

(2). Stone Energy Corporation of Lafayette, LA, 70505, on March 19, 2003;

(3). ExxonMobil Production Company of New Orleans, LA, 70161, on March 19, 2003;

(4). Amerada Hess Corporation, 500 Dallas Street, Houston, Texas, 77002, on April 9, 2003;

(5). Hunt Oil Company, P.O. Box 727, Scott, Louisiana, 70583, on April 9, 2003;

(6). Samedan Oil Company, 350 Glenborough, Suite 240, Houston, Texas, 77067-3299, on April 17, 2003;

(7). W&T Offshore Inc., 3900 North Causeway Boulevard, One Lakeway Center, Suite 1200, Metairie, Louisiana, 70002, on April 17, 2003; and

(8). Burlington Resources, 400 N. Sam Houston Parkway E., Suite 1200, Houston, Texas, 77060-3593, on April 28, 2003.

Dated: Apr 30, 2003.

**Laurie K. Allen,**

*Acting Office Director, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D.121902A]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Installation of a New Floating Dock at the U.S. Coast Guard Pier, Monterey, CA

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

**ACTION:** Notice of issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the United States Coast Guard (USCG) to take small numbers of California sea lions and possibly Pacific harbor seals by harassment incidental to the installation of a new floating dock at 100 Lighthouse Avenue in the city and county of Monterey, CA.

**DATES:** This authorization is effective from April 30, 2003, through April 29, 2004.

**ADDRESSES:** A copy of the application may be obtained by writing to Christina Fahy, Protected Species Division,

National Marine Fisheries Service - Southwest Regional Office, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or by telephoning the contact listed here.

**FOR FURTHER INFORMATION CONTACT:** Christina Fahy, Southwest Regional Office, NMFS, (562) 980-4023 or Kimberly Skrupky, Office of Protected Resources, NMFS, (301) 713-1401 x163.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the 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.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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"].

Subsection 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 small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS

must either issue or deny issuance of the authorization.

#### Summary of Request

On August 16, 2002, NMFS received a letter and application from the USCG, requesting an IHA for the possible harassment of small numbers of California sea lions (*Zalophus californianus*) and Pacific harbor seals (*Phoca vitulina*), incidental to the installation of a new floating dock in Monterey, CA.

The installation of a new floating dock is needed to provide better and safer access to an 87 ft (26.6 m) Coastal Patrol Boat, *USCGC Hawksbill* (*Hawksbill*). Currently, the *Hawksbill* moors at a fixed wharf which does not meet the USCG's minimum standards for mooring a patrol boat. The tidal range causes severe chafing to the mooring lines and difficulties with the access gangway. The Coast Guard estimates that the cost of mooring line replacement is approximately \$10,000 a year. When the patrol boat is at the dock, a crewmember is required to be continually present to adjust mooring lines and the gangway about every 40 minutes. The *Hawksbill* has a 10-person crew, which is not designed to have one person awake the entire night while in port. Finally, several locally produced gangways, mounted from the wharf, have failed to give adequate access to the *Hawksbill* during the entire tidal cycle. The installation of a floating dock will eliminate the excessive cost to mooring lines and gangway replacement and any unnecessary burden on the crew.

#### Comments and Responses

A notice of receipt of the application and proposed authorization was published on February 6, 2003 (68 FR 6116), and a 30-day public comment period was provided on the application and proposed authorization. The only comments received were from the Marine Mammal Commission (Commission). They stated,

The Commission concurs with the Service's preliminary determination of the short-term impact of conducting the proposed activities will result, at most, in a temporary modification in behavior, including temporarily vacating haulout areas, by California sea lions and Pacific harbor seals, and, as such, is expected to have a negligible impact on the animals. The Commission also concurs that the mitigation measures proposed by the applicant and the monitoring that would be required by the Service appear to be adequate to ensure that the planned activities will not result in the mortality or serious injury of any marine mammal. The Commission therefore recommends that the requested incidental harassment authorization be issued, provided