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Authority: 16 U.S.C. 1801 *et seq.*

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Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC668

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seismic Survey in Cook Inlet, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS received an application from Furie Operating Alaska LLC (Furie) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to a proposed 3D seismic survey in Cook Inlet, Alaska, between May 2014 and May 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to issue an IHA to Fur

intertidal and offshore areas (see Figure A–2 in Furie's IHA application). Impacts to marine mammals may occur from noise produced from active acoustic sources (primarily air guns) used in the surveys.

Description of the Specified Activity

The proposed operations would be performed from multiple vessels; however the exact number and type of vessel used would depend on the contractor. The typical vessel use configuration for seismic surveys in Cook Inlet by the bidding contractors is what follows. The proposed survey would employ the use of two source vessels. Each source vessel would be equipped with compressors and 2400 in³ air gun arrays. In addition, one source vessel would be equipped with a 440 in³ to 1800 in³ shallow water air gun array, which it can deploy at high tide in the intertidal area in less than 1.8 m of water. Shallow draft vessels would support cable/nodal deployment and retrieval operations, and monitoring/navigation vessels would also be used. Finally, smaller jet boats would be used for personnel transport and node support in the extremely shallow water of the intertidal area. For additional information, such as vessel specifications, see Furie's application.

During the 2014 Cook Inlet open water season (May to November), Furie proposes to survey the entire project area in approximately 120 days beginning in May 2014, with exact start dates and end dates dependent on the timing of permits and actual survey days, which can be influenced by other factors such as commercial fishing, other seismic surveys operations in overlapping or adjacent areas, and general operational factors (i.e., weather). Furie anticipates conducting survey operations 24 hours per day (e.g.,

receiver line deployment and retrieval, dependent on weather and permit conditions). During each 24 hour period, seismic operations would be active; however air guns would only be used for approximately 2–3 hours during each of the slack tide periods. There are approximately four slack tide periods in a 24-hour day, therefore, air gun operations would be active during approximately 8–12 hours per day, if weather conditions allow.

3D Seismic Surveys

Seismic surveys are designed to collect bathymetric and sub-seafloor data that allow the evaluation of potential shallow faults, gas zones, and archeological features at prospective exploration drilling locations. Data are typically collected using multiple types of acoustic equipment. During the surveys, Furie proposes to use the following in

TABLE 2—DISTANCE TO SOUND THRESHOLDS FOR THE CHANNEL SURVEYS

Threshold (dB re 1 μ Pa)	Water depth at source location (m)	Distance in the broadside direction (km)	Distance in the endfire direction (km)
160	80	4.24	4.89
180	80	0.91	0.98
190	80	0.15	0.18

patterns and timing of eulachon and salmon runs have a strong influence on beluga whale feeding behavior and their seasonal movements (Nemeth *et al.*, 2007; NMFS, 2008). The presence of prey species may account for the seasonal changes in beluga group size and composition (Moore *et al.*, 2000). Aerial and vessel-based monitoring conducted by Apache during the March 2011 2D test program in Cook Inlet reported 33 beluga sightings. One of the sightings was of a large group (~25 individuals on March 27, 2011) of feeding/milling belugas near the mouth of the Drift River. Also on March 27, 2011, PSOs onboard the *M/V Dreamcatcher* reported a group of seven beluga whales approximately

Individuals in Cook Inlet are considered part of the western U.S. stock, which is listed as endangered under the ESA. Steller sea lions primarily occur in lower, rather than upper Cook Inlet and are rarely sighted north of Nikiski on the Kenai Peninsula. Haul-outs and rookeries are located near Cook Inlet at Gore Point, Elizabeth Island, Perl Island, and Chugach Island (NMFS, 2008). No Steller seal lion haul-outs or rookeries are located in the vicinity of the proposed seismic survey. Furthermore, no sightings of Steller sea lions were reported by Apache during the 2D test program in March 2011. During the 3D seismic survey, from May 6 to September 30, 2012, one Steller sea lion was observed on May 6, two on June 23, and one Steller sea lion was observed on August 18, 2012,

stress levels (e.g., Foote *et al.*, 2004; Holt *et al.*, 2009); however, baleen whales are rarely reported to occur within the action area. Marine mammals are thought to be able to compensate for masking, at least partially, by adjusting their acoustic behavior by shifting call frequencies, and/or increasing call volume and vocalization rates. For example, blue whales are found to increase call rates when exposed to seismic survey noise in the St. Lawrence Estuary (Di Iorio and Clark 2010). The North Atlantic right whales (*Eubalaena glacialis*) exposed to high shipping noise increase call frequency (Parks *et al.*, 2007), while some humpback whales respond to

(5) Non-Auditory Physical Effects

Non-auditory physical effects might occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds. However, there is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of air guns, and beaked whales do not occur in the proposed project area. In addition, marine mammals that show behavioral avoidance of seismic vessels, including most

mammal sighting, aircraft would try to maintain a radial distance of 457 m (1,500 ft) from the marine mammal(s). Aircraft would avoid approaching marine mammals from head-on, flying over or passing the shadow of the aircraft over the marine mammals.

Studies on the reactions of cetaceans to aircraft show little negative response (Richardson *et al.*, 1995). In general, reactions range from sudden dives and turns and are typically found to decrease if the animals are engaged in feeding or social behavior. Whales with calves or in confined waters may show more of a response. Generally there has been little or no evidence of marine mammals responding to aircraft

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 proposed seismic survey in Cook Inlet, Furie worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the survey activities.

Mitigation Measures Proposed in Furie’s IHA Application

For the proposed mitigation measures, Furie listed the following protocols to be implemented during its seismic survey in Cook Inlet.

mitigation airgun, it would be shut down (see following section).

Following a power-down, operation of the full airgun array would not resume until the marine mammal has cleared the disturbance zone. The animal would be considered to have cleared the disturbance zone if it:

- Is visually observed to have left the disturbance zone of the full array, or
- Has not been seen within the zone for 15 min in the case of pinnipeds or small odontocetes, or
- Has not been seen within the zone for 3

- 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; and

- The practicability of the measure for applicant implementation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered, NMFS has preliminarily determined that the proposed

under the April 2012 IHA, NMFS believes that the foregoing monitoring measures will allow Furie to identify animals nearing or entering the 160 db zone with a reasonably high degree of effectiveness.

Reporting Measures

(1) Field Reports

During the proposed survey program, the PSOs would prepare a report each day or at such other interval as the IHA (if issued), or Furie may require

seismic survey; no take is expected to result from vessel strikes.

Furie requests authorization to take six marine mammal species by Level B harassment. These six marine mammal species are: Cook Inlet beluga whale (*Delphinapterus leucas*); killer whale (*Orcinus orca*); harbor porpoise (*Phocoena phocoena*); gray whale (*Eschrichtius robustus*); harbor seal (*Phoca vitulina richardsi*), and Steller sea lion (*Eumetopias jubatus*).

the Cook Inlet beluga whales was 312 individuals for 2012 (Shelden *et al.*, 2012). Based on the coefficient of variation, Shelden *et al.* (2012) reported a minimum Cook Inlet beluga population estimate of 280 and an upper confidence limit of 402 individuals in 2012.

During May and for most of the summer, beluga whales are concentrated in the upper Cook Inlet near river mouths in Turnagain Arm, Knik Arm, Chickaloon Bay and the Susitna Delta (Rugh *et al.*, 2005; Hobbs *et al.*, 2005). The majority of the total

November. This average number of beluga whales (16.5) represents 5 percent of the average population abundance estimate (350) from the same time period.

Marine mammal observations are available for the vicinity of the proposed Furie project area as part of monitoring efforts for seismic survey work conducted during May through September of 2012 (Apache, 2013). In 2012, Apache conducted a seismic survey in a 2,719 km² area extending from the McArthur River to the Beluga River. During the 2012 survey, Apache was required to monitor the area for the presence of marine mammals and regularly submitted reports to NMFS containing marine mammal

calculated by first multiplying the ensonified area overlapping the red “high concentration” area (240 km²) by the density of beluga whales in that area (0.1006 belugas per km²) resulting in

24.1 belugas (rounded up to 25) and then by adding this number to the number calculated for the remaining low concentration area [(890 km²–240 km²) × 0.01743 belugas per km² = 11.3

rounded up to 12

reach the 160 dB threshold, and the available information on beluga distribution and abundance, which estimates that up to two groups of nine (18) beluga whales may be harassed incidental to Furie's seismic survey operations. This group size is based on the average group size reported from vessel and land-based platforms by Apache in 2012, which is considered to be the best available information. In estimating potential beluga group size, Furie considered all group size data reported by Apache and based its group size estimate on data reported in June, July, and August. Group sizes reported by Apache in May were significantly smaller than those observed in June through August and may not accurately

reflect average beluga group size in Cook Inlet.

TABLE 12—HARBOR PORPOISES

Month	Estimated number of individuals observed	Number of sightings	Assumed average group size
June	81	53	1.52
July	37	26	1.42
August	6	5	1.2
September	15	10	1.5
Average			1.3

Killer Whale

Killer whale population estimates are available for the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock. The most recent population estimate is 587 individuals for the entire stock with 136 in the Gulf of Alaska (Allen and Angliss, 2013). Estimates for the Eastern North Pacific Alaska resident stock are 2,347

individuals with 751 of those in the Prince William Sound area (Allen and Angliss, 2013).

Most killer whale sightings are recorded in lower Cook Inlet and the observed animals may be from any one of the stocks

Proposed Incidental Takes

Cetaceans—Effects on cetaceans are generally expected to be restricted to avoidance of an area around the seismic survey and short-term changes in behavior, falling within the MMPA definition of “Level B harassment.”

Using the 160 dB criterion, the requested take numbers of individual cetaceans exposed to sounds > 160 dB_{rms} re 1 µPa represent varying proportions of the populations of each species in Cook Inlet (Table 18). For Cook Inlet beluga whales, Fur

marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions. In addition, although the area where the survey will take place is within designated beluga whale critical habitat, beluga whales do not appear to congregate in the area for important life functions such as feeding, calving, or nursing.

Furthermore, the estimated numbers of animals potentially exposed to sound levels sufficient to cause Level B harassment are low percentages of the population sizes in Cook Inlet, as shown in Table 18.

Mitigation measures such as controlled vessel speed, dedicated marine mammal observers, non-pursuit, and shut downs or power

effect on the availability of marine mammals for subsistence uses. Furie and NMFS recognize the importance of ensuring that ANOs and federally recognized tribes are informed, engaged, and involved during the permitting process and will continue to work with the ANOs and tribes to discuss operations and activities.

Prior to the publication of the proposed IHA, NMFS contacted the local Native Villages to inform them of the upcoming availability of the **Federal Register** notice and the opening of the public comment period.

NMFS anticipates that any effects from Furie's proposed seismic survey

The shore-based station will follow all safety procedures, including bear safety. The location of the shore-based station will need to be sufficiently high to observe marine mammals; the PSOs would be equipped with pedestal mounted "big eye" (20 x 110) binoculars. The shore-based PSOs would scan the area prior to, during, and after the survey operations involving the use of sound sources, and would be in contact with the vessel-based PSOs via radio to communicate sightings of marine mammals approaching or within the project area.

c. Weather and safety permitting, aerial surveys shall be conducted. Surveys are to be flown even if the airguns are not being fired. If weather or safety conditions prevent

q. Furie must not operate airguns within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between mid-April and mid-October (to avoid any effects to belugas in an important feeding and potential breeding area).

r. Seismic survey operations involving the use of air guns and pingers must cease if takes of any marine mammal are met or exceeded.

8. Reporting Requirements: The Holder of this Authorization is required to:

the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, his designees, the NMFS Alaska Stranding Hotline (1-877-925-7773), and the Alaska Regional Stranding Coordinators within 24 hours of the discovery. Furie shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

10. Furie is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to