

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648-XJ14

Marine Mammals; File No. 10133

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Zvi Livnat, P.O. Box 1209, Kealahou, Hawaii 96750 has been issued a permit to conduct commercial/educational photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814-4700; phone (808)944-2200; fax (808)973-2941;

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Jennifer Skidmore, (301)713-2289.

SUPPLEMENTARY INFORMATION: On March 21, 2008, notice was published in the **Federal Register** (73 FR 15137) that a request for a commercial/educational photography permit to take spinner dolphins (*Stenella longirostris*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant is authorized to film human interactions with spinner dolphins in the coastal waters of Hawaii and Maui. The purpose of the filming is to produce a public service announcement to educate residents and tourists of the Hawaiian Islands about the dangers that swim-with programs pose to the species and illustrate proper dolphin watching techniques. Up to 2,710 spinner dolphins could be harassed annually during aerial and vessel-based close approaches for filming, including underwater filming. Up to 230 pantropical spotted dolphins (*Stenella attenuata*), and 50 bottlenose dolphins (*Tursiops truncatus*) could be incidentally harassed or filmed annually. Filming would occur from

March to October of each year over a period of 4 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 17, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8-16844 Filed 7-22-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Federal Consistency Appeal by Foothill/Eastern Transportation Corridor Agency**

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of Public Hearing.

SUMMARY: This notice is provided to cancel the July 25, 2008 public hearing that was to be held by the National Oceanic and Atmospheric Administration (NOAA) in Irvine, California regarding the appeal filed with the Department of Commerce by the Foothill/Eastern Transportation Corridor Agency (TCA). The public hearing was noticed in the **Federal Register** on July 8, 2008, and is being canceled because the venue that had agreed to serve as the site for the hearing—the Bren Events Center of the University of California, Irvine—has withdrawn its agreement to do so. The public and Federal agency comment period for the TCA Consistency Appeal will remain open July 21, 2008 through August 4, 2008.

DATES: NOAA will not be conducting a public hearing in the TCA Consistency Appeal on July 25, 2008, but the public and Federal agency comment period will remain open from July 21, 2008 to August 4, 2008.

ADDRESSES: Comments on the appeal may be submitted by e-mail to gcos.comments@noaa.gov or by mail addressed to Thomas Street at the NOAA Office of the General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Thomas Street, Attorney-Advisor,

NOAA Office of the General Counsel, 301-713-2967, or Stephanie Campbell, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, or gcos.inquiries@noaa.gov.

SUPPLEMENTARY INFORMATION: On February 15, 2008, TCA filed notice of an appeal with the Secretary of Commerce (Secretary), pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. TCA appealed an objection by the California Coastal Commission (Commission) to TCA's proposed construction of an extension to California State Route 241 in northern San Diego and southern Orange Counties, California.

Under the CZMA, the Secretary may override the Commission's objection if he determines that the project is consistent with the objectives or purposes of the CZMA or is otherwise necessary in the interest of national security. To make the determination that the proposed activity is consistent with the objectives or purposes of the CZMA, the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with enforceable policies of the state's coastal management program. 15 CFR 930.121.

On March 17, 2008, NOAA published a notice in the **Federal Register** announcing, among other things, that a public hearing might be held concerning this appeal. On July 8, 2008, NOAA published notice in the **Federal Register** describing scheduling and procedural information about the hearing. The hearing was to be held at the Bren Events Center of the University of California, Irvine (Bren Center) on July 25, 2008. The Bren Center was chosen in part because of its capacity. The facility can seat 4,700 people, which is substantially more than the crowd of approximately 3,500 that attended the Commission's hearing on the TCA project earlier this year.

After notice of the hearing was published, the Bren Center was contacted by a number of interested individuals and groups that intend to attend the hearing. Based on these communications, the Bren Center staff estimated over 10,000 people may

attend the public hearing, and determined their facility could not accommodate a crowd of this size, as it would exceed the facility's capacity and security resources. On July 10, the Bren Center staff informed NOAA that they withdrew their agreement to serve as the site for the hearing, forcing NOAA to cancel the July 25 hearing date.

NOAA is currently looking at later dates for a hearing and alternative sites that are consistent with available resources. In the meantime, the public may submit written comments on the appeal from July 21 through August 4, the period established in NOAA's July 8 **Federal Register** notice. Specifically, written comments may be submitted by e-mail to gcos.comments@noaa.gov or by mail addressed to Thomas Street, NOAA Office of General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Comments must be received by August 4, 2008.

A summary of relevant issues as well as additional background on the appeal appeared in the **Federal Register** notice of March 17, 2008, announcing the appeal, and may be found on the Internet at <http://www.ogc.doc.gov/czma.com.htm>. Questions should be directed to Thomas Street, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, or Stephanie Campbell, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, or gcos.inquiries@noaa.gov.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

Dated: July 18, 2008.

Jeffrey S. Dillen,

Acting Assistant General Counsel for Ocean Services.

[FR Doc. E8-16880 Filed 7-22-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG64

Small Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Seismic Survey in the Northeastern Pacific Ocean, June-July 2008

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the University of Texas, Institute for Geophysics (UTIG) for the take of marine mammals, by Level B harassment only, incidental to conducting a low-energy marine seismic survey in the northeastern Pacific Ocean during June-July, 2008.

DATES: Effective June 30, 2008, through July 31, 2008.

ADDRESSES: A copy of the IHA and application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, Office of Protected Resources, NMFS, (301) 713-2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an

impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either approve or deny the authorization.

Summary of Request

On March 4, 2008, NMFS received an application from UTIG for the taking, by Level B harassment only, of several species of marine mammals incidental to conducting, with research funding from the National Science Foundation (NSF), a bathymetric and seismic survey program approximately 100 km (62 mi) off the Oregon coast in the northeastern Pacific Ocean during June-July, 2008. The purpose of the research program was outlined in NMFS' notice of the proposed IHA (72 FR 42045, August 1, 2007).

Description of the Activity

The seismic surveys will involve one vessel, the R/V *Thomas G. Thompson* (Thompson), which is scheduled to depart from Seattle, Washington on June 30, 2008 and return on July 19, 2008. The exact dates of the activities may vary by a few days because of weather conditions, scheduling, repositioning, streamer operations and adjustments, Generator-Injector airgun (GI gun) deployment, or the need to repeat some lines if data quality is substandard. The ultra-high resolution 3-dimensional (3-D) seismic surveys around the methane vent systems of Hydrate Ridge will take place off the Oregon coast in the northeastern Pacific Ocean. The overall