

increase. Also, adult northern elephant seals may trample elephant seal pups if disturbed. Trampling increases the risk of injury or death to the pups.

NMFS concurs that all research activities be suspended, and that NMFS immediately be notified, in the case that mortality or serious injury to a marine mammal occurs which appears to be related to the abalone research. The following required mitigation measures will both reduce the possibility of incidental harassment takes and lower the possibility of serious injury or mortality.

#### Mitigation

Researchers will be judicious in the route of approach to abalone study sites, avoiding close contact with pinnipeds hauled out on shore. In no case will marine mammals be deliberately approached by abalone researchers, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals harassed. Each visit to a given study site will last for a maximum of 4 hours, after which the site is vacated and can be reoccupied by any hauled marine mammals that were disturbed by the presence of abalone researchers. NMFS will be notified immediately and all research activities will be suspended in the case that mortality or serious injury to a marine mammal occurs which appears to be related to the abalone research.

Researchers will avoid visiting those black abalone study sites with resident pinnipeds during periods of breeding and lactation from February through October. During these periods of time, abalone research activities will be confined to black abalone sites where pinniped breeding and post-partum nursing does not occur.

Researchers will limit visits to site 8 to the period from November through January, and suspend research activities and immediately vacate any areas upon which Guadalupe fur seals are hauled out or that California sea otters are occupying.

#### Monitoring

Dr. Glenn VanBlaricom and associates will conduct marine mammal monitoring during abalone surveys in order to verify that the taking of marine mammals, by harassment, incidental to abalone research surveys, will have a negligible impact on marine mammal stocks and to ensure that these harassment takings are at the lowest level practicable.

Currently, all biological research activities at SNI are subject to approval

and regulation by the Environmental Planning and Management Department (EPMD), US Navy. The US Navy owns SNI and closely regulates all civilian access to and activity on the island, including biological research. Therefore, monitoring activities will be closely coordinated with Navy marine mammal biologists located on SNI.

In addition, status and trends of pinniped aggregations at SNI are monitored by the NMFS Southwest Fisheries Science Center. Also, ongoing long-term studies of pinniped population dynamics, migratory and foraging behavior, and foraging ecology at SNI are conducted by staff at Hubbs-Sea World Research Institute (HSWRI).

Monitoring requirements in relation to Dr. VanBlaricom's abalone research surveys will include observations made by the applicant and his associates. Observations of unusual behaviors, numbers, or distributions of pinnipeds on SNI will be reported to EPMD, NMFS, and HSWRI so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to EPMD, allowing transmittal of this information to appropriate agencies and personnel.

#### Reporting

A draft final report must be submitted to the Regional Administrator, and the Director, Office of Protected Resources, NMFS, within 60 days after the conclusion of the year-long field season. A final report must be submitted to the Regional Administrator and the Director, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

#### Endangered Species Act (ESA)

NMFS has determined that the abalone research activities and the accompanying IHA will not have an effect on species listed under the ESA. Therefore, consultation under Section 7 was not required.

#### National Environmental Policy Act

In accordance with the NOAA Administrative Order 216-6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999), NMFS has determined, based on a programmatic NEPA assessment conducted on the impact of NMFS' rulemaking for the issuance of IHAs (61 FR 15884; April 10, 1996) and the

content and analysis of Dr.

VanBlaricom's request for an IHA, that the proposed issuance of this IHA to Dr. VanBlaricom by NMFS will not individually or cumulatively result in a significant impact on the quality of the human environment as defined in 40 CFR 1508.27. Therefore, the action of issuing an IHA for these activities meets the definition of a "Categorical Exclusion" and is exempted from further environmental review.

#### Determinations

NMFS has determined that the impact of abalone research, as described in this document, in the earlier **Federal Register** notice published on June 25, 2003 (68 FR 37799), and in the application for an IHA, should result, at worst, in the temporary modification in behavior by California sea lions, Pacific harbor seals and northern elephant seals. The effects of abalone research surveys on SNI are expected to be limited to short term and localized changes in behavior involving relatively small numbers of pinnipeds. While behavioral modifications, including temporarily vacating onshore haulouts, may be made by these species to avoid the presence and nearness of abalone researchers, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of mitigation measures.

#### Authorization

NMFS has issued an IHA to Dr. Glenn R. VanBlaricom to take small numbers of Pacific harbor seals, California sea lions and Northern elephant seals for a 1-year period incidental to abalone population trend research, provided the previously mentioned mitigation, monitoring, and reporting requirements described in this document are undertaken.

Dated: September 23, 2003.

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National Marine Fisheries Service.*

[FR Doc. 03-25142 Filed 10-2-03; 8:45 am]

**BILLING CODE 3510-22-S**