

that the Service is satisfied that the monitoring and mitigation programs will be carried out as described in the application and in the Service's **Federal Register** notice. The Service should also advise the Coast Guard that California sea otters inhabit waters in Monterey area and that an incidental taking authorization from the Fish and Wildlife Service to cover this species may also be needed.

On October 19, 2001, the USCG requested consultation from the U.S. Fish and Wildlife Service (FWS) on the southern sea otter (*Enhydra lutris nereis*) and the brown pelican (*Pelicanus occidentalis*). FWS responded on December 21, 2001, stating, "Based on the information provided in the concurrence request, and given the full implementation of the avoidance measure contained in this request, we concur with your determination that the project is not likely to adversely affect the southern sea otter and the brown pelican. Consequently, further consultation pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended, is not required."

Description of Habitat and Marine Mammals Affected by the Activity

A description of the Monterey Bay ecosystem and its associated marine mammals can be found in the USCG application (USCG 2002).

Marine Mammals

General information on California sea lions, harbor seals and other marine mammal species found in central California waters can be found in Caretta et al. (2001) which is available at: http://www.nmfs.noaa.gov/prot_res/readingrm/MMSARS/2002PacificSARS.pdf

The marine mammals likely to be found in the project area are limited to the California sea lion and harbor seal. The California sea lion primarily uses the central California area to feed during the non-breeding season. California sea lions are regularly observed in the Monterey Harbor area in the autumn, winter, and into the early spring. They regularly haul out on the USCG Jetty. No pupping occurs in the project area.

A small number of harbor seals are also expected to be found in the project area. Harbor seals are distributed throughout the west coast of California. In Monterey Harbor, harbor seals haul out on a rocky outcropping located approximately 300 m (984 ft) inshore of the proposed project site. Harbor seals do not pup at this site, although several pupping sites are located around the Monterey Peninsula within 3 to 20 km (1.9 to 12.4 mi) of the project site.

Potential Effects on Marine Mammals

It is possible that California sea lions and harbor seals swimming in the project vicinity during pile driving may be subject to elevated sound pressure levels that could produce a temporary shift in the animal's hearing threshold. Construction and human activity around the site could also potentially result in behavioral changes in nearby pinnipeds. California sea lions and harbor seals may temporarily cease normal activities, such as feeding, or pop their heads up above water in response to the noise. They may also be curious and choose to investigate the project site. However, existing evidence shows that most marine mammals tend to avoid loud noises and will likely move away from the project site (Richardson et al., 1995). Disturbance from these activities is expected to have a short-term negligible impact to a number of sea lions and harbor seals. These disturbances will be reduced to the lowest level practicable by implementation of the proposed work restrictions and mitigation measures (see Mitigation).

During the installation of the floating dock, California sea lion incidental harassment is expected to occur on a daily basis upon initiation of the pile driving. Sea lions are also likely to be initially harassed by the barge tender moving the barge into place. If the animals no longer perceive construction noise and activity as being threatening, they are likely to resume their regular hauling out behavior. The number of sea lions disturbed will vary daily, but animals in the water near the project site or hauled out closest to the project site are more likely to be disturbed than animals hauled out at the farther end of the jetty. Based on past ground surveys, the number of California sea lions that may potentially be harassed could range from 200 to 400, and possibly as many as 600 animals may move each day as a result of the project activities.

Whether harbor seals, reacting to construction noise and associated activity, will move away from the rock outcropping is unknown. While seals are generally thought to be less tolerant of human activities than sea lions, the location of their haulout from the project site may be far enough away that disturbances may be less likely. Seals that are swimming near the project site may be harassed during construction activity, especially pile driving, and may swim away from the immediate area. Less than 20 harbor seals are expected to use the rocky outcroppings within the Monterey harbor during the project period. During aerial surveys

from 1997 to 1999, the maximum number of harbor seals recorded on the rocky outcropping within the Monterey harbor was 15 animals.

Potential Effect on Habitat

The activity will take place on a part of the Monterey USCG pier that is not used directly by any marine mammal species. Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the rock jetty at the end of the USCG pier by California sea lions and perhaps of the nearby rocky outcropping by Pacific harbor seals while work is in progress or until pinnipeds acclimate to the disturbance. This will not likely result in any permanent reduction in the number of sea lions or seals at these haulouts. Sea lions are regularly disturbed by boats and human activities in Monterey Harbor. In addition, approximately 4–5 m (13.1–16.4 ft) above the harbor seal haul-out, there is a busy bike path and pedestrian walkway. Seals are frequently disturbed year-round due to their proximity to the bike path, particularly during the daytime. The abandonment of either haulout is not anticipated since existing foot traffic, commercial and recreational boating, and human activity currently occurring within the area have not caused long-term abandonment.

Therefore, other than the potential, short-term abandonment by California sea lions and harbor seals of part of their existing haulouts in Monterey Harbor during floating dock installation, no impact on the habitat or food sources of marine mammals are likely from this project.

Mitigation

Several mitigation measures to reduce the potential for harassment from installation of the floating dock will be implemented by USCG as part of their activity. General restrictions are as follows: the work will be performed during daylight hours only so that potential impacts can be detected more easily and steps can be taken to avoid them; shouting, loud noises, fast movements, and other activities that would disturb the haul-out sites will be minimized (considering human safety concerns foremost); the number of people and the amount of equipment on the USCG pier in close proximity to the sea lion haulout will be restricted to the minimum required to effectively perform the work; all equipment will be kept on the west side of the USCG pier and, as much as possible, out of sight of the sea lion haulout site; a NMFS-approved biological monitor will be on site at all times during the project