



MARINE MAMMAL COMMISSION

2 May 2017

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 Coast Boulevard improvements in La Jolla, California. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 26 April 2017 notice (82 Fed. Reg. 19221) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

The City proposes to conduct improvements to an existing public parking lot, sidewalk, and landscaping areas on Coast Boulevard above the Children's Pool. Activities could be conducted on up to 164 days during daylight hours. Use of heavy equipment would be the main source of disturbance.

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 activities during the harbor seal pupping and weaning season (15 December to 29 May);
- conducting in-situ measurements of in-air sound levels during the proposed activities to determine distances to the Level B harassment thresholds;
- ceasing activities if either Guadalupe or northern fur seals are present¹ and resuming activities only after the animal either leaves the area or is collected by the local stranding network;
- requiring the activities involving use of very loud equipment (*e.g.*, jackhammers) to occur from 8:30 am to 3:30 pm (a period when relatively few seals are hauled out) to the maximum

¹ On the rocks, beach, or in the water.

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- extent practicable but allowing construction activities to occur from 7 am to 7 pm to ensure the activities are completed during this year;
- using trained protected species observers to monitor 30 minutes before, during, and 30 minutes after the proposed 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
 - 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,

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