DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XJ14

Marine Mammals; File No. 10133

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Zvi Livnat, P.O. Box 1209, Kealakekua, Hawaii 96750 has been issued a permit to conduct commercial/educational photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941;

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Jennifer Skidmore, (301)713–2289.

SUPPLEMENTARY INFORMATION: On March 21, 2008, notice was published in the **Federal Register** (73 FR 15137) that a request for a commercial/educational photography permit to take spinner dolphins (*Stenella longirostris*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant is authorized to film human interactions with spinner dolphins in the coastal waters of Hawaii and Maui. The purpose of the filming is to produce a public service announcement to educate residents and tourists of the Hawaiian Islands about the dangers that swim-with programs pose to the species and illustrate proper dolphin watching techniques. Up to 2,710 spinner dolphins could be harassed annually during aerial and vessel-based close approaches for filming, including underwater filming. Up to 230 pantropical spotted dolphins (*Stenella attenuata*), and 50 bottlenose dolphins (*Tursiops truncatus*) could be incidentally harassed or filmed annually. Filming would occur from March to October of each year over a period of 4 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 17, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Foothill/Eastern Transportation Corridor Agency

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of Public Hearing.

SUMMARY: This notice is provided to cancel the July 25, 2008 public hearing that was to be held by the National Oceanic and Atmospheric Administration (NOAA) in Irvine, California regarding the appeal filed with the Department of Commerce by the Foothill/Eastern Transportation Corridor Agency (TCA). The public hearing was noticed in the **Federal Register** on July 8, 2008, and is being canceled because the venue that had agreed to serve as the site for the hearing—the Bren Events Center of the University of California, Irvine—has withdrawn its agreement to do so. The public and Federal agency comment period for the TCA Consistency Appeal will remain open July 21, 2008 through August 4, 2008.

DATES: NOAA will not be conducting a public hearing in the TCA Consistency Appeal on July 25, 2008, but the public and Federal agency comment period will remain open from July 21, 2008 to August 4, 2008.

ADDRESSES: Comments on the appeal may be submitted by e-mail to *gcos.comments@noaa.gov* or by mail addressed to Thomas Street at the NOAA Office of the General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Thomas Street, Attorney-Advisor, NOAA Office of the General Counsel, 301–713–2967, or Stephanie Campbell, Attorney-Advisor, NOAA Office of the General Counsel, 301–713–2967, or *gcos.inquiries@noaa.gov*.

SUPPLEMENTARY INFORMATION: On February 15, 2008, TCA filed notice of an appeal with the Secretary of Commerce (Secretary), pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. TCA appealed an objection by the California Coastal Commission (Commission) to TCA's proposed construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.

Under the CZMA, the Secretary may override the Commission's objection if he determines that the project is consistent with the objectives or purposes of the CZMA or is otherwise necessary in the interest of national security. To make the determination that the proposed activity is consistent with the objectives or purposes of the CZMA, the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with enforceable policies of the state's coastal management program. 15 CFR 930.121.

On March 17, 2008, NOAA published a notice in the **Federal Register** announcing, among other things, that a public hearing might be held concerning this appeal. On July 8, 2008, NOAA published notice in the **Federal Register** describing scheduling and procedural information about the hearing. The hearing was to be held at the Bren Events Center of the University of California, Irvine (Bren Center) on July 25, 2008. The Bren Center was chosen in part because of its capacity. The facility can seat 4,700 people, which is substantially more than the crowd of approximately 3,500 that attended the Commission's hearing on the TCA project earlier this year.

After notice of the hearing was published, the Bren Center was contacted by a number of interested individuals and groups that intend to attend the hearing. Based on these communications, the Bren Center staff estimated over 10,000 people may