



# MARINE MAMMAL COMMISSION

6 March 2014

Ms. Jolie Harrison  
Incidental Take Program Supervisor  
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 Department of the Navy, Naval Base Ventura County under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA). The Navy is seeking authorization to take pinnipeds by harassment incidental to the repair of roads and the airfield on San Nicolas Island, California. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 26 February 2014 notice (79 Fed. Reg. 10777) requesting comments on its proposal 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, subject to inclusion of the proposed mitigation and monitoring measures.

## **RATIONALE**

The Navy proposes to repair roads, the airfield, and associated culverts and shoulders on San Nicolas Island during a five-year period. The proposed authorization would cover only the first year of activities. However, the Navy intends to submit an application in 2014 requesting regulations and a letter of authorization for repair activities and other construction activities during a five-year period. The proposed activities would be conducted no more than twice during the one-year period, with each work session lasting no more than five days. Pinnipeds could be harassed incidental to barge landing operations that would be necessary to offload equipment and materials to the Island. Those operations would include re-grading the existing road from the beach, constructing a temporary ramp and berm on the beach, landing the barge, offloading the barge, removing the ramp and berm, and restoring the beach to its pre-barge landing condition.

NMFS preliminarily has determined that, at most, the proposed activities would result in temporary modification of the behavior 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.

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 and monitoring measures. Those measures include—

- (1) restricting activities from 1 December to 31 July to minimize disturbance during the pinniped pupping season;
- (2) restricting activities to specified corridors by delineating heavy equipment work zones and driving zones;
- (3) inspecting the area around construction equipment before mobilization to ensure pinnipeds are not under or near the equipment;
- (4) allowing only qualified biologists to displace pinnipeds from the barge landing site, as necessary—pinnipeds would be approached slowly to minimize the possibility of stampedes;
- (5) avoiding displacement of pinnipeds, whenever possible, if dependent pups are present;
- (6) constructing temporary barriers to restrict pinnipeds from re-entering the site;
- (7) refraining from discharging oil, fuel, and chemicals into the water and spilling aggregate during offloading activities;
- (8) requiring personnel to attend environmental briefings daily when working in sensitive habitats and weekly when working in non-sensitive habitats;
- (9) requiring qualified biologists to monitor for 30 minutes before, during, and for 30 minutes after the proposed activities;
- (10) suspending activities immediately if an injured marine mammal is found in the vicinity of the proposed activities and those activities could further aggravate its condition—those incidents would be reported to NMFS immediately; and
- (11) submitting a final monitoring report to NMFS.

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 and monitoring measures.

The Commission is grateful for the opportunity to provide comments on the Navy's application. Please contact me if you have questions concerning the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.  
Executive Director