



# MARINE MAMMAL COMMISSION

13 November 2012

Mr. P. Michael Payne, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

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 Partnership for the Interdisciplinary Study of Coastal Oceans (PISCO) at University of California Santa Cruz under section 101(a)(5)(D) of the Marine Mammal Protection Act. PISCO is proposing to take small numbers of marine mammals by harassment incidental to conducting rocky intertidal monitoring activities along the California and Oregon coasts. The Commission also has reviewed the National Marine Fisheries Service's 19 October 2012 notice (77 Fed. Reg. 64320) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

## **RECOMMENDATION**

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested incidental harassment authorization (1) with the proposed mitigation and monitoring measures and (2) after revising the number of takes in the take table to be consistent with the take estimation method in the text of the application.

## **RATIONALE**

PISCO proposes to conduct rocky intertidal surveys at numerous sites along the California and Oregon coasts in all months except January, August, and September. The proposed activities are part of a long-term monitoring program that includes (1) surveying permanent photoplot quadrats, permanent transects, and mobile quadrats for algae and invertebrates, (2) assessing and measuring invertebrates, (3) measuring tidal height topographically, (4) characterizing baseline intertidal data associated with new marine protected areas, (5) monitoring invertebrate larval recruitment, and (6) monitoring oceanic pH using intertidal organisms. Research-related sound and the increased presence of humans would be the main sources of marine mammal disturbance. The activities would continue indefinitely; however, the authorization would be valid for a one-year period only.

The Service preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of California sea lions, harbor seals, and northern elephant seals. It also anticipates that any impact on the affected species and stocks would be negligible. The Service 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 and monitoring measures. Those measures include—

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- (1) rescheduling the survey if Steller sea lions are present at the survey site;
- (2) restricting intentional flushing of pups if they are present at the survey site;
- (3) moving slowly and staying close to the ground to prevent or minimize stampeding of pinnipeds;
- (4) avoiding loud noises (i.e., using hushed voices);
- (5) avoiding pinnipeds along access paths to sites by locating and taking a different access path and vacating the area as soon as the survey is completed;
- (6) monitoring the offshore area for predators (i.e., killer whales and white sharks) and avoiding flushing pinnipeds when predators are observed in nearshore waters;
- (7) using binoculars to detect pinnipeds before approaching to avoid being seen by them;
- (8) flushing pinnipeds only if they are located in the survey plots and there are no other means to accomplish the survey—however, flushing must be done slowly and quietly so as not to cause a stampede;
- (9) using qualified observers to monitor and evaluate incidental takes;
- (10) reporting tagged pinniped carcasses to the appropriate personnel;
- (11) reporting rare or unusual species of marine mammals to the Service;
- (12) reporting injured and dead marine mammals to the Service and local stranding network using the Service's phased approach and suspending activities, if appropriate; and
- (13) submitting a final monitoring report.

The take table in the application underestimated the number of takes based on the take estimation method within the text. If that problem is fixed, then the Marine Mammal Commission concurs with the National Marine Fisheries Service's preliminary finding and recommends that the Service issue the requested incidental harassment authorization (1) with the proposed mitigation and monitoring measures and (2) after revising the number of takes in the take table to be consistent with the take estimation method in the text of the application.

Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive, flowing style.

Timothy J. Ragen, Ph.D.  
Executive Director