

**Finding of No Significant Impact**  
**on Issuance of an Incidental Harassment Authorization to the America's Cup Event**  
**Authority and Port of San Francisco to Take Marine Mammals by Harassment Incidental**  
**to Construction and Race Event Activities for the 34<sup>th</sup> America's Cup in San Francisco**  
**Bay, California**

National Marine Fisheries Service

National Oceanic and Atmospheric Administration Administrative Order (NAO) 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of 'context' and 'intensity'. Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1. *Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?*

NMFS does not anticipate that issuance of the incidental harassment authorization (IHA) pursuant to the America's Cup Event Authority's (Event Authority) and Port of San Francisco's (Port) specified activities would cause substantial damage to the ocean and coastal habitats. The specified activities are of short-term duration and will involve the installation of 244 steel piles and 224 timber piles at various locations along the San Francisco waterfront; therefore, the effects of NMFS' action will primarily be from increased levels of sound resulting from pile driving. These effects are temporary and will result in no long-term impacts to the environment. Pile driving effects could also impact marine mammal habitat through locally increased turbidity and by disturbing benthic habitats and forage fish in the immediate project vicinity. The water column may experience increased sedimentation and turbidity during operational periods. However, there is anticipated to be only temporary and minimal degradation of the water column, with little to no impact on dissolved oxygen levels in the vicinity of the proposed project area. While some disruption to marine vegetation and benthic communities is unavoidable as a result of the placement of the piles, these impacts will be temporary in duration, with a minimal and localized zone of influence. Additionally, a portion of the project involves rehabilitation of an existing structure, so much of the work will occur in areas that are previously shaded and do not support aquatic vegetation. The remaining areas of disturbance are for temporary floating docks that will be removed following the completion of America's Cup (AC34) events in 2013. Vegetation within areas of disruption is expected to recover to pre-disruption levels within a single growing season. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of foraging habitat in the nearby vicinity.

NMFS' proposed action, which is the authorization of marine mammal take incidental to the applicant's action, will result in minimal, temporary damage to ocean and coastal habitats or EFH that may be of importance to marine mammals.

2. *Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?*

The authorization of marine mammal take incidental to the proposed action will not have a substantial impact on biodiversity or ecosystem function. There may be temporary impacts to ecosystem function by i) temporarily creating elevated levels of underwater sound, thereby disturbing forage fish; ii) degrading water quality as a result of resuspension of bottom sediments from pile installation and barge and tug operations; and iii) directly damaging the benthos through pile driving and anchoring. Bottom disturbance would be temporary over a short-term project period and, during impact pile driving, effects would be minimized due to the use of a bubble curtain or similar device to contain sediment plumes. Sediments would settle back in the general vicinity from which they rose, or would be dissipated by the strong tidal currents in the area. The temporary increase in turbidity, as well as direct impact to the benthos, is expected to decrease the light available for marine vegetation and to impact benthic invertebrates; however, these impacts would be localized, minor and temporary in nature. Benthic organisms are very resilient to habitat disturbance and are likely to recover to pre-disturbance levels within two years; however, due to the limited and temporary disturbance benthic organisms may recover even more quickly. Based on these factors, NMFS determined that there will not be a substantial impact on marine life biodiversity or on the normal function of the nearshore or offshore ecosystems from the proposed action.

3. *Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?*

NMFS' issuance of an IHA is not expected to have a substantial adverse impact on public health or safety. The proposed action involves only the authorization of incidental take and prescription of required mitigation and monitoring measures. Those measures would not have any impact on public health or safety.

4. *Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?*

Endangered or threatened species occur in the vicinity of the proposed project area; however, the proposed action – NMFS' authorization of incidental marine mammal take – is not expected to have any adverse impact on endangered or threatened species. No ESA-listed marine mammals occur in the vicinity, and no incidental take of ESA-listed marine mammals will be authorized by the IHA.

5. *Are significant social or economic impacts interrelated with natural or physical environmental effects?*

NMFS' issuance of an IHA will not have any social or environmental impacts that are interrelated with natural or physical environmental effects. The impacts resulting from NMFS' authorization of marine mammal take incidental to the project will be limited to, at most, temporary behavioral harassment of small numbers of marine mammals.

6. *Are the effects on the quality of the human environment likely to be highly controversial?*

NMFS' issuance of an IHA will not have effects on the human environment that are likely to be highly controversial. There is no substantial debate over the proposed action's size, nature, or effect. Due to the limited duration and intensity of the project, and the implementation of appropriate mitigation and monitoring measures, there will not be significant impacts to natural resources in the project area. As such, the effects of this action are not likely to be highly controversial.

7. *Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?*

The applicant's specified activities will occur in order to increase the public's ability to access events associated with AC34, and will occur in a shoreline area that already contains multiple built structures and will not significantly degrade the existing environment. No farm land, wetlands, wild and scenic rivers, or ecologically critical areas occur in the vicinity. NMFS' issuance of an IHA authorizing the incidental take of marine mammals and prescribing required mitigation and monitoring measures in these areas would not result in substantial impacts to any such places.

8. *Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

NMFS' proposed action will authorize incidental take of marine mammals primarily resulting from the input of sound, resulting from pile driving, into the environment. Pile driving is a relatively well-studied action, and the response of wildlife and the potential environmental impacts of pile driving at the San Francisco waterfront are relatively well understood. The implementation of mitigation and monitoring measures included in NMFS' IHA will ensure that no marine mammals are injured or killed, and that impacts to marine mammals are limited to, at most, temporary behavioral harassment. Monitoring of marine mammals that are behaviorally harassed, as well as numerous documented accounts of marine mammal behavior before, during, and after behavioral harassment, demonstrates that behavioral harassment of limited duration will not result in any permanent changes to the manner in which marine mammals utilize the vicinity of the project. As such, the effects of NMFS' issuance of an IHA are not highly uncertain, and the action does not involve unique or unknown risks.

9. *Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?*

NMFS' issuance of an IHA is not related to other actions that may have cumulatively significant impacts. The applicant's specified activity is located in a busy, heavily developed area, is of limited scope and duration, and will have, at most, temporary behavioral effects on marine mammals. Additionally, mitigation measures specifically designed to reduce cumulative impacts will be implemented as conditions in NMFS' IHA.

10. *Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?*

NMFS' proposed action is limited to the authorization of incidental take of marine mammals and the prescription of required mitigation and monitoring measures. Therefore, no significant scientific, cultural, or historical resources would be adversely impacted by the NMFS proposed action.

11. *Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?*

NMFS' proposed action is not expected to result in the spread of any nonindigenous species. The issuance of an IHA and prescription of mitigation and monitoring measures does not have the potential for such an effect.

12. *Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?*

No other projects of a similar nature are anticipated, as the AC34 events are singular and would be completed in 2013. A finding of no significant impact for the project, and for NMFS' issuance of an IHA, may inform any environmental review for future projects at the San Francisco waterfront but would not establish a precedent or represent a decision in principle about a future consideration.

13. *Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for the protection of the environment?*

The proposed action – NMFS' issuance of an IHA – is conducted in conformance with the MMPA. NMFS has made all appropriate determinations under other applicable statutes, and NMFS' action will not violate any laws or requirements.

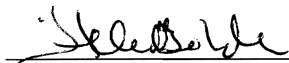
14. *Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?*

NMFS' issuance of an IHA is specifically designed to reduce the effects of the project to the least practicable impact to marine mammals, through the inclusion of appropriate mitigation and monitoring measures. The action area (San Francisco waterfront) is a heavily industrialized and urbanized area, and ambient underwater sound levels are relatively loud. The Port's proposed action is of limited duration and would not add substantially to the effects of ongoing industrial and urban activity at the San Francisco waterfront. As such, the proposed action will not result in cumulative adverse effects that could have a substantial effect on species in the action area.

#### DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the AC34 project and application for an IHA, it is hereby determined that NMFS' issuance of an IHA will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.

**JUL 27 2012**



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Helen M. Golde, Acting Director  
Office of Protected Resources

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Date