



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

Michael Gougherty
San Francisco Bay Area Water Emergency Transportation Authority
Pier 9, Suite #111, The Embarcadero
San Francisco, CA 94111

Dear Mr. Gougherty:

Enclosed is an Incidental Harassment Authorization (IHA) issued to the San Francisco Bay Water Emergency Transit Authority, under the authority of section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), to harass small numbers of marine mammals, by Level B harassment, incidental to the Ferry Terminal Expansion Project, Small Basin Improvements Project from the date of issuance through December 31, 2016.

You are required to comply with the conditions contained in the IHA. In addition, you must submit reports to the National Marine Fisheries Service's (NMFS) Office of Protected Resources within 90 days of its completion. The IHA requires monitoring of marine mammals by qualified individuals before, during, and after pile driving and vibratory removal activities and reporting of marine mammal observations, including species, numbers, and behavioral modifications potentially resulting from this activity.

If you have any questions concerning the IHA or its requirements, please contact Laura McCue, Office of Protected Resources, NMFS, at 301-427-8496.

Sincerely,

Donna S. Wieting
Director
Office of Protected Resources

Enclosures



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Incidental Harassment Authorization

San Francisco Bay Area Water Emergency Transportation Authority (WETA), Pier 9, Suite 111, The Embarcadero, San Francisco, California 94111, 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 the Ferry terminal expansion project, south basin improvements project in San Francisco, California, contingent upon the following conditions:

1. This Incidental Harassment Authorization (IHA) is valid from the date of issuance through December 31, 2016.
2. This IHA is valid only for pile driving and removal activities associated with the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco Bay, CA.
3. General Conditions
 - (a) A copy of this IHA must be in the possession of WETA, its designees, and work crew personnel operating under the authority of this IHA.
 - (b) The species authorized for taking are summarized in Table 1.
 - (c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 1 for numbers of take authorized.

Table 1. Authorized Take Numbers.

Species	Authorized Take	
	Level A	Level B
Harbor seal	0	4,426
California sea lion	0	7,660
Northern elephant seal	0	21
Northern fur seal	0	10
Harbor porpoise	0	9
Gray whale	0	2

Bottlenose dolphin	0	30
Total	0	12,158

(d) The taking by injury (Level A harassment), serious injury, or death of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) WETA shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and WETA staff prior to the start of all pile driving and removal activities, and when new personnel join the work.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving and vibratory removal, WETA shall implement a minimum shutdown zone of 10 meter radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(b) For in-water heavy machinery work other than pile driving (*e.g.*, standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 meters, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

(c) WETA shall establish monitoring locations as described below. Please also refer to the Marine Mammal Monitoring Plan (see www.nmfs.noaa.gov/pr/permits/incidental/construction.htm).

i. For all pile driving and vibratory removal activities, a minimum of two observers shall be deployed, with one positioned to achieve optimal monitoring of the shutdown zone and the second positioned to achieve optimal monitoring of surrounding waters of the ferry terminal

and portions of San Francisco Bay. If practicable, the second observer should be deployed to an elevated position with clear sight lines to the ferry terminal. If impact driving is the only method used on one day, then only one observer is needed.

ii. These observers shall record all observations of marine mammals, regardless of distance from the pile being driven, as well as behavior and potential behavioral reactions of the animals. Observations within the ferry terminal shall be distinguished from those in the nearshore waters of San Francisco Bay.

iii. All observers shall be equipped for communication of marine mammal observations amongst themselves and to other relevant personnel (*e.g.*, those necessary to effect activity delay or shutdown).

(d) Monitoring shall take place from fifteen minutes prior to initiation of pile driving and removal activity through thirty minutes post-completion of pile driving and removal activity. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior shall be monitored and documented. Monitoring shall occur throughout the time required to drive a pile. The shutdown zone must be determined to be clear during periods of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).

(e) If a marine mammal approaches or enters the shutdown zone, all pile driving and removal activities at that location shall be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of small cetaceans and pinnipeds and 30 minutes for gray whales.

(f) Level A and Level B zones may be modified if additional hydroacoustic measurements of construction activities have been conducted and NMFS has approved of the revised zones. If zones are considered small enough by NMFS staff to be monitored by one observer, then WETA is allowed to use one observer for those zones.

(g) Using delay and shut-down procedures, if a species for which authorization has not been granted (including but not limited to Guadalupe fur seals and humpback whales) or if a species for which authorization has been granted but the authorized takes are met, approaches or is observed within the Level B harassment zone, activities will shut down immediately and not restart until the animals have been confirmed to have left the area.

(h) Monitoring shall be conducted by qualified observers, as described in the Monitoring Plan. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start and in accordance with the monitoring plan, and shall include instruction on species identification (sufficient to distinguish the species listed in 3(b)), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

(i) WETA shall use soft start techniques recommended by NMFS for impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft

start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(j) Sound attenuation devices - Approved sound attenuation devices (e.g. bubble curtain) shall be used during impact pile driving operations. WETA shall implement the necessary contractual requirements to ensure that such devices are capable of achieving optimal performance, and that deployment of the device is implemented properly such that no reduction in performance may be attributable to faulty deployment.

(k) Pile driving shall only be conducted during daylight hours.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during pile driving and removal activities. Marine mammal monitoring and reporting shall be conducted in accordance with the Monitoring Plan.

(a) WETA shall collect sighting data and behavioral responses to pile driving and removal for marine mammal species observed in the region of activity during the period of activity. All observers shall be trained in marine mammal identification and behaviors, and shall have no other construction-related tasks while conducting monitoring.

(b) For all marine mammal monitoring, the information shall be recorded as described in the Monitoring Plan.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within ninety days of the completion of marine mammal monitoring, or sixty days prior to the issuance of any subsequent IHA for projects at the San Francisco Ferry Terminal, whichever comes first. A final

report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan, at minimum (see www.nmfs.noaa.gov/pr/permits/incidental/construction.htm), and shall also include:

i. Detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any.

ii. Description of the number of incidents of take and individual behavioral responses.

iii. An estimated total take estimate extrapolated from the number of marine mammals observed during the course of construction activities, if necessary.

(b) Reporting injured or dead marine mammals:

i. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, WETA shall immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS. The report must include the following information:

A. Time and date of the incident;

B. Description of the incident;

C. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);

D. Description of all marine mammal observations in the 24 hours preceding the incident;

- E. Species identification or description of the animal(s) involved;
- F. Fate of the animal(s); and
- G. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with WETA to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WETA may not resume their activities until notified by NMFS.

ii. In the event that WETA discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), WETA shall immediately report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WETA to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that discovers an injured or dead marine mammal, and the lead observer 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, scavenger damage), WETA shall report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. WETA shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.



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

JUN 28 2016

Date