

specifically waived. *Please include payment for any RUSH, special mailing, or bank transfer fee charges.*

Payment methods

***Charge Card**

NNDC accepts payment in U.S. currency, by VISA, MasterCard, American Express, and Discover. Cardholder's name, charge card number, expiration date, and signature are required. When indicating this method of

payment via mail or fax, the cardholder must sign the document authorizing the charge.

***Wire Transfers**

Payments, in *U.S. currency*, should be sent directly to Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045 with the following information:

Tag name	Tag number	Required information
Type/Subtype Code	(1,510)	1000
Dollar Amount ON-Y	(2,000)	\$9,999,999.99 (EXAMPLE ONLY)
Sender Financial Institution	(3,100)	Sending Fin. Inst's Routing & Transit # and Bank Name
Sender Reference	(3,320)	Completed by Sender
Receiver Financial Institution	(3,400)	021030004 TREAS NYC
Beneficiary	(4,200)	D
	—NOAA National	13140001
		Data Centers
Originator to Beneficiary Info.	(6,000)	Payment Detail (e.g. Order #)
Swift Code (if required)		FRNYUS33

****Note:** In addition to the total cost of your data/product(s) order, you **MUST** add your bank's wire transfer fee to ensure delays are not incurred in processing your request. Please contact your bank for the correct wire transfer fee amount.**

***Automated Clearing House (ACH)**

Payments, in U.S. currency, should be sent directly to Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045 with the following information:

Company Name	Name of Remitter
Company ID	Tax ID
Company Entry Description	FEE (EXAMPLE ONLY)
Date	
Receiving Company ABA	0510-3670-6
Account Number	540022
Dollar Amount	Supplied by Remitter
Individual ID Number	Order # or Pro forma #
Agency Name	NOAA National Data Centers

****Note:** In addition to the total cost of your data/product(s) order, you **MUST** add your bank's ACH transfer fee to ensure delays are not incurred in processing your request. Please contact your bank for the correct ACH transfer fee amount.**

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648-XA473]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Port of Anchorage Marine Terminal Redevelopment Project

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended and implementing regulations, notification is hereby given that the National Marine Fisheries Service (NMFS) has issued a Letter of Authorization (LOA) to the Port of Anchorage (POA) and the U.S. Department of Transportation Maritime

Administration (MARAD), to take four species of marine mammals incidental to the POA's Marine Terminal Redevelopment Project (MTRP).

DATES: Effective July 15, 2011, through July 14, 2012.

ADDRESSES: The LOA and supporting documentation are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service (NMFS), 1315 East-West Highway, Silver Spring, MD 20910-3225 or by telephoning one of the contacts listed below. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Alaska Regional Office, 222 West 7th Avenue, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, (301) 713-2289.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the National Marine Fisheries Service (NMFS) to allow, upon request, the incidental, but

not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill marine mammals.

Authorization may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species for subsistence uses. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of Cook Inlet beluga whales (*Delphinapterus leucas*), harbor porpoises (*Phocoena phocoena*), killer whales (*Orcinus orca*), and harbor seals (*Phoca vitulina*), by Level B harassment, incidental to in-water pile driving were issued on July 15, 2009 (74 FR 35136), and remain in effect until July 14, 2014. These regulations may be found in 50 CFR Part 217 subpart U. For detailed information on this action, please refer to that document. These regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the specified activity.

Summary of Request

On May 6, 2011, NMFS received a request for an LOA renewal pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of marine mammals, by Level B harassment only, incidental to the POA MTRP. In compliance with the 2010 LOA, POA and MARAD submitted an annual report on POA construction activities, covering the period of July 15 through December 31, 2010. The report also covers the period of January 1 through July 15, 2010, pursuant to the U.S. Army Corps of Engineers' reporting requirement under their permit issued under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. The report can be found on the NMFS Web site at <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Summary of Activity and Monitoring Under the 2010 LOA

During the reporting period covered by the 2010 LOA, in-water construction activities were conducted in the North Extension Bulkhead. In-water construction and construction monitoring for the 2009 season ended on November 20, 2010, when ice formation and poor visibility impeded further activity. These activities were within the scope of those analyzed in the final rule and included in the 2010 LOA.

On-site POA Monitoring

As required by the 2010 LOA, the POA and MARAD established safety and harassment zones at the project site, which were monitored for the presence of marine mammals before, during, and after in-water pile driving. If the applicable safety and harassment zones were not visible because of fog, poor light, darkness, sea state, or any other reason, in-water construction activities were shut down until the area was once again visible. From July 21 to November

20, 2010, 41 in-water pile driving shutdowns were documented due to marine mammal sightings. The peak month for shutdowns and delays during the 2010 construction season was September, when 20 shutdowns and 10 delays were recorded. Most of these occurred when marine mammals were sighted approaching or surfacing just inside the harassment zone.

According to the POA's annual report, within the LOA reporting period (July 21–November 20, 2010), MMOs stationed at the POA recorded 118 marine mammal sighting events in the general area totaling 746 animals. The number of animals is typically greater than the number of sighting events because a single sighting event can (and often does) consist of multiple animals and animals such as beluga whales often travel in groups. There were 731 beluga whales (422 white, 224 gray, and 85 dark gray); 13 harbor seals; and 2 harbor porpoises. The number of reported whales sighted between July 21 and November 20, 2010 includes repeated sightings of individuals during the course of the monitoring period.

The highest number of sightings (44) and number of marine mammals sighted (265) occurred in September (261 of this number were beluga whales: 172 white; 59 gray; and 30 dark gray). The fewest number of sightings for a 30-day period were recorded in August, when 146 marine mammals were sighted. In general, beluga whales showed no observable reaction to pile driving. The only observable reaction which has been documented is beluga whale groups splitting momentarily on three occasions as they maneuver around barges or vessels. In-water pile driving has yet to begin this year, to date; therefore, no MMOs have been required at the POA in 2011.

Independent Scientific Monitoring

POA regulations (50 CFR part 217 subpart U) stipulate that the POA and MARAD employ a scientific marine mammal monitoring team separate from the on-site MMOs to characterize beluga whale frequency, abundance, group composition, movements, behavior, and habitat use around the POA and observe, analyze, and document potential changes in behavior in response to in-water construction work. The POA and MARAD complied with this requirement by assembling a monitoring team from the Alaska Pacific University (APU) to implement a NMFS-approved scientific monitoring plan. The scientific marine mammal monitoring 2010 annual report was attached as an appendix to the annual report submitted by POA and MARAD.

This report covers the period of June through November, 2010 (ICRC, 2011). A summary of that report follows.

The APU observers conducted scientific monitoring from the Cairn Point Station on Elmendorf Air Force Base, which directly overlooks the POA. For 87 days, from June 29 through November 19, 2010, trained graduate and undergraduate marine biology students conducted approximately 600 hours of scientific monitoring and documented approximately 115 beluga whales, comprising 42 groups traveling through the study area. Spatial distribution analysis indicates that approximately 21 percent of all groups sighted occurred within ($n = 42$) or adjacent to ($n = 5$) the MRTP footprint. There were significant differences in the number of whales observed across tidal stages ($F_{8,45} = 2.94$, $p = .02$). There were significant peaks in sightings during low ($p = .01$) and high ($p = .03$) flood tides and during high ebb tides ($p = .03$).

Mean beluga whale group size was 2.7 plus or minus .35 individuals. Only three groups contained individuals identified as calves, and groups with calves were larger on average (4.3 plus or minus 1.2 individuals) than those without. All three groups containing calves were sighted within or adjacent to the MTRP footprint. The number of beluga whales sighted, group size, and size of groups with calves in 2010 decreased from those sighted in 2009; however, this difference was not considered significant. The APU team will continue to monitor and report on beluga whale abundance and the various parameters discussed here within lower Knik Arm for the duration of POA construction.

In summary, the scientific monitoring team found that beluga whale habitat use, distribution and movements, and behavior during 2010 were consistent with previous years (2007–2009) with whales primarily traveling through the study area on the incoming and outgoing tides to and from likely foraging areas further up Knik Arm. Similar to accounts from the MMOs stationed at the POA, no observed behavioral changes (*e.g.*, abrupt behavioral changes, rapid descents) or other indicators of response to in-water pile driving or other MTRP in-water construction activities were noted by the APU observers.

Take Summary for 2010 Construction Season

During the 2010 LOA reporting period, the following numbers of marine mammals were identified as taken from in-water pile driving: 13 beluga whales; 1 harbor seal; 0 harbor porpoises; and 0

killer whales. Of the 13 beluga whale takes recorded, 9 were in October and 4 were in November. The recorded takes occurred when marine mammals entered the Level B harassment zone (1,300 m from the point where vibratory pile driving takes place) during in-water (vibratory) pile driving. The number of animals, by species, taken under the 2010 LOA was within the amount authorized.

As discussed in more detail below, the POA has implemented a robust monitoring and mitigation program to minimize harassment and avoid exposing animals to injurious levels of sound produced by pile driving. The POA has also developed a successful communication system between MMOs and engineers to shut down pile driving before whales enter into designated harassment zones, avoiding Level A take and minimizing Level B take.

Planned Activities, Mitigation and Monitoring for 2011

During the 2011 construction season, the POA will be conducting two projects at the North End of the project site. The construction work includes: (1) Partial tail wall sheet pile removal at the Wet Barge Berth; and (2) limited inspection of tail walls at the North Extension. The work involves excavation of fill behind exiting sheet pile prior to removal or inspection. The excavation, tail wall removal, and inspection will be conducted out-of-water, inland of the bulkhead. Mobilization, rigging, and excavation began the week of May 9, 2011. At certain locations, barge-mounted heavy equipment will be required to excavate fill material. When the barge is in use, construction marine mammal monitoring will be conducted in accordance with existing permit requirements (*see* mitigation measure 8, below). It is anticipated that the barge work will commence in July.

As stated in the regulations and LOA, take of marine mammals will be minimized through implementation of the following mitigation measures: (1) If a marine mammal is detected within or approaching the Level A or impact and vibratory pile driving Level B harassment isopleths (200 m, 350 m and 1,300 m, respectively) prior to in-water pile driving, operations shall be immediately delayed or suspended until the marine mammal moves outside these designated zones or the animal is not detected within 15 minutes of the last sighting; (2) if a marine mammal is detected within or approaching 200 m prior to chipping, this activity shall be immediately delayed or suspended until the marine mammal moves outside these designated zones or the animal is

not detected within 15 minutes of the last sighting; (3) except in certain circumstances (*see* 8 below), after pile driving activities have commenced, suspension of in-water pile driving is encouraged, but not mandatory, when animals enter the Level B isopleths (350 m from the point where impact pile driving is taking place and 1,300 m from the point where vibratory pile driving takes place); (4) in-water impact pile driving shall not occur during the period from two hours before low tide until two hours after low tide; (5) in-water piles will be driven with a vibratory hammer to the maximum extent possible (*i.e.*, until a desired depth is achieved or to refusal) prior to using an impact hammer; (6) in-water pile driving or chipping shall not occur when conditions restrict clear, visible detection of all waters within harassment zones; (7) a "soft start" technique shall be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than one hour to allow any marine mammal that may be in the immediate area to leave before pile driving reaches full energy; (8) if a group of more than 5 beluga whales or group with a calf is sighted within the Level B harassment isopleths, in-water pile driving shall be suspended; and (9) for operated in-water heavy machinery work other than pile driving or chipping (*i.e.*, dredging, dump scowles, linetug boats used to move barges, barge mounted hydraulic excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 50 m, those operations will cease and vessels will reduce to the slowest speed practicable while still maintaining control of the vessel and safe working conditions.

NMFS-approved marine mammal observers (MMOs) will be stationed at the port during all in-water pile driving and chipping and blasting associated with dock demolition, if it occurs. These observers will be responsible for documenting take, marine mammal behavior, and, if necessary, notifying the resident engineer when shut down is necessary. In addition, the POA and MARAD shall employ a scientific marine mammal monitoring team separate from the on-site MMOs to characterize beluga whale abundance, frequency, movements, behavior, group dynamics, and habitat use around the POA and observe, analyze, and document potential changes in behavior in response to in-water construction work. This monitoring team is not required to be present during all in-water pile driving operations but will be

on-site 4 days per week, weather permitting. It is anticipated that Alaska Pacific University (APU) will begin the 2011 scientific marine mammal observation program in June. The on-site MMOs and this marine mammal monitoring team shall remain in contact to alert each other to marine mammal presence when both teams are working.

The POA and MARAD shall submit monthly reports summarizing all in-water construction activities and marine mammal sightings. In addition, an annual report shall be due sixty days before expiration of the LOA. This report shall summarize monthly reports and any apparent long or short term impacts the MTRP may be having on marine mammals. This LOA will be renewed annually based on review of the annual monitoring report.

Authorization

The POA and MARAD have complied with the requirements of the 2010 LOA, and NMFS has determined that marine mammal take during the 2010 construction season is within the amount authorized. Accordingly, NMFS has issued a LOA to POA and MARAD authorizing take by harassment of marine mammals incidental to the marine terminal redevelopment project at the POA. Issuance of the 2011–2012 LOA is based on NMFS' review of the annual report submitted by the POA and MARAD, and determination that the observed impacts were within the scope of the analysis and authorization contained in the final rule and previously issued LOA. Specifically, NMFS found that the total taking of marine mammals, in consideration of the required mitigation, monitoring, and reporting measures, will have no more than a negligible impact on the affected species or stocks and will not have an unmitigable adverse impact on their availability for taking for subsistence uses.

Dated: June 28, 2011.

James H. Lecky,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–16893 Filed 7–5–11; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, July 13, 2011, 10 a.m.–12 noon.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.