

**Finding of No Significant Impact  
on Issuance of an Incidental Harassment Authorization to the San Francisco Bay Area  
Water Emergency Transportation Authority for  
Take of Marine Mammals Incidental to the Ferry Terminal Expansion Project, South  
Basin Improvements Project**

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. NOAA Fisheries has finalized an Environmental Assessment (EA) for the San Francisco Bay Area Water Emergency Transportation Authority (WETA)'s Ferry Terminal Expansion Project, South Basin Improvements Project. 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 FMPs?*

The Ferry Terminal Expansion Project, South Basin Improvements Project (Project) is of relatively short-term duration and will involve pile installation and removal. Installation of piles will be accomplished primarily by vibratory pile driver. Certain piles may be finished with an impact pile driver if difficult substrate conditions are encountered.

EFH has been identified in the waters of San Francisco Bay. EFH is present in the study area for Pacific groundfish, coastal pelagics, and Pacific Coast salmon. Pacific groundfish species include species of rockfishes, flatfishes, sharks, etc. Coastal pelagic species include northern anchovy, Pacific sardine, and jack mackerel. Pacific Coast Salmon include chinook and coho salmon. NMFS has established environmental work windows for dredging for Chinook salmon in San Francisco Bay between June 1 and November 30. In addition to EFH designations, San Francisco Bay is designated as a Habitat Areas of Particular Concern (HAPC) for various fish species in the Pacific Groundfish and Coastal Pelagic Fishery Management Plans, because this estuarine system serves as breeding and rearing grounds important to these fish stocks.

The effects of WETA's action will primarily be from increased levels of sound resulting from pile installation and removal, which will temporarily reduce the quality of water column EFH. Although relatively short-term and only during construction activities, the project may adversely affect EFH in the action area through the noise-related impacts and localized increases in turbidity caused by dredging. Expansion of the ferry pier would create underwater structures, permanently altering a very small portion of EFH in the action area. This may increase habitat value for some species of groundfish. EFH may be disturbed due to pile-driving and dredging activities, which may adversely affect EFH for Pacific salmon species.

FTA and WETA have initiated consultation with NMFS under the Magnuson-Stevens Fishery Conservation and Management Act. While the proposed construction activities would have adverse effects on EFH, NMFS's proposed action of issuing an Authorization for the harassment of marine mammals will not impact EFH. NMFS's proposed action would only allow incidental take of marine mammals, not permit the construction activities.

The above information pertains to WETA's pile driving/removal activity. The NMFS proposed action, which is the authorization of marine mammal take incidental to the ferry terminal project, will result in no damage to ocean and coastal habitats or EFH.

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 WETA's Project will not have a substantial impact on biodiversity or ecosystem function. WETA's Project may temporarily impact 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 driving operations; and iii) directly damaging the benthos through pile driving, removal, and anchoring. Bottom disturbance would be temporary over a short-term project period and 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 would be minor and temporary in nature.

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

The proposed action is not expected to result in any impacts related to public health and safety. Construction activities are not likely to release hazardous materials into the environment. Construction crews would follow applicable state and federal laws to ensure a safe working environment. Increases in noise levels in public areas adjacent to ferry terminal would be temporary and intermittent, occurring on a maximum of 106 days over the first year. Adverse effects would be limited to behavioral disturbance, and would not be expected to significantly impact recreational users of San Francisco Bay. The proposed action would not result in significant adverse impacts to health and 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 fish and marine mammal species may occur in the general vicinity of WETA's Project, but are not anticipated to be adversely impacted. The proposed action – NMFS' authorization of incidental marine mammal take – is not expected to have a significant adverse impact on endangered or threatened species. There are no marine mammal species under NMFS' jurisdiction listed as endangered or threatened under the ESA; therefore section 7 consultation was not needed.

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

The proposed action will not have any social or environmental impacts. The impacts resulting from NMFS' authorization of marine mammal take incidental to WETA's Project will be limited to, at most, temporary behavioral harassment of small numbers of marine mammals. No social or economic impacts will be associated with this authorization.

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 not substantial debate over the proposed action's size, nature, or effect, nor is there such debate over the underlying action (WETA's ferry terminal expansion project, south basin improvements project). 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. During the public comment period on the proposed IHA, NMFS only received comments from the Marine Mammal Commission, which did not indicate that the environmental effects of NMFS' action were 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 San Francisco Bay waterfront area is highly industrialized and is used by shipping and recreational activities. However, the proposed action would not have significant direct impact to recreational uses or access in the surrounding community. Traditional resources would not be impacted. The ferry terminal project will occur in a shoreline area that already contains multiple built structures, and will not significantly degrade the existing environment. No other unique characteristics of the geographic area are known. NMFS' issuance of an IHA 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?*

The effects of WETA's proposed action are primarily related to the input of sound, resulting from pile driving, into the environment. Pile driving is a relatively well-studied action. 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 ferry terminal. While NMFS' judgments on impact thresholds are based on somewhat limited data, enough is known for NMFS and the regulated entity (here WETA) to develop precautionary monitoring and mitigation measures to minimize the potential for

significant impacts on biological resources. 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 related to other actions that have occurred in nearby locations to the ferry terminal in San Francisco Bay. Since November 2003, the California Department of Transportation (CALTRANS) has been conducting construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB), in San Francisco Bay (SFB), California. Specific activities that have the potential to impact marine mammals include vibratory and impact pile driving. NMFS has issued annual IHAs to CALTRANS for its construction activities every year, beginning in 2003. The most recent IHA was issued to CALTRANS on July 17, 2015, and expires on July 16, 2016 (80 FR 43710). However, the CALTRANS SF-OBB work has a small noise footprint and is located approximately 2-4 miles east of the Ferry Terminal. Furthermore, noise-generating in-water construction activities, such as pile driving and removal, only occur sporadically (e.g., they only occurred on 5 days in 2013). Monitoring reports from CALTRANS indicate that impacts on marine mammals from CALTRANS SF-OBB construction activities are negligible, and that there is no long-term displacement of marine mammals observed.

While there may be a chance that the combination of the past, current, and proposed activities may impact these stocks of marine mammals, there is limited potential for the temporary impacts from the proposed action to affect resources to interact in cumulatively significant ways with impacts from these other actions due to the small scale of these activities and the separation in location.

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?*

No structures eligible for the NRHP will be affected by the proposed action. No submerged archaeological sites are expected to occur in the project area. Traditional resources would not be impacted. Potential impacts to cultural resources are considered to be negligible or non-existent.

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

Neither the proposed action nor the underlying WETA action is expected to result in the spread of any nonindigenous species. Sufficient precautionary measures will be taken by WETA to ensure that no introduction or spread of such species occurs.

*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?*

WETA may have additional future projects at the ferry terminal that involve pile driving and removal. However, subsequent applications for incidental take authorizations will be independently analyzed on the basis of the best scientific information available. A finding of no significant impact for WETA's Project, and for NMFS' issuance of an IHA, may inform the environmental review for future projects 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. WETA's Project at the ferry terminal may require issuance of more than one permit. WETA is pursuing all required permits; each agency will review WETA's action as appropriate to ensure that no federal, state, or local laws or requirements will be violated.

*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 WETA's Project to the least practicable impact to marine mammals, through the inclusion of appropriate mitigation and monitoring measures. NMFS currently has issued an IHA to CALTRANS, which will expire on July, 16, 2016. This project is several miles away from the Ferry Terminal, and will only overlap with this project, at most, for a few weeks. The issuance of an IHA does not result in significant cumulative impacts when considered with all other past, present, and reasonably foreseeable projects.

Similarly, the cumulative effects of WETA's Project and other past, present, and reasonably foreseeable projects are not considered significant. Specifically, WETA's proposed action is likely to result in no more than temporary changes to the noise environment and sediment and water quality. Therefore, there is limited potential for those effects to interact cumulatively with the effects of other past, present, and reasonably foreseeable projects. The Cumulative Impacts section of NMFS's EA addresses this topic in greater detail.

Implementation of the proposed action, in conjunction with other past, present, and reasonably foreseeable future actions, would not be expected to result in significant cumulative impacts to the environment. 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 (EA) prepared for the WETA's ferry terminal expansion project, south basin improvements 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 documents. The proposed IHA was published in the *Federal Register*, and all public comments were considered and addressed. These public comments presented no new information that affects this determination. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts.



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Date

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