Reference No.	Applicant	Species	Permit action
ES88809B–2	Ray Eaton; Berea, KY	5 species of bats	Amendment.
ES64232B–2	Joshua Young; Lexington, KY	4 species of bats	Renewal.
PER33900511–0	Katherine Caldwell; Asheville, NC	5 species of bats	New.
PER35026980–0	Giam Lab, University of Tennessee; Knoxville, TN.	8 species of freshwater mussels	New.
PER35025122–0	Nutter and Associates, Inc.; Athens, GA.	8 species of fishes	New.
CS21862369	Michael Moore; Richmond, KY	4 species of fishes	New.
CS21886201	Bradlyn McEttrick; St. Petersburg, FL	5 species of sea turtles and piping plover (*Charadrius melodus*).	New.
CS21887737	Danielle Gaus; St. Petersburg, FL	5 species of sea turtles and piping plover (*Charadrius melodus*).	New.
PER35574771–0	Ava Hagan; Louisville, KY	4 species of bats	New.
ES59318D–1	Marie Selby Botanical Gardens; Sarasota, FL.	Aboriginal prickly-apple (*Harrisia (=Cereus) aboriginum (=gracilis)*).	Renewal with changes.
PER3613672–0	Hayden Mattingly; Cookeville, TN	Pygmy madtom (*Noturus stanauli*)	New.
PER36228923–0	Samuel Freeze; Palmetto, FL	4 species of bats	New.

Public Availability of Comments

Any written comments that we receive will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed above in this notice, we will publish a subsequent notice in the **Federal Register**. The notice announcing the permit issuance may be located by searching *regulations.gov* for the permit application number listed in the table above. Enter the search exactly as the permit application number appears above, with spaces and hyphens as necessary. For example, to find information about the potential issuance of Permit No. PER1234567–0, go to *https://www.regulations.gov* and enter ''PER1234567–0'' in the Search field.

An interested party opposed to a recovery permit's issuance may object by following the requirements in 50 CFR 17.22(d). The Service will notify the interested party of the Service's decision on the permit application under that section.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Christopher Cooley,

Acting Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2026–23776 Filed 11–20–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R7–ES–2026–1486; FXES111607MRG01–278–FF07CAMM00]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization for Southwest Alaska Stock of Northern Sea Otters in Kodiak, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of receipt of application and proposed authorization; availability of draft environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS or we), in response to a request under the Marine Mammal Protection Act of 1972, as amended, from the City of Kodiak, propose to authorize incidental take by harassment of small numbers of Southwest Alaska stock northern sea otters (*Enhydra lutris kenyoni*) from November 1, 2026, to October 31, 2027. The applicant has requested this authorization for take by harassment that may result from activities associated with pile driving and marine construction within St. Herman Harbor in Kodiak, Alaska. We estimate that this project may result in the incidental take by harassment of up to 324 northern sea otters from the Southwest Alaska stock. Neither the applicant nor the FWS anticipated any lethal take. We invite comments on the proposed incidental harassment authorization and the accompanying draft environmental assessment from the public, Tribes, and local, State, and Federal agencies.

DATES: Comments must be received by December 23, 2026.

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES: *Document availability:* You may view the application package, the draft environmental assessment, and other supporting material at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2026–1486, or you may request these documents from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Comment submission: All submissions must include the docket number (FWS–R7–ES–2026–1486) for this document. You must submit comments using one of the following methods:

- *Electronic submission:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R7–ES–2026–1486, which is the docket number for this action. Then, click on the ''Search'' button. On the resulting page, in the panel on the left side of the screen under the ''Document Type'' heading, check the Notice box to locate this document. You may submit a comment by clicking on ''Comment.'' Comments must be submitted to *https://www.regulations.gov* before 11:59 p.m.

(Eastern Time) on the date specified in **DATES.**

• *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R7–ES–2026–1486, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We request that you send comments only by the methods described above. We will post all comments at *https://www.regulations.gov.* You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Burgess, by email at *R7mmmregulatory@fws.gov,* by telephone at 907–786–3800 or by U.S. mail at U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, AK 99503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA) (16 U.S.C. 1361, *et seq.*) authorizes the Secretary of the Interior (Secretary) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18, at 50 CFR 18.27(c)) engaged in a specified activity (other than commercial fishing) within a specified geographic region during periods of not more than 1 year. The Secretary has delegated authority for implementation of the MMPA to the FWS. According to the MMPA, the FWS shall allow this incidental taking by harassment if we find that such harassment during each period concerned:

1. Will affect only small numbers of individuals of the species or stock;

2. Will have no more than a negligible impact on the species or stock; and

3. Will not have an unmitigable adverse impact on the availability of these species or stock for taking for subsistence use by Alaska Natives.

If the requisite findings are made, we issue an authorization that sets forth the following, where applicable:

1. Permissible methods of taking by harassment;

2. Means of effecting the least practicable adverse impact on the species or stock and its habitat; and

3. Measures necessary to ensure no unmitigable adverse impacts on the availability of the species or stock for taking for subsistence uses; and

4. Requirements for monitoring and reporting of such taking by harassment, including, in certain circumstances, requirements for the independent peer review of proposed monitoring plans or other research proposals.

The term ''take'' means to ''harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal'' (16 U.S.C. 1362(13)). Harassment for activities other than military readiness activities or scientific research conducted by or on behalf of the Federal Government means any act of pursuit, torment, or annoyance that has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA defines this as Level A harassment), or 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 (the MMPA defines this as Level B harassment) (16 U.S.C. 1362(18)).

The terms ''negligible impact'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27(c) (*i.e.,* regulations governing small takes of marine mammals incidental to specified activities) as follows: ''Negligible impact'' is 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. ''Unmitigable adverse impact'' means an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term ''small numbers'' is also defined in 50 CFR 18.27(c). However, we do not rely on that definition here as it conflates ''small numbers'' with ''negligible impacts.'' We recognize ''small numbers'' and ''negligible impacts'' as two separate and distinct considerations when reviewing requests for incidental harassment authorizations (IHA) under the MMPA (see *Ctr. for Biological Diversity* v. *Salazar,* 695 F.3d 893, 904 (9th Cir. 2012)). Instead, for our small numbers determination, we estimate the likely number of marine mammals to be taken and evaluate if that take is small relative to the size of the species or stock.

The term ''least practicable adverse impact'' is not defined in the MMPA or its enacting regulations. For this IHA, we ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of specified activities, but they are not so restrictive as to make specified activities unduly burdensome or impossible to undertake and complete.

Summary of Request

On February 26, 2025, the FWS received a request prepared by Solstice Alaska Consulting, Inc. on behalf of the City of Kodiak (hereafter, the City, or the applicant) for an authorization to take by harassment a small number of northern sea otters (*Enhydra lutris kenyoni*) (hereafter, sea otters unless another sea otter subspecies is specified) from the Southwest Alaska stock. The applicant expects take by harassment may occur during their construction modifications to the existing St. Herman Harbor within St. Herman Bay in Kodiak, Alaska. The FWS requested additional information on project activities, geospatial files of the project impact area, and mitigation measures. We received a revised request on December 10, 2025 (dated July 2025), and determined the revised application to be adequate and complete.

Description of Specified Geographic Region and Specified Activities

The specified geographic region is the nearshore waters within and surrounding St. Herman Harbor in Kodiak, Alaska (figure 1, below).

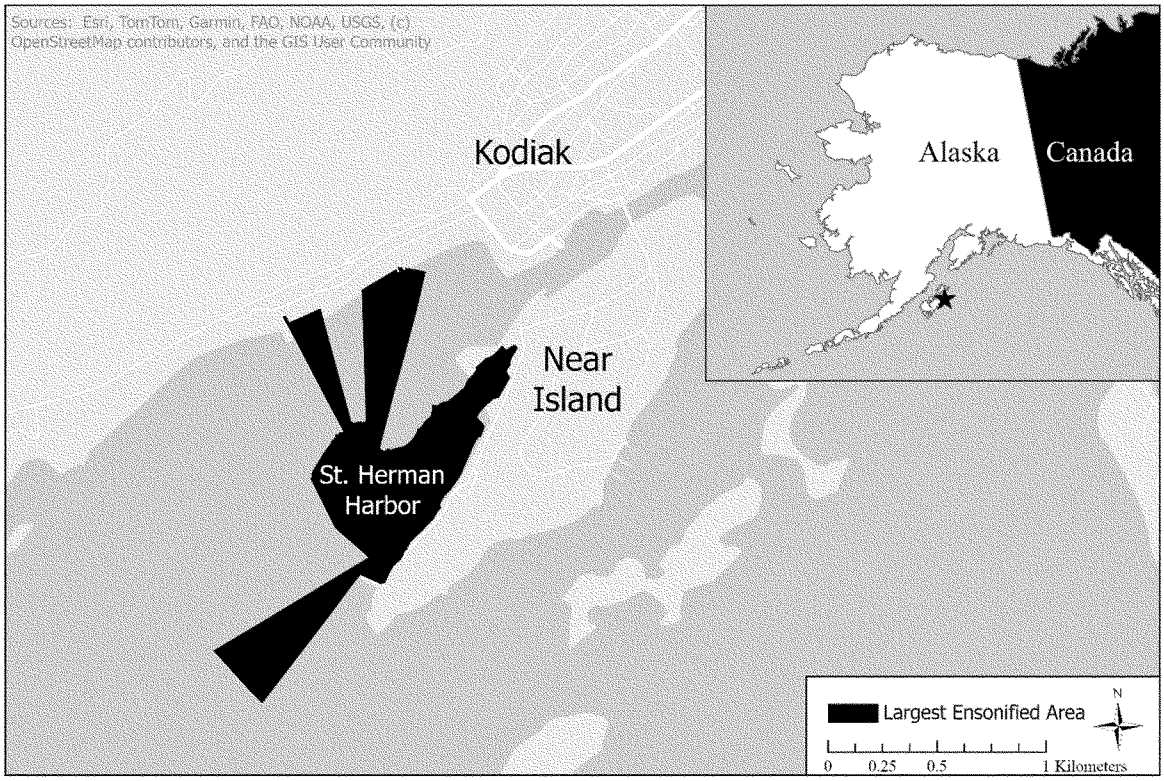

Figure 1. Specified geographic region of the project.

The specified activity (hereafter, project) will include installation of a new float and drive down dock within St. Herman Harbor in Kodiak, Alaska. A total of 20 temporary steel piles, each 61.0 centimeters (cm) (24 inches (in)) in diameter, will be installed and removed to guide permanent piles into place. Up to 12 of the temporary template piles may be installed using an impact hammer and/or down-the-hole (DTH) driving. All template piles would be removed via vibratory hammer. The applicant plans to install a total of 58 permanent steel piles no greater than 76.2 cm (30 in) in diameter using a combination of vibratory pile driving, impact pile driving, and DTH drilling. Hereafter (unless otherwise specified), the terms ''pile driving'' and ''pile-driving activities'' are used to refer to both pile installation and pile removal. In-water project activities are summarized in table 1, below.

TABLE 1—ST. HERMAN HARBOR INFRASTRUCTURE REPLACEMENT PROJECT ACTIVITIES, PILES INSTALLED OR REMOVED, AND DAYS OF ACTIVITY

Project component	Pile size and material	Activity	Total number of piles	Maximum number of piles per day	Maximum number of days of activity
Construction	61.0-cm (24-in) steel	Temporary installation–vibratory.	20	6	4
		Temporary installation–impact.	12	6	2
		Temporary installation–DTH	12	6	2
		Temporary removal–vibratory	20	6	4
	61.0-cm (24-in) steel	Installation-vibratory	6	6	1
		Installation-impact	6	6	1
		Installation-DTH	6	6	1
	76.2-cm (30-in) steel	Installation-vibratory	52	6	9
		Installation-impact	52	6	9
		Installation-DTH	52	6	9

Pile-driving activities will occur over 42 non-consecutive days for approximately 249 hours from November 1, 2026, to October 31, 2027. Materials and equipment will be transported via barges to the project location. The applicant will also use a construction barge to support construction operations. A small skiff may also be used to support construction operations and transport personnel to and from the construction barge. Additional project details may be reviewed in the application materials available as described under **ADDRESSES** or may also be requested as described under **FOR FURTHER INFORMATION CONTACT**.

Description of Marine Mammals in the Specified Geographic Region

The northern sea otter is the only species of marine mammal under FWS jurisdiction likely found within the specified geographic region. Information on range, stocks, and biology of sea otters can be found in the supplemental information (available as described above in **ADDRESSES**).

Potential Impacts of the Specified Activities on Marine Mammals

Effects of Noise on Sea Otters

We characterize ''noise'' as sound released into the environment from human activities that exceeds ambient levels or interferes with normal sound production or reception by sea otters. The terms ''acoustic disturbance'' and ''acoustic harassment'' are disturbances or harassment events resulting from noise exposure. Potential effects of noise exposure are likely to depend on the distance of the sea otter from the sound source, the level and intensity of sound the sea otter receives, background noise levels, noise frequency, noise duration, and whether the noise is pulsed or continuous. The actual noise level perceived by individual sea otters will also depend on whether the sea otter is above or below water and atmospheric and environmental conditions. Temporary disturbance of sea otters or localized displacement reactions are the most likely effects to occur from noise exposure.

Sea Otter Hearing

Pile driving and marine construction activities produce sound within the hearing range of sea otters. Controlled sound exposure trials on southern sea otters (*Enhydra lutris nereis*) indicate that sea otters can hear frequencies between 125 hertz (Hz) and 38 kilohertz (kHz), with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Sea otters are more adept at aerial hearing and their sensitivity is similar to that of terrestrial carnivores (Reichmuth and Ghoul 2012; Ghoul and Reichmuth 2016; Zellmer et al. 2021). Aerial and underwater audiograms for a captive adult male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sound than that of terrestrial mustelids but was similar to that of a California sea lion (*Zalophus californianus*). However, the sea otter was still able to hear low-frequency sounds, and the detection thresholds for sounds between 0.125 and 1 kHz were between 116 and 101 decibels (dB), respectively. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane et al. 1995; Ghoul and Reichmuth 2012).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary or permanent changes in hearing sensitivity, discomfort, and injury to marine mammals. Sea otters do not rely on sound to orient themselves, locate prey, or communicate under water; therefore, masking of communications by anthropogenic noise is less of a concern than for other marine mammals. However, sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987).

Exposure Thresholds

Underwater Sounds

Noise exposure criteria for identifying underwater noise levels capable of causing Level A harassment (injury) to marine mammal species, including sea otters, have been established using the same methods as those used by the National Marine Fisheries Service (NMFS) (Southall et al. 2019). These criteria are based on estimated levels of sound exposure capable of causing a permanent shift in hearing sensitivity (*i.e.,* a permanent threshold shift (PTS) (NMFS 2018)). A PTS occurs when noise exposure causes damage to hair cells within the inner ear system (Ketten 2012). Although the effects of PTS are, by definition, permanent, PTS does not equate to total hearing loss.

Sound exposure thresholds incorporate two metrics of exposure: the peak level of instantaneous exposure likely to cause permanent (PTS) or temporary threshold shift (TTS) in hearing, and the cumulative sound exposure level (SEL_{CUM}) during a 24-hour period. They also include weighting adjustments for the sensitivity of different species to varying frequencies. A TTS is a noise-induced threshold shift in hearing sensitivity that fully recovers over time (Finneran 2015). Sound exposure trials in lab settings led to observations of TTS, which were then used to establish PTS-based injury criteria through theoretical extrapolation (Finneran 2016). In 2019, TTS thresholds were established for sea otters, which are included in the ''other marine carnivores'' category, of 188 dB SEL for impulsive sounds and 199 dB SEL for nonimpulsive sounds (Southall et al. 2019). Based on these analyses, Southall et al. (2019) predict that PTS for sea otters will occur at 232 dB peak or 203 dB SEL_{CUM} for impulsive underwater sound and 219 dB SEL for nonimpulsive (continuous) underwater sound.

The NMFS (2018) sound exposure criteria do not identify thresholds for avoidance of Level B harassment. For pinnipeds (seals and sea lions), NMFS has adopted a 160-dB threshold for Level B harassment from exposure to impulsive noise and a 120-dB threshold for continuous noise (High Energy Seismic Survey Team 1999; NMFS 2018). These thresholds were developed from observations of mysticete (baleen) whales responding to airgun operations (*e.g.,* Malme et al. 1983; Malme and Miles 1983; Richardson et al. 1986, 1995). Southall et al. (2007, 2019) assessed behavioral response studies and found considerable variability among pinnipeds. The authors determined that exposures between approximately 90 to 140 dB generally do not appear to induce strong behavioral responses from pinnipeds in water. However, they found behavioral effects, including avoidance, become more likely in the range between 120 and 160 dB, and most marine mammals showed some, albeit variable, responses to sound between 140 and 180 dB. Wood et al. (2012) adapted the approach identified in Southall et al. (2007) to develop a probabilistic scale for marine mammal taxa at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response. For many marine mammals, including pinnipeds, these response rates were set at sound pressure levels (SPL) of 140, 160, and 180 dB, respectively.

We have evaluated these thresholds and determined that the Level B harassment threshold of 120 dB for nonimpulsive noise is not applicable to sea otters. The 120-dB threshold is based on studies in which gray whales (*Eschrichtius robustus*) were exposed to experimental playbacks of industrial noise (Malme et al. 1983; Malme and Miles 1983). During these playback studies, southern sea otter responses to industrial noise were also monitored (Riedman 1983, 1984). While gray whales exhibited avoidance to industrial noise at the 120-dB threshold, there was no evidence of disturbance reactions or avoidance in southern sea otters. Thus, given the differences in hearing and behavior between sea otters and gray whales, the NMFS 120-dB threshold based on gray whale behavior is not appropriate for predicting sea otter behavioral responses.

Based on the lack of sea otter disturbance response or any other

reaction to the playback studies from the 1980s, as well as the absence of a clear pattern of disturbance or avoidance behaviors attributable to underwater sound levels up to about 160 dB resulting from low-frequency broadband noise, we assume 120 dB is not an appropriate behavioral response threshold for sea otters exposed to continuous underwater noise.

Based on the best available scientific information about sea otters and closely related marine mammals when sea otter data are limited, the FWS has set 160 dB of received underwater sound as a threshold for take by Level B harassment of sea otters in this proposed IHA. Exposure to in-water noise levels between 125 Hz and 38 kHz that are greater than 160 dB—for both impulsive and nonimpulsive sound sources—will be considered by the FWS as Level B harassment. Thresholds for Level A harassment (which entails the potential for injury) for in-water noise levels between 125 Hz and 38 kHz are 232 dB peak or 203 dB SEL for impulsive sounds and 219 dB SEL for continuous sounds (table 2, below).

Airborne Sounds

The NMFS (2018) guidance neither addresses thresholds for preventing injury or disturbance from airborne noise, nor provides thresholds for avoidance of Level B harassment. Conveyance of underwater noise into the air is of little concern since the effects of pressure release and interference at the water's surface reduce underwater noise transmission into the air. For activities that create both in-air and underwater noise, we will estimate take based on parameters for underwater noise transmission. Considering sound energy travels more efficiently through water than through air, this estimation will also account for exposures to sea otters at the surface. We do not anticipate the proposed project to generate airborne sounds not associated with in-water noise already accounted for by our analyses.

TABLE 2—TEMPORARY THRESHOLD SHIFT (TTS) AND PERMANENT THRESHOLD SHIFT (PTS) THRESHOLDS

[Established by Southall et al. (2019) through modeling and extrapolation for ''Other Marine Carnivores,'' which include sea otters. *]

	TTS			PTS		
	nonimpulsive	impulsive		nonimpulsive	impulsive	
	SEL_{CUM}	SEL_{CUM}	Peak SPL	SEL_{CUM}	SEL_{CUM}	Peak SPL
Air	157	146	170	177	161	176
Water	199	188	226	219	203	232

Note: * Values are weighted for other marine carnivores' hearing thresholds and given in cumulative sound exposure level (SEL_{CUM} dB re (20 micropascal (μPa) in air and SEL_{CUM} dB re 1 μPa in water) for impulsive and nonimpulsive sounds, and unweighted peak sound pressure level (SPL) in air (dB re 20μPa) and water (dB 1μPa) (impulsive sounds only).

Evidence From Sea Otter Studies

Individual sea otters near the St. Herman Harbor project location will likely show a range of responses to noise from pile-driving activities. Some sea otters will likely dive, show startle responses, change direction of travel, or prematurely surface. Sea otters reacting to pile-driving activities may divert time and attention from biologically important behaviors, such as feeding and nursing pups. Sea otter responses to disturbance can result in energetic costs. For example, sea otters spend more time traveling in areas with high levels of disturbance (Curland 1997). Higher energetic costs require increased amounts of prey consumption (Barrett 2019). This increased prey consumption may impact sea otter prey availability and cause sea otters to spend more time foraging and less time resting (Barrett 2019). Some sea otters may abandon the project area and return when the disturbance has ceased. Based on the observed movement patterns of sea otters (Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990), we expect some sea otters will respond to pile-driving activities by dispersing to nearby areas of suitable habitat; however, other sea otters, especially territorial adult males, will not be displaced.

Additional information on the evidence from studies about how sea otters may be affected by noise can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Consequences of Permanent Threshold Shift

Sea otters exposed to noise levels above Level A harassment threshold criteria may experience a permanent shift in the sensitivity of their hearing. Information on the consequences of a PTS in sea otter hearing due to noise exposure can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Consequences of Disturbance

Information on the consequences of disturbance to sea otters can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Vessel Activities

Vessel activity during the project includes the use of barges to transport and stage equipment and materials to support construction operations. A skiff may also be used to support construction operations. Vessels will not be used extensively or over a long duration during project activities. We do not anticipate that sea otters will experience changes in behavior indicative of harassment during vessel operations. Additionally, vessel operators would take every precaution to avoid harassment of sea otters when a vessel is operating near sea otters and implement mitigation measures described below in this proposed IHA, which include maintaining a minimum distance of 100 meters (m) (328 feet [ft]) from all sea otters.

Additional information on vessel activities can be found in the supplemental information to this document (available as described above in **ADDRESSES**).

Effects on Sea Otter Habitat and Prey

Information on the potential impacts of the specified activities on sea otter habitat and prey species can be found in the supplemental information to this document (available as described above in **ADDRESSES**). Based on this information, we do not anticipate any harassment to sea otters due to effects on sea otter habitat or prey from the specified activities.

Potential Impacts of the Specified Activities on Subsistence Uses

The specified activities will occur near marine subsistence harvest areas used by Alaska Natives from Kodiak and the surrounding areas. The majority of sea otter harvest in this area occurs more than 3.2 kilometers (km) (2 miles [mi]) outside of Kodiak. Since 2020, there have been 50 sea otters harvested around the Kodiak area, from Womens Bay, Long Island, and Spruce Island.

The planned project would occur within Kodiak city limits, where firearm use is prohibited. The area potentially affected by the planned project does not significantly overlap with current subsistence harvest areas. Construction activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Despite no conflict with subsistence use being anticipated, the City will conduct outreach with potentially affected communities to see whether there are any questions, concerns, or potential conflicts regarding subsistence use in those areas. If any conflicts are identified in the future, the City will develop a plan of cooperation (POC) specifying the steps necessary to minimize any effects the project may have on subsistence harvest.

Estimated Take

Definitions of Incidental Take Under the MMPA

Under the MMPA, ''take'' means ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal'' (16 U.S.C. 1362(13)). Below we provide definitions of three potential types of take of sea otters. The FWS does not anticipate and is not proposing to authorize lethal take as a part of this proposed IHA; however, the definitions of these take types are provided for context and background.

Lethal Take

In the most serious interactions, human actions can result in the mortality of sea otters, which we define here as lethal take.

Level A Harassment

The MMPA defines Level A harassment, for nonmilitary readiness activities, as ''any act of pursuit, torment, or annoyance which . . . has the potential to injure a marine mammal or marine mammal stock in the wild'' (16 U.S.C. 1362(18)(A)(i), (C)). We interpret this definition to include human activity that may result in the injury of sea otters.

Level B Harassment

The MMPA defines Level B harassment for nonmilitary readiness activities as ''any act of pursuit, torment, or annoyance which . . . 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, feeding, or sheltering'' (16 U.S.C. 1362(18)(A)(ii), (D)). We interpret this definition to include human-caused reactions that disrupt biologically significant behaviors or activities for the affected animal. Such reactions include, but are not limited to, the following:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spyhopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spyhopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft (*i.e.,* group of 10 or more sea otters) so that the raft disperses;
- Sudden diving of an entire raft; or
- Flushing animals off a haulout.

This list does not encompass all possible behaviors that indicate Level B harassment; other behavioral responses may be indicative of take by Level B harassment. Relatively minor changes in behavior such as the animal raising its head or temporarily changing its direction of travel are not likely to disrupt biologically important behavioral patterns, and the FWS does not view such minor changes in behavior as indicative of a take by Level B harassment. It is also important to note that eliciting behavioral responses that equate to take by Level B harassment repeatedly may result in Level A harassment.

Calculating Take

Sea Otter Density

We assumed all sea otters exposed to underwater sound levels that meet the acoustic exposure criteria defined above in *Exposure Thresholds* will experience take by Level A harassment or Level B harassment. We refer to the area in which sound levels meet or exceed the acoustic exposure criteria defined for either Level A harassment or Level B harassment as the ensonification area. Spatially explicit ensonification areas were established around the planned construction location to estimate the number of sea otters that may be exposed to these sound levels.

We determined the number of sea otters present in the ensonification areas using a localized sea otter density estimate derived from sea otter observation data to account for potentially large sea otter groups. Increased numbers of sea otters were observed in Womens Bay, near where project activities in Kodiak would occur, during the most recent sea otter abundance survey of the Kodiak Archipelago in 2014 (Cobb 2018). The estimate of sea otter density from these surveys is 2.54 sea otters per square kilometer (km^2). Additionally, large group sizes of up to 159 sea otters were observed in Womens Bay (Cobb 2018). Since much of the project area is within St. Herman Harbor, an active harbor with several existing floats, it is not anticipated to support large rafts of sea otters. Therefore, sea otter density is expected to be lower than outside the harbor in Near Island Channel. For areas within the harbor, we used a sea otter density of 2.54 sea otters/km^2. We calculated a separate density for Near Island Channel to account for the potential presence of large sea otter groups.

To account for the potential presence of large sea otter groups in the Kodiak project area, we estimated the number of sea otters expected to be present in the Kodiak project area by analyzing sea otter observation data collected during a dock improvement project at the Kodiak Ferry Terminal from November 2015 to June 2016 (ABR 2016). The Kodiak Ferry Terminal project area occurred in Near Island Channel and is approximately 0.6 km (0.4 mi) from the St. Herman Harbor project area. Observers monitored for marine mammals at various periods throughout the day, and some days multiple observers monitored from different observation stations. Marine mammals were monitored for 110 days, and sea otters were observed on 100 days. We calculated a daily sea otter count at each observation station for each observation day by summing the maximum sea otter group size for each observation recorded within a given day at that station. Maximum group size ranged from 0 to 218 sea otters. Daily sea otter counts ranged from 0 to 423 sea otters.

To obtain consistent and comparable measures for each observation station, we calculated the total area in which sea otters were observed by drawing a minimum convex polygon around the spatial extent of all sea otter locations

observed at an observation station. The daily sea otter counts were then divided by the respective total area of observation for the station at which it was observed, resulting in a measure of sea otters per square kilometer. This resulting density will be biased higher than actual densities because the actual observed area is larger than the minimum convex polygon around the observed sea otter locations, but this conservative assumption will avoid underestimating potential disturbance to sea otters during project activities. On days with observations conducted at multiple observation stations, we calculated the average sea otter density for those observation stations to get a single sea otter density on that day. We averaged all daily sea otter densities to obtain 51.81 sea otters/km^2 per day to represent the average number of sea otters anticipated in Near Island Channel.

Sound Levels for the Specified Activities

The project activities consist of multiple possible methods of pile removal (vibratory pile extraction and direct-pull methods) and multiple methods of pile installation (vibratory pile driving, impact pile driving, and DTH drilling). Each of these methods will generate a different type of in-water noise. Vibratory pile extraction and installation will produce nonimpulsive or continuous noise; impact pile installation will produce impulsive noise; and DTH drilling is considered to produce both impulsive and continuous noise (NMFS 2020).

The level of sound anticipated from each project component was established using recorded data from several sources in addition to guidance from NMFS. We used the empirical data from those proxy projects and sound levels provided by NMFS with the NMFS Technical Guidance and User Spreadsheet (NMFS 2018, 2020) to determine the distance at which sound levels would attenuate to Level A harassment thresholds (table 2). To estimate the distances at which sounds would attenuate to Level B harassment thresholds (table 2), we used the data from the proxy projects and the sound levels provided by NMFS with the NMFS-recommended transmission loss coefficient of 15 for coastal pile-driving activities in a practical spreading loss model (NMFS 2020) to determine the distance at which sound levels attenuate to 160 dB re 1 micropascal (µPa). The weighting factor adjustment included in the NMFS user spreadsheet accounts for sounds created in portions of an animal's hearing range where they have less sensitivity. We used the weighting factor adjustment for otariid pinnipeds as they are the closest available physiological and anatomical proxy for sea otters. We acknowledge that NMFS has revised their user spreadsheet to include thresholds for auditory injury (NMFS 2024). We are evaluating the auditory injury criteria to determine whether they are appropriate for FWS trust species, as sea otters particularly are not exposed to in-water noise for an entire 24-hour period. We will continue to use the previous version of the user spreadsheet (NMFS 2018) to estimate harassment of sea otters from in-water noise exposure during our evaluation of the auditory injury criteria.

Sound levels for all sources are unweighted and given in dB re 1 µPa. Nonimpulsive sounds are in the form of mean maximum root mean square (RMS) SPL as it is more conservative than SEL_{CUM} or peak SPL for these activities. Impulsive sound sources are in the form of SEL for a single strike (SELss). Sound levels for project activities are listed in table 3, below.

TABLE 3—ST. HERMAN HARBOR SOUND TYPES, LEVELS, AND TIMING

Project component	Pile size and material	Activity	Type of sound	Sound levels	Source	Timing per pile (nonimpulsive sound sources) or strikes per pile (impulsive sound sources)
Construction	61.0-cm (24-in) steel.	Temporary installation—vibratory.	Nonimpulsive	163 dB RMS	NMFS 2023	20 minutes.
		Temporary installation–impact.	Impulsive	190 dB RMS; 177 dB SELss; 210 dB peak.	Caltrans 2015	300 strikes.
		Temporary installation–DTH.	Nonimpulsive and impulsive.	167 dB RMS; 159 dB SELss; 184 dB peak.	Heyvaert and Reyff 2021.	120 minutes/72,000 strikes.
		Temporary removal–vibratory.	Nonimpulsive	163 dB RMS	NMFS 2023	20 minutes.
	61.0-cm (24-in) steel.	Installation-vibratory.	Nonimpulsive	163 dB RMS	NMFS 2023	20 minutes.
		Installation-impact.	Impulsive	190 dB RMS; 177 dB SELss; 210 dB peak.	Caltrans 2015	1,800 strikes.
		Installation-DTH.	Nonimpulsive and impulsive.	167 dB RMS; 159 dB SELss; 184 dB peak.	Heyvaert and Reyff 2021.	150 minutes/90,000 strikes.
	76.2-cm (30-in) steel.	Installation-vibratory.	Nonimpulsive	166 dB RMS	NMFS 2023	20 minutes.
		Installation-impact.	Impulsive	190 dB RMS; 185 dB SELss; 210 dB peak.	Caltrans 2020	1,800 strikes.

TABLE 3—ST. HERMAN HARBOR SOUND TYPES, LEVELS, AND TIMING—Continued

Project component	Pile size and material	Activity	Type of sound	Sound levels	Source	Timing per pile (nonimpulsive sound sources) or strikes per pile (impulsive sound sources)
		Installation-DTH.	Nonimpulsive and impulsive.	174 dB RMS; 164 dB SELss; 194 dB peak.	Denes et al. 2019; Reyff and Heyvaert 2019; Reyff 2020; Heyvaert and Reyff 2021.	150 minutes/90,000 strikes.

Ensonified Areas

Distances to below Level A harassment and Level B harassment thresholds were calculated for each project activity to determine the ensonified area for a given project activity. The City will implement a 10-m (33-ft) physical interaction shutdown zone, regardless of predicted sound levels, to minimize the potential for physical impacts to sea otters. Additionally, this 10-m (33-ft) physical interaction shutdown zone would reduce the number of sea otters exposed to in-water noise levels at or above Level A harassment and Level B harassment thresholds. The 10-m (33-ft) physical interaction shutdown zone will encompass some of the Level A harassment zones (table 4, below).

TABLE 4—ST. HERMAN HARBOR INFRASTRUCTURE PROJECT DISTANCES TO BELOW LEVEL A HARASSMENT AND LEVEL B HARASSMENT ZONES AND PROPOSED PHYSICAL INTERACTION SHUTDOWN ZONES

Project component	Pile size and material	Activity	Distance to below Level A harassment threshold (m)	Distance to below Level B harassment threshold (m)	Distance to below physical interaction shutdown zone (m)
Construction	61.0-cm (24-in) steel	Temporary installation—vibratory.	0.6	16	10
		Temporary installation—impact	22.9	1,000	10
		Temporary installation—DTH	55.9	29	10
		Temporary removal—vibratory	0.6	16	10
	61.0-cm (24-in) steel	Installation-vibratory	0.6	16	10
		Installation—impact	67	1,000	10
		Installation—DTH	57.4	29	10
	76.2-cm (30-in) steel	Installation—vibratory	1	25	10
		Installation—impact	258.4	1,000	10
		Installation—DTH	139.6	86	10

We calculated the area ensonified to >232 dB peak or >203 dB SEL_{CUM} re 1µPa for impulsive underwater sound and >219 dB SEL re 1µPa for nonimpulsive (continuous) underwater sound to determine the area in which sea otters may experience Level A harassment during the City's project activities. Next, we multiplied the ensonified area for Level A harassment by the density of sea otters for the project area (2.54 sea otters/km^2) to determine the number of sea otters that may experience Level A harassment.

To estimate the number of sea otters anticipated to experience Level B harassment during the City's project activities, we first separated activities by area of ensonification. For activities that only ensonified areas within the harbor, we subtracted the area of the Level A harassment zone from the area ensonified to >160 dB re 1µPa to determine the area in which sea otters may experience Level B harassment. Next, we multiplied the remaining ensonified area for Level B harassment by the density of sea otters for the project area (2.54 sea otters/km^2) to determine the number of sea otters that may experience Level B harassment. For activities with larger ensonified areas that extended outside the harbor, we split the area between inside and outside the harbor. Inside the harbor, we multiplied the ensonified area for Level B harassment by the density of sea otters within the harbor (2.54 sea otters/km^2). For areas outside the harbor, we multiplied the ensonified area for Level B harassment by the density of sea otters for Near Island Channel and surrounding areas (51.81 sea otters/km^2). The City provided geospatial files representing the area where pile driving and construction would occur and the ensonified water around the construction area. These geospatial files were clipped by land boundaries; therefore, only the area of ensonified water was provided by the applicant. The number of sea otters expected to be exposed to such noise levels that would attenuate to Level A harassment and Level B harassment thresholds during project activities can be found in tables 5, 6, and 7, below.

TABLE 5—ST. HERMAN HARBOR INFRASTRUCTURE PROJECT LEVEL A HARASSMENT EVENTS ANTICIPATED

Project component	Pile size and material	Activity	Maximum number of days of activity	Sea otter density	Level A area (km^2)	Estimated Level A harassment events per day (rounded)	Total estimated Level A harassment events (rounded)
Construction	61.0-cm (24-in) steel	Temporary installation—vibratory.	4	2.54 sea otters/km^2	<0.001	*0	*0
		Temporary installation—impact.	2	.....	0.002	[a]2	4
		Temporary installation—DTH.	2	.....	0.010	[a]2	4
		Temporary removal—vibratory.	4		<0.001	*0	*0
	61.0-cm (24-in) steel	Installation—vibratory	1		<0.001	*0	*0
		Installation—impact	1		0.018	[a]2	2
		Installation—DTH	1		0.013	[a]2	2
	76.2-cm (30-in) steel	Installation—vibratory	9		<0.001	*0	*0
		Installation—impact	9		0.210	[a]2	18
		Installation—DTH	9		0.061	[a]2	18

Note:
* Where the estimated total number of exposures was 0 for 3 or more decimal places (*i.e.,* <0.000X), the total number of exposures was assumed to be 0.
[a] Where the estimated total number of exposures expected was greater than 0.001, we rounded to 2 instead to accommodate potential mom and pup pairs of sea otters for project activities.

TABLE 6—ST. HERMAN HARBOR INFRASTRUCTURE PROJECT LEVEL B HARASSMENT EVENTS ANTICIPATED FROM NON-IMPACT ACTIVITIES *

Project component	Pile size and material	Activity	Maximum number of days of activity	Sea otter density	Level B area (km^2)	Level B area minus Level A area (km^2)	Estimated Level B harassment events per day (rounded)	Total estimated Level B harassment events (rounded)
Construction	61.0-cm (24-in) steel	Temporary installation—vibratory.	4	2.54 sea otters/ km^2	<0.001	<0.001	[a]2	8
		Temporary removal—vibratory.	4	.....	<0.001	<0.001	[a]2	8
	61.0-cm (24-in) steel	Installation—vibratory.	1	.....	<0.001	<0.001	[a]2	2
	76.2-cm (30-in) steel	Installation—vibratory.	9	.....	0.002	0.002	[a]2	18

Note:
* DTH activities are not included in this table because the Level A threshold is larger than the Level B threshold and harassment events are captured in the calculations for Level A (Table 5). Harassment events from impact activities are presented in a separate table because they were calculated differently (Table 7).
[a] Where the estimated total number of exposures expected was greater than 0.001, we rounded to 2 instead to accommodate potential mom and pup pairs of sea otters for project activities.

TABLE 7—ST. HERMAN HARBOR INFRASTRUCTURE PROJECT LEVEL B HARASSMENT EVENTS ANTICIPATED FROM IMPACT ACTIVITIES *

Project component	Pile size and material	Activity	Maximum number of days of activity	Sea otter density inside the harbor	Sea otter density outside the harbor	Level B area inside harbor minus Level A area (km^2)	Level B area outside the harbor (km^2)	Estimated Level B harassment events per day inside harbor (rounded)	Estimated Level B harassment events per day outside harbor (rounded)	Total estimated Level B harassment events (rounded)
Construction	61.0-cm (24-in) steel.	Temporary installation–impact.	4	2.54 sea otters/ km^2.	51.81 sea otters/km^2.	0.398	0.330	[a]2	18	40
	61.0-cm (24-in) steel.	Installation—impact.	1	.....	.....	0.382	0.330	[a]2	18	20
	76.2-cm (30-in) steel.	Installation—impact.	9	.....	.....	0.190	0.330	[a]2	18	180

Note:
* Harassment events from impact activities were calculated using the area of the ensonified zone taken from a shapefile (rather than area of a circle) to account for different sea otter densities inside and outside of the harbor.
[a] Where the estimated total number of exposures expected was greater than 0.001, we rounded to 2 instead to accommodate potential mom and pup pairs of sea otters for project activities.

We assumed that the different types of pile-driving activities would occur sequentially and that the total number of days of work would equal the sum of the number of days required to complete each type of pile-driving activity. While it is possible that on some days more than one type of activity will take place, which would reduce the number of days of exposure, we cannot know this information in advance. As such, the estimated number of days is the maximum possible for the planned work. Where the estimated total number of exposures was 0 for 3 or more

decimal places (*i.e.,* <0.000X), the total number of exposures was assumed to be 0. Where the estimated total number of exposures expected was greater than 0.001, we rounded to 2 instead to accommodate potential mom and pup pairs of sea otters for project activities.

Critical Assumptions

In order to conduct this analysis and estimate the number of takes by Level A harassment and Level B harassment, several critical assumptions were made.

Sound level information from pile-driving activities in a number of locations was used to generate sound level estimates for the specified activities (see sources in table 3). Environmental conditions in these locations, including water depth, substrate, and ambient sound levels may be similar to those in the project location, but are not identical. Further, estimation of ensonification areas were based on sound attenuation models using a practical spreading loss model. These factors may lead to actual sound values differing slightly from those estimated here.

The pile-driving activities described here will also create in-air noise. Because sea otters spend a considerable portion of the day with their heads above water (Esslinger et al. 2014), they will be exposed to the in-air noise produced by construction equipment. However, we have calculated Level A harassment and Level B harassment with the assumption that a sea otter may be harassed only one time per 24-hour period, and in-water noise levels will be more disturbing and extend farther than in-air noise. Thus, while sea otters may be disturbed by noise both in-air and in-water, we have relied on the more conservative in-water estimates.

Level B harassment is equated herein with behavioral responses that indicate harassment or disturbance. There is likely a portion of animals that respond in ways that indicate some level of disturbance but do not experience biologically significant consequences. Our estimates do not account for variable responses by sea otter age and sex.

The estimates of behavioral response presented here do not account for the individual movements of animals in response to the specified activities. Our assessment assumes animals remain stationary (*i.e.,* density does not change) for a 24-hour period, and animals do not move out of ensonified areas in response to noise. Not enough information is available about the movement of sea otters in response to specific disturbances to refine this assumption.

Although sea otters are nonmigratory, they typically move amongst focal areas within their home ranges to rest and forage (Garshelis and Garshelis 1984; Laidre et al. 2009). It is possible that, given the large variability in individual home range sizes and the potential for daily movement in and out of foraging or resting areas, different individual sea otters could be found within the ensonification area each day of the project. Thus, the FWS conservatively assumes that the estimated harassment events may impact different sea otters for project activities at the City's project location. We estimate that 48 takes of 48 sea otters by Level A harassment and 276 takes of 276 sea otters by Level B harassment may occur due to the City's planned activities.

Sum of Harassment From All Sources

The City will conduct pile driving and marine construction activities in St. Herman Harbor beginning November 1, 2026, to October 31, 2027. Over the course of the project, we estimate up to 48 instances of take by Level A harassment of 48 sea otters from the Southwest Alaska stock due to PTS associated with in-water noise exposure during project activities. Additionally, we estimate up to 276 instances of take by Level B harassment of 276 sea otters from the Southwest Alaska stock due to behavioral responses to in-water noise exposure during project activities. A summary of total estimated takes by Level A harassment and Level B harassment during the project is provided in table 8.

TABLE 8—SEA OTTERS EXPECTED TO BE HARASSED; LEVEL A HARASSMENT AND LEVEL B HARASSMENT EVENTS

Location	Number of sea otters exposed to Level A harassment	Total number of Level A harassment events	Number of sea otters exposed to Level B harassment	Total number of Level B harassment events
Kodiak (Southwest AK stock)	48	48	276	276

Determinations and Findings

Sea otters exposed to noise from the specified activities are likely to respond with temporary behavioral modification or displacement. The specified activities could temporarily interrupt the feeding, resting, and movement of sea otters. The activities will occur during a limited amount of time and in a localized area, and the impacts associated with the project are likewise temporary and localized. The anticipated effects are short-term behavioral reactions, displacement of sea otters near active operations, and potential shifts in hearing thresholds.

Sea otters that encounter the specified activities may exert more energy than they would otherwise due to temporary cessation of feeding, increased vigilance (*e.g.,* repeatedly spyhopping), and retreating from the project area. We expect that affected sea otters will tolerate this exertion without measurable effects on health or reproduction. Most of the anticipated takes will be due to short-term Level B harassment in the form of startling reactions, interruption of feeding, resting, and movement, or temporary displacement. Although multiple instances of Level B harassment of individual sea otters are possible, these events are unlikely to have significant consequences for the health, reproduction, or survival of affected sea otters. The potential effects of multiple Level B harassment noise exposures may include short-term behavioral reactions, displacement of sea otters near active operations, and potential temporary shifts in hearing thresholds. We anticipate that the majority of Level B harassment events will be behavioral responses to noise exposure. Sea otters spend over half of their time above the surface during the summer months (Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears will not be exposed to continuous noise, thereby reducing their likelihood to experience temporary shifts in hearing thresholds. Also, the sound levels from impact pile driving and DTH drilling activities will not reach the peak SPL of instantaneous exposure likely to cause TTS outside the 10-m (33-ft) physical interaction shutdown zone. Considering the sound levels of the specified activities, the limited amount of time over non-consecutive days in which the specified

activities would occur, and the localized area to be impacted by the specified activities, we do not anticipate that the effects of multiple Level B harassment noise exposures would rise to the level of TTS, an injury, or Level A harassment.

While mitigation measures incorporated into the City's request, such as soft-start procedures, zone clearance prior to activity startup, and shutdown zones, will reduce occurrences of Level A harassment to the extent practicable, it is anticipated that some sea otters will experience Level A harassment via exposure to in-water noise above threshold criteria during impact pile driving and DTH drilling activities. Due to sea otters' small body size and low profile in the water, we anticipate that sea otters will at times avoid detection before entering Level A harassment zones for those activities. A small number of takes by Level A harassment would be authorized for impact pile driving and DTH drilling activities, which have Level A harassment zone radii ranging up to 258.4 m (847.8 ft). We propose mitigation measures below that would further limit the potential impacts of the City's activities on sea otters.

Small Numbers

For our small numbers determination, we consider whether the estimated number of sea otters to be subjected to incidental take is small relative to the population size of the species or stock. More specifically, the FWS compares the number of sea otters anticipated to be taken in the year contemplated by the proposed IHA with the population estimate applicable for the year. Here, predicted numbers of sea otters to be taken were determined based on the estimated density of sea otters in the project area and ensonification areas developed using empirical evidence from similar geographic areas. We estimate that the City's specified activities in the specified geographic region will take no more than 324 Southwest Alaska stock sea otters by a combination of Level A harassment and Level B harassment during the 1-year period of this proposed IHA (see *Sum of Harassment from All Sources,* Table 8, above). Take of 324 sea otters is 0.6 percent of the best available estimate of the current annual Southwest Alaska stock size of 51,935 animals (88 FR 53510, August 8, 2023) ((324 ÷ 51,935) × 100 ≈ 0.6), and represents a ''small number'' of sea otters of that stock.

Within the specified geographic region, the area of specified activity is expected to be small relative to the range of sea otters. Sea otters range well beyond the boundaries of the specified geographic region. As such, the specified geographic region itself represents only a subset of the potential area in which this species may occur, and we anticipate that only a small proportion of sea otters would be present within the vicinity of the specified activities.

Therefore, we propose a finding that the City's specified activities will take only small numbers of sea otters because: (1) Only a small proportion of sea otters will overlap with the areas where the specified activities will occur; and (2) the estimated number of Southwest Alaska stock sea otters to be taken will be limited to a total of 324 sea otters over the duration of the proposed IHA, which represents a small proportion (0.6 percent) of the stock of sea otters.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the specified activities cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otters through effects on annual rates of recruitment or survival and will, therefore, have no more than a negligible impact on the Southwest Alaska stock of sea otters. In making this finding, we considered the best available scientific information, including the biological and behavioral characteristics of the species, the most recent information on species distribution and abundance within the area of the specified activities, the current and expected future status of the stock (including existing and foreseeable human and natural stressors), the potential sources of disturbance caused by the specified activities, and the potential responses of marine mammals to this disturbance. In addition, we reviewed applicant-provided materials, information in our files and datasets, published reference materials, and species experts.

Sea otters are likely to respond to the specified activities with short-term behavioral reactions, and they may also be displaced from the close vicinity of active operations or experience potential hearing threshold shifts. These are the types of impacts we expect from Level B harassment and Level A harassment collectively. While Level A harassment has the potential to result in the injury of up to 48 sea otters during the IHA period, this type of harassment is not anticipated to result in long-term impacts that are likely to result in mortality. Most sea otters will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected sea otters are expected to resume normal behaviors soon after exposure with no lasting consequences to their survival or reproduction. Sea otters may move in and out of the project area during pile-driving activities, leading to as many as 324 sea otters experiencing exposure to noise at levels that may cause harassment. However, it is possible that a sea otter may enter the ensonification area more than once during the project. At most, if the same sea otter enters the ensonification area every day that pile driving occurs, the sea otter would be exposed to pile driving and marine construction noise for up to 42 non-consecutive days.

It is possible that sea otters may be exposed to noise levels equal to or greater than Level A harassment thresholds on multiple days throughout project activities. The potential effects of multiple Level A harassment noise exposures may include a greater reduction in a sea otter's hearing sensitivity if the sea otter is exposed to different sound levels that can cause PTS, but this reduction in hearing sensitivity does not equate to total hearing loss. The reduction in sea otter hearing sensitivity caused by PTS would align with the energy produced by pile-driving activities (*e.g.,* low-frequency less than 2 kHz), which would not impair the majority of a sea otter's hearing range. Sea otters do not rely on sound to orient themselves, locate prey, or communicate underwater. Therefore, we do not anticipate impacts to sea otters' ability to move, forage, or communicate as a result of PTS from multiple Level A harassment noise exposures. Sea otters, especially mothers and pups, do use sound for communication in air (McShane et al. 1995), and sea otters may monitor underwater sound to avoid predators (Davis et al. 1987). However, we anticipate that a sea otter will retain the majority of its hearing range if it experiences PTS from multiple Level A harassment noise exposures and that impacts from PTS will not have long-term consequences to a sea otter's survival and reproduction.

It is possible that sea otters will move away from Level A harassment zones to avoid experiencing PTS. The maximum area that will experience noise levels equal to or greater than Level A harassment thresholds due to pile driving is relatively small (~0.26 km^2), and a sea otter that may be disturbed could escape the noise by moving to nearby quiet areas. Further, sea otters spend over half of their time above the surface during the summer months

(Esslinger et al. 2014), and likely no more than 70 percent of their time foraging during winter months (Gelatt et al. 2002); thus, their ears will not be exposed to continuous noise, thereby reducing their likelihood to experience PTS. Some sea otters may exhibit some of the stronger responses typical of Level B harassment, such as fleeing, interruption of feeding, or flushing from a haulout. These responses could have temporary biological impacts for affected sea otters but are not anticipated to result in measurable changes in survival or reproduction. Therefore, we anticipate the specified activities will not have lasting impacts that could significantly affect an individual's health, reproduction, or survival. The limited extent of anticipated impacts on sea otters is unlikely to adversely affect annual rates of sea otter survival or recruitment.

The total number of sea otters affected, and severity of impact is not sufficient to change the current population dynamics at the stock scale. Although the specified activities may result in a maximum of 324 incidental takes of up to 324 sea otters from the Southwest Alaska stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the stock.

Our proposed finding of negligible impact applies to incidental take associated with the specified activities as mitigated by the avoidance and minimization measures identified in the City's mitigation and monitoring plan. These mitigation measures are designed to minimize interactions with and impacts to sea otters. These measures and the monitoring and reporting procedures are required for the validity of our finding and are a necessary component of the proposed IHA. For these reasons, we propose a finding that the specified project will have a negligible impact on the Southwest Alaska stock of sea otters.

Least Practicable Adverse Impact

We find that the mitigation measures required by this proposed IHA will effect the least practicable adverse impact on the stocks from any incidental take likely to occur in association with the specified activities. In making this finding, we considered the biological characteristics of sea otters, the nature of the specified activities, the potential effects of the activities on sea otters, the documented impacts of similar activities on sea otters, and alternative mitigation measures.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner and degree to which the successful implementation of the measures is expected to achieve this goal. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood that the measures will be effective if implemented, and the likelihood of effective implementation. We also considered the practicability of the measures for applicant implementation (*e.g.,* cost, impact on operations).

To reduce the potential for disturbance associated with the activities, the City will implement mitigation measures, including the following:

- Using the smallest diameter piles practicable while minimizing the overall number of piles;
- Using a project design that does not include dredging or blasting;
- Minimizing the use of the impact hammer to the extent possible by using a vibratory hammer to advance piles as deeply as possible;
- Development of a marine mammal monitoring and mitigation plan;
- Visual mitigation monitoring by designated protected species observers (PSOs);
- Halting or delaying activity during environmental conditions that may hinder sea otter detection, such as darkness, adverse weather conditions, high sea states, and other times of limited visibility;
- Maintaining the maximum distance practicable between a vessel and raft of sea otters;
- Operating vessels in such a way as to avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m [66 ft]) whenever practicable;
- Establishment of shutdown and monitoring zones;
- Site clearance before activity startup;
- Soft-start procedures; and
- Shutdown procedures.

A number of additional potential mitigation measures were considered but preliminarily found to be not practicable. These measures are listed below:

- *Require use of bubble curtains and other noise-dampening methods*—The applicant indicated that implementation of bubble curtains and other noise-dampening methods, such as cofferdams, pile-surrounding casings, sound mitigation screens, and nets around piles would not be practicable because potential sound reduction would be minimal, much of the in water noise would be blocked by land or harbor infrastructure, and most ensonified areas are entirely within the harbor. The FWS preliminarily finds the required use of bubble curtains and other noise-dampening methods is not practicable because these mitigation measures are unduly burdensome to undertake for the project activities.
- *Require pile-driving activities be conducted at lower tidal heights*—The applicant indicated that conducting pile-driving activities at lower tidal heights to reduce transmission of sound into the water column would add delays to the project schedule and impact user access to the harbor. The FWS preliminarily finds that requiring pile-driving activities to be conducted at lower tidal heights was not practicable because this mitigation measure was unduly burdensome to undertake for the project activities.
- *Require use of alternate detection methods*—The FWS preliminarily finds that the required use of alternate detection methods, such as infrared sensors, thermal imaging, or surveys conducted by aircraft, unmanned aircraft system (UAS), or vessel, was not practicable considering that these alternate detection methods would not be as effective as PSOs in reducing impacts to sea otters due to the limited number of project activities and small spatial extent of ensonified areas. The applicant would employ PSOs to monitor the project area for sea otters to reduce impacts to sea otters.

Impact on Subsistence Use

The anticipated harassment will not preclude access to harvest areas or interfere with the availability of sea otters for harvest by Alaska Native Peoples. We therefore propose a finding that the applicant's anticipated harassment would not have an unmitigable adverse impact on the availability of any stock of sea otters for taking for subsistence uses by Alaska Native Peoples during the specified timeframe. In making this proposed finding, we considered the timing and location of the planned activities and the timing and location of subsistence harvest activities in the project area.

The harvest of sea otters is important to Alaska Native Peoples in the communities surrounding Kodiak. The City would be required to contact subsistence communities that may be affected by the pile driving and marine construction activities to discuss potential conflicts caused by location, timing, and methods of the specified activities. The City must make

reasonable efforts to ensure that activities do not interfere with subsistence hunting and that adverse effects on the availability of sea otters are minimized. No concerns have been voiced by the Alaska Native communities regarding the specified activities limiting availability of sea otters for subsistence uses. However, should such a concern be voiced, a POC, which identifies measures to minimize any adverse effects, will be implemented. The POC will ensure that the City will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. This POC will provide the procedures addressing how the City will work with the affected Alaska Native communities and what actions will be taken to avoid interference with subsistence hunting of sea otters, as warranted.

The FWS has not received any reports and is not aware of information that indicates that sea otters are being or would be deterred from hunting areas or impacted in any way that diminishes their availability for subsistence use by the expected level of pile driving and marine construction activity. If there is evidence that these pile driving and marine construction activities are affecting the availability of sea otters for subsistence uses, we would reevaluate our findings regarding permissible limits of take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of specified activities on sea otters; to ensure that take is consistent with that anticipated in the small numbers, negligible impact, and subsistence use analyses; and detect any unanticipated effects on the species or stock. Monitoring plans document when and how sea otters are observed, the number of sea otters, and their behaviors during the observation. This information allows the FWS to measure encounter rates, examine trends in sea otter activity and distribution in the project area, and estimate the number of sea otters potentially affected by the specified activities. The City would be required to report all observations of sea otters. To the extent possible, PSOs would record group size, age, sex, behavior, duration of observation, and closest approach to the project activity.

As proposed, monitoring activities would be summarized and reported in formal reports. The City would be required to submit monthly reports for all months during which noise-generating work takes place as well as a final monitoring report that must be submitted no later than 90 days after the expiration of the IHA. We would require approval of the monitoring results for continued operation under the IHA.

We find that these proposed monitoring and reporting requirements to evaluate the potential impacts of planned activities would ensure that the effects of the activities remain consistent with the rest of the findings.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared a draft environmental assessment in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that the proposed action of issuing a final IHA would not significantly affect the quality of the human environment and, thus, preparation of an environmental impact statement for this IHA, if finalized, is not required by section 102(2) of NEPA or the Department's NEPA handbook. We are accepting comments on the draft environmental assessment as specified above in **DATES** and **ADDRESSES**.

Endangered Species Act (ESA)

Under the ESA (16 U.S.C. 1536(a)(2)), all Federal agencies are required to insure the actions they authorize are not likely to jeopardize the continued existence of any endangered species or threatened species or result in destruction or adverse modification of critical habitat. Because the Southwest Alaska stock of sea otters is listed as a threatened species under the ESA, prior to finalizing the proposed IHA, if warranted, the FWS will complete intra-Service consultation under section 7 of the ESA on our proposed issuance of this IHA. These evaluations and findings will be made available on the FWS's website at *https://reports.ecosphere.fws.gov/FWSPublicReports/Reports/Index?reportname=BiologicalOpinionReport.* The authorization of incidental take of sea otters and the measures included in the proposed IHA would not affect other listed species or designated critical habitat.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture and to make information available to Alaska Natives. Our efforts are guided by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 512 DM 5, ''Procedures for Consultation with Indian Tribes,'' 512 DM 6, ''Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations,'' 510 FW 1, ''The Service's Native American Policy,'' and 510 FW 2, ''The Service's Alaska Native Relations Policy.''

The FWS has evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and organizations. The applicant has presented a communication process, culminating in a POC if needed, with the Alaska Native organizations and communities most likely to be affected by their work. The FWS does not anticipate impacts to Alaska Native Tribes or Alaska Native Claims Settlement Act corporations and does not anticipate requesting consultation; however, we invite continued discussion, either about the project and its impacts or about our coordination and information exchange throughout the IHA/POC process.

Paperwork Reduction Act

This authorization does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has previously approved the information collection requirements associated with IHAs and assigned OMB Control Number 1018–0194 (expiration date August 31, 2026, and in accordance with 5 CFR 1320.10, an agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Proposed Authorization

We propose to authorize the incidental take by Level A harassment and Level B harassment of sea otters from the Southwest Alaska stock. Authorized take may be caused by pile driving and marine construction activities conducted by the City in Kodiak, Alaska, November 1, 2026, to October 31, 2027. If finalized, the IHA would be effective for 1 year from the date of issuance. We do not anticipate

or authorize any lethal take to sea otters resulting from these activities.

A. General Conditions for This IHA

(1) Activities must be conducted in the manner described in the revised request dated July, 2025,and received by the FWS on December 10, 2025, from the City for an IHA and in accordance with all applicable conditions and mitigations measures. The taking of sea otters whenever the required conditions, mitigation, monitoring, and reporting measures are not fully implemented as required by the IHA is prohibited. Failure to follow the measures specified both in the revised request and within this proposed authorization may result in the modification, suspension, or revocation of the IHA.

(2) If project activities cause unauthorized take (*i.e.,* a form of take other than Level A harassment or Level B harassment, or take through methods not described in the IHA), the City must take the following actions:

(i) Cease its activities immediately (or reduce activities to the minimum level necessary to maintain safety);

(ii) Report the details of the incident to the FWS within 24 hours; and

(iii) Suspend further activities until the FWS has reviewed the circumstances and determined whether additional mitigation measures are necessary to avoid further unauthorized taking.

(3) All operation managers, vehicle operators, and machine operators must receive a copy of this IHA and maintain access to it for reference at all times during project work. These personnel must understand, be fully aware of, and be capable of implementing the conditions of the IHA at all times during project work.

(4) This IHA will apply to activities associated with the specified project as described in this document and in the City's revised request. Changes to the specified project without prior authorization may invalidate the IHA.

(5) The City's revised request is approved and fully incorporated into this IHA unless exceptions are specifically noted herein. The request includes:

(i) The City's original request for an IHA (including a Protected Species Monitoring and Mitigation Plan), dated February 26, 2025;

(ii) Updated project geospatial files for ensonification areas, received June 30, 2025; and

(iii) A revised application dated July, 2025 and received by FWS December 10, 2025,

(6) Operators will allow FWS personnel or the FWS's designated representative to visit project worksites to monitor for impacts to sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so. ''Operators'' are all personnel operating under the City's authority, including all contractors and subcontractors.

B. Avoidance and Minimization

(7) Construction activities must be conducted using equipment that generates the lowest practicable levels of in-water noise within the range of frequencies audible to sea otters.

(8) If a sea otter enters or appears likely to enter the shutdown zone, in-water activities must be shut down until either the sea otter has been visually observed outside the shutdown zone or at least 15 minutes have elapsed since the last observation time without redetection of the sea otter.

(i) During all in-water activities, regardless of predicted sound levels, a physical interaction shutdown zone of at least 10 m (33 ft) must be enforced.

(9) If the impact driver has been idled for more than 30 minutes, an initial set of three strikes from the impact driver must be delivered (at reduced energy if possible), followed by a 30-second waiting period. This procedure will be conducted a total of three times before full-powered strikes if practicable.

(10) In-water activity must be conducted in daylight. If environmental conditions prevent visual detection of sea otters within the shutdown zone, in-water activities must be stopped until visibility is regained.

C. Mitigation Measures for Vessel Operations

Vessel operators must take every precaution to avoid harassment of sea otters during vessel operations. The applicant must carry out the following measures:

(11) Vessels must maintain a minimum distance of 500 m (0.3 mi) from rafts of 10 or more sea otters unless otherwise needed for safety. If a vessel must transit within 500 m (0.3 mi) from rafts of sea otters, the vessel must travel at a reduced speed and maintain the maximum distance practicable between the vessel and raft of sea otters. Vessels must reduce speed and maintain a minimum distance of 100 m (328 ft) from all sea otters unless otherwise needed for safety.

(12) Vessels must not be operated in such a way as to separate members of a group of sea otters (two or more sea otters) from other members of the group, encircle sea otters, or impede movement of sea otters. Vessels must use established navigation channels or commonly recognized vessel traffic corridors and avoid approaching sea otters or impeding sea otter movements when traveling near the shoreline in shallow water (<20 m or <66 ft) whenever practicable.

(13) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to reduce the likelihood of injury to sea otters.

(14) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include all measures identified in this section.

D. Monitoring

(15) Operators shall work with PSOs to apply mitigation measures and shall recognize the authority of PSOs up to and including stopping work, except where doing so poses a significant safety risk to personnel.

(16) Duties of the PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(17) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of shutdown zones during all daytime periods of in-water noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of 12 hours on watch per day per PSO.

(18) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. This training will be completed prior to starting work. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available to the FWS prior to the start of the project.

(19) The PSOs will be provided with reticule binoculars (7×50 or better), big-eye binoculars or spotting scopes (30×), inclinometers, and range finders. Field guides, instructional handbooks, maps, and a contact list will also be made available.

(20) The PSOs will monitor a pre-clearance zone for 30 minutes prior to the commencement of in-water noise-generating activities and following periods of inactivity of more than 30 minutes to ensure all sea otters are not within the shutdown zone prior to

initiating or resuming in-water noise-generating activities.

(21) The PSOs will collect data using the following procedures:

(i) All data will be recorded onto a field form or database;

(ii) Global positioning system data, sea state, tidal state, wind force, visibility, and weather condition will be recorded at the beginning and end of a monitoring period, at least every hour in between, at the change of a PSO, and upon observation of sea otters;

(iii) Observation records of sea otters will include date; time; the PSOs' locations; sea otter's heading (if moving); weather condition; visibility; number of sea otters; group composition (adults/juveniles); and the location of the sea otters (or distance and direction from the PSO);

(iv) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and in-water noise levels being generated, the position of sea otters relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation;

(v) For all sea otters in or near a mitigation zone, the PSOs will record the distance from the sound source to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures; and

(vi) The PSOs will note any instances of sea otters lingering close to or traveling with vessels for prolonged periods of time.

(22) Monitoring of the shutdown zone must continue for 30 minutes following completion of in-water noise-generating activities.

E. Measures To Reduce Impacts to Subsistence Users

(23) Prior to conducting the work, the City will take the following steps to reduce potential effects on subsistence harvest of sea otters:

(i) Avoid work in areas of known sea otter subsistence harvest;

(ii) Discuss the planned activities with subsistence stakeholders including Southwest Alaska villages and traditional councils;

(iii) Identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and

(iv) If any concerns remain, develop a POC in consultation with the FWS and subsistence stakeholders to address these concerns.

F. Reporting Requirements

(24) The applicant, the City of Kodiak, must notify the FWS at least 48 hours prior to commencement of activities.

(25) Monthly reports will be submitted to the FWS's Marine Mammals Management office (MMM) for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information: dates, times, weather, and sea conditions (including the Beaufort Scale sea state and wind force conditions) when sea otters were observed; the number, location, distance from the sound source, and behavior of the sea otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the sea otters exhibited in response to mitigation.

(26) A final report will be submitted to the FWS's MMM within 90 days after completion of work or expiration of the IHA. The report will include:

(i) A summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if requested by the FWS, the daily monitoring logs);

(ii) A description of all project activities, any additional work yet to be done, factors influencing visibility and detectability of marine mammals (*e.g.,* sea state, fog, glare, and number of PSOs), and factors correlated with the presence and distribution of sea otters (*e.g.,* weather, sea state, and project activities);

(iii) An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to Level A harassment and Level B harassment (based on visual observation).

(iv) A description of changes in sea otter behavior resulting from project activities and any specific behaviors of interest; and

(v) A discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the FWS in the form of electronic database or spreadsheet files.

(27) Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.,* animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the FWS within 24 hours of the discovery to either the FWS MMM Office (907–786–3800, business hours) or the Alaska SeaLife Center in Seward (1–888–774–7325, extended hours). Photographs, video, location information, or any other available documentation must be provided to the FWS.

(28) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov.*

(29) The City must notify the FWS upon project completion or end of the work season.

Request for Public Comments

If you wish to comment on this proposed authorization, the associated draft environmental assessment, or related documents, you may submit your comments by either of the methods described in **ADDRESSES**. Please identify the document(s) to which your comments pertain, make your comments as specific as possible, confine them to issues pertinent to the proposed authorization, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The FWS will consider all comments that are received before the close of the comment period (see **DATES**). The FWS does not anticipate extending the public comment period beyond the 30 days required under section 101(a)(5)(D)(iii) of the MMPA.

Comments, including names and street addresses of respondents, will become part of the administrative record for this proposal. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Peter Fasbender,

Assistant Regional Director for Fisheries and Ecological Services, Alaska Region, U.S. Fish and Wildlife Service.

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