



MARINE MAMMAL COMMISSION

24 August 2009

Mr. P. Michael Payne, Chief
Permits, Conservation, and Education 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 Naval Base Ventura County Point Mugu under section 101(a)(5)(D) of the Marine Mammal Protection Act. The applicant seeks a one-year incidental harassment authorization to take small numbers of Pacific harbor seals incidental to a boom exercise at Point Mugu, California. The Commission also has reviewed the National Marine Fisheries Service's 23 July 2009 *Federal Register* notice (74 Fed. Reg. 36464) requesting comments on the application and proposing to issue the authorization, subject to certain conditions.

The purpose of the proposed exercise is to develop and refine response strategies to protect the Mugu lagoon from offshore oil spills. The principal means of taking would be by disturbance from zodiac boats operating before and during the placement and anchoring of the boom near the mouth of the estuary. The proposed exercise is scheduled to be conducted over a five-day period in September 2009 but may need to be rescheduled depending on staff availability. In any case, activities would not take place during the harbor seal pupping season (February through April). Before an exercise begins, any seals that are hauled out within the exercise area will be slowly approached by boat to ensure that they move slowly into the water to avoid a stampede. A boat would remain in the immediate area during most of the day to reduce the potential of seals hauling out in the exercise area. Most of the proposed exercise will be conducted at high tide when fewer harbor seals are expected to be on the haul-out areas. Land-based monitoring would be conducted during the entire time that boats are in the water to assess effects on the harbor seals hauled out in the estuary. The Service has preliminarily determined that, with incorporation of the proposed mitigation and monitoring measures, the requested boom deployment exercise would result in the incidental taking by Level B harassment of small numbers of harbor seals and would have a negligible impact on the species.

RECOMMENDATION

The Service's preliminary determinations appear to be reasonable, and the Marine Mammal Commission recommends that the National Marine Fisheries Service approve the request, provided that—

- all reasonable measures will be taken to ensure the least practicable impact on the subject species, and

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- the required mitigation and monitoring activities are carried out as described in the Service's 23 July 2009 *Federal Register* notice and the application.

Please contact me if you have any questions concerning this recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Ragen" followed by a flourish and the word "for".

Timothy J. Ragen, Ph.D.
Executive Director