March 14, 2013

William W. Stelle, Jr.
National Marine Fisheries Service
Regional Administrator, Northwest Region
7600 Sand Point Way NE
Seattle, WA 98115-0070

Dear Mr. Stelle,

This letter is to inform the National Marine Fisheries Service (NMFS) that the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fish and Wildlife (WDFW) will continue to use our authority originally invoked in 2006 under the Marine Mammal Protection Act of 1972 (MMPA) (Section 109(h)(1)(C); 16 U.S.C. 1379) and the Endangered Species Act of 1973 (ESA) (50 CFR 223.202(b)(2)(i)), to non-lethally remove nuisance California sea lions and Steller sea lions in selected areas of the Columbia River and its tributaries below John Day Dam.

As you are aware, the states of Oregon and Washington have, for decades, conducted activities to restore and protect salmon and steelhead populations in the Columbia River Basin. Despite these activities, and those of countless other agencies and organizations, many populations remain threatened and endangered. Other fish species too are of growing conservation concern such as white sturgeon, whose abundance and productivity in the lower Columbia River has declined substantially in recent years.

Against this backdrop, pinnipeds in the Pacific Northwest, under the protection of the MMPA, have enjoyed a marked recovery. The substantial increase in the number of pinnipeds in the lower Columbia River has resulted in additional negative impacts on fish species of conservation concern, as well as problematic interactions with sport and commercial fisheries in the river. As a result, numerous entities, e.g., federal, state, tribal, and fishing interests, have expressed concern about the negative interactions of increasing pinniped populations on the limited fish resources of the Columbia River. Therefore, ODFW and WDFW believe it is necessary to minimize these interactions and reduce the loss of critical fish resources in this area.

The U.S. stock of California sea lions has experienced a successful recovery over the past 30 years. Along with this recovery, California sea lion numbers in the lower Columbia River have increased, as has their predation on ESA-listed salmonids. For example, from 2002-2012, California sea lions consumed over 36,000 salmonids just within ¼ mile of Bonneville Dam,

which we know represents only a fraction of the total number of salmonids they consume throughout the 146 miles of river below the dam. And at Willamette Falls on the Willamette River, the number of California sea lions feeding on threatened salmonids has increased from just a few animals in the 1990s to dozens in recent years. In addition to losses of free-swimming fish, there are also reports of aggressive California sea lions depredating angler catch. These and other research findings show that a relatively small proportion of the regional California sea lion population has learned to take advantage of artificial and natural restrictions in the lower Columbia River and its tributaries, as well as sport and commercial fishing activities, to take threatened and endangered salmonids and other fish in areas that are far from the Pacific Ocean and that are outside the known historic foraging range of California sea lions.

Similarly, the eastern stock of Steller sea lions has also experienced a successful recovery over the past 30 years and was recently proposed for delisting under the ESA (77 FR 23209, April 18, 2012). Along with this recovery, Steller sea lion numbers in the lower Columbia River have increased, as has their predation on white sturgeon and ESA-listed salmonids. For example, from 2005-2012, Steller sea lions consumed over 11,000 white sturgeon and over 4,000 salmonids just within ¼ mile of Bonneville Dam, which we know represents only a fraction of the total number of sturgeon and salmonids they consume throughout the 146 miles of river below the dam. Aggressive Steller sea lions have also been reported depredating angler catch and they have begun showing up for the first time at Willamette Falls on the Willamette River. These and other research findings show that a relatively small proportion of the regional Steller sea lion population has learned to take advantage of artificial and natural restrictions in the lower Columbia River and its tributaries, as well as sport and commercial fishing activities, to take white sturgeon, threatened and endangered salmonids, and other fish in areas that are far from the Pacific Ocean and that are outside the known historic foraging range of Steller sea lions.

In light of these circumstances, ODFW and WDFW have determined that these California sea lions and Steller sea lions are nuisance animals under the MMPA and ESA and, therefore, subject to non-lethal removal efforts in accordance with Sections 109(h)(1)(C) and 50 C.F.R. 223.202(b)(2)(i), respectively. ODFW and WDFW will, as has been done in the past, employ a variety of non-lethal techniques to remove nuisance pinnipeds in the lower Columbia River. In this context, "remove" includes methods designed to move or deter animals from a specific area, as well as methods designed to achieve a better understanding of nuisance animal behavior and hence the efficacy of removal activities. All methods and tools used will be non-lethal and are not expected to result in serious injury or mortality. The list of non-lethal methods includes, but is not limited to, the following: acoustic harassment (e.g., seal bombs, cracker shells, predator sounds, AHDs, ADDs); tactile harassment (e.g., rubber projectiles, water hose); vessel chase; aversive conditioning; exclusion; trapping, capture, temporary captivity, and/or relocation; temporary and/or permanent marking for identification (e.g., flipper tags, paint balls, hot-branding); and instrumentation for tracking (e.g., VHF tag, GPS tag). Non-lethal removal may also include transfer to permanent captivity in an approved facility.

In addition to notifying you of our pending non-lethal removal activities, we are also notifying you of pending research that ODFW and WDFW will be conducting on pinnipeds in the lower Columbia River under Section 104 of the MMPA and Section 10(a)(1)(A) of the ESA. ODFW

and WDFW marine mammal staff are co-investigators on research permit No. 13420-01 and No. 14326-02. Permit No. 13420-01 authorizes directed research take of California sea lions, harbor seals, and elephant seals, as well as incidental take of Steller sea lions. Specific procedures included in this permit are: abundance surveys; scat collection; and capture for marking, instrumentation, and tissue collection. Permit No. 14326-02 authorizes directed research take of Steller sea lions as well as incidental take of California sea lions, harbor seals, and elephant seals. Specific procedures included in this permit are: abundance surveys; scat collection; and capture for marking, instrumentation, and tissue collection.

Finally, the states of Oregon and Washington will continue permanently removing California sea lions in accordance with our Letter of Authorization under Section 120 of the MMPA issued to us by NMFS on March 15, 2012. Consistent with our findings and discussion above, the states will be engaged in non-lethal removal and research activities that include trapping, capturing, and temporary holding of California sea lions and Steller sea lions. Any California sea lion trapped during non-lethal removal and/or research activities and which has been authorized for lethal removal may be transferred to permanent captivity under Section 109(h)(1)(C) and Section 112(c) or euthanized under our Section 120 Letter Of Authorization.

Please note that the same group of highly qualified and trained ODFW and WDFW marine mammal program staff will carry out all three of the authorized activities described above (i.e., non-lethal removal, research, and lethal removal). Non-lethal removal and research activities often occur simultaneously using the same traps, and lethal removal activities occur during a subset of these activities when an animal authorized for lethal removal has been captured. All project staff participates in all authorized activities on each trapping occasion. Collectively, this staff has nearly 100 years of combined experience working with pinnipeds throughout the eastern Pacific and has safely and humanely handled many thousands of seals and sea lions. Staff will continue to implement all safety and handling protocols mandated by the Institutional Animal Care and Use Committees that oversee research and Section 120 activities, and as required in the terms and conditions of our Section 120 Letter of Authorization.

We understand that some of the actions needed to deter pinnipeds may have the potential to affect listed salmonids in the area. ODFW and WDFW will work with NMFS staff to ensure that we have sufficient safeguards in place to avoid impacts to these fish, to evaluate the effectiveness of our efforts, and to fulfill the reporting requirements outlined in MMPA and ESA regulations.

Sincerely,

Roy Elicker, Director
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Salem, OR 97303-4924

Phil Anderson, Director
Washington Department of Fish & Wildlife
600 Capitol Way North
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