



**FINDING OF NO SIGNIFICANT IMPACT
FOR THE ISSUANCE OF MARINE MAMMAL INCIDENTAL HARASSMENT AUTHORIZATION TO THE
PORT OF KALAMA FOR THE CONSTRUCTION OF THE KALAMA MARINE MANUFACTURING AND
EXPORT FACILITY**

NATIONAL MARINE FISHERIES SERVICE

BACKGROUND

The National Oceanic Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) is proposing to issue an Incidental Harassment Authorization (IHA) to the Port of Kalama (POK) pursuant to section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA), as amended (16 U.S.C. §§ 1631 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 Code of Federal Regulations (CFR) Part 216). This IHA will be valid September 1, 2017 to August 31, 2018, and authorizes take, by Level B harassment, of marine mammals incidental to construction activities for the Port Kalama (POK) Marine Manufacturing and Export Facility.

NMFS' proposed action is a direct outcome of the request which involves impact and vibratory pile driving activities associated with the construction activities. Acoustic and visual stimuli associated with the in-water construction work have the potential to cause marine mammals in the vicinity of the project area to be behaviorally disturbed, and therefore, qualify for an authorization from NMFS. NMFS criteria for an IHA requires that the taking of marine mammals authorized by an IHA will have a negligible impact on the species or stock(s), and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the IHA must set forth, where applicable, the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The issuance of an IHA to authorize take of marine mammals, consistent with provisions under MMPA, is considered a major federal action under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*). Therefore, NMFS prepared an Environmental Assessment (EA) titled, "Issuance of an Incidental Harassment Authorization to the Port of Kalama for the construction of the Kalama Marine Manufacturing and Export Facility during the 2016/2017 work season" to evaluate the significance of the impacts of our proposed action. This EA and Finding of No Significant Impact were prepared in accordance with NEPA and the Council on Environmental Quality (CEQ) regulations in 40 CFR §§1500-1508. Based on the Final EA and Port of Kalama's application, NMFS's alternatives include:

- Alternative 1 (Preferred Alternative): Issue an IHA to the Port of Kalama authorizing unintentional take of marine mammals incidental to construction of the Kalama Marine Manufacturing and Export Facility. The authorization includes the prescribed means of take and requires mitigation measures, monitoring and reporting.
- Alternative 2 (No Action Alternative): For NMFS, denial of an MMPA authorization constitutes the NMFS No Action Alternative, which is consistent with our statutory obligation under the



MMPA to grant or deny permit applications and to prescribe mitigation, monitoring and reporting with any authorizations. Under NMFA No Action Alternative, there are two potential outcome scenarios. One is that the construction activities occur in the absence of an MMPA authorization. In this case, (1) Port of Kalama would be in violation of the MMPA if takes occur and (2) mitigation, monitoring and reporting would not be prescribed by NMFS. Another outcome scenario is Port of Kalama could choose not to proceed with their proposed activities.

ANALYSIS

The Council on Environmental Quality (CEQ) regulations at 40 C.F.R. § 1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on CEQ’s context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans (FMP)?

Response: No. NMFS’ EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK’s activity, and the mitigation and monitoring measures to minimize the effects of that take. Coastal habitats and/or EFH were identified as components of the human environment not requiring evaluation as part of NMFS’s EA (Table 2, Pg 8). The US Army Corps of Engineers (USACE) is the lead federal agency for the construction project. As part of the USACE consultation for its action, it has determined that Coho and Chinook salmon habitat may be affected by the proposed action, but the effects are not expected to significantly modify the production capacity of that habitat and the project would not adversely modify designated EFH for Pacific salmon. As the proposed NMFS action of issuing an IHA is not expected to change the USACE consultation, the discussion of effects that are contained in that Biological Opinion also pertain to the NMFS action. Therefore, NMFS has determined that the issuance of an IHA for this activity would not lead to any effects to EFH beyond those considered in the consultation for the USACE issuance of a permit to authorize the proposed activity, per the EA (Pg 7).

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No. NMFS’ proposed action would have no additive or incremental effect on the physical environment beyond those resulting from the proposed in-water construction activities. It is expected that the proposed construction activities would have no more than a temporary and minimal adverse effect on any fish or invertebrate species (prey species) per the EA (Pg 23).

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No. NMFS’ EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK’s activity, and the mitigation and monitoring measures to minimize the

effects of that take. Public health and safety was identified as component of the human environment not requiring evaluation as part of NMFS's EA (Table 2, Pg 8).

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No. NMFS' EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK's activity, and the mitigation and monitoring measures to minimize the effects of that take. There are no marine mammal species listed as endangered under the ESA that occur within the proposed project area. Therefore, NMFS's action of issuing the IHA does not trigger a section 7 requirement. However, as noted in the Biological Assessment prepared by POK, the USACE determined that the project may affect but is not likely to adversely affect the following species: streaked horned lark; Columbia white-tailed deer; Chinook Salmon; sockeye salmon; coho salmon; chum salmon; steelhead; bull trout; eulachon; and green sturgeon. In addition, the USACE determined that the proposed project may effect, but is not likely to adversely affect critical habitat for the following species: Chinook salmon; sockeye salmon; coho salmon; chum salmon; steelhead; bull trout; and eulachon. As the effects of the activities on listed species are being considered during a formal consultation between the USACE and NMFS, and as the proposed NMFS action of issuing an IHA to POK is not expected to change in the consultation, the discussion of effects that are, or would be, contained in the Biological Opinion also pertains to this action. Therefore, NMFS has determined that the issuance of an IHA for this activity would not lead to any effects to listed species beyond those considered in the consultation on the US Army Corps of Engineers issuance of a permit to authorize the proposed activity.

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. NMFS' EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK's activity, and the mitigation and monitoring measures to minimize the effects of that take. Socioeconomic effects were identified as a component of the human environment not requiring evaluation as part of NMFS's EA (Table 2, Pg 8).

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. The proposed IHA was made available for public review and comment from March 19, 2016 to April 20, 2016. One comment was received during the public review period from the Marine Mammal Commission, which concurred with NMFS findings and recommended issuing the IHA with the proposed monitoring and mitigation requirements. No other public comments were received.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat (EFH), or ecologically critical areas?

Response: No. NMFS' EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK's activity, and the mitigation and monitoring measures to minimize the effects of that take. Historic and cultural resources; park land; prime farmlands; wetlands; wild and

scenic rivers; ecologically critical areas; and EFH were identified as a component of the human environment not requiring evaluation as part of NMFS's EA (Table 2, Pg 8).

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The proposed construction project would involve temporary and minor impacts to the Columbia River in an area that is already developed as an industrial facility. The proposed NMFS action of issuing an IHA to POK would not have effects to the human environment that are highly uncertain or involve unique or unknown risks, and would be similar to other past and ongoing IHAs for in-water construction projects.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The proposed construction activity would add another, albeit temporary, activity to the aquatic environment in the action area for a comparatively short period of time. The proposed NMFS action of issuing an IHA to POK would not have significant cumulative impacts, per the EA (Pgs 25-26).

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. NMFS' EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK's activity, and the mitigation and monitoring measures to minimize the effects of that take. Historic and cultural resources were identified as a component of the human environment not requiring evaluation as part of NMFS's EA (Table 2, Pg 8).

11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. NMFS' EA was intended to provide focused information on the primary issues and impacts of environmental concern, which is the issuance of an IHA authorizing take of marine mammals incidental to POK's activity, and the mitigation and monitoring measures to minimize the effects of that take. Non-indigenous species were identified as a component of the human environment not requiring evaluation as part of NMFS's EA (Table 2, Pg 8).

12) Is the proposed action likely to establish a precedent for future actions with significant effects or does it represent a decision in principle about a future consideration?

Response: No. The proposed action is similar to many past and ongoing actions to issue IHAs for take of marine mammals by harassment incidental to in-water construction activities.

13) Can the proposed action reasonably be expected to violate any Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. The proposed action is in compliance with the MMPA, NEPA, and other Federal, State and local laws and requirements imposed for the protection of the environment.

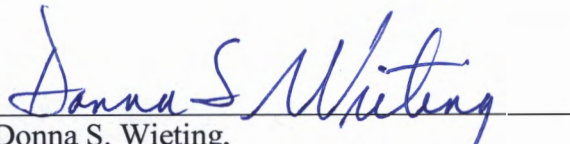
14) Can the proposed action reasonably be expected to result in cumulative adverse effects that

could have a substantial effect on the target species or non-target species?

Response: No. POK's proposed project consists largely of development of an area that already supports a built environment, as it is in an existing industrial facility along the Columbia River. The proposed POK project will have a very limited cumulative effect on coastal development in the region. The proposed construction activity would add another, albeit temporary, activity to the aquatic environment in the action area for a comparatively short period of time. The proposed NMFS action of issuing an IHA to POK would not have substantial cumulative effects on target or non-target species, per the EA (Pgs 25-26).

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Final EA prepared by NMFS, it is hereby determined that the issuance of an IHA for the take, by harassment, of small numbers of marine mammals incidental to the POK construction activities, will not significantly impact the quality of the human environment. In addition, all beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.



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Date