



# MARINE MAMMAL COMMISSION

11 January 2010

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, MD 20910

Dear Mr. Payne:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by the California Department of Transportation under section 101(a)(5)(D) of the Marine Mammal Protection Act. The agency is seeking authorization to take small numbers of harbor seals, California sea lions, and gray whales incidental to retrofitting the Dumbarton Bridge, located in southern San Francisco Bay. The principal means of taking would be by disturbance resulting from construction activity and noise, primarily from pile driving. The Commission also has reviewed the National Marine Fisheries Service's 4 December 2009 *Federal Register* notice (74 Fed. Reg. 63724) announcing receipt of the application and requesting comments on its proposal to issue the authorization, subject to certain conditions.

The Service has preliminarily determined that, "taking into consideration the implementation of the mitigation and monitoring measures [e.g., limited use of impact hammer, safety zones and shutdown requirements, and visual and acoustic monitoring of safety zones]...pile driving associated with the Dumbarton Bridge Seismic Retrofit Project will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the activity will have a negligible impact on the affected species or stocks."

## RECOMMENDATION

Based on the information provided, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested authorization, provided that the monitoring and mitigation activities proposed in the Service's *Federal Register* notice are carried out as described.

If you have any questions concerning this recommendation, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen".

Timothy J. Ragen, Ph.D.  
Executive Director