



INCIDENTAL HARASSMENT AUTHORIZATION

The United States Navy (Navy) and their designees are hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to incidentally harass marine mammals, under the following conditions:

1. This incidental harassment authorization (IHA) is valid from January 15, 2022 through January 14, 2023.
2. This IHA authorizes take incidental to pile removal activities, as specified in the Navy's June 2, 2021 IHA application, associated with Fuel Pier Inboard Pile Removal Project at Naval Base Point Loma in San Diego Bay, California.
3. General Conditions
 - (a) A copy of this IHA 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 IHA at all times that activities subject to this IHA are being conducted.
 - (b) The species and/or stocks authorized for taking are listed in Table 1. Authorized take, by Level B harassment only, is limited to the species and numbers listed in Table 1.
 - (c) The taking by serious injury or death (Level A harassment) 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 IHA. Any taking exceeding the authorized amounts listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this IHA.
 - (d) The Holder must ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained prior to the start of activities subject to this IHA, 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.

(e) *Other General Conditions*

- (i) All pile removal activities will occur individually, except the removal of the 14-inch and 16-inch concrete piles, which could occur concurrently by use of two pile clippers. No other removal activity will occur concurrently.

4. Mitigation Requirements

- (a) The Holder must employ PSOs and establish monitoring locations as described in section 5 of this IHA and the Marine Mammal Monitoring Plan (Monitoring Plan; attached). The Holder must monitor the project area 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 removal activities (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile removal activities.
- (c) If a marine mammal is observed entering or within the shutdown zones indicated in Table 2, pile removal activities must be delayed or halted. Pile removal must be commenced or resumed as described in condition 4(e) of this IHA.
- (d) 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 removal may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals.
- (e) If pile removal 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.
- (f) Pile removal activities must be halted (as described in condition 4(c) of this IHA) upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone (as shown in Table 2).

- (g) The Holder, construction supervisors and crews, PSOs, and relevant Navy staff must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 20 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 Monitoring Plan (attached) and this IHA.
- (b) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:
 - (i) PSOs must be independent (*i.e.*, not construction personnel) 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 two or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activities pursuant to a NMFS-issued incidental take authorization.
 - (v) PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.
 - (vi) The PSO with the clearest view of the shutdown zone will be designated as the Lead PSO and is responsible as the monitoring coordinator for other PSOs. Lead PSOs will communicate shutdown procedures, as necessary, through communication with other PSOs.

- (vii) In the event of simultaneous pile removal activities, two lead PSOs may be designated. These PSOs would act independently and would have the ability to shutdown proximate pile removal activities if a marine mammal enters the shutdown zone. Sightings of a marine mammal moving from one location to another will be communicated among the PSOs to increase awareness of an incoming potential marine mammal sighting.
- (c) The Holder must establish monitoring locations as described in the Monitoring Plan (attached). For all pile removal activities, a minimum of one PSO must be assigned to each active pile removal location to monitor the shutdown zones. PSO(s) must be able to monitor the entire shutdown zone and the entire Level B harassment zone, or out to at least 400 m of the radial distance of the larger Level B harassment zones towards the Navigation Channel. In the event of concurrent pile removal (*i.e.*, via two pile clippers) at two different locations that cannot be appropriately monitored by one PSO, the pier or location where the lead PSO is stationed being blocked by a refueling vessel or other obstruction, multiple PSOs may be necessary to monitor the necessary shutdown and Level B harassment zones.
- (d) PSOs must record all observations of marine mammals, regardless of distance from the pile being removed, as well as the additional data indicated in section 6 of this IHA.

6. Reporting

- (a) The Holder must submit its draft report(s) on all monitoring conducted under this IHA within 90 calendar days of the completion of monitoring or 60 calendar days prior to the requested issuance of any subsequent IHA for construction activity at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final.
- (b) All draft and final monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Potlock@noaa.gov*.
- (c) The marine mammal report must contain the informational elements described in the Monitoring Plan and, at minimum, must include:

- (i) Dates and times (begin and end) of all marine mammal monitoring;
- (ii) Construction activities occurring during each daily observation period, including:
 - A. The number and type of piles that were removed and the method (*e.g.*, vibratory, pile clipper, etc.);
 - B. Total duration of vibratory removal or cutting time for each pile.
- (iii) PSO locations during marine mammal monitoring;
- (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;
- (v) Upon observation of a marine mammal, the following information:
 - A. Name of PSO who sighted the animal(s) and PSO location and 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. Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile removal 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. Animal's closest point of approach and estimated time spent within the harassment zone;
 - H. Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- (vi) Number of marine mammals detected within the harassment zones, by species; and
 - (vii) Detailed information about implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.
- (d) The Holder must submit all PSO datasheets and/or raw sighting data with the draft report, as specified in condition 6(b) of this IHA.
 - (e) Reporting injured or dead marine mammals:

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.Potlock@noaa.gov*) and to the West Coast regional stranding network (562-980-3230) 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 IHA. 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.

8. Renewals

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities (or a subset of those activities) are planned or (2) the specified activities will not be completed by the time the IHA expires and a Renewal would allow for completion of the activities, provided all of the following conditions are met:

- (a) A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (note a Renewal IHA expiration date cannot extend beyond one year from expiration of this IHA).
- (b) The request for renewal must include the following:
 - (i) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed for this IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).
 - (ii) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- (c) Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings made in support of this IHA remain valid.

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Catherine Marzin,
Acting Director, Office of Protected Resources
National Marine Fisheries Service

Table 1. Authorized Incidental Take.

Common name	Scientific name	Stock	Level B take
California sea lion	<i>Zalophus californianus</i>	United States	1,260
Harbor seal	<i>Phoca vitulina</i>	California	84
Northern elephant seal	<i>Mirounga angustirostris</i>	California breeding	7
Common dolphin	<i>Delphinus delphis</i>	California/Oregon/Washington	756
Pacific white-sided dolphin	<i>Lagenorhynchus obliquidens</i>	California/Oregon/Washington	84
Bottlenose dolphin	<i>Tursiops truncatus</i>	California coastal	84

Table 2. Shutdown and Harassment Zones (meters)

Pile Information	Removal Method	Harassment Zone	Shutdown Zone
13-inch polycarbonate pile	One pile clipper	423	20
14-inch, 16-inch concrete piles	One pile clipper	250	
14-inch, 16-inch concrete piles	Two pile clippers	250	
14-inch, 16-inch concrete piles	Underwater chainsaw	229	
14-inch, 16-inch concrete piles	Diamond wire saw	575	
14-inch, 16-inch concrete piles	Vibratory hammer	311	