

REGISTERED BUYER STANDARD EX-VESSEL PRICES BY PORT GROUP FOR 2008 IFQ SEASON—Continued

| PORT GROUP | PERIOD ENDING | HALIBUT STANDARD EX-VESSEL PRICE (\$) | SABLEFISH STANDARD EX-VESSEL PRICE (\$) |
|------------|---------------|---------------------------------------|---|
| | June 30 | \$4.32 | \$3.06 |
| | July 31 | \$4.36 | \$3.25 |
| | August 31 | \$4.37 | \$3.25 |
| | September 30 | \$4.36 | \$3.26 |
| | October 31 | \$4.36 | \$3.26 |
| | November 30 | \$4.36 | \$3.26 |

¹Landing locations Within Port Group – Bering Sea: Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Cheformak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, Unalaska

²Landing Locations Within Port Group – Central Gulf of Alaska: Anchor Point, Anchorage, Alitak, Chignik, Cordova, Eagle River, False Pass, West Anchor Cove, Girdwood, Chinitna Bay, Halibut Cove, Homer, Kasilof, Kenai, Kenai River, Kodiak, Port Bailey, Nikiski, Ninilchik, Old Harbor, Palmer, Sand Point, Seldovia, Resurrection Bay, Seward, Valdez, Whittier

³Landing Locations Within Port Group – Southeast Alaska: Angoon, Baranof Warm Springs, Craig, Edna Bay, Elfin Cove, Excursion Inlet, Gustavus, Haines, Hollis, Hoonah, Hyder, Auke Bay, Douglas, Tee Harbor, Juneau, Kake, Ketchikan, Klawock, Metlakatla, Pelican, Petersburg, Portage Bay, Port Alexander, Port Graham, Port Protection, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, Yakutat

⁴Landing Locations Within Port Group – All: **For Alaska:** All landing locations included in 1, 2, and 3. **For California:** Eureka, Fort Bragg, Other California. **For Oregon:** Astoria, Aurora, Lincoln City, Newport, Warrenton, Other Oregon. **For Washington:** Anacortes, Bellevue, Bellingham, Nagai Island, Edmonds, Everett, Granite Falls, Ilwaco, La Conner, Port Angeles, Port Orchard, Port Townsend, Rainier, Fox Island, Mercer Island, Seattle, Standwood, Other Washington. **For Canada:** Port Hardy, Port Edward, Prince Rupert, Vancouver, Haines Junction, Other Canada

Note In many instances prices have not been reported to comply with confidentiality guidelines that prevent price reports when there are fewer than three processors operating in a location during a month.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XK27

Incidental Takes of Marine Mammals During Specified Activities; Beach Boulevard AICWW Bridge Blasting Project, Duval County, FL

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

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, NMFS has issued an Incidental Harassment Authorization (IHA) to the Jacksonville Transportation Authority (JTA) for the take of small numbers of marine mammals, by Level B harassment only, incidental to the removal and replacement of support structures for the Beach Boulevard Bridge over the Atlantic Intracoastal

Waterway (AICWW) in Duval County, FL.

DATES: The IHA is effective from December 1, 2008, through February 28, 2009.

ADDRESSES: A copy of the IHA is available by writing to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, NMFS, (301) 713-2289.

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 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, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have 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 if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth to achieve the least practicable adverse impact. 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.”

Section 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. Except with respect to certain activities not pertinent here, 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].
16 U.S.C. 1362(18).

Section 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 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 May 5, 2008, NMFS received a letter from the JTA, requesting an IHA. The requested IHA will authorize the take, by harassment, of small numbers of Atlantic bottlenose dolphins (*Tursiops truncatus*) incidental to explosive demolition performed for the purpose of removing support structures for the Beach Boulevard Bridge on the AICWW in Duval County, Florida. The Beach Boulevard Bridge spans approximately 300 ft (91.5 m) over open water. The U.S. Army Corps of Engineers (ACOE) and St. Johns River Water Management District (SJRWMD) have issued Environmental Resource Permits to JTA for the replacement of the existing Beach Boulevard Bridge over the AICWW. The ACOE issued permit SAJ-2003-9340 on November 22, 2005, to expand State Road 212 (Beach Boulevard) from San Pablo Road to Penman Road in Jacksonville, Duval County, Florida. The permit included authorization to replace Beach Boulevard Bridge over the AICWW. The blasting of the bridge will reduce the amount of time that tugs and barges are active in the AICWW, thereby reducing risks to wildlife.

Additional information on the blasting project is contained in the application and Supplemental Environmental Assessment (SEA), which is available upon request (see ADDRESSES).

Specified Activities

The purpose of the blasting project is to remove twelve support structures from the old bridge by explosive demolition. While dismantling and discarding the existing bridge spam will be routine, the strength and mass of the bridge footers pose a dismantling problem. After careful consideration, the bridge contractor, Superior Construction, has determined that demolishing the footers with explosives

is the most practical means of destroying them. The new, fully permitted bridge will consist of separate eastbound and westbound spans. The new westbound bridge, which is 100 percent constructed and in use, occurs where no bridge structure previously existed. The location of the future eastbound bridge, which has not yet been started, coincides almost exactly with the existing bridge, necessitating the full removal of the latter. The existing bridge support piers are undersized, relative to the future span's requirements, and must be removed to make room for construction equipment and the new bridge, particularly its support piles. The permitted method of removal of the old bridge allows for the footers to be removed via non-explosive means from barges. The barges would have to be relocated regularly by a large tug boat for up to three months due to the quantity of concrete involved and the limited reach of the equipment.

Under the existing permits, the most practical way of demolishing the old bridge supports is to use a hydraulic hoe ram, the equivalent of a large jack hammer, mounted on a barge, maneuvered by a tug boat, and literally chip the concrete supports into tens of thousands of pieces. For demolition of the piers adjacent to the channel, a barge with a large chipper will operate from the channel and chip at an angle away from the channel. This way, nearly all of the small amount of rubble that falls toward the channel will land in the chipper barge.

There are only two practical ways of taking down the bridge supports — one method entails the aforementioned hoe ram which would chip the concrete into tens of thousands of pieces, the other involves explosives. Under a hoe ram only (i.e., no blasting) scenario, the risks to wildlife stem from tugs and barges operating in the AICWW, for a total of 900 hours (90 days x 10 hours per day). An additional impact would be incurred by the protracted percussion pounding of the hammer. In a blasting scenario, risks to wildlife include the three blast events, and tug/barge activity in the AICWW totaling 400 hours (40 days x 10 hours per day). A Blasting Plan document has been prepared for this proposed action (see JTA's application).

Background

The JTA currently is in the process of replacing the Beach Boulevard Bridge across the AICWW. The project area is depicted in Location Map, Exhibit 1 of JTA's application. The new bridge will consist of separate eastbound and westbound spans. The new westbound bridge, which has been constructed and

is in use, occurs where no bridge structure previously existed. The location of the future eastbound bridge, which has not yet been started, coincides almost exactly with the bridge that is being replaced, necessitating the full removal of the latter. The existing bridge's support piers are undersized, relative to the future span's requirements, and must be removed to make room for construction equipment and the new bridge, particularly its support piles. JTA plans to demolish the piers with controlled explosives.

Baseline Conditions

The over water portion of the western side of the old bridge is supported by four piers of bent piles. The eastern, over water portion is supported by four similar piers and four bascule pier piles. Concrete coffer dams support the footers on both sides of the navigable channel. The below-water plan view of these twelve supports is indicated on Salient Features, Plan View, Exhibit 2 of JTA's application. The supports on both sides are protected from erosional scour by much rip rap and numerous gabions. A navigation channel is between the two sets of bent pile piers. A protective fender system is in place. Over the years, much rock, gravel, and rip rap has been placed in the open water under the bridge.

Blasting Details

As preface to preparing the 12 structures (the number of supports below the mean low water elevation) for explosive demolition and consistent with the current permits, each structure will be chipped to approximately 5 ft (1.5 m) National Geodetic Vertical Datum (NGVD). Once the supports have been lowered to 5 ft NGVD, the below water and remaining above water portions will be removed by explosives.

Three separate blast events will take place during the project. The locations and sequence of the blasts are indicated on Exhibit 5 of JTA's application. In preparation for each blasting event, floating turbidity curtains will be deployed within 40 ft (12.2 m) of the structures to be blasted. The curtains will minimally be 6 ft (1.8 m) long. Curtains longer than 6 ft would be torn and carried away by the currents at the bridge and ultimately become waste. Once the curtains are in place, the target concrete will be drilled, explosives will be placed in the drill holes, and the drill holes will be stemmed. Mats to contain debris will be draped over the above water portion of the supports. Only after all the measures described in the Marine Wildlife Safety Plan and Manatee, Marine Mammal, Sea Turtle Survey

Watch Plan have been implemented (see Exhibit 7 in JTA's application for the location of wildlife spotters), will the blast events occur. The duration of each event will be approximately two seconds. The first blast is tentatively scheduled for the first week in December 2008 and will focus on demolishing the four western supports and underlying coffer dam. The second event will occur about 10 days later and destroy the supports and coffer dam on the immediate eastern side of the channel. The final blast event will take place on or about December 31, 2008 and will eliminate the four supports situated east of the channel and west of the eastern bridge abutment. The existing fenders will be removed immediately prior to the final blasting event.

The radius of dangerous effect or "harm" for underwater explosives is based on a Navy Diver formula derived for human divers. Importantly, the formula is based on an uncontrolled blast suspended in the water column; the formula yields an artificially high radius in instances of controlled or contained blasts, like the kind proposed at the Beach Boulevard Bridge. The Navy Diver formula used for the Safety Zone is:

$$R = [520(W)^{1/3}] + 500$$

where R = Safety Zone radius and W = weight of explosives in pounds per delay (0.009 second minimum separation). With 16.5 pounds (lbs) of dynamite the maximum explosives per delay, the Safety Zone is 1,824 ft (556.4 m). The max/delay of dynamite (16.5 lbs) is equivalent to 13.2 lbs of TNT. This radius is depicted in Exhibit 7 of JTA's application.

Demolition Debris

Approximately 3,604 cubic yards (cy) of blast debris is anticipated (8 bascule piers, 2,900 cy; 2 coffer dams, 440 cy; and the eastern four piers, 264 cy). All of the debris would also have been generated by chipping demolition. Most of the debris will remain close to its source. Some will fall along side slopes and the bottom of the AICWW channel. The average size of the blast debris will be 6 to 9 inches. A small percentage of the debris will be finer particles, including dust. Some may become displaced by as much as 0.5 cy. The use of mats on the above water portions of the supports will prevent fragments from traveling through the air. Due to the resistance, portions of the supports will prevent fragments from traveling through the air. Due to the resistance of the water itself, none of the underwater demolition debris will be propelled beyond a 40 ft (12.2 m) radius, see

Exhibit 8 of JTA's application. Unfortunately, the high water flow velocities under the bridge preclude most turbidity control measures. This problem will be largely offset by the fact that most of the debris will quickly settle due to its mass. The very fine material will not have major impacts since the AICWW continuously transports a considerable load of suspended fine materials in the water column.

A modicum of rebar is embedded in the piers. This will likely remain in place through the blasting. Some rebar may topple into the water. All accessible rebar will be removed by heavy equipment (see the Debris Removal section below). A very small percentage of the rebar may remain in the AICWW.

The non-explosive deconstruction of the bridge will yield mostly large disassembled pieces and large jack-hammered pieces. These will be removed by trucks using the remaining bridge. The existing grates, which directly overlie the navigation channel, will be easily removed, without impeding navigation. A small amount of the span pieces inevitably will fall into the water beneath the bridge, outside the channel. These will be removed during the removal of the blast rubble (see the Debris Removal section below).

Debris Removal

Quick removal of any blasting debris from the navigation channel is imperative. Any debris which affects the cross-sectional and profile integrity of the channel will be removed via the dual barge method described below, within 6–8 hours of the blasting event.

Exhibit No. 3 (in JTA's application) indicates bottom contours as determined in 2006. The contours were generated with side scanning sonar that recorded continuously along nine east/west traverses spaced 50 ft (15.2 m) apart. A new bottom contour survey will be produced a few weeks prior to any chipping demolition. The survey will result from a side-scanning sonar recording bottom depths continuously along 40 east/west traverses spaced 10 ft (3.1 m) apart. The 2008 survey will also have 5 ft (1.5 m) contours and serve as the reference for all post-demolition debris removal. The survey will be forwarded to ACOE and SJRWMD prior to any chipping demolition. Following demolition, debris will be removed from the bottom so that only an incidental quantity remains post-development. After debris removal, a final survey of the bottom will be prepared and submitted to ACOE and SJRWMD. The survey will be generated using a side-

scanning sonar which records bottom depths continuously along 40 east/west traverses spaced 10 ft apart. The contour level will be 5 ft.

Two barges will be used during debris removal. One will have either a large back hoe or a small crane that will lift debris from the waterway. The second barge will hold the debris. Whether on the east or west side of the navigation channel, the paired barges will be oriented north/south, thereby keeping the navigation channel largely unobstructed. A land based back hoe or crane will empty the barge loads into awaiting dump trucks. Creosote soaked piles will be taken to Trail Ridge Land Fill in western Duval County, Florida. Concrete and rebar will be taken to one of several approved C & D land fills in Duval County, Florida. JTA knows of no other practical means of debris removal/disposal.

Additional details regarding the proposed explosive demolition project can be found in the SEA:

"Supplemental Assessment on an Authorization for the Incidental Take of Marine Mammals Associated with Confined Underwater Blasting as a Construction Method for Removing Support Structures of the Beach Boulevard AICWW Bridge Project in Duval County, Florida by the Jacksonville Transportation Authority." The SEA can also be found online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>

Dates, Duration, and Location of Specified Activity

The bi-directional bridge which is being replaced has been closed and currently is undergoing partial disassembly in preparation for demolition. Nearly all of the above water part of the bridge will be demolished via chipping. The below-water portions and a small-amount of the above water portions of the bridge will be demolished by the use of explosives. The first blasting event will occur on or shortly after December 1, 2008, and the subsequent two blasts will be completed by December 31, 2008.

The existing Beach Boulevard Bridge traverses the AICWW in Sections 36 and 38, Township 2 South, Ranges 28 and 29 East, Duval County, Jacksonville, Florida (see Exhibit 1 of the Blasting Plan in JTA's application for more information). Approximate coordinates of the site are as follows: 30°17'17" North latitude, 81°26'18" West longitude.

Description of Marine Mammals and Habitat Affected in the Activity Area

Several cetacean species and a single species of sirenian are known to or could occur in the Duval County study area and off the Southeast Atlantic coastline (see Table 1 below). Species listed as Endangered under the U.S. Endangered Species Act (ESA), includes the humpback, sei, fin, blue, North Atlantic right, and sperm whale. The marine mammals that occur in the blasting area belong to three taxonomic groups: mysticetes (baleen whales), odontocetes (toothed whales), and sirenians (the manatee). Table 1 below outlines the cetacean species and their habitat in the region of the proposed project area.

TABLE 1. THE HABITAT AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE PROPOSED STUDY AREA IN THE SOUTHEAST U.S. ATLANTIC OCEAN.

| Species | Habitat | ESA ¹ |
|---|-----------------------------|------------------|
| Mysticetes North Atlantic right whale (<i>Eubalaena glacialis</i>) | Coastal and shelf | EN |
| Humpback whale (<i>Megaptera novaeangliae</i>) | Pelagic and banks | EN |
| Bryde's whale (<i>Balaenoptera brydei</i>) | Pelagic and coastal | NL |
| Minke whale (<i>Balaenoptera acutorostrata</i>) | Shelf, coastal, and pelagic | NL |
| Blue whale (<i>Balaenoptera musculus</i>) | Pelagic and coastal | EN |
| Sei whale (<i>Balaenoptera borealis</i>) | Primarily offshore, pelagic | EN |
| Fin whale (<i>Balaenoptera physalus</i>) | Slope, mostly pelagic | EN |
| Odontocetes Sperm whale (<i>Physeter macrocephalus</i>) | Pelagic, deep seas | EN |
| Cuvier's beaked whale (<i>Ziphius cavirostris</i>) | Pelagic | NL |
| Gervais' beaked whale (<i>Mesoplodon europaeus</i>) | Pelagic | NL |

TABLE 1. THE HABITAT AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE PROPOSED STUDY AREA IN THE SOUTHEAST U.S. ATLANTIC OCEAN.—Continued

| | | |
|---|--|----|
| True's beaked whale (<i>Mesoplodon mirus</i>) | Pelagic | NL |
| Blainville's beaked whale (<i>Mesoplodon densirostris</i>) | Pelagic | NL |
| Dwarf sperm whale (<i>Kogia sima</i>) | Off-shore, pelagic | NL |
| Pygmy sperm whale (<i>Kogia breviceps</i>) | Off-shore, pelagic | NL |
| Killer whale (<i>Orcinus orca</i>) | Widely distributed | NL |
| Short-finned pilot whale (<i>Globicephala macrorhynchus</i>) | Inshore and off-shore | NL |
| False killer whale (<i>Pseudorca crassidens</i>) | Pelagic | NL |
| Mellon-headed whale (<i>Peponocephala electra</i>) | Pelagic | NL |
| Pygmy killer whale (<i>Feresa attenuata</i>) | Pelagic | NL |
| Risso's dolphin (<i>Grampus griseus</i>) | Pelagic, shelf | NL |
| Bottlenose dolphin (<i>Tursiops truncatus</i>) | Off-shore, inshore, coastal, estuaries | NL |
| Rough toothed dolphin (<i>Steno bredanensis</i>) | Pelagic | NL |
| Fraser's dolphin (<i>Lagenodelphis hosei</i>) | Pelagic | NL |
| Striped dolphin (<i>Stenella coeruleoalba</i>) | Pelagic | NL |
| Pantropical spotted dolphin (<i>Stenella attenuata</i>) | Pelagic | NL |
| Atlantic spotted dolphin (<i>Stenella frontalis</i>) | Coastal to pelagic | NL |
| Spinner dolphin (<i>Stenella longirostris</i>) | Mostly pelagic | NL |
| Clymene dolphin (<i>Stenella clymene</i>) | Pelagic | NL |

TABLE 1. THE HABITAT AND CONSERVATION STATUS OF MARINE MAMMALS INHABITING THE PROPOSED STUDY AREA IN THE SOUTHEAST U.S. ATLANTIC OCEAN.—Continued

| Species | Habitat | ESA ¹ |
|--|-------------------------------|------------------|
| Sirenians West Indian (Florida) manatee (<i>Trichechus manatus latirostris</i>) | Coastal, rivers and estuaries | EN |

¹U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed

The two species of marine mammals that are known to commonly occur in close proximity to the blasting area of the St. Johns River, AICWW, and Beach Boulevard (otherwise known as State Road 212— U.S. Highway 90) are the West Indian (Florida) manatee and Atlantic bottlenose dolphin.

Florida Manatee

The West Indian manatee in Florida and U.S. waters is managed under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS) and is listed as Endangered under the Endangered Species Act (ESA). They primarily inhabit coastal and inshore waters. The Atlantic population of this species frequents the AICWW (Pablo Creek) project vicinity, particularly as a migration route in the spring and fall, but may be found anytime during the year. The immediate area near the project site is considered foraging habitat and animals may potentially loaf for long periods of time in the marina basin adjacent to the site, which increases the likelihood of manatee presence during the explosive demolition of the structures. Manatee occurrences are extremely rare during winter months (December, January, and February) in typical years because of the cold water temperatures in the waterway and lack of warm water refuge sites nearby. To minimize potential involvement with manatees from underwater explosions, the optimal timeframe to utilize explosives is during the winter months of the year. The USFWS considers this timeframe “the manatee construction window” for utilizing explosives.

Atlantic Bottlenose Dolphins

Atlantic bottlenose dolphins are distributed worldwide in tropical and temperate waters, and in U.S. waters occur in multiple complex stocks along the U.S. Atlantic coast. According to the 2005 NOAA stock assessment report, bottlenose dolphins inhabiting water

less than 66 ft (20 m) deep are divided into 36 separate inshore or coastal stocks while animals in water 66–656 ft (20–200 m) deep constitute three continental shelf stocks.

These complex stock segments of coastal bottlenose dolphins are based on a combination of geographical, ecological, and genetic research. However, because the data of structure of stocks is complex, coastal and continental shelf stocks may overlap, the exact structure of these stocks continues to be revised as research is completed. Analytical results of the overall genetic variation indicate a minimum of five stocks of coastal bottlenose dolphins along the U.S. Atlantic coast.

The action would occur inshore at a depth of less than 66 ft (20.1 m) and, therefore, has the potential to affect the coastal stocks. From genetic analysis, the bottlenose dolphin population around Duval County, Florida consists of part of the Western North Atlantic Coastal Morphotype stock. This stock may also include demographically distinct coastal and resident estuarine populations that are defined by seasonal migratory and transient movements throughout large home ranges. The movement along the southern portion of the Atlantic coast is poorly understood and is currently under study. The resident estuarine stocks are likely demographically distinct from coastal stocks and are currently included in the coastal management unit definitions. The estimated population for the U.S. Western North Atlantic Coastal Morphotype stock of Atlantic bottlenose dolphins, which are based on aerial surveys and counts conducted in winter 1995 and summer 2002, is approximately 17,466 animals; but these estimates do not include all estuarine waters and the abundance may be negatively biased.

Based upon available data and analysis, seven management units with the range of the coastal morphotype of western North Atlantic bottlenose dolphin have been defined, yet the population structure is probably more complex and will continue to be refined as research efforts continue. The best abundance estimate of the Northern Florida management unit is 448 individuals. The Atlantic bottlenose dolphin is not listed as threatened or endangered under the ESA, and the U.S. coastal migratory stock is considered depleted and the management units are considered strategic under the MMPA.

NMFS defines seven geographic management units within the range of the coastal morphotype of the Western North Atlantic bottlenose dolphin. The

bottlenose dolphin stocks within the Western North Atlantic population are complex, and resident estuarine stocks likely exist, but they are currently included in coastal management unit definitions. Abundance estimates do not exist for estuarine waters. Further, each management unit definition likely encompasses seasonal residents and migratory or transient animals. Genetic analyses, photo-identification, radio transmitters, and stable isotope ratios of oxygen were used to identify the stocks.

The AICWW Beach Boulevard Bridge project site is in the Northern Florida management unit for Atlantic bottlenose dolphin coastal morphotypes. Atlantic bottlenose dolphins are known to occur in the project area at or within a few hundred feet of the project several times a week. Dolphins, when present near the project site, usually occur in groups of two or three. Bottlenose dolphin occurrence in the Jacksonville area is year-round, however significant seasonal variation exists.

Based on photo-identification and behavioral data, Caldwell (2001) identified three behaviorally differentiated bottlenose dolphin communities in the Jacksonville, Florida area. These three distinct communities have been called Northern, Southern, and Coastal. The Northern community has year-round residency and random social affiliations, with a mean group size of 5 individuals. The Southern community has seasonal residency and non-random social affiliations, with a mean group size of 22 individuals. The Coastal community has no residency and random social affiliations, with a mean group size of 17 individuals. The social structure on a small geographic scale of these three distinct populations varies based on significant genetic differentiation and behavior. Although the three Jacksonville area communities use contiguous habitats, the Northern and Southern communities are primarily inshore, and the Coastal community generally uses the coastal waters of the Jacksonville area from the beach to 1.9 miles (3 km) offshore (Caldwell, 2001). The Southern and Coastal communities have partially overlapping ranges, while the Northern and Southern community's ranges may generally be separated by the St. John's River. Also, the Southern and Coastal communities are behaviorally and genetically differentiated from the Northern community (Caldwell, 2001).

In Florida and other states along the U.S. East Coast, bottlenose dolphin abundance and density is often correlated with water temperature and season. Significantly fewer dolphins were observed during the winter season

when water temperature falls below 16 degrees Celsius (Caldwell, 2001).

NMFS anticipates that no bottlenose dolphins will be injured or killed during the three blasting events. The specific objective of JTA's wildlife watch plan is to ensure that no dolphins (or manatees) are in the area during the blast detonations. Because of the circumstances and the proposed mitigation and monitoring requirements discussed herein this document, NMFS believes it highly unlikely that the activities would result in injury (Level A harassment), serious injury or mortality of bottlenose dolphins, however, they may temporarily avoid the area where the proposed explosive demolition will occur. The JTA has requested the incidental take of six bottlenose dolphin for the action. The estimated abundance of the Western North Atlantic Coastal stock is approximately 17,466 animals and the estimated abundance of the North Florida management unit is approximately 448 animals. NMFS has determined that the number of requested incidental takes for the proposed action are small relative to population estimates, of Atlantic bottlenose dolphins.

Further information on the biology and local distribution of these species and others in the region can be found in JTA's application, which is available upon request (see ADDRESSES), and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: <http://www.nmfs.noaa.gov/pr/species/>

Potential Effects of Activities on Marine Mammals

In general, potential impacts to marine mammals from explosive detonations could include both lethal and non-lethal injury (Level A harassment), as well as Level B harassment. In the absence of mitigation, marine mammals may be killed or injured as a result of an explosive detonation due to the response of air cavities in the body, such as the lungs and bubbles in the intestines. Effects are likely to be most severe in near surface waters where the reflected shock wave creates a region of negative pressure called "cavitation."

A second potential possible cause of mortality is the onset of extensive lung hemorrhage. Extensive lung hemorrhage is considered debilitating and potentially fatal. Suffocation caused by lung hemorrhage is likely to be the major cause of marine mammal death from underwater shock waves. The estimated range for the onset of extensive lung hemorrhage to marine

mammals varies depending upon the animal's weight, with the smallest mammals having the greatest potential hazard range.

NMFS' criteria for determining non-lethal injury (Level A Harassment) from explosives are the peak pressure that will result in: (1) the onset of slight lung hemorrhage, or (2) a 50-percent probability level for a rupture of the tympanic membrane (TM). These are injuries from which animals would be expected to recover on their own.

NMFS has established dual criteria for what constitutes Level B Harassment: (1) An energy based temporary threshold shift (TTS) received sound levels 182 dB re 1 $\mu\text{Pa}^2\text{-s}$ cumulative energy flux in any 1/3 octave band above 100 Hz for odontocetes (derived from experiments with bottlenose dolphins (Ridgway et al., 1997; Schlundt et al., 2000); and (2) 12 psi peak pressure cited by Ketten (1995) as associated with a safe outer limit for minimal, recoverable auditory trauma (i.e., TTS). The Level B harassment zone, therefore, is the distance from the mortality, serious injury, injury (Level A harassment) zone to the radius where neither of these criteria is exceeded.

The primary potential impact to the Atlantic bottlenose dolphins occurring in the St. Johns River and AICWW from the detonations is Level B harassment incidental to noise generated by explosives. In the absence of any mitigation or monitoring measures, there is a very small chance that a marine mammal could be injured or killed when exposed to the energy generated from an explosive force on the sea floor. However, NMFS believes the proposed monitoring and mitigation measures will preclude this possibility in the case of this particular activity.

Non-lethal injurious impacts (Level A harassment) are defined in this proposed IHA as TM rupture and the onset of slight lung injury. The threshold for Level A Harassment corresponds to a 50-percent rate of TM rupture, which can be stated in terms of an energy flux density (EFD) value of 205 dB re 1 $\mu\text{Pa}^2\text{ s}$. TM rupture is well-correlated with permanent hearing impairment (Ketten, 1998) indicates a 30-percent incidence of permanent threshold shift (PTS) at the same threshold. The farthest distance from the source at which an animal is exposed to the EFD level for the Level A harassment threshold is 295 ft (89.9 m).

Level B (non-injurious) harassment includes temporary (auditory) threshold shift (TTS), a slight, recoverable loss of hearing sensitivity. One criterion used for TTS is 182 dB re 1 $\mu\text{Pa}^2\text{ s}$ maximum

EFD level in any 1/3-octave band above 100 Hz for toothed whales (e.g., dolphins). A second criterion, 23 psi, has recently been established by NMFS to provide a more conservative range of TTS when the explosive or animals approaches the sea surface, in which case explosive energy is reduced, but the peak pressure is not. The distance for 23 psi is 1,180 ft (359.8 m) (NMFS will apply the more conservative of these two distances).

Level B harassment also includes behavioral modifications resulting from repeated noise exposures (below TTS) to the same animals (usually resident) over a relatively short period of times. Threshold criteria for this particular type of harassment are currently still being considered. One recommendation is a level of 6 dB below TTS (see 69 FR 21816, April 22, 2004), which would be 176 dB re 1 $\mu\text{Pa}^2\text{ s}$. Due, however, to the infrequency of detonations, the short overall time period of the project, and the continuous movement of marine mammals in the AICWW, NMFS believes that behavioral modification from repeated exposures to the same animals is highly unlikely.

The Safety Zone radius of the blast is determined by using the Navy Diver Formula for an uncontrolled blast suspended in the water column. In the current instance, the formula is conservative since the charges to be used for Beach Boulevard Bridge footers will be confined within the footers, effectively reducing both the pressure and impulse of a water shock wave. In addition, boreholes will be stemmed at the in collars to further contain the pressures. The Safety Zone radius formula in feet is expressed by the following: $R = 520 (W)^{1/3} + 500$ (R = exclusion zone radius, W = weight of explosive in pounds per delay)

For the designed maximum explosives per delay of 16.5 pounds, the resulting Safety Zone is 1,824 ft. The max/delay of explosives is 16.5 lbs dynamite, which is equivalent to 13.2 lbs TNT. A maximum psi of 23 is used to determine the TTS distance and a maximum psi of 100 is used to determine the PTS distance. Cole's equation for determining max pressures created by free-field underwater explosions used is expressed by the following: $P = 21,600 (W^{1/3} / R)^{1.13}$ (P = pressure, W = TNT weight/delay, R = radius in feet)

TTS Distance:
 $R = (13.2^{1/3}) / (23/21,600)^{0.885} = 1,180\text{ ft}$

PTS Distance:
 $R = (100^{1/3}) / (100/21,600)^{0.885} = 295\text{ ft}$

NMFS considers the Safety Zone radius calculated using the Navy Diver Formula conservative for marine

mammals when compared to the calculated distances for TTS and PTS. The calculated Safety Zone will be used for both Atlantic bottlenose dolphin and the Florida manatee. Blasting is anticipated to be completed with three shots occurring over a two to three week period. The time frame for the blasting is subject to change dependent upon weather, tides, etc.

Comments and Responses

On Friday, October 24, 2008 (73 FR 63436), NMFS published in the **Federal Register** a notice of a proposed IHA for JTA's request to take marine mammals incidental to conducting the removal of bridge support structures by explosive demolition, and requested comments regarding this proposed IHA (FRNOR). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission).

Commission Comment 1: The Commission recommends that NMFS issue the requested authorization provided that NMFS consult with USFWS to ensure that it has reviewed the applicant's recent information supplementing the 1999 biological assessment, revised blasting plan, and the current Draft Manatee, Marine Mammal, and Sea Turtle Survey Watch Plan.

Response: Based on correspondence between NMFS, USFWS, and the applicant, both agency's have reviewed and determined JTA's recent information supplementing the 1999 biological assessment, revised blasting plan, and the current Draft Manatee, Marine Mammal, and Sea Turtle Survey Watch Plan are sufficient for the proposed action.

Commission Comment 2: The Commission recommends that NMFS issue the requested authorization provided that the applicant be required to conduct all practicable monitoring and mitigation measures that reasonably can be expected to protect the potentially affected marine mammal species from serious injury.

Response: NMFS concurs with the Commission's recommendation and has included requirements to this effect in the IHA.

Commission Comment 3: The Commission recommends that NMFS issue the requested authorization provided that operations be suspended immediately, pending review by NMFS, if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to those operations.

Response: NMFS concurs with the Commission's recommendation and has included a requirement to this effect in the IHA.

Commission Comment 4: The Commission reiterates its view that an across-the-board definition of temporary threshold shift (TTS) as constituting no more than Level B harassment inappropriately dismisses possible injury (Level A harassment) and biologically significant behavioral effects to the affected animals that may occur if an animal's hearing is compromised, even temporarily.

Response: This issue has been addressed several times by NMFS in the past and NMFS stated in previous **Federal Register** notices (68 FR 64595, November 14, 2003 and 71 FR 76989, December 22, 2006) that the reclassification of TTS from Level B to Level A harassment requires support and scientific documentation, and not be based on speculation that TTS might result in increased predation, for example. In addition, it is irrelevant for this IHA, because sound levels will not be high since mitigation and monitoring requirements under the IHA is expected to prevent TTS. Also, while there has been discussion among scientists regarding whether a permanent shift in hearing thresholds (PTS) can occur with repeated exposures of TTS, at least one study showed that long-term (4–7 years) noise exposure on 3 experimental pinnipeds species had caused no change on their underwater hearing thresholds at frequencies of 0.2–6.4 kHz (Southall et al., 2005).

TTS can effect how an animal behaves in response to the environment, including conspecifics, predators, and prey. The following physiological mechanisms are thought to play a role in inducing auditory fatigue: effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output. Ward (1997) suggested that when these effects result in TTS rather than PTS they are within the normal bounds of physiological variability and tolerance and do not represent a physical injury. Additionally, Southall et al. (2007) indicated that although PTS is a tissue injury, TTS is not because the reduced hearing sensitivity following exposure to intense sound results primarily from fatigue, no loss, of cochlear hair cells and supporting structures and is reversible. Accordingly, NMFS classifies

TTS (when resulting from exposure to underwater detonations) as Level B harassment, no Level A harassment (injury).

Incidental Take Authorization Requested

Provided the proper mitigation and monitoring measures are implemented, the blasting activities may result in the incidental taking of marine mammals by Level B behavioral harassment only. As a result, the JTA has requested an IHA for Level B harassment.

Level A take (i.e., injury or mortality) due to the explosive demolition of bridge support structures is not anticipated during the blasting operations. Since the activities will occur during the winter season, the abundance of marine mammals in the action area should be at its lowest. Injuries or mortalities due to the blasting events are not anticipated because of the incorporation of mitigation and monitoring measures described below.

Estimated Number of Marine Mammal Takes

As discussed above, NMFS anticipated that take of marine mammals will occur in the form of disturbance from the explosive demolition of bridge support structures. As also discussed above, no lethal take is expected to result from the blasting activities. Due to NMFS estimates, the JTA has been authorized the incidental take of nine Atlantic bottlenose dolphins during the effective dates of the three planned blasting events.

The population size of the U.S. Western North Atlantic Coastal stock of bottlenose dolphins is estimated to be 17,466 animals. Population estimates for the North Florida management unit is estimated 448 animals. The estimated total possible number of individuals that may be incidentally harassed during the project is 9 animals, which is 0.05 and 2 percent of the respective Atlantic bottlenose dolphin population for the Western North Atlantic Coastal stock and North Florida management unit for this species. NMFS had determined that these are small numbers, relative to population estimates, of Atlantic bottlenose dolphins.

Possible Effects of Activities on Marine Mammal Habitat

The JTA expects the effects on marine mammal habitat to be minimal. The existing land cover and land use within the project area include the two bridge abutments, the open water of the AICWW, salt marsh, a marina to the

northeast, and a navigable water body to the southeast. The salt marsh, largely occurring north and south of the western bridge abutment, is dominated by grasses (*Spartina alterniflora* and *Juncus roemerianus*). Invertebrates (mollusks, polychaetes, crustaceans, and insects) and terrestrial vertebrates (mammals, wading birds) are common marsh associates. Fish frequent the marsh at high and mid-tides. The remainder of the submerged area is mud and sand. Polychaetes, crustaceans, and mollusks likely occur in areas where tidal flow velocity is not high. Fish occur over the bottoms. There is no submerged aquatic vegetation in the area.

The vast majority of the debris from the demolition will be gravel size and larger, as well as a small amount of sand-sized pieces (indicated in the Demolition Debris section and Exhibit 7 of the Blasting Plan). The blast debris will not disperse across an area wider than 80 ft (24.4 m).

No components of the bridge will be purposefully placed in the AICWW; only those demolition fragments which are impractical to keep out of the water will end up on the bottom. The bascule grates and all of the rebar in those portions of the supports that will be chipped will undergo controlled removal. Most of the rebar in those portions of the supports that will be demolished by explosives will remain intact and in place, and therefore will be easily cut and removed with heavy machinery. Only a small portion of the support structure rebar will end up in the AICWW.

Most of the horizontal portions of the bridges (i.e., spans) will be deconstructed through the use of cranes, large chippers, and trucks. Very little of this portion of the bridge will fall into the water. The vertical supports will be shipped to an elevation of 5 ft (1.5 m), with nearly all of the concrete fragments falling into the open water away from the channel, and the steel rebar cut and hauled away for disposal or recycling. Rubble generated by the explosive demolition of the remaining above water stubs and all of the submerged portions of the supports will be removed in accordance with the Debris Removal section of the Blasting Plan.

The profile and cross-section of the channel will be re-established within 6–8 hours of each of the three blasting events, as referenced in the Debris Removal section of the Blasting Plan. Debris in the project area, but outside of the channel, will be removed within 30 days of the final blasting event.

It is anticipated that the blasting events will not physically impact the

marine mammal habitat in the AICWW except for the blast debris which falls to the bottom. The anticipated biological impact of the explosive demolition is that benthic and water column dwelling vertebrate and invertebrate species near the blasts will be killed by pressure waves. Restoration of the physical habitat adjacent to the AICWW channel will begin within an hour or two of the two related blast events and will entail debris removal. Restoration of the physical habitat at the bridge will be completed within 30 days of the final blasting and will involve re-establishing the pre-blast contours through the use of a clamshell dredge and/or large back hoe.

The activity will have a small and inconsequential impact to the physical habitat at/near the bridge. The blasting events will have an ephemeral impact on the biological component of the near bridge habitat. Temporary disturbance of the project area during the proposed blasting activities is not expected to reduce post-construction use of the area by resident and transient species. The project is not expected to result in loss of bottlenose dolphin habitat. Habitat modifications, if any, are anticipated to be inconsequential and are not expected to have any effect on the dolphin species and/or stock.

The blasting versus non-blasting discussion hinges on whether the additional 500 hours of permitted tug/barge activity without several trained wildlife observers represents a greater risk to wildlife than the three proposed blast events which include a Watch Plan specifically designed and implemented to minimize risk provided the suggested mitigation and monitoring is implemented by JTA.

Impacts to navigation in the AICWW are expected to be low, whether blasting occurs or not. However, it is obvious that a project entailing 400 hours of tug/barge activity will be less impacting than 900 hours of tug/barge operations.

The only two practical means of removing the existing footers is by chipping or explosives, with chipping the no-action alternative, in this case. Chipping while protracted, is in fact possible. However, risks to wildlife, slight risks to boat navigation and brief channel closures are all positively correlated to the demolition duration. Therefore, explosive demolition, while not risk-free, is superior to chipping.

The location and nature of the blasting combine to indicate that impacts to the AICWW will be limited. The footprint of the bridge in the blasting area comprises a channel that experiences high scour, and shallower bottoms that are covered with rip rap,

gravel, and rocks. It is highly manipulated and artificial setting. The blasting will consist of three brief shock waves and result in more rubble falling on top of the existing rubble.

Five complications to further impact minimization exist. First the area is tidally influenced with the normal tidal range over 4 ft (1.2 m). The constant ebb and flow limits turbidity control measures. Second, the AICWW is comparatively narrow at the bridge crossing, leading to strong currents. Third, the currents are bi-directional, eliminating any minimization measures that might be implementable at a uni-directional flow location. Fourth, interstitial gaps in the rip rap and general rubble all but prevent turbidity containment, particularly when combined with the three aforementioned complications. Finally, maintenance of navigation in the channel severely limits possible remediation and containment of blast rubble coming from the eight footers next to the channel.

The JTA anticipates no loss or modification to the habitat used by Atlantic bottlenose dolphins in the AICWW. The primary source of marine mammal habitat impact resulting from the explosive demolition is noise, which is intermittent (maximum 3 times per year) and of limited duration. The effects of debris (which will be recovered following test activities), were analyzed in JTA's application and concluded that marine mammal habitat would not be affected.

NMFS anticipates that the action will result in no impacts to marine mammal habitat beyond rendering the areas immediately around the bridge support structures less desirable shortly after the blasting event. Three blasting events over a two to three week period are anticipated during the validity of the IHA.

Blasting impacts to the AICWW estuarine water column and bottoms will consist of three rapidly moving pressure waves. Excepting a very small area (approximately 40 ft or 12.2 m) immediately around the blasts, the substrate will not be affected. The estuarine water column will be affected for a distance less than 1,824 ft (556.4 m) from the blasts (according to the commonly used blasting safety formula). The impacts will be localized and instantaneous. Impacts to marine mammal, invertebrate, and fish species are not expected to be detrimental.

Mitigation

In the absence of acoustic measurements (due to the high cost and complex instrumentation needed), in

order to protect endangered, threatened, and protected species, the following equation has been adopted by the JTA for the blasting project to determine the zone for potential harassment, injury or mortality from an open water explosion and to assist the JTA in establishing mitigation and monitoring to reduce impacts to the lowest level practicable. This equation is believed to be conservative because they are based on humans, who are more sensitive than dolphins, and on unconfined charges, while the proposed blasts in the AICWW will be confined (stemmed) charges. The equation, based on the Navy Diver Formula, is:
Safety Zone radius = $520 (\text{lbs}/\text{delay})^{1/3} + 500$

The Safety Zone is the approximate distance in feet beyond which injury (Level A Harassment) is unlikely from an open water explosion and mortality is not expected. This zone will be used for implementing mitigation measures for both Florida manatees and Atlantic bottlenose dolphins.

In the AICWW or any area where explosives are required to remove bridge support structures, marine mammal protection measures will be employed by the JTA. For each explosive charge, the JTA will ensure that a detonation will not occur if a marine mammal is sighted by a dedicated biologically-trained observer within the safety zone, a circular area around the detonation site with the following radius: $R = 520(W)^{1/3} + 500$ (520 times the cube root of the weight of the explosive charge in pounds) where: R = radius of the safety zone in ft; W = weight of the explosive charge in lbs per delay (9 ms minimum separation).

Although the area inside the Safety Zone is considered to be an area for potential injury, the JTA and NMFS believe that because all explosive charges will be stemmed (placed in drilled hole and tamped with rock), the areas for potential mortality and injury will be significantly smaller than this area and, therefore, it is unlikely that even non-serious injury would occur if as is believed to be the case, monitoring and mitigating this zone will be effective. Since bottlenose dolphins are commonly found on the surface of the water, implementation of a mitigation and monitoring program is expected by NMFS to be effective.

The JTA will implement mitigation measures and a monitoring program that will establish the Safety Zone radius to ensure that bottlenose dolphins will not be injured during blasting and that impacts will be at the lowest level practicable. Additional mitigation measures include: (1) confining the

explosives in a borehole with drill patterns restricted to a minimum of 8 ft (2.4 m) separation from any other loaded borehole; (2) restricting the hours of detonation from 2 hours after sunrise to 1 hour before sunset to ensure adequate observation of marine mammals in the Safety Zone; (3) staggering the detonation for each explosive hole in order to spread the explosive's total overpressure over time; (4) capping or stemming the boreholes containing explosives with angular rock or crushed stone (sized at 1/20 to 1/8 of the borehole diameter) to a minimum of 12 inches in depth in order to reduce the outward potential of the blast, thereby reducing the chance of injuring a marine mammal; (5) matching, to the extent possible, the energy needed in the "work effort" of the borehole to the rock mass to minimize excess energy vented into the water column; (6) establishing a Safety Zone (1,824 ft) for confined blasting based on the maximum weight of explosives detonated (16.5 lbs per 25 ms delay) and calculated using the Navy Diver Formula; (7) conducting a marine protected species watch (as described in the Marine Wildlife Safety Plan and Manatee, Marine Mammal, Sea Turtle Survey Watch Plan) with no less than five NMFS-qualified observers from a small water craft, aircraft, and/or an elevated platform on the explosives barge, beginning at least 60 minutes before and continuing for at least 30 minutes after each detonation to ensure that there are no marine mammals in the area at the time of detonation; (8) allowing animals to leave the Safety Zone under their own volition; and (9) conducting blasts during time periods of the year when there are low marine mammal abundance densities. Avoiding periods when marine mammals are in the blasting zone is another mitigation measure to protect marine mammals from underwater explosions. Given the poor water clarity and available habitat in the immediate area of the project, the USFWS recommended demolition utilizing explosives during the "manatee construction window" (December–February) when the occurrence or density of marine mammals in the Jacksonville area is at its lowest.

Monitoring

The JTA will be implementing a Marine Wildlife Safety Plan and a Manatee, Marine Mammal, and Sea Turtle Watch Plan (Watch Plan) that will minimize the possibility of incidental take to pressure waves from the blast to the fullest extent practicable. JTA is working on the Watch Plan with

USFWS, SJRWMD, Florida Fish and Wildlife Conservation Commission (FWC), and ACOE. The Watch Plan has been prepared to ensure the protection of those species large enough to be located visually within the zone of blasting activities influence.

A nearly identical Watch Plan was used during the demolition of the Fuller Warren Bridge, which spans approximately 3,600 ft (1,097.6 m) over open water in downtown Jacksonville, Florida. The Beach Boulevard Bridge spans approximately 300 ft (91.5 m) over open water. Applying the same specifications for a project that is more than an order of magnitude smaller in scale represents an effort to provide more than adequate protection for large wildlife including bottlenose dolphins.

The observer monitoring program will take place in a large circular area around the blasting site (also referred to as the Watch Zone). Any marine mammal(s) in the Safety, or Watch Zone will not be forced to move out of those zones by human intervention. Detonation shall not occur until the animal(s) move(s) out of the Safety Zone on its own volition.

Monitoring and mitigation will consist primarily of surveying and taking action to avoid detonating charges when protected species are within the Safety Zone radius. The marine wildlife safety observer team will consist of five members. The team will have a chief observer, who will be the aerial observer in a helicopter, and four other stationary ground and/or waterborne observers. Observers will be equipped with two-way radios, binoculars, a sighting log, map, signal flags, and polarized sunglasses.

Proposed monitoring requirements in relation to JTA's blasting activities will include observations made by the applicant and their associates. Information recorded will include species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors before, during and after blasting activities. Observations of unusual behaviors, numbers, or distributions of marine mammals and sea turtles in the activity area to NMFS and USFWS so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing marine mammal, sea turtles, and fish carcasses as well as any rare or unusual species of marine mammals and fish will be reported to NMFS and USFWS.

If at any time injury or death of any marine mammal occurs that may be a result of the proposed blasting activities, the JTA will suspend activities and contact NMFS immediately to

determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

Several mitigation measures to reduce the potential for harassment from explosive demolition activities would be (or are proposed to be implemented) implemented as part of the blasting construction activities. The potential risk of injury or mortality would be avoided with the following proposed mitigation and monitoring measures. Monitoring of the test area will continue throughout the activity until the last detonation is complete. The activity would be postponed if:

(1) Any marine mammal is visually detected with the Safety Zone (1,824 ft). The delay would continue until the animal(s) that caused the postponement is confirmed to be outside the Safety Zone (visually observed swimming out of the range and not likely to return).

(2) Any marine mammal is detected in the Safety Zone and subsequently is not seen again. The activity would not continue until the last verified location is outside the Safety Zone and the animal is moving away from the activity area, or the animal has not been seen for at least 30 minutes within the Safety Zone.

(3) Large schools of fish are observed in the water within the Safety Zone. The delay would continue until large schools are confirmed to be outside the Safety Zone.

In the event of a postponement, pre-activity monitoring would continue as long as weather and daylight hours allow. If a charge failed to explode, mitigation measures would continue while operations personnel attempted to recognize and solve the problem, i.e., detonate the charge.

A formal Plan Coordination Meeting will be held no later than three days before the first detonation event to review the items listed above, to discuss the responsibilities of all parties, and to review and approve the schedule of events. Attendees will include the contractor's representative, the entire Marine Wildlife Safety Observer team, the blasting consultant, the USFWS, FWC, the USCG, and other interested environmental parties such as NMFS and Florida Marine Patrol. The agenda will be coordinated by Superior Construction with the blasting contractor, USFWS, and FDEP. It will include the latest information about the possible presence of marine mammals during the operation, the logistics of the detonation schedule, the communications plan, and the responsibilities of all parties involved.

A summary report will be submitted to all interested parties.

Post-activity monitoring is designed to determine the effectiveness of pre-activity monitoring and mitigation by reporting any sightings of dead or injured marine mammals. Post-detonation monitoring, concentrating on the area down current of the test site, would commence immediately following each detonation and continue for at least one hour after the last detonation. The monitoring team would document and report to the appropriate marine mammals killed or injured during the activity and, if practicable, recover and examine any dead animals. The species, number, location, and behavior of any animals observed by the teams would be documented and reported to the project leader.

West Indian manatees, which are federally listed as Endangered under the ESA and managed by the USFWS, are not expected in the St. John's River and AICWW (Pablo Creek) during the time periods when the activities would be conducted. However, if manatees are sighted during the activities, the JTA would follow similar mitigation and monitoring procedures in place for bottlenose dolphins to avoid impacts, suspending activities in any areas manatees are occupying.

Reporting

After completion of all detonation events, the Chief Observer will submit a summary report to regulatory agencies. This report will contain the observer's logs, provide the names of the observers, and their positions during the event, the number and location of marine mammals sighted during the monitoring period, the behavior observations of the marine mammals, and the actions that were taken when the animals were observed in the project area.

The JTA will notify NMFS and the Regional Office prior to initiation of each explosive demolition session. Any takes of marine mammals other than those authorized by the IHA, as well as any injuries or deaths of marine mammals, will be reported to the Southeast Regional Administrator, within 24 hours. A draft final report must be submitted to NMFS within 90 days after the conclusion of the blasting activities. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA, including dates and times of detonations as well as pre- and post-blasting monitoring observations. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from NMFS on

the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

ESA

For the reasons already described in this **Federal Register** Notice, NMFS has determined that the described blasting activities and the accompanying IHA may have the potential to adversely affect species under NMFS jurisdiction and protected by the ESA. The ACOE, on behalf of the JTA, requested a section 7 consultation pursuant to the ESA with NMFS. Since ESA-listed species are not expected to be adversely affected by the activities provided the described protected species avoidance measures for the use of explosives are implemented, a Letter of Concurrence was prepared by the NMFS Southeast Regional Office, dated October 9, 2008.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) on an Authorization for the Incidental Take of Marine Mammals Associated with Confined Underwater Blasting as a Construction Method for Civil Works Projects along the Coast of Florida by the Jacksonville District of the U.S. Army Corps of Engineers, which analyzed the issuance of multiple IHAs over several years for these activities, as well as prepared a SEA for the action. The action described in the SEA is similar to the action that was analyzed in the 2005 EA, and the EA and 2008 SEA remains applicable. A copy of the EA and SEA are available upon request (see **ADDRESSES**).

Determinations

Based on JTA's application, as well as the analysis contained herein, NMFS has determined that the impact of the described blasting project will result, at most, in a temporary modification in behavior by small numbers of Atlantic bottlenose dolphin, in the form of temporarily vacating the Beach Boulevard AICWW Bridge area to avoid blasting activity and potential for minor visual and acoustic disturbance from dredging and detonations. The effect of the blasting project is expected to be limited to short-term and localized TTS-related behavioral changes.

Due to the infrequency, short time-frame, and localized nature of these activities, the number of marine mammals, relative to the population size, potentially taken by harassment is small. In addition, no take by injury or death is anticipated, and take by Level B harassment will be at the lowest level practicable due to incorporation of the

monitoring and mitigation measures mentioned previously in this document. NMFS has further determined that the anticipated takes will have a negligible impact on the affected species or stock of marine mammals. No injury (Level A harassment), serious injury, and/or mortality are authorized for marine mammals. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply to this proposed action as there are no subsistence users within the geographic area of the proposed project.

Authorization

As a result of these determinations, NMFS proposes to issue an IHA to the JTA for the harassment of small numbers (based on populations of the species and stock) of Atlantic bottlenose dolphin incidental to the explosive demolition of bridge support structures, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: November 28, 2008.

Helen M. Golde

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC72

Marine Mammals; File No. 881-1758

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that an amendment to scientific research Permit No. 881-1758-00 has been issued to the Alaska SeaLife Center (ASLC), 301 Railway Avenue, Seward, AK 99664 (Dr. Ian Dutton, Responsible Party).

ADDRESSES: The application 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 Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907)586-7221; fax (907)586-7249.