## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XX08**

### Marine Mammals; File No. 14628

**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 National Museum of Natural History (NMNH), Smithsonian Institution (Charles W. Potter, Responsible Party), PO Box 37012, Washington, DC 20013 has been issued a minor amendment to Scientific Research Permit No. 14628.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Amy Sloan, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** 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), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The original permit (No. 14628), issued on November 18, 2010 (75 FR 72794) authorizes the salvage, collection, importation, exportation, receipt, possession, archive, and analyses of marine mammal and endangered species parts under NMFS jurisdiction. No live animal takes and no incidental harassment of animals are authorized. Parts are archived by the NMNH and used to support research studies and incidental education. The minor amendment (No. 14628–01) extends the duration of the permit for one year, through November 30, 2016, but does not change any other terms or conditions of the permit.

Dated: October 21, 2015.

**Julia Harrison,**

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

[FR Doc. 2015–27208 Filed 10–26–15; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* NOAA's Bay Watershed Education and Training (B–WET) Program National Evaluation System.

*OMB Control Number:* 0648–0658.

*Form Number(s):* None.

*Type of Request:* Regular (revision and extension of a currently approved information collection).

*Number of Respondents:* 8,086.

*Average Hours per Response:* Awardee-respondents will complete an online survey in 60 minutes and teacher-respondents will complete two online surveys in 30 minutes each.

*Burden Hours:* 1,773.

*Needs and Uses:* This request is for revision and extension of a currently approved information collection.

The NOAA Office of Education's Bay Watershed Education and Training (B–WET) program seeks to contribute to NOAA's mission by supporting education efforts to create an environmentally literate citizenry with the knowledge, attitudes, and skills needed to protect watersheds and related ocean, coastal, and Great Lakes ecosystems. B–WET currently funds projects in seven regions (California, Chesapeake Bay, Great Lakes, Gulf of Mexico, Hawaii, New England, and the Pacific Northwest). B–WET has created an across-region, internal evaluation system to provide ongoing feedback on program implementation and outcomes to ensure maximum quality and efficiency of the B–WET program. The evaluation system is sustained by B–WET staff with occasional assistance from an outside contractor.

B–WET awardees and the awardees' professional development teacher-participants are asked to voluntarily complete online survey forms to provide evaluation data. One individual from each awardee organization is asked to complete a form once per year of the award, and the teacher participants are asked to complete one form at the end of their professional development program and another form at the end of the following school year.

*Affected Public:* State, local and tribal governments; not-for-profit institutions, business or other for-profit organizations, individuals or households.

*Frequency:* Annually.

*Respondent's Obligation:* Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 22, 2015.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2015–27331 Filed 10–26–15; 8:45 am]

**BILLING CODE 3510–12–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XE097**

### Taking of Marine Mammals Incidental to Specified Activities; Front Street Transload Facility Construction

**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 Bergerson Construction, Inc. (Bergerson) to take, by Level B harassment, small numbers of two species of marine mammals incidental to the Front Street Transload Facility construction project in Newport, Oregon, between November 1, 2015, and October 31, 2016.

**DATES:** Effective November 1, 2015, through October 31, 2016.

**ADDRESSES:** Requests for information on the incidental take authorization should be addressed to Jolie Harrison, Chief,

Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application containing a list of the references used in this document, NMFS' Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and the IHA may be obtained by writing to the address specified above or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

**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.

An 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 U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. 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 April 22, 2015, Bergerson submitted a request to NMFS requesting an IHA for the possible harassment of small numbers of Pacific harbor seal (*Phoca vitulina richardii*) and California sea lion (*Zalophus californianus*) incidental to construction associated with the Front Street Marine Transload Facility in the city of Newport, Oregon, for a period of one year starting November 2015. NMFS determined the IHA application was complete on July 29, 2015.

## Description of the Specified Activity

A detailed description of the Front Street Transload Facility construction project is provided in the **Federal Register** notice for the proposed IHA (80 FR 48500; August 13, 2015). Since that time, no changes have been made to the proposed construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

## Comments and Responses

A notice of NMFS' proposal to issue an IHA to Bergerson was published in the **Federal Register** on August 13, 2015. That notice described, in detail, Bergerson's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). The Commission recommends NMFS issue the IHA, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

## Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species under NMFS jurisdiction most likely to occur in the proposed construction area are Pacific harbor seal (*Phoca vitulina richardsi*) and California sea lion (*Zalophus californianus*).

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

| Species | ESA status | MMPA status | Occurrence |
|---|---|---|---|
| Harbor Seal | Not listed | Non-depleted | Frequent. |
| California Sea Lion | Not listed | Non-depleted | Frequent. |

General information on the marine mammal species found in Oregon coastal waters can be found in Caretta *et al.* (2014), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2013.pdf*. Refer to that document for information on these species. A list of marine mammals in the vicinity of the action and their status are provided in Table 1. Specific information concerning these species in the vicinity of the proposed action area is provided in detail in the Bergerson's IHA application (Turner and Campbell, 2015).

## Potential Effects of the Specified Activity on Marine Mammals

The effects of underwater noise from in-water pile removal and pile driving associated with the construction activities for the Front Street Transload Facility in Newport, Oregon, has the potential to result in behavioral harassment of marine mammal species and stocks in the vicinity of the action area. The Notice of Proposed IHA included a discussion of the effects of anthropogenic noise on marine mammals, which is not repeated here. No instances of hearing threshold shifts, injury, serious injury, or mortality are expected as a result of the construction activities given the strong likelihood that marine mammals would avoid the immediate vicinity of the pile driving area.

## Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammals and other marine species are associated with elevated sound levels, but the project may also result in additional effects to marine mammal prey species and short-term local water turbidity caused by in-water construction due to pile removal and pile driving. These potential effects are

discussed in detail in the **Federal Register** notice for the proposed IHA and are not repeated here.

**Mitigation Measures**

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For the Front Street Transload Facility construction project, NMFS is requiring Bergerson to implement the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the in-water construction activities.

*Time Restriction*

Work shall occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between November 1, 2015, and February 15, 2016.

*Air Bubble Curtain*

Bergerson is required to install an air bubble curtain system around the pile during pile installation using an impact hammer.

*Establishment of Exclusion Zone and Level B Harassment Zones of Influence*

Before the commencement of in-water pile driving activities, Bergerson shall establish Level A exclusion zones and Level B zones of influence (ZOIs). The received underwater sound pressure levels (SPLs) within the exclusion zone would be 190 dB (rms) re 1 μPa and above. The Level B ZOIs would encompass areas where received underwater SPLs are higher than 160 dB (rms) and 120 dB (rms) re 1 μPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and mechanic dismantling), respectively.

Based on measurements conducted nearby in similar water depth and sediment type in the Yaquina Bay for the NOAA Marine Operation Center P Test Pile Program (Miner, 2010), average vibratory hammer sound pressure level for 24-inch steel pile at 10 meters from the pile is 157 dB re 1 μPa (Minor 2010; ICF Jones & Stokes and Illingworth and Rodkin 2009). Based on practical spreading model with a transmission loss constant of 15, the distance at which the sound pressure levels fall below the 120 dB (rms) re 1 μPa is approximately 1.8 miles from the pile (Miner, 2010).

Modeling of exclusion zone and ZOIs for impact pile driving source level are based on measurements conducted at the nearby Tongue Point Facility in Astoria, Oregon, for installation of 24-in steel pile with an impact hammer (Illingworth and Rodkin, 2009). The result shows that the SPL at 10 m from the pile is 182 dB (rms) re 1 μPa. Nevertheless, a conservative 190 dB (rms) re 1 μPa value at 10 m and a practical spreading with a transmission loss constant of 15 are used to establish the exclusion zone and ZOI. As a result, the distance at which the SPLs fall below the 160 dB (rms) re 1 μPa behavioral threshold for impact hammering is approximately 0.62 miles. With a bubble curtain and an estimated 10 dB reduction in sound levels, the distance at which the sound pressure levels fall below the 160 dB RMS behavioral threshold for impact hammering is approximately 707 feet. The exclusion zone with the air bubble curtain system would be 7 feet from the pile.

The exclusion zone for Level A harassment and ZOIs for Level B harassment are presented in Table 2 below.

TABLE 2—MODELED LEVEL A AND LEVEL B HARASSMENT ZONES FOR VIBRATORY AND IMPACT PILE DRIVING ACTIVITIES

| Pile driving methods | Distance to 190 dB (m) | Distance to 160 dB (m) | Distance to 120 dB (m) |
|---|---|---|---|
| Vibratory pile driving/removal | NA | NA | 2,900. |
| Impact pile driving | 10/2.1 (with air bubble system). | 1,000/215 (with air bubble system). | NA. |

*Soft Start*

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the pile driver reaches full power. Whenever there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

For impact pile driving, the contractor would provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, then two subsequent sets. (The reduced energy of an individual hammer cannot be quantified because of variations between individual drivers. Also, the number of strikes will vary at reduced energy because raising the hammer at less than full power and then releasing it results in the hammer ''bouncing'' as it strikes the pile resulting in multiple ''strikes'').

For vibratory pile driving, the contractor will initiate noise from vibratory hammers for 15 seconds at reduced energy followed by a 30-second waiting period. The procedure shall be repeated two additional times.

*Shutdown Measures*

Bergerson shall implement shutdown measures if a marine mammal is sighted approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

In addition, Bergerson shall implement shutdown measures to prevent a take if a marine mammal species or stock that is not authorized under the IHA enters a zone of influence, or if the take of a specific marine mammal species or stock has reached the take limit issued under the IHA.

*Mitigation Conclusions*

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals.

• The proven or likely efficacy of the specific measure to minimize adverse impacts as planned .

• The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Monitoring and Reporting**

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Bergerson submitted a marine mammal monitoring plan as part of the IHA application. It can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below.

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, temporary hearing threshold shift (TTS), or permanent hearing threshold shift (PTS).

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

▪ Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);

▪ Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);

▪ Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

▪ An increased knowledge of the affected species; and

▪ An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

*Monitoring Measures*

During pile removal and installation, two land-based protected species observers (PSOs) would monitor the area from the best observation points available. If weather conditions prevent adequate land-based observations of the entire ensonified zones, boat-based monitoring would be implemented.

The PSOs shall observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. If a PSO observes a marine mammal within or approaching the exclusion zone, the PSO shall notify the work crew to initiate shutdown measures. In addition, if a PSO observes a marine mammal species that is not authorized for take, or the take of such marine mammal species has reached the take limit, the PSO shall notify the work crew to initiate shutdown measures if the animal is approaching the zone of influence.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 × 42 power).

Data collection during marine mammal monitoring would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

*Reporting Measures*

Bergerson shall submit a final monitoring report within 90 days after completion of the construction work or the expiration of the IHA, whichever comes earlier. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, Bergerson shall address the comments and submit a final report to NMFS within 30 days.

In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury, serious injury, or mortality, Bergerson shall immediately cease all

operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident;

(iii) Status of all sound source use in the 24 hours preceding the incident;

(iv) Environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) Description of marine mammal observations in the 24 hours preceding the incident;

(vi) Species identification or description of the animal(s) involved;

(vii) The fate of the animal(s); and

(viii) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with Bergerson to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Bergerson may not resume their activities until notified by NMFS via letter, email, or telephone.

In addition, NMFS requires Bergerson to notify NMFS' Office of Protected Resources and NMFS' Stranding Network within 48 hours of sighting an injured or dead marine mammal in the vicinity of the construction site. Bergerson shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that Bergerson finds an injured or dead marine mammal that is not in the vicinity of the construction area, Bergerson would report the same information as listed above to NMFS as soon as operationally feasible.

**Estimated Take by Incidental 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].

As discussed above, in-water pile removal and pile driving (vibratory and impact) generate loud noises that could potentially harass marine mammals in the vicinity of Bergerson's proposed Front Street Transload Facility construction project.

As mentioned earlier in this document, currently NMFS uses 120 dB re 1 μPa and 160 dB re 1 μPa at the received levels for the onset of Level B harassment from non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. Table 3 summarizes the current NMFS marine mammal take criteria.

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

| Criterion | Criterion definition | Threshold |
|---|---|---|
| Level A Harassment (Injury). | Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS). | 180 dB re 1 μPa (cetaceans).<br>190 dB re 1 μPa (pinnipeds).<br>root mean square (rms). |
| Level B Harassment ..... | Behavioral Disruption (for impulse noises) ..... | 160 dB re 1 μPa (rms). |
| Level B Harassment ..... | Behavioral Disruption (for non-impulse noise) ..... | 120 dB re 1 μPa (rms). |

As explained above, exclusion and ZOIs will be established that encompass the areas where received underwater sound pressure levels (SPLs) exceed the applicable thresholds for Level A and Level B harassments. In the case of Bergerson's proposed Front Street Transload Facility construction project, the Level B harassment ZOIs for impact and vibratory pile driving are at 215 m and 2,900 m from the source, respectively. The Level A harassment exclusion from impact pile driving is 2.1 m from the source.

Incidental take is calculated for each species by estimating the likelihood of a marine mammal being present within a ZOI during active pile removal/driving. Expected marine mammal presence is determined by past observations and general abundance near the Front Street Transload Facility during the construction window. Ideally, potential take is estimated by multiplying the area of the ZOI by the local animal density. This provides an estimate of the number of animals that might occupy the ZOI at any given moment. However, there are no density estimates for any Puget Sound population of marine mammals. As a result, the take requests were estimated using local marine mammal data sets, and information from state and federal agencies.

The calculation for marine mammal exposures is estimated by:

Exposure estimate = N (number of animals in the area) * 30 days of pile removal/driving activity

Estimates include Level B acoustical harassment during pile removal and driving. All estimates are conservative, as pile removal/driving would not be continuous during the work day. Using this approach, a summary of estimated takes of marine mammals incidental to Bergerson's Front Street Transload Facility construction work are provided in Table 4. The take calculation of California sea lion is described in Bergerson's IHA application. The take calculation of Pacific harbor seal is updated from Bergerson's IHA application and is described below.

Surveys done at the time of the construction of the NOAA MOC–P facility show that the number of harbor seals using haulouts in Yaquina Bay fluctuates widely from day to day; therefore, the average daily count of seals at the haulout was used to estimate the number of seals that would likely be present within the project area during the entire anticipated work period. Because there is no data on the counts of harbor seals using the haulouts in Sally's Bend, the average daily count of harbor seals using the finger jetty haulout was used to estimate the total number of potential harbor seals subject to Level B harassment throughout the project period. Survey results for harbor seals using the Oyster Dock haulout were also used to yield more conservative take estimates. It is estimated that an average daily take of 34 seals, with a total of 1,020 harbor seal takes by Level B harassment for the proposed work period.

TABLE 4—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED BY LEVEL B HARASSMENT FROM PILE AND PILE DRIVING ACTIVITIES

| Species | Estimated marine mammal takes | Abundance | Percentage |
|---|---|---|---|
| Pacific harbor seal | 1,020 | 16,165 | 6.31 |
| California sea lion | 1,100 | 296,750 | 3.71 |

**Analysis and Determinations**

*Negligible Impact*

Negligible impact is ''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'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 4, given that the anticipated effects of Bergerson's Front Street Transload Facility construction on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else species-specific factors would be identified and analyzed.

Bergerson's proposed Front Street Transload Facility construction project would involve vibratory pile removal and vibratory and impact pile driving activities. Elevated underwater noises are expected to be generated as a result of these activities. The exclusion zone for Level A harassment is extremely small (2.1 m from the source) with the use of an air bubble curtain system. The small exclusion zone combined with the implementation of the proposed monitoring and mitigation measures described above results in no expected Level A take of marine mammals. For vibratory pile removal and pile driving, noise levels are not expected to reach the level that may cause TTS, injury (including PTS), or mortality to marine mammals.

Additionally, the sum of noise from Bergerson's proposed Front Street Transload Facility construction activities is confined to a limited area by surrounding landmasses (as shown in Figure 1 of the IHA application), which blocks underwater sound propagation; therefore, the noise generated is not expected to contribute to increased ocean ambient noise. In addition, due to shallow water depths in the project area, underwater sound propagation of low-frequency sound (which is the major noise source from pile driving) is expected to be poor.

In addition, Bergerson's proposed activities are localized and of short duration. The entire project area is limited to Bergerson's Front Street Transload Facility construction work. The entire project would involve the removal of 25 existing piles and installation of 126 piles. The duration for pile removal and pile driving would be 30 days. These low-intensity, localized, and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease (Southall *et al.* 2007). Moreover, the proposed mitigation and monitoring measures are expected to reduce potential exposures and behavioral modifications even further. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed Front Street Transload Facility construction work is not reasonably expected to, and is not reasonably likely to, adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival.

The proposed project area is not a prime habitat for marine mammals, nor is it considered an area frequented by marine mammals. Therefore, behavioral disturbances that could result from anthropogenic noise associated with Bergerson's construction activities are expected to affect only a small number of marine mammals on an infrequent and limited basis.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from Bergerson's Front Street Transload Facility construction project will have a negligible impact on the affected marine mammal species or stocks.

*Small Number*

Based on analyses provided above, it is estimated that approximately 750 harbor seals and 1,100 California sea lions could be exposed to receive noise levels that could cause Level B behavioral harassment from the proposed construction work at the Front Street Transload Facility in Newport, Oregon. These numbers represent approximately 4.6% and 3.7% of the populations of Pacific harbor seal and California sea lion, respectively, that could be affected by Level B behavioral harassment, respectively (see Table 5 above), which are small percentages relative to the total populations of the affected species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, which are expected to reduce the

number of marine mammals potentially affected by the proposed action, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

**Impact on Availability of Affected Species for Taking for Subsistence Uses**

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

NMFS has determined that issuance of the IHA will have no effect on listed marine mammals, as none are known to occur in the action area.

**National Environmental Policy Act (NEPA)**

NMFS prepared an Environmental Assessment (EA) and analyzed the potential impacts to marine mammals that would result from the Front Street Transload Facility construction project. A Finding of No Significant Impact (FONSI) was signed in October 2015. A copy of the EA and FONSI is available upon request (see **ADDRESSES**).

**Authorization**

NMFS has issued an IHA to Bergerson for the potential harassment of small numbers of two marine mammal species incidental to the Front Street Transload Facility construction project in Newport, Oregon, provided the previously mentioned mitigation.

Dated: October 21, 2015.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Performance Review Board Membership

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Notice is given of the names of members of a Performance Review Board for the Department of the Army.

**DATES:** *Effective Date:* November 20, 2015.

**FOR FURTHER INFORMATION CONTACT:** Barbara Smith, Civilian Senior Leader Management Office, 111 Army Pentagon, Washington, DC 20310–0111.

**SUPPLEMENTARY INFORMATION:** Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The Department of the Army Performance Review Board will be composed of a subset of the following individuals:

1. Ms. Lisha Adams, Executive Deputy to the Commanding General, United States Army Materiel Command.
2. LTG Thomas P. Bostick, Commanding General, United States Army Corps of Engineers.
3. Mr. Gabriel Camarillo, Principal Deputy Assistant Secretary of the Army for Acquisition, Policy and Logistics, Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology).
4. Ms. Gwendolyn R. DeFilippi, Director, Civilian Senior Leader Management Office, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
5. Ms. Sue A. Engelhardt, Director of Human Resources, United States Army Corps of Engineers.
6. Mr. Randall Exley, The Auditor General, Auditor General Office.
7. Mr. Kevin M. Fahey, Executive Director for Agile Acquisition, Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
8. Mr. Patrick K. Hallinan, Executive Director of the Army National Cemeteries Program, Dept of the Army.
9. Ms. Ellen M. Helmerson, Deputy Chief of Staff, G–8, United States Army Training and Doctrine Command.
10. Mr. David Jimenez, Executive Technical Director/Deputy to the Commander, United States Army Test and Evaluation Command.
11. MG Daniel I. Karbler, Commanding General, United States Army Test and Evaluation Command.
12. LTG Mary A. Legere, Deputy Chief of Staff, G–2, Office of the Deputy Chief of Staff, G–2.
13. Mr. Mark R. Lewis, Deputy Chief Management Officer, Office of the Under Secretary of the Army.
14. LTG Kevin W. Mangum, Deputy Commanding General/Chief of Staff, U.S. Army Training and Doctrine Command.
15. Mr. David Markowitz, Assistant Deputy Chief of Staff for Operations, G–3/5/7, Office of the Deputy Chief of Staff, G–3/5/7.
16. Ms. Kathleen S. Miller, Assistant Deputy Chief of Staff, G–4, Office of the Deputy Chief of Staff, G–4.
17. Mr. William Moore, Deputy Chief of Staff, G–1/8 (Personnel and Logistics), United Stated Army Training and Doctrine Command.
18. Mr. Levator Norsworthy Jr., Deputy General Counsel(Acquisition)/ Senior Deputy General Counsel, Office of the General Counsel.
19. Mr. Gerald B. O'Keefe, Administrative Assistant to the Secretary of the Army, Office of the Administrative Assistant to the Secretary of the Army.
20. Mr Philip R. Park, Acting General Counsel, Office of the General Counsel.
21. Ms. Diane M. Randon, Deputy Assistant Chief of Staff for Installation Management, Office of the Assistant Chief of Staff for Installation Management.
22. Mr. Jeffrey N. Rapp, Assistant Deputy Chief of Staff, G–2 Office of the Deputy Chief of Staff, G–2.
23. Mr. J. Randall Robinson, Principal Deputy to the Assistant Secretary of the Army (Installations, Energy and Environment), Office of the Assistant Secretary of the Army (Installations and Environment).
24. Mr. Craig R. Schmauder, Deputy General Counsel (Installation, Environment and Civil Works), Office of the General Counsel.
25. Mr. Karl F. Schneider, Principal Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
26. Honorable Heidi Shyu, Assistant Secretary of the Army (Acquisition, Logistics and Technology), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
27. Ms. Caral Spangler, Principal Deputy Assistant Secretary of the Army (Financial Management and Comptroller).
28. MG Richard L. Stevens, Deputy Chief of Engineers/Deputy Commanding General, United States Army Corps of Engineers.
29. Mr. Lawrence Stubblefield, Deputy Assistant Secretary of the Army (Diversity and Leadership), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
30. Mr. Donald C. Tison, Assistant Deputy Chief of Staff for Programs, G–8, Office of the Deputy Chief of Staff, G–8.
31. GEN Dennis L. Via, Commanding General, United States Army Materiel Command.