((562) 980-3230). If death or injury was clearly caused by the specified activity, BLM would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHAs. The BLM would not resume their activities until notified by NMFS. The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved incident;
3. Condition of the animal(s) (including carcass condition if the animal is dead);

4. Observed behaviors of the animal(s), if alive;
 5. Photographs or video footage of the animal(s) (if the equipment is available);
- and
6. General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to California sea lions, Steller sea lions and harbor seals, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Construction activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level B harassment from the construction crew's movements and equipment handling. Potential takes could occur if individuals of these species are present nearby when these activities are underway. No injuries or mortalities are anticipated to occur as a result of BLM's Mal Coombs Stairway Replacement Project, and none are proposed to be authorized.

Typically, even those reactions constituting Level B harassment would result, at most, in a temporary, short-term behavioral disturbance. Construction crew would be present on site for no more than 2 consecutive days, and only four 8-hour construction days are planned in total. Therefore, disturbance of pinnipeds resulting from the presence of construction crew would last only for short periods.

Of the marine mammal species anticipated to occur in the proposed activity areas, none are listed under the ESA, and there are no known areas of biological importance in the project area. Taking into account the planned mitigation measures, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary displacement from haul-out sites, pinnipeds are not expected to permanently abandon any area. No adverse effects to prey species are anticipated as no work would occur in-water, and habitat impacts are limited and highly localized, consisting of the

placement of two new landing pads to support a stairway installation adjacent to the beach where pinniped haul out. Based on this analysis of the likely effects of the specified activity on marine mammals and their habitat, and considering the implementation of the proposed mitigation and monitoring measures, NMFS finds that the total marine mammal incidental take from BLM's construction will not adversely affect annual rates of recruitment or survival. Therefore, such incidental take will have a negligible impact on the affected species or stocks.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- No take by Level A harassment is expected, or proposed for authorization;
- The intensity of anticipated takes by Level B harassment is relatively low for all stocks. Level B harassment would be in the form of behavioral disturbance, resulting in temporary avoidance of the haul-out adjacent to the construction site;
- Few pups are expected to be disturbed, and would not be abandoned or otherwise harmed by other seals flushing from the area;
- No prey species (*i.e.*, fish) would be affected by the proposed activities.

Therefore any associated impacts on marine mammal foraging is not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations;

- No impacts to pinniped habitat are anticipated; and

- Effects of the construction activities would be limited to short-term, localized behavioral changes;

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS is proposing to authorize incidental take by Level B harassment of four species (four stocks) of marine mammals. The maximum number of instances of takes by Level B harassment, relative to the best available population abundance, is less than one-third for all species and stocks potentially impacted (table 3).

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of incidental take authorizations, NMFS consults internally whenever we propose to authorize take for ESA-listed species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to BLM for conducting the Mal Coombs Stairway Replacement Project at Shelter Cove, CA, provided the previously mentioned mitigation, monitoring, and reporting

requirements are incorporated. A draft of the proposed IHA can be found at:

<https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Mal Coombs Stairway Replacement Project. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the **Description of Proposed Activity** section of this notice is planned or (2) the activities as described in the **Description of Proposed Activity** section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).
- The request for renewal must include the following:

1. An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

2. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: March 23, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources,

National Marine Fisheries Service.

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