



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

INCIDENTAL HARASSMENT AUTHORIZATION

Kitsap Transit is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to the Annapolis Ferry Dock Project in Puget Sound, Washington, when adhering to the following terms and conditions.

1. This Incidental Harassment Authorization (IHA) is valid from October 1, 2018 through September 30, 2019.
2. This IHA is valid only for pile driving associated with the Annapolis Ferry Dock Project in Sinclair Inlet, Puget Sound, Washington.

3. General Conditions

- (a) A copy of this IHA must be in the possession of Kitsap Transit, its designees, and work crew personnel operating under the authority of this IHA.
- (b) The species authorized for taking are the harbor seal (*Phoca vitulina richardii*), Steller sea lion (*Eumetopias jubatus monteriensis*), California sea lion (*Zalophus californianus*), and harbor porpoise (*Phocoena phocoena vomerina*).
- (c) The taking, by Level A and B harassment, is limited to the species listed in condition 3(b). See Table 1 (attached) for numbers of take authorized.
- (d) The taking by serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.
- (e) Kitsap Transit shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and Kitsap Transit staff prior to the start of all pile driving, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

4. Mitigation Measures

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

- (a) For all pile driving activity, Kitsap Transit shall implement a minimum shutdown zone of a 10 m radius around the pile.
- (b) Kitsap Transit shall implement the shutdown zones as described in Table 2.



- (c) For in-water heavy machinery work (e.g., barges, tug boats), a minimum 10 m shutdown zone shall be implemented. If a marine mammal comes within 10 m of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.
- (d) Pre-activity monitoring shall take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring shall continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the shutdown zone, as described in condition 4(f) below.
- (e) A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye).
- (f) If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.
- (g) Kitsap Transit shall use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.
- (h) Kitsap Transit shall use a bubble curtain during all impact pile driving. The bubble curtain shall be operated such that it will distribute bubbles for the full depth of the water column and the full circumference of the pile during impact pile driving, and the lowest bubble ring shall be weighted to ensure contact with the substrate for the full circumference of the ring.
- (i) Kitsap Transit shall access the Orca Network each morning pile driving activities would occur or if pile activity ceases for more than two hours to identify if southern resident killer whales have been observed or acoustically detected in or near the shutdown zone.
- (j) If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed

approaching or within the Level B harassment zone (see Table 2), pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or the observation time period, as indicated in 4(f) above, has elapsed.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring before, during, and after all pile driving and removal.

- (a) For all pile driving and removal activities, a minimum of two protected species observers (PSOs) shall be required.
 - (i) One PSO shall be stationed at the active pile driving rig or at the best vantage point(s) practicable to monitor the shutdown zone for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.
 - (ii) A second PSO shall be stationed at the Waterman Point dock.
 - (iii) Should weather conditions result in a Beaufort sea state of 3 or greater, a third boat-based PSO shall be deployed to assist in marine mammal monitoring.
- (b) Monitoring of pile driving shall be conducted by qualified PSOs (see below), who shall have no other assigned tasks during monitoring periods. Kitsap Transit shall adhere to the following conditions when selecting observers:
 - (i) Independent qualified PSOs shall be used (*i.e.*, not construction personnel).
 - (ii) At least one PSO must have prior experience working as a marine mammal observer during construction activities.
 - (iii) Other PSOs may substitute education (degree in biological science or related field) or training for experience.
 - (iv) Where a team of three or more PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction.
 - (v) Kitsap Transit shall submit PSO CVs for approval by NMFS prior to initiating pile driving activities.

- (c) Kitsap Transit shall ensure that observers have the following additional qualifications:
 - (i) Ability to conduct field observations and collect data according to assigned protocols.
 - (ii) Experience or training in the field identification of marine mammals, including the identification of behaviors.
 - (iii) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
 - (iv) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior.
 - (v) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

6. Reporting

The holder of this Authorization is required to:

- (a) Submit a draft report on all monitoring conducted under the IHA within ninety calendar days of the completion of marine mammal monitoring. A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain, at minimum, the informational elements described below:
 - (i) The number of marine mammals observed, by species, relative to the pile driving location and if pile driving or removal was occurring at time of sighting.
 - (ii) Detailed information about any implementation of shutdowns, including the distance of animals to the pile being driven or removed and description of specific actions that ensued and resulting behavior of the animal, if any.
 - (iii) Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.
 - (iv) A description of marine mammal behavior.

(b) Reporting injured or dead marine mammals:

- (i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as serious injury, or mortality, Kitsap Transit shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301-427-8401), NMFS, and the West Coast Region Stranding Coordinator (1-866-767-6114), NMFS. The report must include the following information:

1. Time and date of the incident;
2. Description of the incident;
3. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
5. Species identification or description of the animal(s) involved;
6. Fate of the animal(s); and
7. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Kitsap Transit to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Kitsap Transit may not resume their activities until notified by NMFS.

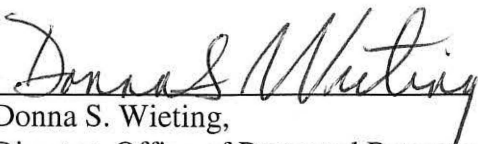
- (ii) In the event Kitsap Transit discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), Kitsap Transit shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Kitsap Transit to determine whether additional mitigation measures or modifications to the activities are appropriate.

- (iii) In the event that Kitsap Transit discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced

decomposition, or scavenger damage), Kitsap Transit shall report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS, within 24 hours of the discovery. Kitsap Transit shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.
8. Renewals - On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when 1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or 2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that allowed for under this IHA, provided all of the following conditions are met:
 - (a) A request for renewal is received no later than 60 days prior to expiration of the current IHA.
 - (b) The request for renewal must include the following:
 - (i) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements.
 - (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 remain the same and appropriate, and the original findings remain valid.


Donna S. Wieting,
Director, Office of Protected Resources,
National Marine Fisheries Service.

JUL 03 2018

Date

Table 1. Authorized take numbers, by species.

Species	Level A	Level B
Harbor seal	36	306
Steller sea lion	0	10
California sea lion	0	1,173
Harbor porpoise	36	126

Table 2. Minimum radial distance to shutdown zones.

Species	Shutdown Zones (m)				
	Impact 12''	Impact 24''	Vibratory 12''	Vibratory 24''	Vibratory Removal
Humpback whale	140	1,850	2,160	10,000	4,620
Gray whale					
Killer whale					
Harbor porpoise	160	875	15	60	30
Harbor seal	70	395	10	25	10
Steller sea lion	10	30		10	10
California sea lion					

