



# MARINE MAMMAL COMMISSION

17 May 2016

Ms. Jolie Harrison, Chief  
Permits and Conservation Division  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by the Municipality of Skagway (MOS) seeking authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act (the MMPA) to take small numbers of marine mammals by harassment. The taking would be incidental to reconstruction of the ore terminal in Skagway Harbor, AK. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 3 May 2016 notice (81 Fed. Reg. 26630) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions.

MOS plans to construct a new ore terminal in Skagway Harbor. Operators would install up to 209 24- to 60-in steel piles using a vibratory and impact hammer. They also would remove up to 400 creosote-treated piles and 119 steel piles using a vibratory hammer. MOS expects activities to take 112 days<sup>1</sup>, weather permitting. It would limit pile-driving and -removal activities to daylight hours only during the timeframe from 1 July 2016 to 31 March 2017.

NMFS preliminarily has determined that, at most, the proposed activities temporarily would modify the behavior of small numbers of six marine mammal species<sup>2</sup>. NMFS anticipates that any impact on the affected species and stocks would be negligible. NMFS also does not anticipate any take of marine mammals by death or serious injury and believes that the potential for disturbance will be at the least practicable level because of the proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

- using a sound attenuation device (e.g., bubble curtain or pile caps) during impact driving of steel piles;
- ceasing pile-driving and -removal activities if any marine mammal comes within 10 m of the equipment;

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<sup>1</sup> Dredging using a clamshell bucket also would occur on 40 days.

<sup>2</sup> The Commission understands that NMFS underestimated the number of takes for certain species and plans to increase the takes to 2,968 for harbor seals, 80 for killer whales, and 252 for harbor porpoises in the final authorization.

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- using two qualified land- and/or vessel-based protected species observers to monitor the Level A and B harassment zones for 15 minutes before, during, and for 30 minutes after the proposed activities;
- using standard soft-start, delay, and shut-down procedures;
- reporting injured and dead marine mammals to the Office of Protected Resources and the Alaska Stranding Coordinator using NMFS's phased approach and suspending activities, if appropriate; and
- submitting a final report.

The Commission concurs with NMFS's preliminary finding and recommends that NMFS issue the incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca J. Lent". The signature is written in a cursive style.

Rebecca J. Lent, Ph.D.  
Executive Director