



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

Marine Region

20 Lower Ragsdale Drive, Suite 100

Monterey, CA 93940



October 27, 2005

Adrienne R. Fink, Project Manager
Ecology and Environment Inc.
350 Sansome Street #300
San Francisco, California 94104

RE: Monterey Bay Aquarium Research Institute (MBARI) MARS Project.

Dear Ms. Fink

The Department has received your letter dated July 19, 2005 requesting concurrence that no further consultation will be required regarding compliance with the provisions of the California Endangered Species Act.

The Department is a trustee agency for the State's fish and wildlife resources. The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (California Fish and Game Code section 1802). In this capacity, the Department administers the California Endangered Species Act, the Native Plant Protection Act, and other provisions of the California Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

Based upon our review of information contained in the Biological Assessment, the CEQA documents prepared for this project and the "Final Adopted Findings: Coastal Development Permit & Consistency Certification", the Department of Fish and Game does not anticipate the project as described will result in the take of species protected by the California Endangered Species Act (CESA) or California's fully protected species laws. Therefore, we believe the project can be carried out in compliance with CESA and the fully protected species statutes without obtaining take authorizations from the Department. The Department's advice on this matter does not, however, confer any authorization to take listed or fully protected species, so MBARI must take care to avoid take of these species during construction and operation of the project. If MBARI becomes aware of circumstances that may increase the potential for adverse project impacts on these species, such as observation of state-listed or fully protected animals in close proximity to project activities, the Department strongly recommends you immediately consult with us in assessing the risk of take and the need for a take permit or other take authorization.

The Department still needs to be notified of any unanticipated impact on state fish and wildlife resources, regardless of whether listed or fully protected species are involved.

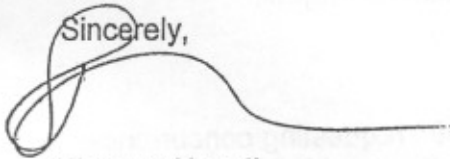
Conserving California's Wildlife Since 1870

Ms. Adrienne Fink
Page Two
October 27, 2005

Additionally, all other Department notifications identified in the coastal development permit and final adopted finding will still need to be made, and this letter does not waive our jurisdiction and responsibilities as trustee agency for the state's fish and wildlife resources.

As always, Department personnel are available to discuss our concerns in greater detail. To arrange for a discussion, please contact George Isaac, Environmental Scientist, California Department of Fish and Game, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940, telephone (831) 649-2813.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Napoli', with a long horizontal line extending to the right.

Thomas Napoli
Staff Environmental Scientist

cc: Alison J. Dettmer
California Coastal Commission Manager, Energy & Ocean Resources
Unit, 45 Fremont Street, Suite 2000
San Francisco, California 94105

Steve Adams, DFG Legal.
George Isaac, DFG Monterey