DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
RIN 0648–XV65
Marine Mammals; File No. 1100–1849
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 Shane Moore, Moore & Moore Films,
Box 2980, 1203 Melody Creek Lane, Jackson, WY 83001 has been issued an
amendment to Permit No. 1100–1849.
ADDRESSES: The amendment 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 216.103, Silver Spring, MD 20910; phone
(301)713–2289; fax (301)713–0376; and Alaska Region, NMFS, P.O. Box
21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.
FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Amy Hapeman,
(301)713–2289.
SUPPLEMENTARY INFORMATION: On notice 29, 2009, notice was published in the Federal Register (74 FR 49858) that an amendment to Permit
No. 1100–1849 had been requested by the above-named individual. The requested
amendment has been granted 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).
Permit No. 1100–1849, issued March 22, 2009 (72 FR 14525), authorizes the
permit holder to take 10 killer whales (Orcinus Orca) of the Eastern North
Pacific Transient Stock, 10 gray whales (Eschrichtius Robustus), and 10 minke
whales (Balaenoptera Acutorostrata) by close approach for filming in the Gulf
of Alaska and Bering Sea between April 1 and August 31 of each year. The original
permit was valid through March 31, 2010. The amendment extends the
permit for two years until March 31, 2012.
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.
Tammy C. Adams,
Acting Chief, Permits, Conservation and
Education Division, Office of Protected
Resources, National Marine Fisheries Service.

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
RIN 0648–XS24
Small Takes of Marine Mammals
Incidental to Specified Activities; Antioch Bridge Seismic Retrofit
Project, California
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, notification is hereby given that NMFS has issued an
Incidental Harassment Authorization (IHA) to the California Department of
Transportation (Caltrans) allowing the take of small numbers of marine
mammals, by Level B harassment only, incidental to pile driving associated with the Antioch Bridge Seismic Retrofit Project.
ADDRESSES: A copy of the IHA and the application are available by writing to P.
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 visiting the Internet at: http://www.nmfs.noaa.gov/
pr/permits/incidental.htm#applications. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.
FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected
Resources, 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 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, a notice of a proposed
authorization is provided to the public for review. 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].”
Authorization for incidental takings shall be granted if NMFS finds that the
taking will have a negligible impact on the species or stock(s), will not have an
unmitigable adverse impact on the availability of the species or stock(s) for
subsistence uses (where relevant), and if the permissible methods of taking and
requirements pertaining to the mitigation, monitoring and reporting of such
takings 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.”
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
cidentally take small numbers of marine mammals by harassment.
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 the authorization.
Summary of Request
On May 4, 2009, NMFS received a request from Caltrans to harass marine
mammals incidental to the Antioch Bridge Seismic Retrofit Project. In
accordance with the MMPA, NMFS