



MARINE MAMMAL COMMISSION

4 August 2015

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

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the U.S. Navy's applications seeking authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act to take marine mammals by harassment. The taking would be incidental to pile driving and/or removal in association with two maintenance projects at Piers 6 and 4 at Naval Base Kitsap in Bremerton, Washington. The Pier 6 authorization would be valid from 1 September 2015 to 1 March 2016; whereas, the Pier 4 authorization would be valid from 1 December 2015 to 30 November 2016. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 24 July 2015 notice (80 Fed. Reg. 44033) announcing receipt of the applications and proposing to issue the authorizations, subject to certain conditions.

The Navy plans to remove and install piles during repair of Pier 6. This is the third and final authorization that would be issued for this project. During the final authorization, the Navy would remove up to 118 12-in timber or steel fender piles using a vibratory hammer or mechanical means (i.e., using direct pull, a clamshell bucket, or cutting) and install up to 160 (18- or 24-in) pre-stressed concrete fender piles using an impact hammer. The Navy would conduct 15 days of vibratory pile removal and 45 days of impact pile driving at Pier 6. For Pier 4, the Navy would remove 80 12-in timber fender piles using a vibratory hammer or mechanical means and install 80 12- to 14-in steel fender piles using a vibratory hammer. The Navy would require approximately 10 days of vibratory pile removal and 20 days of vibratory pile driving at Pier 4. The Navy would use only one hammer, either vibratory or impact, at any given time. Activities would be limited to daylight hours only.

NMFS preliminarily has determined that, at most, the proposed activities at both Pier 6 and 4 temporarily would modify the behavior of small numbers of harbor seals, California sea lions, and Steller sea lions. It also anticipates that any impact on the affected species and stocks would be negligible. NMFS does not anticipate any take of marine mammals by death or serious injury and believes that the potential for temporary or permanent hearing impairment would be at the least practicable level because of the proposed mitigation measures. The mitigation, monitoring, and reporting measures include—

- conducting empirical in-air and -water sound measurements of vibratory removal of timber piles and impact driving of concrete piles during Pier 6 activities;
- using soft-start, delay, and shut-down procedures;

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- using delay and shut-down procedures if large whales approach the Level B harassment zone;
- using one land-based and one vessel-based protected species observer to monitor the harassment zones for 15 minutes before, during, and for 30 minutes after vibratory pile-removal and -driving activities;
- using one land-based protected species observer to monitor the harassment zones for 15 minutes before, during, and for 30 minutes after impact pile-driving activities;
- obtaining in-situ marine mammal sightings and acoustic detection data from the Orca Network and/or the Center for Whale Research on a daily basis and;
- reporting injured and dead marine mammals to NMFS and local stranding network using the NMFS's phased approach and suspending activities, if appropriate; and/or
- submitting a final report.

The Navy was required under the authorization issued in 2014 to conduct empirical in-air and -water sound measurements of vibratory removal of timber piles and impact driving of concrete piles during Pier 6 activities. Although the Navy removed 282 piles¹ and installed 168 piles under that authorization, the Navy apparently did not conduct the empirical sound measurements. The *Federal Register* notice did not specify why the measurements did not occur but irrespective of the reason, the Navy must abide by the requirements set forth in its incidental harassment authorization. Therefore, the Commission recommends that NMFS (1) issue the requested incidental harassment authorizations, subject to inclusion of the proposed mitigation, monitoring, and reporting measures and (2) ensure that the Navy is sufficiently aware of the requirements set forth in each authorization. Please contact me if you have questions regarding the Commission's recommendation.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director

¹ Approximately half of which were removed using a vibratory hammer.