

A photograph of a seal swimming in clear, rippling water. The seal is dark with a white patch on its face and is moving towards the right. The water is bright and shows many reflections.

The Marine Mammal Protection Act (MMPA) at work in the Russian River

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Topics to be Covered

- Overview and Background of MMPA
- Sections 101(a)(5)(A) and (D) of the MMPA
- Incidental Harassment Authorization
- Compliance with Other Statutes
- What will MMPA permit cover
- Pinnipeds and the Russian River



Overview-Marine Mammal Protection Act (MMPA)

Prohibits the taking (harassment, injury, or killing) of marine mammals
Unless exempted by the MMPA or authorized under a permit

Incidental taking that occurs under otherwise lawful activities
(Sections 101(a)(5)(A) [Letter of Authorization]
(D) [Incidental Harassment Authorization]

NMFS issues incidental take authorizations for activities such as:

- underwater seismic exploration (U.S. oil industry/scientific research institutes)
- highway bridge and port construction
- military and oil industry undersea explosives detonations
- Navy sonar operations
- rocket launches
- scientific research in areas where marine mammals are present

MMPA Definitions



Take – To harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal

Harassment (for all but “military readiness activities”) – any act of pursuit, torment, or annoyance which –

(i) has the potential to injure a marine mammal stock in the wild
(Level A harassment) or

(ii) has the potential to disturb a 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)

Sections 101(a)(5)(A) and (D) of the MMPA

The Secretary (of the Department of Commerce) shall allow the incidental take (but not intentional take) of small numbers of marine mammals pursuant to a specified activity (other than commercial fishing) within a specific geographic area if:

- After opportunity for public comment The Secretary finds:
 - The total taking will have a negligible impact on the affected species (or stock)
 - The total taking will not have an unmitigable adverse impact on the availability of the affected species or stocks for subsistence uses
- The permissible methods of taking are clearly set forth
- Means of effecting the least practicable adverse impact on the affected species, their habitat, and subsistence uses are set forth (mitigation measures), paying particular attention to rookeries, mating grounds, and areas of similar significance
- Requirements pertaining to the monitoring and reporting of the taking are set forth

“Taking” under the MMPA

...small numbers and having no more than a negligible impact on species not listed as depleted under the MMPA and not having an unmitigable adverse impact...

- Letter of Authorization

Section 101(a)(5)(A)

- Up to a 5 year permit



- Incidental Harassment Authorization (IHA)

Section 101(a)(5)(D)

- 1 year permit, renewed each year, if necessary

Estimated Timeline for IHA (120 days by statute)

The incidental take authorization is not a permit to conduct the activity, rather it is an “insurance policy” that protects the activity against taking marine mammals in a way that is prohibited by the MMPA

- Applicant submits IHA application
- NMFS reviews application for adequacy/completeness – 1 - 2 mo.
- NMFS reviews application and draft NEPA document, makes preliminary determinations, and prepares proposed IHA – 1 - 3 mo.
- NMFS publishes Proposed IHA in FR, comments received – 30 days
- NMFS reviews public comments, and NEPA findings, and potentially works through issues with applicant to make final determinations. NMFS issues final IHA - 1 - 3 mo.

Assuming:

- application is complete/adequate when received
- adequate draft NEPA document is available for NMFS to review prior to publishing the proposed IHA

Typically takes between 4 and 9 months to issue an IHA

Compliance with Other Statutes

- **The Endangered Species Act (ESA)**
- **The National Environmental Policy Act (NEPA)**

The issuance of an incidental take authorization must also be consistent with other Federal Statutes, including, but not limited to:

- **The Coastal Zone Management Act**
- **The National Marine Sanctuaries Act**
- **The Fisheries Conservation Act (Magnuson-Stevens)**
 - “Essential Fish Habitat”
- **The Information Quality Act**



What will the MMPA permit cover?

Level B harassment of harbor seals, California sea lions, and elephant seals from management activities for maintaining the Russian River Estuary



Including:

Minimization measures

Monitoring

Reporting



Pinnipeds and the Russian River



Harbor
Seals

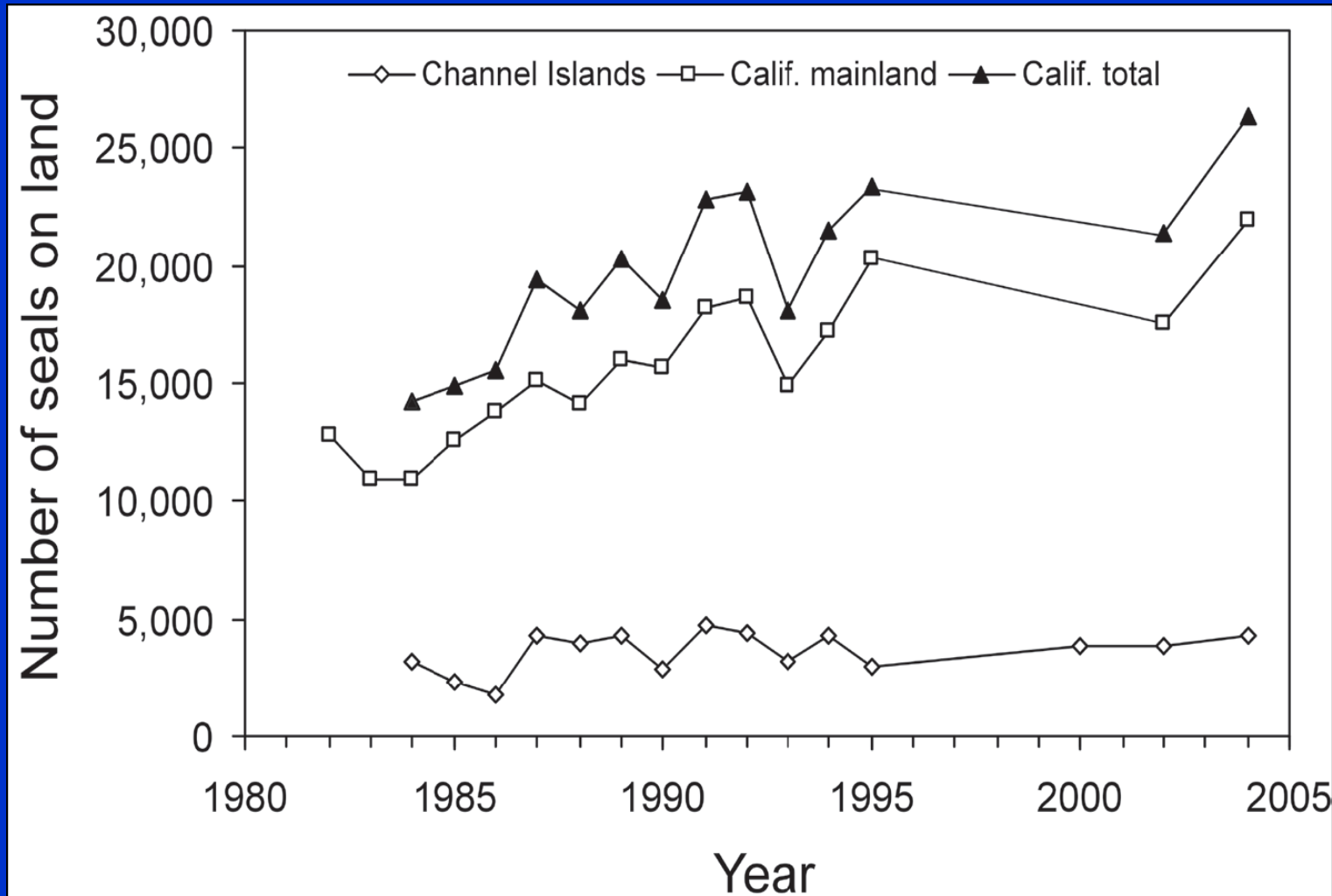


Pacific harbor seal (*Phoca vitulina richardii*)

Harbor seal
population in
California is
increasing

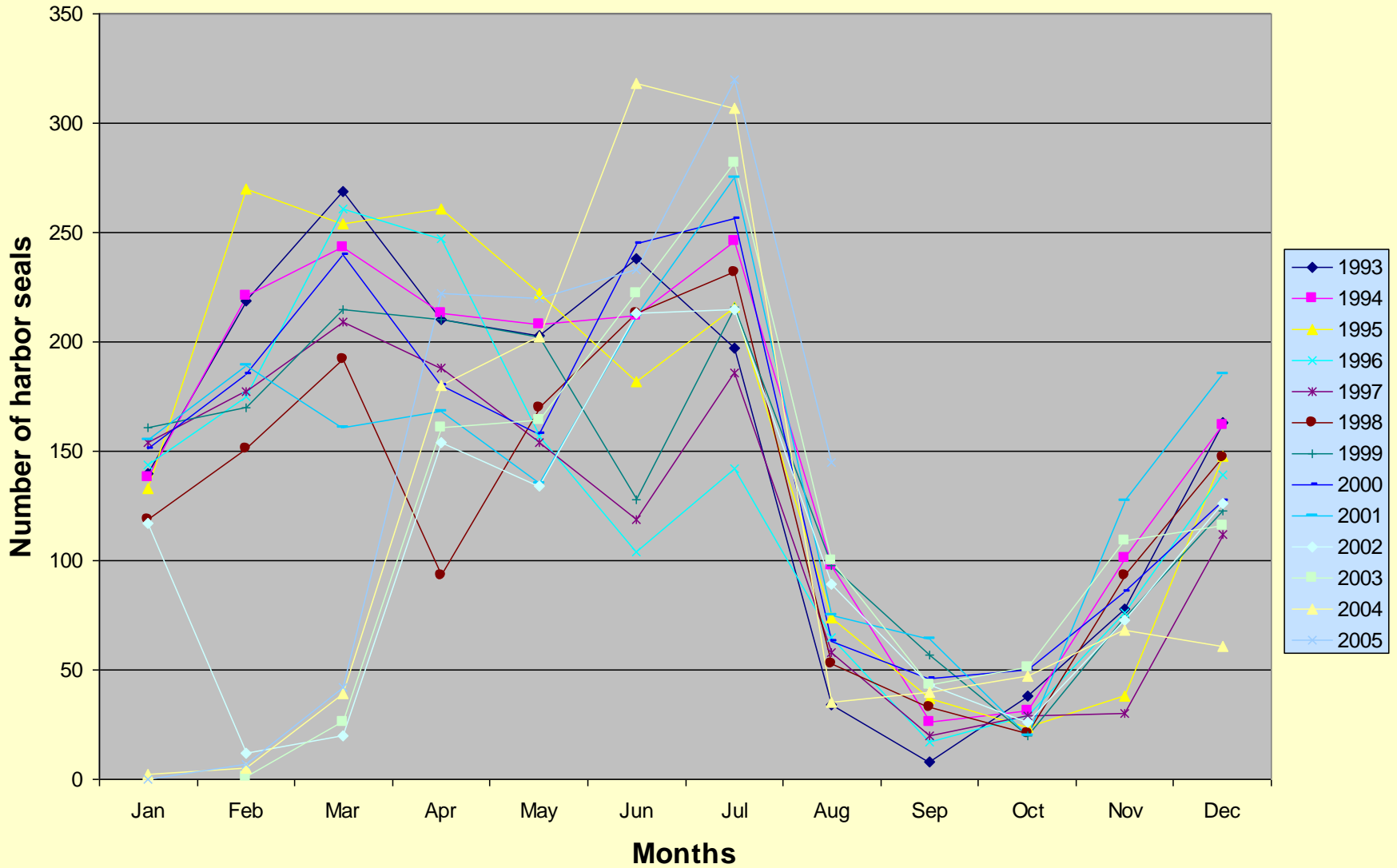
Northern CA
2002-8,418
2004-9,591

California:
2002-21,433
2004-26,333
w/ correction
factor
46,449



Average daily numbers of seals at Goat Rock Beach 1993-2005

Adapted from Mortenson and Twohy 1994 and Twohy unpub.data



Harbor Seals and the Russian River

- Considerable monitoring
- Reflects mainland California
 - o Also increases in #s
- Peak #s in winter
 - o Other areas peak during pupping, breeding, molting
- Anthropogenic factors



Jenner, looking west at the mouth of the Russian River, 1905. (Photo courtesy of the Sonoma County Library).



Thank You

