



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 17, 2011

P. Michael Payne
Chief, Permits, Conservation and Education Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910-3225

Dear Mr. Payne:

National Marine Fisheries Service, Alaska Region (NMFS AKR) has prepared a biological opinion that evaluates the effects of the authorization to take small numbers of marine mammals incidental to rocket launch operations from the Kodiak Launch Complex for the period of March 18, 2011 through March 17, 2016. Specifically, the biological opinion assesses the effects from the proposed activities on the endangered Steller sea lion (*Eumetopias jubatus*) in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. §1531 et seq.) (ESA).

After NMFS considered the status of the endangered Steller sea lion, the critical habitat, the environmental baseline of the area, and the direct, indirect, and cumulative effects of the action on the endangered Steller sea lion, the biological opinion concludes that the proposed action is not likely to jeopardize the continued existence of the endangered Steller sea lion or adversely modify its critical habitat. We include several conservation recommendations that would minimize adverse effects to the Steller sea lion from the rocket launch operation.

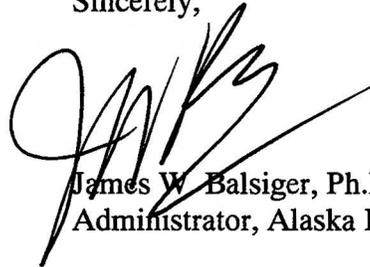
NMFS, Chief, Permits, Conservation and Education Division (NMFS PR1) may be exempted from the take prohibitions of the ESA for this project through an Incidental Take Statement (ITS). However, an ITS cannot be issued until these takes have been authorized pursuant to section 101(a) (5) of the Marine Mammal Protection Act of 1972, as amended (MMPA). When the incidental take of marine mammals is authorized under the MMPA, NMFS will include an ITS for the endangered Steller sea lion.

This biological opinion concludes the consultation for the proposed action. Reinitiating formal consultation is required where discretionary federal agency involvement or control over the action has been retained and if: 1) the amount or extent of incidental take is exceeded; 2) new information reveals effects of this action may affect listed species or the critical habitat in a manner or to an extent not previously considered in this biological opinion; 3) the identified action is subsequently modified in a manner that causes an effect to the listed species or proposed critical habitat that was not considered in the biological opinion; and 4) a new species is listed or critical habitat proposed that may be affected by the identified action.



We appreciate the cooperation of the NMFS PR1 in this section 7 consultation. If you have any questions regarding this opinion, please contact Barbara Mahoney at 907-271-3448 (barbara.mahoney@noaa.gov).

Sincerely,

A handwritten signature in black ink, appearing to be 'JWB', written over the typed name.

James W. Balsiger, Ph.D.
Administrator, Alaska Region

cc: Michelle Magliocca Michelle.Magliocca@noaa.gov