



NOV 05 2015

MEMORANDUM FOR: The Record

FROM: Donna S. Wieting, Director *for Perry Gayaloo*
Office of Protected Resources
National Marine Fisheries Service

SUBJECT: Adoption of the U.S. Navy's Environmental Assessment on
Fender Pile Removal and Replacement at Pier 4

I. Background

I.A. NMFS' Proposed Action

The National Marine Fisheries Service (NMFS), a division of the National Oceanic and Atmospheric Administration (NOAA), is proposing to issue an Incidental Harassment Authorization (IHA) to the United States Navy (Navy) pursuant to Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. §§ 1371 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 Code of Federal Regulations [CFR] Part 216, Subpart I). The IHA would be valid from December 1, 2015, through November 30, 2016, and would authorize take, by Level B harassment, of marine mammals incidental to pier maintenance activities at Naval Base Kitsap Bremerton, WA (NBKB). Pier maintenance includes the removal of deteriorated timber piles and the installation of steel piles by vibratory pile driving.

NMFS' proposed action is a direct outcome of Navy's IHA request (received on June 12, 2015), which involves the use of acoustic sources that have the potential to cause marine mammals in the vicinity of the pier maintenance activity to be behaviorally disturbed and, therefore, warrants an authorization from NMFS. NMFS' IHA issuance criteria require that the unintentional taking of marine mammals authorized by an IHA will have a negligible impact on the species or stock(s) and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the IHA must set forth the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such taking.

I.B. U.S. Navy's Proposed Action

As described in the Navy's final Environmental Assessment (EA), NBKB serves as the homeport for a nuclear aircraft carrier and other Navy vessels and as a shipyard capable of overhauling and repairing all types and sizes of ships. Other significant capabilities include alteration, construction, deactivation, and dry-docking of naval vessels. Pier 4 was completed in 1922 and



requires substantial maintenance to support ship repair and other activities necessary to maintain Navy vessels. The Navy proposes to remove up to eighty deteriorating timber fender piles and to replace them with new steel fender piles. During the first in-water work window, and under the proposed IHA, the Navy would conduct ten days of vibratory pile removal and twenty days of vibratory pile installation.

I.C. Comparison of U.S. Navy's Proposed Action to NMFS' Proposed Action

NMFS' proposed action (issuance of an IHA) would authorize take of marine mammals incidental to a subset of the activities analyzed in the Navy's EA that are anticipated to result in the take of marine mammals, i.e., pile installation and removal activities. Thus, these components of the Navy's proposed action are the subject of NMFS' proposed IHA. Other components of construction not expected to result in incidental take of marine mammals are not the subject of NMFS' proposed action. The Navy's EA contains a thorough analysis of the environmental consequences of their proposed action on the human environment, including specific sections addressing the effects of underwater sound on marine mammals and describing potential mitigation measures specific to marine mammals.

NMFS participated in the development of the Navy's EA by identifying additional mitigation measures (for marine mammals) that should be considered in the Navy's analysis and by ensuring that any additional information and analyses necessary to support NMFS' proposed action and allow for consideration of adoption of the document for NMFS' NEPA compliance were included in the EA.

II. Alternatives and Impact Assessment

II.A. Summary of the Alternatives Considered by the Navy

The Navy's EA considers a No-Action Alternative and one Action Alternative.

No-Action Alternative: The No-Action Alternative is required by Council on Environmental Quality (CEQ) regulations as a baseline against which the impacts of the Proposed Action are compared. Under the No-Action Alternative, the Navy would not implement maintenance work on Pier 4, resulting in continued deterioration and compromised pier integrity and mission readiness. The No-Action alternative was rejected as not meeting the purpose and need of the proposed action, which is to maintain the existing Pier 4 in working condition and to ensure structural integrity, but is carried forward as a baseline for the analysis.

Action Alternative: Under the proposed action, the Navy would conduct maintenance repairs to the existing pier.

II.B. Summary of Alternatives Considered by NMFS

No-Action Alternative: NMFS would not issue an IHA to the Navy for the take of marine mammals incidental to activities described in the Navy's preferred alternative (for NMFS, this

constitutes the NEPA-required No-Action Alternative). The effects of NMFS' No-Action Alternative are substantially the same as those of the Navy's No-Action alternative.

Action Alternative: NMFS issues an IHA authorizing take of marine mammals incidental to activities described in the Navy's preferred alternative, with the mitigation, monitoring and reporting measures presented in the Navy's Final EA.

The Navy's EA includes consideration of a variety of mitigation and monitoring measures through incorporation of the IHA application. These mitigation and monitoring measures include the establishment of exclusion zones for prevention of injury and the use of protected species observers. Some of these measures are specifically developed to minimize adverse impacts on marine mammals, while others may benefit marine mammals indirectly. NMFS aided in development of the draft EA by identifying additional mitigation measures (for marine mammals) that should be considered. As a result of this interaction, additional mitigation measures were discussed and considered in the final EA that would reduce impacts to marine mammals to the level of least practicable impact.

II.C. Environmental Consequences

The EA analyzed the impacts to biological resources as well as impacts to water quality, the physical and biological environment, cultural resources, and other aspects of the human environment. The principal types of impacts during project construction would primarily be limited to include underwater noise (and its effects on marine biota) and turbidity. The expected impacts are not considered significant. The action alternative would be expected to result in noise levels that may affect marine mammals; these effects are expected to be limited to behavioral disturbance. NMFS' proposed action concerns only the potential effects to the biological component of the marine environment.

The anticipated impacts of the proposed action are primarily from increased levels of underwater sound resulting from pile installation and removal. The analysis in the EA indicated these impacts would be short term in nature (a maximum of thirty total days). Airborne and underwater sound associated with pile driving could have an effect on wildlife as well as on humans in the Bremerton vicinity. As such, the EA analyzed the impacts to wildlife as well as impacts to humans, marine vegetation, fish and benthic invertebrates and other environmental resources. The EA concludes the impacts associated with the proposed action are minor and temporary and result in no significant impacts, including impacts on species listed under the Endangered Species Act (ESA). No marine mammals are anticipated to be exposed to sound levels resulting in injury or mortality during construction activities. Socioeconomics, environmental justice, the protection of children and the regional economy would not be significantly impacted as a result of the proposed action. There would be no disproportionately high and adverse environmental, human health and socioeconomic effects to minority and low income populations. Recent and proposed projects at NBKB and other projects in the area were examined to determine possible cumulative impacts. All resource areas analyzed in the EA have been evaluated for cumulative impacts including past, present and reasonably foreseeable future actions. The analysis indicates that no significant cumulative impacts are anticipated because of the relative scale of projects and the nature and magnitude of specific impacts. The Navy's analysis indicates that the project

would not result in significant impacts to the human environment; however, mitigation measures have been designed by the Navy and NMFS to further reduce project impacts to marine mammals and other resources.

II.D. Public Involvement

NMFS' IHA: To allow other agencies and the public the opportunity to review and comment on the actions, NMFS published a notice of receipt of the Navy application and proposed IHA in the *Federal Register* on July 24, 2015 (80 FR 44033). The Navy's draft EA was also posted online with the publication of the proposed IHA. During the public comment period, NMFS received comments from the Marine Mammal Commission, which did not indicate that the environmental effects of NMFS' action were significantly controversial. The Commission recommended that NMFS (1) issue the requested incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures and (2) ensure that the Navy is sufficiently aware of the requirements set forth in each authorization. NMFS concurs with the recommendations and will provide a response in the *Federal Register*. In addition, NMFS would make the IHA and Navy's Final EA available on the internet at www.nmfs.noaa.gov/pr/permits/incidental/.

Navy's EA: Navy published the Notice of Availability (NOA) for the EA in the *Federal Register* for a 30-day public comment period. In addition to publishing a NOA, the Draft EA was made available for public review and comment. The Navy received no public comments on the Draft EA. The Navy's Final EA and Finding of No Significant Impact will also be made available to the public.

III. Mitigation Measures and Monitoring And Reporting Requirements

NMFS' issuance of the IHA is conditioned upon the implementation of mitigation and monitoring designed to reduce impacts to marine mammals to the level of least practicable impact. The IHA and Navy's EA include details about the mitigation measures and monitoring and reporting requirements summarized below.

III.A. Mitigation

Monitoring Zones and Shutdown: The Navy is required to establish monitoring zones corresponding with different intensities of effect (i.e., potential injury or behavioral harassment), in which visual observation of marine mammal presence would occur (see also Monitoring, below). These zones will include a disturbance zone and a shutdown zone, and the Navy is required to implement shutdown of activity when marine mammals enter the latter.

Time Restrictions: The Navy will conduct work during defined in-water work windows and will work only during daylight hours.

Soft Start: The Navy is required to gradually initiate the sound from pile driving so that animals have the opportunity to leave the area before pile driving reaches full power.

III.B. Monitoring

Protected species observers meeting the minimum qualifications identified in the Navy's monitoring plan will observe the monitoring zones described above during pile driving activities. The observers will scan the waters within each monitoring zone using binoculars and visual observation.

III.C. Reporting

Navy is required to submit a draft monitoring report to NMFS within 45 days of the conclusion of monitoring.

IV. NMFS Review

The Office of Protected Resources (OPR) has reviewed the Navy's EA and concludes that the impacts evaluated by the Navy are substantially the same as the impacts of NMFS' proposed action to issue an IHA for the take of marine mammals. In particular, the EA contains an adequate evaluation of the direct, indirect and cumulative impacts on marine mammals and ESA-listed species. In addition, OPR has evaluated the Navy's EA and determined the EA includes all required components for adoption by NOAA, including:

- a brief discussion of the purpose and need for the proposed action;
- a listing of the alternatives to the proposed action;
- a description of the affected environment;
- a succinct description of the environmental impacts of the proposed action and alternatives, including cumulative impacts; and
- a listing of agencies and persons consulted and to whom copies of the Final EA are sent.

As a result of this review, the Office of Protected Resources has determined that the Navy's EA is complete and adequate to support NMFS' proposal to issue an IHA. It is therefore not necessary to prepare a separate EA or environmental impact statement to issue an IHA to the Navy and adoption of the EA is appropriate.

V. Conclusion and Findings

The Navy's EA and NMFS' FONSI support the finding that no significant environmental impacts will result from NMFS' proposed action to issue an IHA for the incidental take of marine mammals related to the Navy's pier maintenance activities. Based on the environmental review and supporting analysis, NMFS' OPR has adopted the Navy's EA under the CEQ Regulations for Implementing the National Environmental Policy Act (40 CFR 1506.3).