UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

LETTER OF AUTHORIZATION

The U.S. Army Corps of Engineers (USACE) and its designees are hereby authorized under section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(A)) to incidentally harass marine mammals incidental to the Lower Columbia River Dredged Material Management Plan, Oregon and Washington, subject to the provisions of the MMPA and Regulations Governing Taking and Importing Marine Mammals Taking Marine Mammals Incidental to the Lower Columbia River Dredged Material Management Plan, Oregon and Washington (50 CFR Part 217 Subpart H) (Regulations).

1. This letter of authorization (LOA) is valid from November 1, 2027, through February 29, 2032.

2. This Authorization is valid only for take incidental to the specified USACE in-water construction activities associated with the Lower Columbia River Dredged Material Management Plan, Oregon and Washington. Hereafter (unless otherwise specified) the term "in-water construction activities" is used to refer to impact driving and vibratory driving and removal.

3. General Conditions

   (a) A copy of this LOA must be in the possession of the Holder of the Authorization (Holder), supervisory construction personnel, lead protected species observers (PSOs), and any other relevant designees of the Holder operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.

   (b) The species and/or stocks authorized for taking are listed in Table 1. Authorized take, by Level A and B harassment only, is limited to the species and numbers listed in Table 1.

   (c) The taking by serious injury or death of any of the species listed in Table 1 or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this LOA. Any taking exceeding the authorized amounts listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this LOA.

   (d) The Holder shall conduct training for supervisors and crews, the PSO team, and relevant USACE staff prior to the start of all activities subject to this LOA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.

4. Mitigation Requirements

(a) The Holder must employ PSOs and establish monitoring locations as described in section 5 of this LOA and the Marine Mammal Monitoring Plan. The Holder must monitor the harassment zones (Table 2) to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

(b) Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity.

(c) Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones indicated in Table 2 are clear of marine mammals. Pile driving may commence following 30 minutes of diligent observation after which it is determined that the shutdown zones are clear of marine mammals.

(d) For all pile driving activity, the USACE must implement shutdown zones with radial distances as identified in Table 2.

(e) If a marine mammal is observed entering or within the shutdown zones indicated in Table 2, pile driving activity must be delayed or halted. Pile driving must be commenced or resumed as described in condition 4(e) of this IHA.

(f) If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated in Table 2 or 15 minutes have passed without re-detection of the animal.

(g) The Holder must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must 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 30 minutes or longer.

(h) The Holder must use a bubble curtain during impact pile driving where the water depth is less than 0.67 m (2 ft) in depth. Bubble curtains must meet the following requirements:

i. The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

ii. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact.

iii. The bubble curtain must be operated such that there is equal balancing of air flow to all bubblers.

(i) For all pile driving activities, land-based PSOs must be stationed at the best vantage points practicable to monitor for marine mammals and implement shutdown/delay procedures.

(j) Pile driving activity must be halted (as described in condition 4(d) of this LOA) upon observation of a species for which either incidental take is not authorized or the authorized number of takes has been met entering or within the harassment zone (as shown in Table 2).

(k) The Holder must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 15 meters of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

5. Monitoring Requirements

(a) Marine Mammal monitoring must be conducted in accordance with the conditions in this section and the Marine Mammal Monitoring Plan.

(b) The Holder must submit a Marine Mammal Monitoring Plan to NMFS for approval at least 90 days before the start of construction and abide by the Plan if approved.

(c) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:

i. PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods.

ii. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

iii. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

iv. Where a team of three or more PSOs are required, a lead PSO or monitoring coordinator must be designated. The lead PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

v. PSOs must be approved by NMFS prior to beginning any activity subject to this LOA.

(d) The Holder must establish monitoring locations as described in the Monitoring Plan. For all pile driving activities, a minimum of one PSO must be assigned to each active pile driving location to monitor the shutdown zones.

(e) PSOs must record all observations of marine mammals, regardless of distance from the pile being driven, as well as the additional data indicated in section 6 of this LOA. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed

6. Reporting

(a) The Holder must submit a draft monitoring report to NMFS within 90 calendar days of the completion of each construction year. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of the project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports and the final comprehensive report must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

(b) All draft and final monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.pauline@noaa.gov*.

(c) The marine mammal report must contain the informational elements described in the Marine Mammal Monitoring Plan and, at minimum, must include:

i. Dates and times (begin and end) of all marine mammal monitoring;

ii. PSO locations during marine mammal monitoring;

iii. Construction activities occurring during each daily observation period, including:

A. The number and type of piles that were driven or removed and by what method (*i.e.*, impact, vibratory, or drilling); and

B. The total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving).

iv. Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance (if less than the harassment zone distance);

v. Upon observation of a marine mammal, the following information:

A. PSO who sighted the animal(s) and PSO location, as well as the activity at time of sighting;

B. Time of sighting;

C. Identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

D. Distances and bearing of each marine mammal observed in relation to the pile being driven for each sighting (if pile driving or drilling was occurring at time of sighting);

E. Estimated number of animals (min/max/best estimate);

F. Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.);

G. Number of marine mammals detected within the harassment zones by species.

H. Animal's closest point of approach and estimated time spent within the harassment zone;

I. Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses to the construction activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

J. Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any;

K. The Holder must submit all PSO datasheets and/or raw sighting data with the draft reports referenced in condition 6(a) of this LOA.

(d) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Holder must report the incident to the Office of Protected Resources (OPR), NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Pauline@noaa.gov*) and to the West Coast Regional Stranding Coordinator (206-526-4747) as soon as feasible. If the death or injury was clearly caused by the specified activity, the Holder must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this LOA. The Holder must not resume their activities until notified by NMFS.

The report must include the following information:

i. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

ii. Species identification (if known) or description of the animal(s) involved;

iii. Condition of the animal(s) (including carcass condition if the animal is dead);

iv. Observed behaviors of the animal(s), if alive;

v. If available, photographs or video footage of the animal(s); and

vi. General circumstances under which the animal was discovered.

7. This Authorization may be modified, suspended or revoked if the Holder fails to abide by the conditions prescribed herein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines: (1) the authorized taking is likely to have or is having more than a negligible impact on the species or stocks of affected marine mammals or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat.

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Tanya Dobrzynski,
Acting Director, Office of Protected Resources
National Marine Fisheries Service

Table 1 – Authorized Incidental Take

Common Name	Scientific Name	Stock	Maximum Annual Take		5 Year Maximum Take	
			Level A	Level B	Level A	Level B
Pacific Harbor Seal	*Phoca vitulina*	Washington Northern Inland Waters	30	7,301	87	17,238
California Sea Lion	*Zalophus californianus*	United States	0	9,282	0	25,662
Steller Sea Lion	*Eumetopias jubatus*	Eastern United States	0	153	0	423

Table 2 — Shutdown Zones and Level B Monitoring Zones

Pile size and type	Shutdown Zone (m)		Level B Harassment (m)
	Phocid	Otariid	
Vibratory Pile driving			
24-in steel pile	50	15	3,981
12-in timber pile	60	20	6,310
Impact pile driving			
24-in steel pile	50	50	464
12-in timber pile	15	15	22