



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Incidental Harassment Authorization

Bergerson Construction, Inc. (Bergerson), 55 Portway Street, PO Box 387, Astoria, Oregon 97103, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107 to take, by Level B harassment only, small numbers of marine mammals incidental to conducting in-water construction work for the Front Street Transload Facility construction project, contingent upon the following conditions:

1. This Authorization is valid from November 1, 2015, through October 31, 2016.
2. This Authorization is valid only for activities associated with in-water construction work at the Front Street Transload Facility construction project in Newport, Oregon.
3.
 - (a) The species authorized for incidental harassment takings, Level B harassment only, are: Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).
 - (b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:
 - Vibratory and impact pile driving;
 - Vibratory pile removal; and
 - Work associated with above piling activities.
 - (c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the West Coast Administrator (206-526-6150), National Marine Fisheries Service (NMFS) and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427-8401, or her designee (301-427-8401).
4. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of activities identified in 3(b) (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible).
5. Prohibitions
 - (a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 1. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death



of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

6. Mitigation

(a) Time Restriction

In-water construction work shall occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

(b) Air Bubble Curtain

Bergerson shall install an air bubble curtain system around the pile for impact pile driving.

(c) Establishment of Level A Exclusion Zone

Before the commencement of in-water impact pile driving activities, Bergerson shall establish Level A exclusion zone where received underwater sound pressure levels (SPLs) are higher than 190 dB (rms) re 1 μ Pa. The modeled isopleths for exclusion zone 2.1 m from the source.

(d) Establishment of Level B Harassment Zones of Influence

Before the commencement of in-water pile driving activities, Bergerson shall establish Level B behavioral harassment zones of influence (ZOIs) where received underwater sound pressure levels (SPLs) are higher than 120 dB (rms) re 1 μ Pa for vibratory pile driving and pile removal, and 160 dB (rms) re 1 μ Pa for impact pile driving. The modeled isopleths for vibratory pile driving and pile removal ZOI is 2,900 m from the source, and the modeled isopleths for impact pile driving ZOI is 215 m from the source.

(e) Monitoring of marine mammals shall take place starting 30 minutes before pile driving begins until 30 minutes after pile driving ends.

(f) Soft Start

(i) When there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

(ii) For impact pile driving, the contractor would provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets.

(iii) For vibratory pile driving, the contractor will initiate noise from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure shall be repeated two additional times.

(g) Shutdown Measures

(i) Bergerson shall implement shutdown measures if a marine mammal is sighted within or approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

(ii) Bergerson shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA or if any marine mammal not species listed in Table 1 are approaching the Level B ZOI during pile driving or pile removal activities.

(iii) Bergerson shall implement shutdown measures if marine mammals with the ZOI appear disturbed by the work activity.

7. Monitoring:

(a) Protected Species Observers

Bergerson shall employ NMFS-approved PSOs to conduct marine mammal monitoring for its construction project.

(i) During pile removal and installation, two land-based protected species observers (PSOs) shall monitor the area from the best observation points available.

(ii) If weather conditions prevent adequate land-based observations of the entire ensonified zones, boat-based monitoring shall be implemented.

(iii) Experience or training in the field identification of marine mammals (cetaceans and pinnipeds).

(iv) Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (e.g., Zeiss, 10 x 42 power).

(v) Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

8. Reporting:

(a) Bergerson shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work or within 90 days of the expiration of the IHA,

whichever comes first. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from the NMFS West Coast Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury, serious injury, or mortality, Bergerson shall immediately cease all operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

- (i) Time, date, and location (latitude/longitude) of the incident;
- (ii) Description of the incident;
- (iii) Status of all sound source use in the 24 hours preceding the incident;
- (iv) Environmental conditions (e.g., wind speed and direction, sea state, cloud cover, visibility, and water depth);
- (v) Description of marine mammal observations in the 24 hours preceding the incident;
- (vi) Species identification or description of the animal(s) involved;
- (vii) The fate of the animal(s); and
- (viii) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Bergerson to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Bergerson may not resume their activities until notified by NMFS via letter, email, or telephone.

(d) In the event that Bergerson discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Bergerson will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information

identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Bergerson to determine whether modifications in the activities are appropriate.

(e) In the event that Bergerson discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Bergerson shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 48 hours of the discovery. Bergerson shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Bergerson can continue its operations under such a case.

9. This Authorization may be modified, suspended, or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

10. A copy of this Authorization must be in the possession of each contractor who performs the construction work at the Front Street Transload Facility constructions.

for
PERRY GAYALOO

Donna S. Wieting, Director
Office of Protected Resources
National Marine Fisheries Service

OCT 20 2015

Date

Table 1. Species/stocks and numbers of marine mammals allowed under this IHA.

Species	Estimated marine mammal takes
Pacific harbor seal	1,020
California sea lion	1,100