



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

JUL 15 2008

Governor William J. Sheffield
Port Director
Port of Anchorage
2000 Anchorage Port Road
Anchorage, Alaska 99501

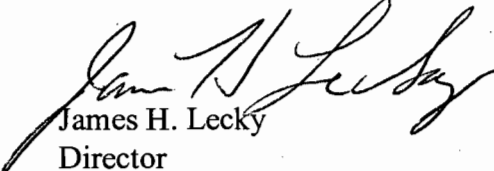
Dear Mr. Sheffield:

Enclosed is an Incidental Harassment Authorization (IHA) issued to the Port of Anchorage and U.S. Department Maritime Administration, under the authority of Section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*). This Authorization allows for incidental take, by Level B harassment only, of Cook Inlet beluga whales (*Delphinapterus leucas*), harbor porpoises (*Phocoena phocoena*), killer whales (*Orcinus orca*), and harbor seals (*Phoca vitulina*), incidental to the Port of Anchorage Marine Terminal Redevelopment Project.

You are required to comply with the conditions contained in the IHA. In addition, you must cooperate with any Federal, state or local agency monitoring the impacts of your activities. Please note the reporting requirements outlined in Condition 6. All reports must be submitted to the NMFS Alaska Regional Office and Office of Protected Resources, Headquarters, before any future requests for an incidental take authorization, under section 101(a)(5), can be processed. The IHA requires monitoring by individuals trained in marine mammal observation during all times in-water pile driving is taking place. Reports, sighting sheets, and methodologies employed during marine mammal monitoring and acoustic surveys must be in the form of those approved by NMFS prior to issuance of this Authorization. All marine mammal observers must complete the NMFS approved sighting forms to the maximum extent practicable.

If you have any questions concerning the IHA or its requirements, please contact Jaclyn Daly or Jolie Harrison, NMFS, Office of Protected Resources, at (301) 713-2289.

Sincerely,


James H. Lecky
Director
Office of Protected Resources

Enclosure



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DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

Incidental Harassment Authorization

The Port of Anchorage (Port) and the Department of Transportation Maritime Administration (MARAD) are 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 harass marine mammals incidental to Port of Anchorage Marine Terminal Redevelopment Project.

1. This Authorization is valid from July 15, 2008, through July 14, 2009.
2. This Authorization is valid only for the Port of Anchorage Marine Terminal Redevelopment Project as described in the IHA application.
3. The holder of this Authorization is restricted to the following number and manner of take:
 - (a) The taking, by Level B harassment only, is limited to no more than 34 Cook Inlet beluga whales (*Delphinapterus leucas*), 20 harbor porpoises (*Phocoena phocoena*), 20 killer whales (*Orcinus orca*), and 20 harbor seals (*Phoca vitulina*). An animal should be considered taken if it enters the NMFS determined harassment isopleths (i.e., 350m for impact pile driving and 800m for vibratory pile driving).
 - (b) The taking by injury or death of the species listed in (a), or the taking by Level B 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.
 - (c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the NMFS Alaska Regional Office at (907) 271-5006, and the Office of Protected Resources (NMFS), Headquarters, at (301) 713-2289.
4. The holder of this Authorization is required to cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The holder or designees must notify the Regional Administrator, Alaska, at least 2 weeks prior to the seasonal commencement of in-water pile driving.

5. Mitigation and Monitoring

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

(a) *Scheduling of construction activities during low use period of beluga whales around the Port*

In-water impact pile driving shall not occur two hours either side of low tide meaning two hours before low tide until two hours after low tide. For example, if low tide is at 1pm, impact pile driving will not occur from 11am to 3pm. These tidal restrictions are not applicable to vibratory pile driving.

(b) *Establishment of safety zones and shut-down requirements*

NMFS acknowledges that shut-down of reduced energy vibratory pile driving during the “stabbing” phase of sheet pile installation may preclude shut-down from occurring due to safety concerns as the sheet pile may break free if it is not installed to a proper depth which could result in a safety and navigational hazard. Therefore, the following shut-down requirements apply to all in-water pile driving activities except those during the “stabbing” phase of the installation process.

(1) Safety Zones

No in-water pile driving (impact or vibratory) shall occur if any marine mammal is located within 200m of the pile hammer in any direction. If any marine mammal is sighted within this 200m safety zone prior to pile-driving, the hammer operator (or other authorized individual) will delay pile-driving until the animal has moved outside the safety zone or the animal is not resighted within 15 minutes.

(2) Shut-Down for Large Groups

To reduce the chance of the Port reaching or exceeding authorized take and to minimize harassment to beluga whales, if a group of more than 5 beluga whales is sighted within the Level B harassment isopleths, in-water pile driving shut down is required.

(3) Shut-down for Beluga Whale Calves

If a beluga whale calf is sighted within or approaching a harassment zone, any type of in-water pile driving shall cease and shall not be resumed until the calf is confirmed to be outside of the harassment zone and on a path away from such zone. If the calf or group with a calf is not resighted within 15 minutes, pile driving may resume.

(4) If maximum authorized take is reached or exceeded, any marine mammal entering into the harassment isopleths will trigger mandatory in-water pile driving shut down.

(5) For Port operated in-water heavy machinery work other than pile driving (i.e., dredging, dump scowles, tug 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, operations will cease and vessels will slow to a reduced speed while still maintaining control of the vessel and safe working conditions.

(c) "Soft start" and delays to in-water pile driving activities

(1) 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 piling driving reaches full energy. The soft start requires contractors to initiate noise from vibratory hammers for 15 seconds at reduced energy followed by 1-minute waiting period. The procedure will be repeated two additional times. If an impact hammer is used, contractors will be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3-strike sets.

(2) If marine mammals are sighted within or approaching the safety or harassment zones prior to commencement of pile driving, operations shall be delayed until the animals move outside the zones in order to avoid take exceedence.

(3) Pile driving shall not occur when weather conditions restrict clear, visible detection of all waters within harassment zones. Such conditions that can impair sightability include, but are not limited to, fog and rough sea state.

(d) Public Outreach

(1) The Port of Anchorage shall continue to employ use of a long-term, formalized marine-mammal sighting and notification procedures for all port users, visitors, tenants, or contractors prior to and after construction activities. The notification procedure shall clearly identify roles and responsibilities for reporting all marine mammal sightings. The Port shall forward documentation of all reported marine mammal sightings to the NMFS.

(2) The Port of Anchorage shall continue to post whale-notification signage at the port and in the waterfront viewing areas near the Ship Creek Public Boat Launch and within the secured Port entrance that is visible to all Port users. This signage will provide information on the beluga whale and notification procedures for reporting beluga whale sightings to the NMFS.

(e) *Monitoring*

(1) Marine Mammal Monitoring

Prior to the start of seasonal pile driving activities, the Port of Anchorage shall require construction supervisors and crews, the marine mammal monitoring team, the acoustical monitoring team, and all project managers to attend a briefing on responsibilities of each party, defining chains of command, discussing communication procedures, providing overview of monitoring purposes, and reviewing operational procedures regarding beluga whales.

Monitoring for marine mammals will take place concurrent with all pile driving activities and 30 minutes prior to pile driving commencement. One to two trained observer(s) will be placed at the Port at the best advantage point(s) practicable to monitor for marine mammals and will implement shut-down/delay procedures when applicable. The observer(s) will have no other construction related tasks while conducting monitoring. Each observer will be properly trained in marine mammal species detection, identification and distance estimation and will be equipped with binoculars. At time of each sighting, the pile hammer operator must be immediately notified that there are beluga whales in the area, their location and direction of travel, and if shut-down is necessary.

In addition, the Port shall employ a marine mammal monitoring team separate from the construction contractor observer activities, for the duration of all construction activities. This monitoring team; however, is not required to be present during all in-water pile driving operations. The Port and separate marine mammal monitoring team shall remain in contact to alert each other to marine mammal presence.

Marine mammal monitoring at the Port shall commence 30 minutes prior to and during all times in-water pile driving is taking place. Marine mammal sightings and all associated information will be logged on NMFS approved data sighting sheets. The following data must be collected during a marine mammal sighting on the NMFS approved marine mammal sighting data sheets:

- Date, time of initial sighting to end of sighting, tidal stage, and weather condition (including Beaufort Sea State);
- Species, number, group composition (i.e., age class), distance to pile driving hammer, and behavior (e.g., group cohesiveness, direction of travel, etc) of animals throughout duration of sighting;
- Any discrete behavioral reactions as well as how close marine mammal(s) approach pile driving hammer;

- The number (by species) of marine mammals that have been taken (i.e., entered the impact (350m) or vibratory (800m) harassment zones) or enter the 200 m shut down zone; and
- Pile driving activities occurring at the time of sighting and if and why shut down was or was not implemented.

(2) Acoustic Monitoring

(a) The Port shall carry out a one-time acoustic monitoring study upon commencement of in-water pile driving. The study will confirm or identify harassment isopleths for all types of piles used, including open-cell sheet piles and 36-inch steel piles, and the “stabbing” process. The acoustic study proposal shall be approved by NMFS prior to the start of seasonal in-water pile driving.

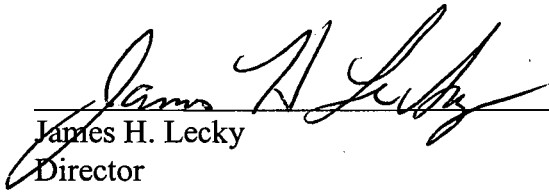
(b) The Port will also install hydrophones (or employ other effective methodologies) necessary to detect and localize, to the maximum extent practicable, passing whales and to determine the proportion of beluga whales missed from visual surveys. This study shall characterize sound levels around the Port related to and in absence of all construction activities.

6. Reporting

The holder of this authorization is required to submit a series of acoustic and marine mammal monitoring reports to the Office of Protected Resources and the Alaska Regional Administrator, NMFS. A monthly marine mammal report containing all sighting data sheets shall be submitted the 5th day of each month to NMFS OPR and NMFS AKR for the previous months sightings. Included with the reports will be the schedule of pile driving hours, by type (i.e., impact or vibratory), for that month. A final report summarizing all sighting data must be submitted to NMFS no later than 90 days after expiration of this IHA. This final report shall estimate the frequency in which marine mammals were present within the project footprint, characterize habitat use and behavior of marine mammals at and around the Port of Anchorage, characterize sound levels around the Port related to and in absence of all construction activities; and address and analyze impacts of construction related noise on marine mammal presence, behavior, and habitat use. The acoustic study report (as required in Condition 5(e)(2)(a)) identifying sound propagation and harassment isopleths for impact and vibratory pile driving will be due to NMFS 45 days after completion of the survey.

7. In the unanticipated event that any cases of marine mammal injury or mortality are judged to have possibly resulted from the Marine Terminal Redevelopment Project, the holder of this IHA is required to cease all activities immediately and report the incident to NMFS (see 3(c) above) and the local stranding network. Project activities shall then be postponed until NMFS is able to review the circumstances and work with the Port of Anchorage and MARAD to determine whether modifications to the activities are appropriate and necessary.

8. A copy of this Authorization must be in the possession of all contractors and marine mammal monitors operating under the authority of this Incidental Harassment Authorization.



James H. Lecky
Director
Office of Protected Resources
National Marine Fisheries Service

JUL 15 2008
Date