



MARINE MAMMAL COMMISSION

5 August 2015

Ms. Jolie Harrison, Chief
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 U.S. Army Corps of Engineers, Portland District (USACE) 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 rehabilitation of a jetty system at the mouth of the Columbia River. The incidental harassment authorization would be valid for one year, and USACE plans to request regulations under section 101(a)(5)(A) for additional years of activities. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 23 July 2015 notice (80 Fed. Reg. 43739) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

USACE plans to repair and stabilize Jetty A under the proposed authorization. During the first year of the project, operators would install and potentially remove up to 24 24-in steel piles and 93 sections of Z or H piles using a vibratory hammer. USACE expects those activities to take 17 days and would limit them to daylight hours only.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of six marine mammal species or stocks¹. NMFS anticipates that any impact on the affected species and stocks would be negligible. NMFS also 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 measures² include—

- allowing activities to occur only from 1 May to 30 September 2016 to minimize impacts to southern resident killer whales;
- using only one vibratory hammer at a given time;
- ceasing or delaying in-water activities if any marine mammal comes within 10 m of the equipment;

¹ NMFS indicated that it would be authorizing the total numbers of pinniped takes based on those listed in Table 5 rather than Tables 6 and 7 in the *Federal Register* notice.

² Some of which are not included in the *Federal Register* notice, but NMFS indicated would be included after the notice is published.

Ms. Jolie Harrison

5 August 2015

Page 2

- using two NMFS-approved protected species observers (one in the near-field and one in the far-field) to monitor the Level B harassment zone 30 minutes prior to, during, and 30 minutes after vibratory pile installation and removal;
- using ramp-up procedures;
- using delay and shut-down procedures if a killer whale approaches or is observed within the Level B harassment zone;
- using delay and shut-down procedures if the number of marine mammal takes for any species or stock reaches the limit authorized for that species or stock under the incidental harassment authorization and an animal from that species or stock approaches the Level B harassment zone;
- reporting injured and dead marine mammals to NMFS and the local stranding network using NMFS's phased approach and suspending activities, if appropriate, and
- submitting a final report.

The Commission understands that a hydroacoustic monitoring plan would be incorporated in subsequent years of activities under requested regulations, if and when issued. The Commission believes such a plan is prudent due to the types and sizes of piles to be installed and removed, the substrate of the environment, and the ambient sound and sound propagation loss associated with a river mouth opening into the open ocean. Regarding the currently proposed activities, the Commission recommends that NMFS issue the 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 fluid and cursive, with a long horizontal flourish extending to the left of the name.

Rebecca J. Lent, Ph.D.
Executive Director