



MARINE MAMMAL COMMISSION

11 April 2016

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3226

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the City of San Diego's (the City) application seeking authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA) to take small numbers of marine mammals by harassment. The taking would be incidental to a sand quality survey at the Children's Pool in La Jolla, California. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 4 April 2016 notice (81 Fed. Reg. 19137) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

The City proposes to conduct a sand quality survey at the Children's Pool beach to fulfill a special condition of a permit issued by the California Coastal Commission. The purpose of the survey is to investigate fecal indicator bacteria and mercury concentrations. Up to 16 transect surveys¹ could be conducted during daylight hours. Increased presence of humans would be the main source of disturbance during the surveys.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of harbor seals, California sea lions, and northern elephant seals. It also anticipates that any impact on the affected species and stocks would be negligible. NMFS does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance will be at the least practicable level because of the proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

- prohibiting surveys during the harbor seal pupping and weaning season (15 December to 31 May);
- prohibiting surveys if either Guadalupe or northern fur seals are present;
- requiring the surveys, to the maximum extent practicable, to occur from 8:30 am to 3:30 pm, a period when fewer seals are hauled out;
- conducting survey activities at least 3 m from hauled out pinnipeds;

¹ Using spoons for surface sampling and plastic cores driven by hand or a rubber mallet for subsurface sampling.

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- using trained protected species observers to monitor 30 minutes before, during, and 30 minutes after survey activities;
- reporting injured and dead marine mammals to the Office of Protected Resources and the West Coast Regional Stranding Coordinator using NMFS's phased approach and suspending activities, if appropriate; and
- and submitting a final monitoring report.

The Commission concurs with NMFS's preliminary finding and recommends that NMFS issue the requested incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director