



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

JUL 29 2011

Ms. Jacque Hostler
Transportation & Land-Use Director
Cher-Ae Heights Indian Community of the Trinidad Rancheria
P.O. Box 630
Trinidad, CA 95570

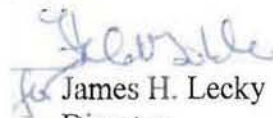
Dear Ms. Hostler:

Enclosed is an Incidental Harassment Authorization (IHA) issued to Cher-Ae Heights Indian Community of the Trinidad Rancheria pursuant to section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), to take small numbers of marine mammals, by Level B harassment, incidental to pile-driving and renovation operations as part of the Trinidad Pier Reconstruction Project in Trinidad, California during August, 2011 through January, 2012.

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, and submit a report to the Assistant Regional Administrator for Protected Resources, Southwest Region, National Marine Fisheries Service (NMFS) and the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources (NMFS), within 90 days after completion of the work authorized herein. Along with mitigation measures to be incorporated, the IHA requires monitoring for the presence and behavior of marine mammals.

If you have any questions concerning the IHA or its requirements, please contact Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, at 301-427-8401.

Sincerely,



for James H. Lecky
Director
Office of Protected Resources

Enclosure





Incidental Harassment Authorization

Cher-Ae Heights Indian Community of the Trinidad Rancheria (Trinidad Rancheria), P.O. Box 630, Trinidad, California 95570, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to the Trinidad Pier Reconstruction Project, August, 2011 through January, 2012, contingent upon the following conditions:

1. This Authorization is valid from August 1, 2011, through January 31, 2012.
2. This Authorization is valid only for the Trinidad Pier Reconstruction Project that shall occur in the following specified geographic area:

The city of Trinidad, California, Humboldt County, at Township 8N, Range 1W, Section 26 (41.05597° North, 124.14741° West), as specified in Trinidad Rancheria's Incidental Harassment Authorization application.

3. Species Authorized and Level of Takes

- (a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the Trinidad Bay, California area:
 - (i) Cetaceans - see Table 2 (attached) for authorized species and take numbers.
 - (ii) Pinnipeds - see Table 2 (attached) for authorized species and take numbers.
 - (iii) If any marine mammal species are encountered during reconstruction activities that are not listed in Table 2 (attached) for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 126 dB re 1 μ Pa (rms) (for continuous underwater noise) and/or at or above 100 dB re 20 μ Pa for all pinniped species except harbor seals (which is at or above 90 dB re 20 μ Pa) (for in-air noise), then the Holder of this Authorization must shut-down operations to avoid take.
- (b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Condition 3(a), or the taking of any kind of any other species of marine mammal, is prohibited and may result in the modification, suspension or revocation of this Authorization.



4. The methods authorized for taking by Level B harassment are limited to the following acoustic generating activities without an amendment to this Authorization:

- (i) Pile-driving (i.e., installation);
- (ii) Augering; and
- (iii) Pile-removal.

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Office of Protected Resources, National Marine Fisheries Service (NMFS), at 301-427-8401.

6. Mitigation and Monitoring Requirements

The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities in order to achieve the least practicable impact on affected marine mammal species or stocks:

(a) Schedule the reconstruction activities to occur during seasonal lows in marine mammal abundance and use in the specified activity area (i.e., August 1, 2011 to January 31, 2012).

(b) Limit activity to the hours of daylight (approximately 7 a.m. to 7 p.m., with in-air and underwater noise generating activities occurring from 30 minutes after sunrise until 30 minutes before sunset).

(c) Use a vibratory hammer during pile-driving to minimize the noise from piling and removal and installation.

(d) Use a NMFS-qualified Protected Species Observer (PSO) to detect, document, and minimize potential impacts from reconstruction activities. The PSO shall attend the project site one hour prior until one hour after reconstruction activities cease each day throughout the construction window. The PSO shall search for marine mammals using binoculars and/or the naked eye within the Level B (behavioral) harassment zones (see Table 1 below), which may vary upon the type of in-air and/or underwater sound being produced by reconstruction activities (e.g., pile extraction, augering, or pile installation). The PSO shall perform auditory monitoring (using the human ear) for detecting the presence of marine mammals (e.g., blows and splashes) in the action area.

(e) The PSO shall visually scan the action area for the presence of marine mammals at least 30 minutes prior to the ramp-up and continuously throughout periods of noise-generating activities. Visual scans shall continue for at least 30 minutes after each noise-generating episode has ceased.

- (f) If inclement weather limits visibility within the Trinidad Bay area, the PSO will perform visual scans to the extent that conditions allow, but noise-generating reconstruction activities shall stop at any time the PSO cannot clearly see the water surface out to a distance of at least 30.5 m (100 ft) from the activity.
- (g) A PSO shall record the following information when a marine mammal is sighted:
- (i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from the PSO, sighting cue, apparent reaction to the reconstruction activities (e.g., none, avoidance, approach, etc. and including responses to ramp-up), speed of travel, and duration of presence;
 - (ii) Date, time, location, activity of reconstruction operations, monitoring and mitigation measures implemented (or not implemented), tidal stage, weather conditions, Beaufort sea state and wind force, visibility, and sun glare; and
 - (iii) The data listed under Condition 6(g)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more variables.
- (h) If inclement weather conditions (i.e., fog, rain, or rough Beaufort sea state) limits or impairs the PSO's visibility of the water's surface to less than 30.5 m (100 ft) within the action area, then all noise-generating reconstruction activities will be stopped until visibility improves.
- (i) Implement a ramp-up procedure by using short periods of vibratory pile-driver use with intervening pauses of comparable duration, performed two or three times, before beginning continuous use of the vibratory pile-driver during pile-removal and pile-installation. A "ramp-up" technique shall be used at the beginning of each day's in-water vibratory 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 ramp-up requires contractors to initiate vibratory hammer use for 15 seconds at reduced energy followed by 1-minute waiting period. The procedure will be repeated two additional times.
- (j) Establish exclusion zones (EZs) around renovation activities (i.e., pile-removal, augering, and pile-installation; see Table 1 below for EZ distances) so that underwater and/or in-air sounds associated with reconstruction operations no longer exceed levels that are potentially harmful to marine mammals.
- (k) In-water pile-driving, augering, or pile-removal shall be shut-down if any marine mammal is about to enter or located within the EZs stated in Table 1 (below) of the pile hammer or auger in any direction. If any marine mammal is sighted within the relevant

EZ prior to pile-driving, the operator (or other authorized individual) will delay reconstruction activities until the animal has moved outside the EZ or the animal is not resighted within 15 minutes for pinnipeds and 30 minutes for cetaceans.

(l) Underwater noise monitoring and reporting shall be performed consistent with the approved Hydroacoustic Monitoring Plan and conditions of Coastal Development Permit 1-07-046. The study will characterize underwater sound levels in the Trinidad Bay area related to and in the absence of all reconstruction activities, and confirm or identify harassment isopleths for all types of reconstruction activities conducted.

(m) In-air noise monitoring and reporting shall be performed during the Trinidad Pier Reconstruction Project. The study will characterize in-air sound levels in the Trinidad Bay area related to and in the absence of all reconstruction activities, and confirm or identify harassment isopleths for all types of reconstruction activities conducted.

7. Reporting Requirements

The Holder of this Authorization is required to:

(a) Submit a draft report on all activities and monitoring results to the Office of Protected Resources, NMFS, within 90 days of the completion of the Trinidad Rancheria's Trinidad Pier Reconstruction Project. This report must contain and summarize the following information:

(i) Dates, times, locations, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all Trinidad Pier reconstruction operations and marine mammal sightings;

(ii) Species, number, location, distance from the PSO, and behavior of any marine mammals, as well as associated reconstruction activities (number of ramp-ups and shut-downs), observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that: (A) are known to have been exposed to the reconstruction activities (based on visual observation) at received levels greater than or equal to 126 dB re 1 μ Pa (rms) and/or 180 dB re 1 μ Pa (rms) for cetaceans and 190 dB re 1 μ Pa (rms) for pinnipeds for underwater noise, and at received levels greater than or equal 90 dB re 20 μ Pa for harbor seals and 100 dB re 20 μ Pa for all other pinniped species for in-air noise with a discussion of any specific behaviors those individuals exhibited; and (B) may have been exposed (based on reported values and modeling measurements for the pile-driving, augering, and pile-removal) to the renovation operations underwater noise at received levels greater than or equal to 126 dB re 1 μ Pa (rms) and/or 180 dB re 1 μ Pa (rms) for cetaceans and 190 dB re 1 μ Pa (rms) for pinnipeds and in-air noise at received levels greater than or equal 90

dB re 20 μ Pa for harbor seals and 100 dB re 20 μ Pa for all other pinniped species with a discussion of the nature of the probable consequences of that exposure on the individuals that have been exposed.

(iv) A description of the implementation and effectiveness of the: monitoring and mitigation measures of the Incidental Harassment Authorization.

(b) Submit a final report to the Chief, Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

8. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality, Trinidad Rancheria shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301-427-8401 and/or by email to Michael.Payne@noaa.gov and Howard.Goldstein@noaa.gov and the Southwest Regional Stranding Coordinators (Joe.Cordaro@noaa.gov and Sarah.Wilkin@noaa.gov). The report must include the following information:

(a) time, date, and location (latitude/longitude) of the incident; the type of activity involved; description of the circumstances during and leading up to the incident; status of all sound source use in the 24 hours preceding the incident; water depth; environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility); description of marine mammal observations in the 24 hours preceding the incident; species identification or description of the animal(s) involved; the fate of the animal(s); and photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Trinidad Rancheria to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA. Trinidad Rancheria may not resume their activities until notified by NMFS via letter or email, or via telephone.

In the event that Trinidad Rancheria discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Trinidad Rancheria will immediately report the incident to the Chief of the Permits Conservation, and Education Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by email to Michael.Payne@noaa.gov and Howard.Goldstein@noaa.gov, and the NMFS Southwest Regional Office (562-980-4017) and/or by email to the Southwest Regional Stranding Coordinators (Joe.Cordaro@noaa.gov and Sarah.Wilkin@noaa.gov). The report must include the same information identified in the Condition 8(a) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Trinidad Rancheria to

determine whether modifications in the activities are appropriate.

In the event that Trinidad Rancheria discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 to 4 of this Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Trinidad Rancheria shall report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301-427-8401, and/or by email to Michael.Payne@noaa.gov and Howard.Goldstein@noaa.gov, and the NMFS Southwest Regional Office (562-980-4017) and/or by email to the Southwest Regional Stranding Coordinators (Joe.Cordaro@noaa.gov and Sarah.Wilkin@noaa.gov), within 24 hours of the discovery. Trinidad Rancheria shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

10. A copy of this Authorization must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.



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

July 29, 2011
Date

Attachments

Attachment

Table 1. Exclusion Zone Radii for Estimating Take and Triggering Mitigation.

Source Underwater/ In-Air	Predicted Distances from Activity to Isopleths				
	In-Water Shut- down EZ for Pinnipeds 190 dB (rms)	In-Water Shut- down EZ for Cetaceans 180 dB (rms)	In-Water Level B Harassment Zone 126 dB (rms)	In-Air Level B Harassment Zone for Harbor Seals 90 dB	In-Air Level B Harassment Zone for All Other Pinnipeds 100 dB
Wood Pile Removal 156.5 dB (rms) at 10.1 m (33 ft) 96 dB at 15.2m (50 ft)	0 m (0 ft)	0.9 m (3 ft)	5 km (3.1 mi)	26.5 m (87 ft)	10.5 m (34.5 ft)
Augering 150 dB (rms) at 15.2 m 92 dB at 15.2 m	0 m (0 ft)	0.3 m (1 ft)	2.4 km (1.5 mi)	18.3 m (60 ft)	7.3 m (24 ft)
Vibratory Pile- Driving 175 dB (rms) at 10.1 m (33 ft) 96 dB at 15.2 m	0.9 m (3 ft)	4.9 m (16 ft)	23.3 km (14.5 mi)	26.5 m (87 ft)	10.5 m (34.5 ft)

Table 2. Authorized Take Numbers for Each Marine Mammal Species in Trinidad Bay, California.

Species	Total Authorized Take in the Trinidad Bay Project Area (Wood Pile Removal [Underwater/In-Air], Augering, Vibratory Pile Installation)
Cetaceans	
Eastern North Pacific gray whale (<i>Eschrichtius robustus</i>)	65 (29/0, 29/0, 7/0)
Pinnipeds	
Pacific harbor seal (<i>Phoca vitulina richardsi</i>)	1,798 (754/58, 435/58, 435/58)
California sea lion (<i>Zalophus c. californianus</i>)	21 (8/1, 5/1, 5/1)