MARINE MAMMAL COMMISSION

18 December 2013

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

Dear Mr. Payne:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by the Washington State Department of Transportation Ferries Division (WSDOT) 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 replacement of structures at the Bremerton ferry terminal in Puget Sound, Washington. The incidental harassment authorization would be valid for one year. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 3 December 2013 notice (78 Fed. Reg. 72655) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions. The Commission previously has reviewed similar proposed incidental harassment authorizations.

RECOMMENDATION

The Marine Mammal Commission recommends that the National Marine Fisheries Service issue the incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures.

RATIONALE

WSDOT plans to replace the current structures used to protect the transfer span from direct vessel impact and to hold the ferry in position when it is docked. During the project, operators would remove 112 13-in timber piles using a vibratory hammer, clamshell bucket, and/or direct pull. They also would install eight 24-in and two 30-in steel piles using a vibratory hammer. They would install the piles in waters approximately 7.9 m depth based on mean lower low water. WSDOT expects pile removal and installation to take 11 days (weather permitting) between 1 October 2014 and 30 September 2015. It would limit activities to daylight hours only.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of seven marine mammal species or stocks. 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 and monitoring measures. Those measures include—

- using no more than one vibratory hammer at any given time to remove/install piles;
- 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 removal and driving;
- using ramp-up procedures at the beginning of pile-removal or -driving activities and when those activities have been interrupted for more than 30 minutes;
- 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;
- obtaining marine mammal sightings data from the Orca Network or Center for Whale Research on a daily basis and, if a southern resident killer whale is sighted, on a real-time basis;
- obtaining marine mammal acoustic detection data from the Orca Network on a daily basis to supplement its monitoring efforts;
- 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 concurs with NMFS's preliminary finding and recommends that NMFS issue the incidental harassment authorization, subject to inclusion of the proposed mitigation and monitoring measures.

Thank you for the opportunity to provide comments on WSDOT's application. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,

Rebecca J. Lent, Ph.D.
Executive Director