long and divided into 10 pools. Extending from the bottom of the south ladder to the river are a series of fish resting pools and attraction channels.

GPID has agreed to remove the dam and replace it with electric powered pumping facilities to provide water to its customers. GPID will operate the dam with the conservation measures developed in previous years during the interim period of May 7, 2002, until November 1, 2005. The permit may be extended for 1 year, until November 1, 2006, in accordance with the provisions of the Consent Decree in *United States* v. *Grants Pass Irrigation District*, Civil No. 98–3034-HO (D. Or., August 27, 2001).

Habitat Conservation Plan

GPID proposes to operate the dam consistent with conservation measures developed during 1998-2000 and as set forth in its permit application and the Plan to reduce take, with further operational modifications based on the timing of fish runs and additional alterations which may be provided from annual operations. From May 7, 2002, until November 1, 2005 (or November 1, 2006), GPID will continue to pursue Federal authorization and funding for dam removal, and will install and operate a replacement pumping system. At the end of or during this interim period, a new incidental take permit application with a new habitat conservation plan, and National Environmental Policy Act (NEPA) review will be prepared to cover the long-term operation of the replacement pumping facility.

The permit and Plan for the interim operation period would allow GPID to divert 150 cubic feet per second (cfs) of water from the Rogue River into GPID's distribution system during the inclusive irrigation seasons, from April to October each year. Activities associated with the north turbine/pump intake, south gravity intake and the fish ladders have the potential to affect listed species subject to protection under the ESA. The Plan for GPID's operation of Savage Rapids Dam, and the activities proposed for inclusion in this permit include the following: All aspects of operating the dam including opening and closing the radial gates, installation and removal of the stoplogs, operation of the fish ladders, operation of the turbine and the screens, operation of the fish sampling trap, and operation of the diversion facilities. The Plan and the permit application also cover monitoring activities, related scientific experiments in the Plan area and sources of adequate funding for the Plan.

Environmental Assessment

The EA package contains a draft EA and Finding of No Significant Impact (FONSI). Four Federal action alternatives have been analyzed in the draft EA: (1) The no action alternative, (2) the proposed action, issue an incidental take permit from May 7, 2002 until November 1, 2005 (or November 1, 2006 with a 1 year extension) with conditions included in the Plan, (3) issue an incidental take permit for 1 year with conditions included in the Plan with shut down triggers similar to alternative 2; and (4) issue an incidental take permit for 99 years with a habitat conservation plan that would include replacing the north irrigation screens in compliance with NMFS screen criteria, and no removal of Savage Rapids Dam or its water-powered turbine pumps.

This notice is provided pursuant to section 10(a) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the ESA and NEPA regulations. If it is determined that the requirements are met, a permit will be issued for the incidental takes of listed species under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and NMFS will fully consider all public comments received during the comment period.

Dated: April 5, 2002.

Susan Pultz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02–8693 Filed 4–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 030402C]

Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit Project in Humboldt County, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for an authorization to take small numbers of marine mammals by harassment incidental to a project to seismically retrofit three bridges at Humboldt Bay in Humboldt County, CA. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize CALTRANS to incidentally take, by harassment, small numbers of Pacific harbor seals in Humboldt Bay for a 1–year period.

DATES: Comments and information on CALTRANS' request and NMFS' proposal must be received no later than May 10, 2002.

ADDRESSES: Comments on the request and proposed authorization should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910–3282. Copies of CALTRANS' request may be obtained by writing to this address or by telephoning one of the contacts listed below. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Simona Perry Roberts, Office of Protected Resources, (301) 713–2322 ext. 106 or Christina Fahy, Southwest Regional Office, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> ...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

...any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [''Level A harassment'']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [''Level B harassment''].

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On January 28, 2002, NMFS received a request from CALTRANS for an IHA to incidentally take, by harassment, small numbers of Pacific harbor seals (*Phoca vitulina richardsii*) during a project to seismically retrofit three bridges in Humboldt County, CA.

Project Description

The purpose of the project is to reduce the safety hazard caused by probable seismic activity through reinforcement of bridge footings and encasing of pier columns. Work will be on three bridges spanning Humboldt Bay, the Eureka Channel Bridge (ECB), Middle Channel Bridge (MCB), and the Samoa Channel Bridge (SCB). In general, work on the three bridges will include: driving 0.91 meter (m) (36 inch, in) and 1.52 m (60 in) diameter cast-in-steel shell (CISS) piles; placement of reinforced concrete casings at each pier column; concrete topping of each pier; construction and removal of temporary trestles; installation and removal of cofferdams; placement and removal of silt curtains; and, movements of shallow draft barges and tender boats. Because work will be simultaneous at all three bridges there is a high likelihood that more than one pile driving episode will be occurring in the Bay at any given time. CALTRANS estimates work will last approximately 560 days on an 8–hour a day, 5 day a week work schedule. The project start date is scheduled for summer of 2002 and the entire project will end in the winter of 2004. The proposed IHA will only authorize the incidental take of marine mammals for a 1–year period.

Marine Mammal Species Potentially Impacted

Pacific harbor seals are the most abundant marine mammal species found within Humboldt Bay. Seals are regularly seen within the three channels: Eureka, Middle, and Samoa. Their average abundance increases in the winter and spring (Andrea Gemmer, unpublished data, Humboldt State University, 2001). Two main haul-out locations have been identified in North Humboldt Bay, or Arcata Bay, closest to the project area. These haul-outs are Daby Island (402 m or a 1/4 mile (mi) North of ECB) and Mad River Slough (3.2 kilometers (km) or 2 mi North of SCB). Other recognized haul-outs in and near the Bay include: Indian Island, mud flats surrounding the terminal ends of Arcata Channel, Hookton Channel (12.9 km (8 mi) south of the project), Eel River (19.3 km (12 mi) south of the project), and the mouth of Mad River (12.9 km (8 mi) north of the project).

Although it is unlikely that any other species of marine mammal will be impacted by this CALTRANS project, California sea lions (*Zalophus californianus*) are present near the channel entrance and are occasionally seen within the lower Bay and there is a low probability that they will be present near the proposed project. However, no known California sea lion haul-out sites exist in the upper Bay, islands, or in the Eureka, Middle, or Samoa channels.

General information on Pacific harbor seals, California sea lions and other marine mammal species found in California waters can be found in Forney *et al.* (2000) and Barlow *et al.*(1998).

Potential Impact on Marine Mammals and their Habitat

At this time, NMFS considers that underwater sound pressure levels (SPLs) above 190 dB re 1 micro-Pa RMS (impulse) could cause temporary hearing impairment (Level B harassment) in harbor seals and sea lions. The effects of elevated SPLs on marine mammals may include avoidance of an area, tissue rupture, hearing loss, disruption of echolocation, masking, habitat abandonment, aggression, pup abandonment, and annoyance. During pile driving, the level of sound produced from the impact hammering may be affected by the size and maximum operating energy level of the hammer, the size and length of the piles, soil conditions, water depth, bathymetry, salinity, and temperature. For the Humboldt Bay project described here, pile installation will occur from shallow (less than 1 m, 3.28 feet (ft)) to deep (16 m, 52.5 ft) water, with several different types and sizes of piles. Low frequency sounds, such as those that dominate in pile driving, tend to attenuate more rapidly in relatively shallow water (i.e., 6–10 m, 19.7–32.8 ft) than in deeper waters. Although underwater SPL measurements for pile driving in Humboldt Bay have not been collected and are difficult to estimate, marine mammal reactions to previous pile driving activities in other geographic locations (i.e., San Francisco Bay) have led CALTRANS to a determination that the pile driving outlined in the project description has the potential to harass Pacific harbor seals that may be swimming, foraging, or resting in the area where activities will be taking place. In discussions with Structures Engineering Staff, CALTRANS determined that the type and size of pile driver that would be used on the Humboldt Bay retrofit project would be comparable to a Delmag Model D80–23 with a maximum energy per blow of 635 kiloJoules (kJ) (212,420 foot pounds (ft.lbs.)) and a minimum energy per blow of 377 kJ (126,192 ft.lbs.) (CALTRANS, 2002). The impact of the pile driver on the piling will result in substantial noise energy propagation within the water column. Although there will be attenuation of the noise energy due to substrate, currents, other pre-existing piles and other factors, the attenuation level is impossible to accurately predict. In their request, CALTRANS provided an analysis of the potential 160 dB and 190 dB re 1 micro-Pa RMS (impulse) noise contours based on the hammer energy to be used in Humboldt Bay on the larger diameter (1.52 m, 60 in) CISS piles and the underwater sound propagation characteristics in shallow Humboldt Bay waters. The results of this analysis showed that a hammer energy of 635 kJ (212,420 ft.lbs.) would result in a 160 dB noise contour at a distance of 670 m (2,198 ft) and a 190 dB noise contour at a distance of 185 m (607 ft). For a hammer energy of 377 kJ, the results showed that a 160 dB noise contour would occur at a distance of 625 m (2,051 ft) and a 190 dB noise contour would occur at a distance of 130 m (427 ft). Based on these results, marine mammals that are within the 190 dB contour could be subject to temporary hearing threshold shift or other non-lethal injury that has the potential to cause injury. Marine mammals within the 160 dB contour would also be likely

to demonstrate avoidance behaviors (level B harassment), but would not be likely to sustain hearing threshold shifts or other potential injuries associated with exposure to a loud sound source. The seals most likely to be affected by the pile driving activities would be those at the Daby Island haul-out site. Temporary abandonment of this one site could occur, but the animals are expected to return once construction is completed.

CALTRANS expects pile driving noise will be substantially less for the placement of the small diameter pilings used to support the temporary trestles and for the smaller diameter CISS piles that will be driven within the cofferdam enclosures. For these smaller pilings (0.91 m, 36 in), CALTRANS did not conduct calculations of estimated noise energy since there is no experimental data available to verify the calculations and there are so many different variables, such as water depth, proximity to shoreline, substrate, and pile material.

In addition, noise and visual stimulus resulting from activities such as construction, removals of temporary structures, and the movement of barges, boats, and people all have the potential to harass harbor seals in the area.

With regard to habitat, temporary structures may provide new haul-out locations for seals, increasing the potential for harassment of marine mammals when construction stops (i.e., at night) and is then re-initiated (i.e., at sunrise). At the same time, the placement of piles will permanently fill a small area of substrate, thus removing a minor amount of benthic forage habitat; however, the mid-water structure created by pilings may create an additional foraging habitat. This minor change in habitat is not likely to affect the harbor seal population within Humboldt Bay.

Numbers of Marine Mammals Expected to be Harassed

Only Pacific harbor seals are expected to be harassed by the project. Seals are expected to be present in the construction area and impacts are most likely to those animals at the Daby Island haul-out site. Due to their irregular occurrence and the intermittent nature of the proposed pile driving, CALTRANS did not provide an estimate of the number of animals potentially affected. Crude estimates of the average seal abundance in the entire North Humboldt Bay area during September 2000-August 2001 show that the number of animals found in the area ranges from 93 to 18 per month. Therefore, NMFS conservatively estimates that between 200 to 1,100 harbor seals may be harassed during a 1–year period.

Proposed Mitigation Measures

Attenuation devices such as air blankets and bubble curtains are commercially available products that are designed to decrease the noise level by placing an air/water interface around the sound source (i.e., pile driver). However, due to the high velocity tidal currents within the three channels, CALTRANS has determined that these devices will not work for mitigating the noise from this project.

Establishment of Safety/Buffer Zones

Prior to commencement of pile driving involving the large diameter pilings (1.52 m or 60 in), safety and buffer zones will be designated around each driving site depending on the hammer energy per blow predicted. The safety zones will be based on calculations CALTRANS provided in its request to NMFS for the 190 dB re 1 micro-Pa RMS (impulse) noise contour. That is, for a hammer energy of 635 kJ the safety zone will be out to a distance of 185 m (607 ft) and for a hammer energy of 377 kJ the safety zone will be out to a distance of 130 m (427 ft). The safety zone is intended to include all areas where the underwater SPLs are anticipated to equal or exceed 190 dB re 1 micro-Pa RMS (impulse). If marine mammals are seen within the safety zone, pile driving must not commence or must stop immediately and not restart until the marine mammal has moved beyond the 190 dB contour, either verified through sighting by a qualified observer outside the contour or by waiting until enough time has elapsed (15 minutes) to assume that the animal has moved beyond the safety zone. In addition, a buffer zone will be established around large diameter pilings based on calculations CALTRANS provided in its request to NMFS for the 160 dB re 1 micro-Pa RMS (impulse) noise contour. These buffer zones would be monitored closely during all pile driving activities for the presence and potential disturbance of marine mammals. If marine mammals are sighted within these zones, behavior of the mammals would be documented by observers and reported to NMFS, but operations would not need to cease.

Proposed Monitoring Plan

Qualified biologist(s) will be present during all CISS pile driving to observe for marine mammals in the vicinity of pile driving activity. Biological observers will position themselves so that they have an unobstructed view up and down the channel. The observer(s) will have direct communication with the job foreman so that stop-work and start-work directions can be relayed effectively. If CISS pile driving is occurring at more than one bridge at a time, each bridge location will have a biologist assigned to monitor for the presence of marine mammals. The observer(s) will record the date, time, location, distance, direction of travel, species, approximate age class, type of project activity occurring at time of sighting, and apparent behavior of marine mammals. Such records will serve as a means for documenting the species, numbers, and frequency of marine mammals incidentally harassed during the project.

Reporting Requirements

NMFS' Southwest Regional Administrator will be notified prior to the initiation of the East Span Project, and coordination with NMFS will occur on a weekly basis, or more often as necessary. Monitoring reports will be faxed to NMFS on a monthly basis during pile driving activity. The monthly report will include a summary of the previous month's monitoring activities and an estimate of the number of seals that may have been disturbed as a result of pile driving activities.

Because the Humboldt Bay project is expected to continue beyond the date of expiration of this IHA (under a new IHA or under regulations pursuant to section 101(a)(5)(A) of the MMPA), CALTRANS will provide NMFS' Southwest Regional Administrator with a draft final report before 90 days after expiration of this IHA. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If comments are received from the Regional Administrator on the draft final report, a final report must be submitted to NMFS within 30 days. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Preliminary Determination

NMFS has preliminarily determined that the short-term impact of pile driving and other activities associated with the seismic retrofit of three bridges in Humboldt Bay in Humboldt County, CA, as described in this document, should result, at worst, in the temporary modification in behavior of Pacific harbor seals. While behavioral modifications, including temporarily vacating haul-out sites and other areas, may be made by these species to avoid

the resultant visual and acoustic disturbance, the availability of alternate haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to the preliminary conclusion that this action will have a negligible impact on Pacific harbor seal populations in Humboldt Bay and along the California coast.

In addition, no take by serious injury or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Proposed Authorization

NMFS proposes to issue an IHA to CALTRANS for the potential harassment of small numbers of Pacific harbor seals incidental to the seismic retrofit of three bridges in Humboldt County, CA provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this proposed authorization to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225.

Dated: April 3, 2002.

David Cottingham,

Deputy Director, Office of protected Resources, National Marine Fisheries Service.

[FR Doc. 02–8692 Filed 4–9–02; 8:45 am]

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Designations under the Textile and Apparel Short Supply Provisions of the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA)

April 4, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Determination.

SUMMARY: The Committee for the Implementation of Textile Agreements (Committee) has determined, under the AGOA and CBTPA, that cuprammonium rayon filament yarn, classified in subheading 5403.39 of the Harmonized Tariff Schedule of the United States (HTS) for use in fabric for apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The Committee hereby designates apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in an eligible country, from fabric formed in the United States containing cuprammonium rayon filament yarn not formed in the United States, as eligible for quota-free and duty-free treatment under the textile and apparel short supply provisions of the AGOA and the CBTPA, and eligible under HTS subheadings 9819.11.24 or 9820.11.27 to enter free of quotas and duties, provided all other yarns are U.S. formed and all other fabrics are U.S. formed from yarns wholly formed in the U.S.

FOR FURTHER INFORMATION CONTACT: Philip J. Martello, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA and Section 211 of the CBTPA, amending Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act (CBERA); Presidential Proclamations 7350 and 7351 of October 2, 2000; Executive Order No. 13191 of January 17, 2001.

Background:

The short supply provision of the AGOA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7350, the President proclaimed that this treatment would apply to such apparel articles from fabrics or yarns designated by the appropriate U.S. government authority in the **Federal Register**. In Executive Order 13191, the President authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA.

Similarly, the short supply provision of the CBTPA provides for duty-free and quota-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary CBTPA country from fabric or yarn that is not formed in the United States or a beneficiary CBTPA country if it has been determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and certain procedural requirements have been met. In Presidential Proclamation 7351, the President proclaimed that this treatment would apply to such apparel articles from fabrics or yarns designated by the appropriate U.S. government authority in the **Federal Register**. In Executive Order 13191, the President authorized the Committee to determine whether particular yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner.

On November 20, 2001, the Committee received a petition alleging that cuprammonium rayon filament yarn, classified in subheading 5403.39 of the HTS for use in fabric for apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and CBTPA and requesting that apparel articles from U.S.-formed fabric containing such yarns be eligible for preferential treatment under the AGOA and CBPTA. On November 26, 2001, the Committee requested public comment on the petition (66 FR 59006). On December 12, 2001, the Committee and the U.S. Trade Representative (USTR) sought the advice of the Industry Sector Advisory Committee for Wholesaling and Retailing and the Industry Sector Advisory Committee for Textiles and Apparel (collectively, the ISACs). On December 12, 2001, the Committee and USTR offered to hold consultations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (collectively, the Congressional Committees). On January 7, 2002, the U.S. International Trade Commission (USITC) provided advice on the petition. Based on the information and advice received and its understanding of the industry, the Committee determined that the yarn set forth in the petition cannot be supplied by the domestic industry in commercial quantities in a timely manner. On January 18, 2002, the Committee and USTR submitted a report to the Congressional Committees that set forth the action proposed, the reasons for such action, and advice obtained. A period of 60 calendar days since this report was submitted has expired, as required by the AGOA and CBTPA.

The Committee hereby designates as eligible for preferential treatment under subheading 9819.11.24 of the HTS (for purposes of the AGOA), and under subheading 9820.11.27 of the HTS (for purposes of the CBTPA), apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or