



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

May 12, 2011

Mr. Phil Anderson
Director
Washington Department of Fish and Wildlife
600 Capitol Way, North
Olympia, Washington 98501

Dear Mr. Anderson:

I approve, with specific conditions, your December 7, 2010, request to “reinstate the LOA [Letter of Authorization] that will allow us to minimize sea lion predation on salmonids in the Columbia River.” NOAA Fisheries has conducted a thorough analysis in accordance with Section 120 of the Marine Mammal Protection Act (MMPA), and has determined that certain individually identifiable California sea lions are having a significant negative impact on the decline or recovery of several stocks of salmon and steelhead listed under the Endangered Species Act (ESA).

By way of background, NOAA Fisheries partially approved your December 2006 request for lethal removal authority in 2008 and issued letters of authorization to lethally remove individually identifiable predatory California sea lions at Bonneville Dam. Shortly thereafter, the Humane Society of the United States filed a lawsuit claiming that NOAA Fisheries’ decision to authorize the lethal removal of California sea lions violated the MMPA and National Environmental Policy Act (NEPA). NOAA Fisheries succeeded in the district court, but the Ninth Circuit vacated and remanded the agency’s MMPA Section 120 lethal removal authorization in November 2010 (but the court upheld NOAA Fisheries’ NEPA analysis). In response, NOAA Fisheries conducted additional analyses and has once again made the requisite findings under the MMPA.

As was the case in your 2008 LOA, lethal removal is authorized only if Oregon Department of Fish and Wildlife and Washington Department of Fish and Wildlife (States) are in compliance with the following terms and conditions. Please read these conditions carefully as several of them have changed since your last approval. For example, in term and condition 1, the observation area has been adjusted to include the forebay of Bonneville Dam. In addition, in term and condition 4, we are requiring the appointment of an Institutional Animal Care and Use Committee.

Terms and Conditions

- 1) The States may lethally remove individually identifiable predatory California sea lions that are having a significant negative impact on ESA-listed salmonids. NOAA Fisheries considers such animals to be individually identifiable predatory California sea lions that are having a significant negative impact on ESA-listed salmonids if they



display natural or applied features that allow them to be individually distinguished from other California sea lions and:

- a) have been observed eating salmonids at Bonneville Dam, in the “observation area” below the dam, in the fish ladders, or above the dam, between January 1 and May 31 of any year;
 - b) have been observed at Bonneville Dam on a total of any 5 days (consecutive days, days within a single season, or days over multiple years) between January 1 and May 31 of any year; and
 - c) are sighted at Bonneville Dam after they have been subjected to active non-lethal deterrence.
- 2) The California sea lions currently identified as meeting the description in paragraph 1 are included in the Appendix. In consultation with the States, the NOAA Fisheries Northwest Regional Administrator may periodically amend the Appendix to accurately report those individuals that meet the description in paragraph 1 and thus are authorized for removal. Such amendments shall be in writing.
 - 3) The States may not lethally remove more than 1 percent of the potential biological removal level (PBR) annually. The current PBR for this population of California sea lions is 8,511. NOAA Fisheries periodically revises the PBR of California sea lions as new information becomes available. Any revised PBR calculations would be reported in annual marine mammal stock assessment reports.
 - 4) The States shall appoint an Institutional Animal Care and Use Committee (IACUC) composed of a veterinarian, marine mammal biologists and a non-affiliated member who will represent the community, to advise States on protocols for capture, holding and euthanasia of individually identifiable predatory California sea lions.
 - 5) The States, in consultation with NOAA Fisheries, will assume the lead role for the capture of predatory sea lions. Individually identifiable predatory sea lions that are captured in a trap must be held in a temporary holding facility approved by the IACUC for at least 48 hours prior to being euthanized, pending a determination of the availability of a permanent holding facility (as an alternative to euthanasia). Such sea lions may, in coordination with NOAA Fisheries, be transferred to a NOAA Fisheries’ pre-approved holding facility (research, zoo, aquarium) to be maintained in permanent captivity. If no pre-approved research, zoo, or aquarium facility is willing to accept an animal within 48 hours of its capture, the States may euthanize it. The method of euthanizing captured predatory sea lions must be approved by the IACUC.
 - 6) Free-ranging individually identifiable predatory California sea lions may be shot by a qualified marksman shooting from land, the dam, or other shoreline structures, so long as the identified sea lion is: (1) hauled out on shore or on the concrete apron along the north side of Cascade Island; (2) hauled out on the flow deflectors along the base of the Bonneville Dam spillway; or (3) in the water so long as it is no greater than 50 feet from shore or apron on the north side of Cascade Island or from the dam at powerhouses one and two. The firearms for shooting at distances greater than 25

yards shall include a high-powered rifle (.240 caliber or above). For shooting at distances less than 25 yards a high-powered rifle or, a 12-gauge or above shotgun loaded with slugs or 00 buckshot, may be used. Ammunition shall not contain lead.

- 7) The States shall make all reasonable efforts to retrieve carcasses of animals that have been shot. The States shall monitor nearby downstream areas for stranded animals that have been shot but not retrieved immediately.
- 8) Safety and security during lethal removal activities shall be provided by the States of Oregon and Washington in coordination with the Columbia Basin Law Enforcement Council, and the Corps of Engineers, Portland District. The States shall establish an Incident Command Center (ICC) during lethal removal activities. The ICC shall direct safety and security and provide a media interface. The ICC shall coordinate security and safety activities with the Corps of Engineers, the Coast Guard, and other agencies as necessary.
- 9) The States shall notify the Corps of Engineers, Portland District, and the Project Manager at Bonneville Locks and Dam, prior to lethal removal operations. The ICC shall consult with the Corps regarding road closures or changes to visitation on Corps of Engineers property/dam facilities.
- 10) The States shall ensure that the transfer or disposal of any carcass is in accordance with applicable law. At NMFS' request and to the extent practicable the States shall make the carcasses, or tissues from them, of sea lions killed pursuant to this authorization available for use in scientific research or for educational purposes.
- 11) The States shall report any permanent removals of predatory sea lions (either transferred to permanent captivity or euthanized) to the Regional Administrator, NOAA Fisheries, Northwest Region, within 3 days following removal.
- 12) The States shall develop and implement a monitoring plan to evaluate 1) the impacts of predation, 2) the effectiveness of non-lethal deterrence, and 3) the effectiveness of permanent removal of individually identifiable predatory sea lions as a method to reduce adult salmonid mortality. To the extent practicable the States shall use data collected by the Corps of Engineers or other agencies to help fulfill the monitoring requirement, avoid duplication of effort, and ensure data consistency across programs.
- 13) The States shall submit annual monitoring reports to the Regional Administrator, NOAA Fisheries, Northwest Region, on or before November 1. The annual reports shall include a summary of actions taken to reduce predation (non-lethal and lethal), the States' compliance with the terms and conditions of this authorization, and plans for future actions in compliance with this authorization.
- 14) The States shall periodically review observation data collected by the Corps' Fisheries Field Unit to determine if additional individually identifiable California sea

lions qualify as predatory (as defined in paragraph 1) and notify the NOAA Fisheries' Northwest Regional Administrator if so. NOAA Fisheries may amend the Appendix, as described in paragraph 2.

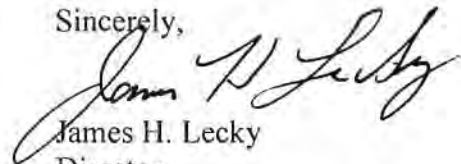
15) This authorization may be modified or revoked by NOAA Fisheries at any time with 72 hours' notice to the States.

16) This authorization is valid until June 30, 2013, at which time it may be extended by NOAA Fisheries for an additional period to be determined by NOAA Fisheries.

NOAA Fisheries requests that the States continue to cooperate to the maximum extent practicable in the pursuit of alternative technologies or methods to that both reduce California sea lion predation on salmonids and the number of permanent removals of sea lions. Additionally, if resources are available, the States are encouraged to monitor pinniped impacts on salmonids elsewhere in the lower Columbia River.

I look forward to continuing working cooperatively with the States on implementing measures needed to protect salmonids from sea lion predation at Bonneville Dam. Please contact Garth Griffin, NOAA Fisheries Northwest Region, Protected Resources Division, at 503 231-2005 if you have any questions about this authorization.

Sincerely,



James H. Lecky

Director

Office of Protected Resources

National Marine Fisheries Service

Attachment (1)

cc: William W. Stelle, Jr., NMFS Northwest Region
Roy Elicker, Oregon Department of Fish and Wildlife

APPENDIX 1

APPENDIX 1 - 2011 Letter of Authorization for States' lethal removal authority - May 12, 2011						
PREDATORY CALIFORNIA SEA LIONS AUTHORIZED FOR IMMEDIATE REMOVAL						
<u>Serial Number</u>	<u>Appendix Date</u>	<u>Appendix Id.</u>	<u>aka</u>	<u>Brand Date</u>	<u>Removal Date</u>	<u>Disposition</u>
1	3/17/2008	C319	B239	9/18/2002	4/24/2008	Transfer to Sea World
2	3/17/2008	C265	B237	4/5/2002	3/10/2009	Killed by injection - health fail
3	3/17/2008	C309	B238	8/29/2002		
4	3/17/2008	C643	B242, B152	4/4/2007	3/17/2009	Killed by injection - health fail
5	3/17/2008	C404		3/11/2003		
6	3/17/2008	C192		3/12/2001		
7	3/17/2008	C699	B246	5/17/2007		
8	3/17/2008	C443		4/18/2003		
9	3/17/2008	C507	B145	3/31/2004	3/18/2009	Transfer to Shedd Aq.
10	3/17/2008	C322		9/23/2002		
11	3/17/2008	C440	B52, B189	4/16/2003		
12	3/17/2008	C417		3/27/2003	3/9/2010	Killed by injection - no facility
13	3/17/2008	C247		2/22/2002		
14	3/17/2008	C398		2/27/2003		
15	3/17/2008	C444		4/25/2003		
16	3/17/2008	C257		3/15/2002		
17	3/17/2008	C390		2/10/2003		
18	3/17/2008	C635	B240	3/5/2007	3/11/2009	Killed by injection - health fail
19	3/17/2008	C287		5/8/2002		
20	3/17/2008	C554		9/6/2005	4/1/2009	Killed by injection - health fail
21	3/17/2008	C379		1/31/2003		
22	3/17/2008	C640	B241	3/5/2007	4/28/2008	Transfer to Sea World
23	3/17/2008	C668	B244	4/25/2007	4/28/2008	Transfer to Sea World
24	3/17/2008	C360		12/10/2002		
25	3/17/2008	C455		5/1/2003		
26	3/17/2008	C622		10/12/2006		
27	3/17/2008	C578		8/28/2006	4/1/2009	Killed by injection - health fail
28	3/17/2008	C579	B216,B156	8/31/2006	4/1/2009	Killed by injection - health fail
29	3/17/2008	C644		4/4/2007		
30	3/17/2008	C586		9/1/2006	4/1/2009	Transfer to Gladys Porter Zoo
31	3/17/2008	C645	B243	4/4/2007	5/13/2009	Killed by injection - health fail
32	3/17/2008	C653		4/18/2007	3/3/2010	Killed by injection - no facility
33	3/17/2008	C669	B110, B245	4/25/2007	4/1/2009	Killed by injection - health fail
34	3/17/2008	C652		4/16/2007		
35	3/17/2008	B130				

36	3/17/2008	B9				
37	3/17/2008	B108				
38	3/17/2008	B63				
39	3/17/2008	B66			4/28/2008	Transfer to Sea World
40	3/17/2008	B214				
41	3/17/2008	B136	C739	9/18/2007	4/24/2008	Transfer to Sea World
42	3/17/2008	B32				
43	3/17/2008	B46				
44	3/17/2008	B137				
45	3/17/2008	B2	B257			
46	3/17/2008	B47	B221			
47	3/17/2008	B208	C805	4/28/2008	3/30/2010	Killed by injection - no facility
48	3/17/2008	B194			3/9/2010	Killed by injection - no facility
49	3/17/2008	B220				
50	3/17/2008	B127	C657, B191	4/20/2007	4/1/2009	Transfer to Gladys Porter Zoo
51	3/17/2008	B198			4/28/2008	Died in anesthesia
52	3/17/2008	B88				
53	3/17/2008	B81				
54	3/17/2008	B204	B263			
55	3/17/2008	B40				
56	3/17/2008	B132	B90			
57	3/17/2008	B97				
58	3/17/2008	3341		1995		
59	3/17/2008	4140		1996		
60	4/25/2008	C606		9/11/2006	4/24/2008	Transfer to Sea World
61	4/25/2008	C700	B247	5/17/2007	3/18/2009	Transfer to Shedd Aq.
62	4/25/2008	C347		11/14/2002	5/4/2008	Died on the trap
63	4/25/2008	C441		4/18/2003		
64	12/4/2008	C147		4/1/2000		
65	12/4/2008	C674		4/30/2007	5/14/2009	Killed by injection - health fail
66	12/4/2008	C706		5/21/2007		
67	12/4/2008	C796		4/26/2008		
68	12/4/2008	C797		4/26/2008	9/9/2010	Killed by injection – no facility
69	12/4/2008	B22	B205			
70	12/4/2008	B100				
71	12/4/2008	B265	U19	9/11/2009		
72	12/4/2008	B267			3/9/2010	Killed by injection - no facility
73	12/4/2008	B31				
74	4/13/2009	B254				
75	4/13/2009	B258			3/9/2010	Killed by injection - no facility
76	4/13/2009	C926	B278,B169	4/1/2009	3/9/2010	Killed by injection - no facility
77	4/13/2009	B295				
78	4/13/2009	C858		8/28/2008	5/11/2009	Killed by injection - health fail

79	4/13/2009	C795	B281	4/26/2008		
80	5/19/2009	C927	B283	4/8/2009		
81	5/19/2009	C928	B288	4/16/2009	8/24/2009	Killed by injection - no facility
82	5/19/2009	B296				
83	5/19/2009	B285	B56,B272,U31	3/1/2010		
84	5/19/2009	B298				
85	5/19/2009	B297				
86	12/8/2009	C934	B300	5/14/2009	3/30/2010	Killed by injection - no facility
87	12/8/2009	B299				
88	3/16/2010	C697		5/14/2007	4/6/2010	Killed by injection - no facility
89	3/16/2010	C00	B305	3/9/2010	5/4/2010	Killed by injection - no facility
90	5/3/2010	C779		4/9/2008		
91	5/3/2010	C881		9/25/2008		
92	5/3/2010	C930		5/12/2009		
93	5/3/2010	C961		8/7/2009		
94	5/3/2010	C971		8/10/2009		
95	5/3/2010	U18		9/11/2009	9/8/10	Killed by injection - no facility
96	5/3/2010	B301				
97	5/3/2010	B307				
98	5/3/2010	B308				
99	5/18/2010	C667		4/24/2007	5/26/2010	Killed by injection - no facility
100	5/18/2010	C841		8/17/2008	5/26/2010	Killed by injection - no facility
101	5/18/2010	B317				
102	5/18/2010	B318				
103	5/18/2010	B325				
104	5/18/2010	5490		1999		
105	9/7/2010	C847		8/22/2008		
106	9/7/2010	C931		5/12/2009		
107	9/7/2010	C963		8/7/2009		
108	9/7/2010	C01	B322	4/29/2010		
109	9/7/2010	C04	B331	5/25/2010		
110	9/7/2010	C05	B334	5/25/2010		
111	9/7/2010	B302				
112	9/7/2010	B332				
113	9/7/2010	B333				
114	9/7/2010	B335				
115	9/7/2010	B338				

Appendix 1, "Predatory California Sea Lions Authorized For Immediate Removal" was originally compiled by the National Marine Fisheries Service as informed by R. Stansell, Appendix D, Table 3.3 of the Final Report and Recommendations of the Pinniped-Fishery Interaction Task Force: Columbia River (November 5, 2007). The Appendix was transmitted to the States of Oregon, Washington, and Idaho in a Letter of Authorization

issued March 17, 2008. The Appendix has been periodically amended to report those individual California sea lions that meet the description contained in the Letter of Authorization and are thus authorized for removal. This new Letter of Authorization starts with the last list of animals authorized for removal from the 2008 authorization.

Serial Number = A tally of the sea lions authorized for removal.

Appendix Date = The issuance date of the Appendix 1 list that first included this animal.

Appendix Id. = The unique alpha-numeric brand number or identification code assigned to this animal when cataloged.

aka = Other known identification codes or brands applicable to this animal.

Brand Date = The date a unique alpha-numeric brand was applied to this animal.

Removal Date = The date the animal was permanently removed (killed, transferred to captivity, found dead).

Note: The original Appendix 1 list issued on March 17, 2008 included two sea lions (C579 and B216). A review of identification data, following the removal of C579 on April 1, 2009, revealed that C579 and B216 was the same animal and therefore B216 has been moved to the "aka" adjacent to C579 in order to maintain a correct tally of animals authorized for removal. Similarly, additional review of observation records showed that sea lions B47 and B221 from the original list are the same animal. Accordingly, B221 has been moved to the "aka" adjacent to B47 to maintain a correct tally of animals authorized for removal.