



MARINE MAMMAL COMMISSION

20 June 2016

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by the San Francisco Bay Area Water Emergency Transportation Authority (SF WETA) 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 ferry terminal expansion and renovations in San Francisco, California. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 25 May 2016 notice (81 Fed. Reg. 33217) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

SF WETA plans to expand and renovate the ferry terminal in San Francisco during a two-year timeframe. In the first year, operators would install up to 220 24- to 36-in steel piles and 38 14-in polyurethane-coated wood piles using a vibratory and impact hammer. They also would remove up to 350 wood or concrete piles and 4 steel piles via vibratory extraction, direct pull, or cutting the piles at the mudline. SF WETA expects activities to take 106 days, weather permitting. It would limit pile-driving and -removal activities to daylight hours from 1 July to 30 November 2016.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of seven marine mammal species¹. NMFS anticipates that any impact on the affected species and stocks would be negligible. NMFS also 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—

- conducting in-situ sound source measurements during 10 percent of pile-driving activities and adjusting the Level A and B harassment zones², if necessary;
- using a sound attenuation device (e.g., bubble curtain) during impact driving of steel piles;

¹ The Commission understands that NMFS underestimated the number of takes for certain species and plans to increase the takes to 4,399 for harbor seals, 21 for northern elephant seals, and 9 for harbor porpoises in the final authorization.

² NMFS has been made aware of a few errors in Table 6 of the *Federal Register* notice and plans to revise some source levels, associated distances to the various thresholds, and/or ensounded areas therein.

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- ceasing pile-driving and -removal activities if any marine mammal comes within 10 m of the equipment;
- using two qualified land-based protected species observers to monitor the Level A and B harassment zones for 15 minutes before, during, and for 30 minutes after the proposed activities;
- using standard soft-start, delay, and shut-down procedures;
- using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to humpback whales or Guadalupe fur seals) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone;
- conducting marine mammal baseline observations on two separate days within one week of initiation of activities;
- reporting injured and dead marine mammals to the Office of Protected Resources and the Southwest Regional Stranding Coordinator using NMFS's phased approach and suspending activities, if appropriate; and
- submitting a final report.

The Commission concurs with NMFS's preliminary finding and recommends that NMFS issue the 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,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style with a large initial "R".

Rebecca J. Lent, Ph.D.
Executive Director