



# MARINE MAMMAL COMMISSION

14 December 2009

Mr. P. Michael Payne, Chief  
Permits, Conservation, and Education Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway, Room 13635  
Silver Spring, Maryland 20910

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 Sonoma County Water Agency under section 101(a)(5)(D) of the Marine Mammal Protection Act. The applicant is seeking authorization to take small numbers of Pacific harbor seals, California sea lions, and northern elephant seals by harassment incidental to construction and maintenance of a lagoon outlet channel at the Russian River Estuary in Jenner, California. The Commission also has reviewed the National Marine Fisheries Service's 12 November 2009 *Federal Register* notice (74 Fed. Reg. 58250) requesting comments on its proposal to issue the authorization, subject to certain conditions.

The Service believes that noise and visual disturbance associated with construction and maintenance activities and periodic sandbar breaching events (i.e., artificially breaching the barrier beach at the Russian River/Pacific Ocean interface to minimize the potential for flooding) and proposed monitoring activities could result in the taking of the three pinniped species. The Service anticipates that taking would be limited to animals being startled or alerted by the presence of construction crews or use of equipment such as bulldozers and excavators, possibly causing them to avoid or be flushed from haul-out sites. The Service also expects that the applicant will implement proposed monitoring and mitigation measures, including slow and cautious approaches by agency crews and construction equipment. In light of the types of taking that are anticipated and the mitigation measures that will be employed, the Service has preliminarily determined that the proposed activities will result, at most, in temporary modification of pinniped behavior and will have a negligible impact on the stocks.

## RECOMMENDATION

Based on its review of the application and *Federal Register* notice, the Marine Mammal Commission concurs with the Service's preliminary determination and recommends that the National Marine Fisheries Service issue the requested authorization, subject to the inclusion of the proposed monitoring and mitigation measures.

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

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen".

Timothy J. Ragen, Ph.D.  
Executive Director