



== CITY OF ==

NEWPORT BEACH

Harbor Commission Staff Report

January 9, 2019
Agenda Item No. 7.1

TO: HARBOR COMMISSION

FROM: Kurt Borsting, Harbormaster - 949-270-8158,
kborsting@newportbeachca.gov

TITLE: Presentation by National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) Regarding Sea Lion Deterrents

ABSTRACT:

As part of the City's Harbor Department, staff works closely with vessel and property owners regarding sea lion deterrents. Sea Lions have an active season within the harbor and NOAA will provide the Harbor Commission with options for sea lion deterrents.

RECOMMENDATION:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.
- 2) Receive and file and if appropriate provide direction to staff.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION

Over the last several years, harbor users have seen and reported increased activity in the harbor by sea lions. Sea lions can cause thousands of dollars' damage to both vessels and docks/piers. However, sea lions are a protected species and only certain types of deterrents can be used. NOAA representatives will provide the Harbor Commission and the public with options

NOAA Fisheries are responsible for the stewardship of the nation's ocean resources and their habitat. We provide vital services for the nation: productive and sustainable fisheries, safe sources of seafood, the recovery and conservation of protected resources, and healthy ecosystems—all backed by sound science and an ecosystem-based approach to management.

As part of their mission they are responsible for enforcing the Marine Mammal Protection Act, Section 101(a)(4) which in part states:

- The owner of fishing gear or catch, or an employee or agent of such owner, may deter a marine mammal from damaging the gear or catch (Note: seals and sea lions may only be deterred during active fishing with gear deployed)
- The owner of other private property, or an agent, bailee, or employee of such owner, may deter a marine mammal from damaging private property (e.g. developed waterfront, decks, docks, floats, piers, bait receivers, vessels at anchor, etc.)
- Any person may deter a marine mammal from endangering personal safety.
- A government employee may deter a marine mammal from damaging public property.”
Non-lethal deterrence measures may be used in any of these circumstances so long as such measures do not result in the death or serious injury of a marine mammal. NOAA Fisheries has defined serious injury as “any injury that is more likely than not to result in mortality.”

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Harbor Commission considers the item).