

DRAFT INCIDENTAL HARASSMENT AUTHORIZATION

The Chesapeake Tunnel Joint Venture (CTJV) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)) to harass marine mammals incidental to the Parallel Thimble Shoals Tunnel Project near Virginia Beach, Virginia, when adhering to the following terms and conditions

1. This Incidental Harassment Authorization (IHA) is valid for a period of one year from the date of issuance.
2. This IHA is valid only for in-water construction activities associated with Parallel Thimble Shoals Tunnel Project (PTST) near Virginia Beach, Virginia.
3. General Conditions
 - (a) A copy of this IHA must be in the possession of CTJV, its designees, work crew personnel, and Protected Species Observers (PSOs) operating under the authority of this IHA.
 - (b) The species authorized for taking are harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena phocoena*) and humpback whale (*Megaptera novaeangliae*).
 - (c) The taking, by Level A harassment and Level B harassment, is limited to the species listed in condition 3(b) and the numbers listed in Table 1.
 - (d) The taking by serious injury or death of any of the species listed in condition 3(b) or taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA. Any taking exceeding the authorized amounts listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this IHA.
4. Mitigation Measures

The holder of this IHA is required to implement the following mitigation measures:

 - (a) For in-water construction heavy machinery activities other than pile driving (*e.g.*, use of barge-mounted excavators, or dredging), if a marine mammal comes within

10 m, CTJV must cease operations and reduce vessel speed to the minimum level required to maintain steerage and safe working conditions.

- (b) CTJV is required to conduct briefings for construction supervisors and crews, the monitoring team, and CTJV staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.
- (c) CTJV is required to station PSOs at locations offering the best available views of the monitoring zones. At least one PSO must be located in close proximity to each pile driving rig during active operation of single or multiple, concurrent driving devices. A minimum of one additional PSO is required at each active driving rig if the shutdown and Level B harassment zones cannot reasonably be observed by a single PSO.
- (d) Marine mammal monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-activity monitoring must be conducted for 30 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.*, must leave of their own volition) and their behavior shall be monitored and documented.
- (e) CTJV must establish shutdown zones at the following distances:
 - i. 100 meters for harbor porpoise and bottlenose dolphin.
 - ii. 15 meters for harbor seal and gray seal.
 - iii. For humpback whales, distances shown in Table 2 under low-frequency cetaceans (depending on activity type).
- (f) If a marine mammal enters or is observed within an established shutdown zone pile driving must be halted or delayed. Pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without subsequent detections of the animal.
- (g) CTJV must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. A

soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

- (h) CTJV must use an air bubble curtain system during impact pile driving of steel pipe piles. Bubble curtains must meet the following requirements:
 - i. The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.
 - ii. The lowest bubble ring must be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact.
 - iii. The bubble curtain must be operated such that there is proper (equal) balancing of air flow to all bubblers.
 - iv. CTJV must employ the bubble curtain during impact pile driving of all steel piles in water depths greater than 3 m (10 ft).
- (i) CTJV must establish Level A harassment and Level B harassment monitoring zones as shown in Table 2.
- (j) If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed entering or within the monitoring zones (Table 2), pile driving activities must shut down immediately using delay and shutdown procedures. Activities must not resume until the animal has been confirmed to have left the area or the 15 minute observation time period has elapsed.

5. Monitoring Measures

The holder of this IHA is required to abide by the following marine mammal monitoring measures:

- (a) Marine mammal monitoring during pile driving must be conducted by NMFS-approved PSOs in a manner consistent with the following:
 - i. Independent PSOs (*i.e.*, not construction personnel) who have no other assigned tasks during monitoring periods must be used.

- ii. At least one observer must have prior experience working as an observer.
- iii. Other PSOs may substitute education (degree in biological science or related field) or training for experience.
- iv. CTJV must submit PSO CVs for approval by NMFS prior to the onset of pile driving and drilling.

6. Reporting

The holder of this IHA is required to:

- (a) Submit a draft report on all monitoring conducted under the IHA within ninety calendar days of the completion of marine mammal monitoring or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first. A final report must be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the following:
 - i. Dates and times (begin and end) of all marine mammal monitoring.
 - ii. Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.*, impact or vibratory).
 - iii. Weather parameters and water conditions during each monitoring period (*e.g.*, wind speed, percent cover, visibility, sea state).
 - iv. The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting.
 - v. Age and sex class, if possible, of all marine mammals observed.
 - vi. PSO locations during marine mammal monitoring.
 - vii. Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting).
 - viii. Description of any marine mammal behavior patterns during observation, including direction of travel.
 - ix. Number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimates of number of marine mammals taken, by species (a correction factor may be applied to total take numbers, as appropriate).

- x. Detailed information about any implementation of any mitigation triggered (e.g., shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any.
 - xi. Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.
 - xii. Level B harassment exposures recorded by PSOs must be extrapolated based upon the number of observed takes and the percentage of the Level B harassment zone that is not visible.
 - xiii. Marine mammal PSO observational datasheets or raw data.
 - xiv. Description of other human activity in the area.
- (b) Reporting injured or dead marine mammals:
- i. In the event that personnel involved in the construction activities discover an injured or dead marine mammal, CTJV shall report the incident to the Office of Protected Resources (OPR), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. The report must include the following information:
 - 1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
 - 2. Species identification (if known) or description of the animal(s) involved;
 - 3. Condition of the animal(s) (including carcass condition if the animal is dead);
 - 4. Observed behaviors of the animal(s), if alive;
 - 5. If available, photographs or video footage of the animal(s); and
 - 6. General circumstances under which the animal was discovered.
7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.
8. Renewals - On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly

identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- (a) A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- (b) The request for renewal must include the following:
 - i. An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).
 - ii. A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Donna S. Wieting,
Director, Office of Protected Resources
National Marine Fisheries Service

Date

Table 1—Proposed Authorized Take Numbers by Species

Species	Level A Takes	Level B Takes
Humpback whale	--	10
Harbor porpoise	4	6
Bottlenose dolphin	--	10,109
Harbor seal	3,114	4,671
Gray seal	8	13

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Table 2—Level A and Level B Harassment Monitoring Zones During Project Activities (meters)

Scenario		Level A Harassment Zones				Level B Monitoring Zones
		Low-Frequency Cetaceans	Mid-Frequency Cetaceans	High-Frequency Cetaceans	Phocid Pinnipeds	
Driving Type	Pile Type	Island 1 & 2	Island 1 & 2*	Island 1 & 2	Island 1 & 2	Island 1 & 2
Impact	12-in. Timber	55	--	--	--	25
	36-in. Steel	2,520	--	3,000	1,350	1,585
Impact with Bubble Curtain	36-in. Steel	1,000	--	1,190	540	545
DTH – Impulsive	42-in. Steel	740	--	880	395	220
DTH Simultaneous at same island	42-in. Steel	1,535	--	1,830	825	220
DTH & Impact Hammer with bubble curtain: Simultaneous at the same island	36-and 42-in. Steel	1,735	--	2,070	930	545
DTH at PI 1. And Impact with Bubble Curtain Hammer at PI 2	36-and 42-in. Steel	740	--	880	395	220 from PI 1 545 from PI 2
Continuous (Vibratory)	12-in. Timber	--	--	--	--	1,360
	36-in. Steel	30	--	--	20	21,545
	42-in.** Steel	30	--	--	20	21,545

*indicates that shutdown zone is larger than calculated harassment zone.

**Activity only proposed at Portal Island 1 as part of project pile driving plan.