



LETTER OF AUTHORIZATION

The Don Young Port of Alaska (POA) and those persons it authorizes or funds to conduct activities on its behalf are hereby authorized to take marine mammals incidental to construction activities at or around the Port of Alaska, including waters of Knik Arm and Upper Cook Inlet near Anchorage, Alaska, subject to the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA) of 1972, as amended and the applicable regulations (50 CFR §§ 217.11 - 217.19), provided they are in compliance with all terms, conditions, and requirements described herein. .

1. This Letter of Authorization (LOA) is effective from March 1, 2026 through February 28, 2031.
2. This Authorization is valid only for take incidental to the specified in-water construction and demolition activities associated with the Cargo Terminals Replacement Project under the Port of Alaska Modernization Program at the Don Young Port of Alaska in Anchorage, Alaska. Hereafter (unless otherwise specified) the term “pile driving” is used to refer to both pile installation and pile removal.
3. General Conditions
 - (a) A copy of any issued LOA must be in the possession of the POA, its designees, and work crew personnel operating under the authority of the issued LOA.
 - (b) The species and/or stocks authorized for taking are listed in Table 1. Authorized take, by Level A and Level B harassment only, is limited to the species and numbers listed in Table 1.
 - (c) The taking by serious injury or death of any of the species listed in Table 1 or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this LOA. Any taking exceeding the authorized numbers listed in Table 1 is prohibited and may result in the modification, suspension, or revocation of this LOA.
 - (d) The Holder must ensure that construction supervisors and crews, the monitoring team, and relevant POA staff are trained prior to the start of activities subject to this LOA, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.



- (e) The Holder also must abide by the reasonable and prudent measures and terms and conditions of the May 5, 2025 Biological Opinion and Incidental Take Statement (attached) issued by NMFS pursuant to section 7 of the Endangered Species Act.

4. Mitigation Requirements

- (a) The POA must ensure that construction supervisors and crews, the monitoring team and relevant POA staff are trained prior to the start of all pile driving so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.
- (b) The POA must employ Protected Species Observers (PSOs) and establish monitoring locations as described in a NMFS-approved Marine Mammal Monitoring and Mitigation Plan.
 - (i) For all pile driving activities, land-based PSOs must be stationed at the best vantage points practicable to monitor for marine mammals and implement shutdown/delay procedures. A minimum of 4 locations must be used to monitor the designated harassment zones to the maximum extent possible based on daily visibility conditions. Additional PSOs must be added if warranted by site conditions and/or the level of marine mammal activity in the area. PSOs must be able to implement shutdown or delay procedures when applicable through communication with the equipment operator.
 - (ii) If during pile driving activities, PSOs can no longer effectively monitor the entirety of the Cook Inlet beluga whale (CIBW) shutdown zone (see Table 2) due to environmental conditions (*e.g.*, fog, rain, wind), pile driving may continue only until the current segment of the pile is driven; no additional sections of pile or additional piles may be driven until conditions improve such that the shutdown zone can be effectively monitored. If the shutdown zone cannot be monitored for more than 15 minutes, the entire zone must be cleared again for 30 minutes prior to reinitiating pile driving.
- (c) Pre-start Clearance Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.*, pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity.
 - (i) Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the Lead PSO to determine that the shutdown zones are clear of marine mammals.
 - (ii) Pile driving may commence if, following 30 minutes of observation, it is determined by the Lead PSO that the shutdown zones are clear of marine mammals

and for CIBW, any observed whale(s) is at least 100 meters past the shutdown zone and on a path away from the zone or the whale has not been re-sighted for 30 minutes.

- (d) For all pile driving activity, the POA must implement shutdown zones with radial distances as identified in Table 2.
 - (i) If a marine mammal is observed entering or within the shutdown zone, all pile driving activities, including soft starts, at that location must be halted. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily left and has been visually confirmed beyond the shutdown zone or 15 minutes (non-CIBWs) or 30 minutes (CIBWs) have passed without re-detection of the animal. Specific to CIBW, if a CIBW(s) is observed within or on a path towards the shutdown zone, pile driving activities, including soft starts, must shut down and not re-commence until the whale has traveled at least 100 m beyond the shutdown zone and is on a path away from such zone or until no CIBW has been observed in the shutdown zone for 30 minutes.
 - (ii) In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animal behavior must be monitored and documented.
 - (iii) If work ceases for more than 30 minutes, the shutdown zones must be cleared again for 30 minutes prior to reinitiating pile driving. A determination that the shutdown zone is clear must be made during a period of good visibility.
 - (iv) If a shutdown procedure should be initiated but human safety is at risk, as determined by the best professional judgment of the vessel operator or project engineer, the in-water activity, including pile driving, is allowed to continue until the risk to human safety has dissipated. In this scenario, pile driving may continue only until the current segment of the pile is driven; no additional sections of pile or additional piles may be driven until the Lead PSO has determined that the shutdown zones are clear of marine mammals and, for CIBW, any observed whale(s) is at least 100 meters past the shutdown zone and on a path away from the zone.
 - (v) For in-water construction activities other than pile driving (*e.g.*, barge positioning; use of barge-mounted excavators; dredging), if a marine mammal comes within 10 m, POA must cease operations and reduce vessel speed to the minimum level required to maintain steerage and safe working conditions. If human safety is at risk, as determined by the best professional judgment of the vessel operator or project engineer, the in-water activity is allowed to continue until the risk to human safety has dissipated.

- (e) The POA must use soft start techniques when impact pile driving. Soft start requires POA to conduct three sets of strikes (three strikes per set) at reduced hammer energy with a 30-second waiting period between each set. 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 30 minutes or longer.
- (f) The POA must use bubble curtains for all permanent piles (72-in diameter) during both vibratory and impact pile driving in waters deeper than 3 meters (9.8 feet) in all months. The bubble curtain must be operated to achieve optimal performance. At a minimum, the bubble curtain must:
 - (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) Air flow to the bubblers must be balanced around the circumference of the pile.
- (g) Pile driving activity must be halted upon observation of a species entering or within the harassment zone for either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met.

5. Monitoring Requirements

- (a) The POA must submit a Marine Mammal Monitoring and Mitigation Plan to NMFS for approval at least 90 days before the start of construction and abide by the Plan, if approved.
- (b) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:
 - (i) PSOs must be independent of the activity contractor (e.g., employed by a subcontractor) and have no other assigned tasks during monitoring duties.
 - (ii) PSOs must be approved by NMFS prior to beginning work on the specified activities.
 - (iii) PSOs must be trained in marine mammal identification and behavior.
 - (iv) Other PSOs may substitute other relevant experience (including relevant Alaska Native traditional knowledge), education (degree in biological science or related field), or training for prior experience performing the duties of a PSO

during construction activity pursuant to a NMFS-issued incidental take authorization.

- (v) PSOs must also have sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations; writing skills sufficient to record required information including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and the ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.
- (c) A designated Project Lead PSO must always be on site. The Project Lead PSO must have prior experience performing the duties of a PSO during in-water construction activities pursuant to a NMFS-issued incidental take authorization or Letter of Concurrence.
- (d) Each PSO station must also have a designated Station Lead PSO specific to that station and shift. These Station Lead PSOs must have prior experience working as a PSO during in-water construction activities;
- (e) PSO stations must be elevated platforms constructed on top of shipping containers or a similar base that is at least 8' 6" high (*i.e.*, the standard height of a shipping container) that can support at least three PSOs and their equipment. The platforms must be stable enough to support use of a theodolite and must be located to optimize the PSO's ability to observe marine mammals and the shutdown zones. Each PSO station must have at least two PSOs on watch at any given time, including the Station Lead PSO.
- (f) If the POA is conducting in-water work for other projects that include PSOs, the PSOs for the Cargo Terminals Replacement Project must be in real-time contact with those PSOs, and both sets of PSOs must share all information regarding marine mammal sightings with each other.

6. Reporting

- (a) The POA must submit weekly monitoring reports within 14 days after the conclusion of each calendar week during each Cargo Terminals Replacement Project construction season. These reports must include a summary of marine mammal species and behavioral observations, construction shutdowns or delays, and construction work completed during the reporting period. The weekly reports also must include an assessment of the amount of construction remaining to be completed (*i.e.*, the number of estimated hours of work remaining), in addition to the number of beluga whales observed within estimated harassment zones to date.

- (b) The POA must submit a draft annual summary monitoring report on all monitoring conducted during each construction season which includes final electronic data sheets within 90 calendar days after the completion of each construction season or 60 days prior to a requested date of issuance of any future incidental take authorization for projects at the same location, whichever comes first. A draft comprehensive 5-year summary report must also be submitted to NMFS within 90 days of the end of year 5 of the project. The reports must detail the monitoring protocol and summarize the data recorded during monitoring. If no comments are received from NMFS within 30 days of receipt of the draft report, the report may be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. At a minimum, the reports must contain:
 - (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, by what method (*i.e.*, impact or vibratory), the total duration of driving time for each pile (vibratory driving), and number of strikes for each pile (impact driving);
 - (iii) Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), Beaufort sea state, and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance (if less than the harassment zone distance);
- (c) Upon observation of a marine mammal, the following information should be collected:
 - (i) Name of the PSO who sighted the animal, observer location, and activity at time of sighting;
 - (ii) Time of sighting;
 - (iii) Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
 - (iv) Distances and bearings of each marine mammal observed in relation to the pile being driven for each sighting (if pile driving was occurring at time of sighting);
 - (v) Estimated number of animals (min/max/best);
 - (vi) Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);

- (vii) Animal's closest point of approach and estimated time spent within the harassment zone;
 - (viii) Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses to the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
 - (ix) Detailed information about any implementation of any mitigation (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in the behavior of the animal, if any; and
 - (x) All PSO data in an electronic format that can be queried such as a spreadsheet or database (*i.e.*, digital images of data sheets are not sufficient).
- (d) Reporting injured or dead marine mammals:
- In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the POA must report the incident to NMFS Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.hotchkin@noaa.gov*) and to the Alaska regional stranding network (1-877-925-7773) as soon as feasible. If the death or injury was caused by the specified activity, the POA must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident. The POA must not resume their activities until notified by NMFS.
- The report must include the following information:
- (i) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
 - (ii) Species identification (if known) or description of the animal(s) involved;
 - (iii) Condition of the animal(s) (including carcass condition if the animal is dead);
 - (iv) Observed behaviors of the animal(s), if alive;
 - (v) If available, photographs or video footage of the animal(s); and
 - (vi) General circumstances under which the animal was discovered.
7. This Authorization may be modified under the following circumstances:
- (a) Upon request by the POA, if:
 - (i) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed in the Final Rule (90 FR 31756, July 15, 2025) and NMFS determines that the

mitigation, monitoring, and reporting measures required by the previous LOA were implemented.

(ii) The request includes changes to the specified activity or the mitigation, monitoring, or reporting measures that do not change the findings made for the regulations in this subpart or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change and solicit public comment before issuing the LOA.

(b) By NMFS under the following circumstances:

(i) NMFS may modify the existing mitigation, monitoring, or reporting measures, after consulting with the POA regarding the practicability of the modifications, if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring measures. Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include, but are not limited to: results from the POA's monitoring; results from other marine mammal and/or sound research or studies; and any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by this subpart or subsequent LOAs. If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS shall publish a notice of proposed LOA in the **Federal Register** and solicit public comment;

(ii) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in this LOA, the LOA may be modified without prior notice or opportunity for public comment. Notification will be published in the **Federal Register** within 30 days of the action.

Kimberly Damon-Randall,
Director, Office of Protected Resources
National Marine Fisheries Service

Table 1. Maximum Annual and 5-year Total Authorized Incidental Take.

Common name	Scientific name	Stock	Maximum Annual Level A harassment	Maximum Annual Level B harassment	5-year Total Level A Harassment	5-year Total Level B Harassment
Gray whale	<i>Eschrichtius robustus</i>	Eastern N Pacific	4	2	18	12
Humpback whale	<i>Megaptera novaeangliae</i>	Hawaii	3	1	12	8
		Mexico - North Pacific				
		Western North Pacific				
Killer whale ¹	<i>Orcinus orca</i>	Eastern North Pacific Alaska Resident	6	6	6	30
		Eastern North Pacific Gulf of Alaska, Aleutian Islands and Bering Sea Transient				
Beluga whale	<i>Delphinapterus leucas</i>	Cook Inlet	0	118	0	550
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Alaska	15	8	59	45
Steller sea lion	<i>Eumetopias jubatus</i>	Western	6	3	26	20
Harbor seal	<i>Phoca vitulina</i>	Cook Inlet/ Shelikof Strait	98	55	394	304

Table 2. Shutdown and Harassment Zones.

Activity	Pile Type / Size	Attenuated or Unattenuated	Shutdown Zone (m)						Harassment zone (m)
			LF cetaceans	Non-CIBW HF cetaceans	CIBWs	VHF cetaceans	PW	OW	
Vibratory Installation	24-in	Unattenuated	100	100	2,250	100	100	100	2,247
	36-in				4,520				4,514
	72-in				9,100				9,069
	24-in	Attenuated			2,630				2,630
	36-in				3,580				3,575
	72-in				6,120				6,119
Vibratory Removal	24-in	Unattenuated			5,970				6,861
	36-in				1,700				1,699
	24-in	Attenuated			2,100				2,089
	36-in		1,320	1,318					
Impact Installation – 1 pile per day	24-in	Unattenuated	500	500	1,600	500	100	100	1,585
	36-in							1,585	
	24-in	Attenuated	100	100	550	100	100	100	541
	36-in							541	
Impact Installation – 1 pile per day	72-in	Unattenuated	500	500	7,360	500	100	100	7,356
Impact Installation – 1 pile per day		Attenuated			2,520				2,512
Impact Installation – 2 piles per day									
Impact Installation – 3 piles per day									
Concurrent – 2 Vibratory sources	36-in AND 36-in	Attenuated / Attenuated	100	100	5,670	100	100	100	5,667
		Attenuated / Unattenuated			9,370				9,363
		Unattenuated / Unattenuated			9,070				9,069
	36-in AND	Attenuated / Attenuated			8,320				8,318

	72-in	Unattenuated / Attenuated			9,370				9,363			
Concurrent Vibratory / Impact	36-in AND 72-in	Attenuated / Attenuated (1 pile per day)	500	500	3,580	500	100	100	3,575			
		Attenuated / Attenuated (2 piles per day)										
		Attenuated / Attenuated (3 piles per day)										
		Unattenuated / Attenuated (1 pile per day)			4,520				4,514			
		Unattenuated / Attenuated (2 piles per day)										
		Unattenuated / Attenuated (3 piles per day)										