



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XA476]**

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Alaska Gasline Development Corporation Liquefied Natural Gas Facilities Construction Project at Cook Inlet, Alaska**

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

**ACTION:** Notice of issuance of Letter of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the Alaska Gasline Development Corporation (AGDC) for the take of marine mammals incidental to Liquefied Natural Gas (LNG) facilities construction project in Cook Inlet, Alaska.

**DATES:** This Letter of Authorization is effective from January 1, 2021, through December 31, 2025.

**ADDRESSES:** The LOA and supporting documentation is available online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers 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.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

## **Summary of Request**

On June 28, 2019, NMFS published a notice of proposed rulemaking in the **Federal Register**, requesting comments and information related to AGDC's request for thirty days (84 FR 30991). The final rule was published in the **Federal Register** on August 17, 2020 (85 FR 50720). For detailed information on this action, please refer to those documents. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during the LNG facilities constructions in Cook Inlet, Alaska.

The purpose of the project is to construct LNG onshore facilities between the Beluga Landing shoreline crossing and the Yentna River on both shores of the Cook Inlet to load LNG carriers for export. The project would require pile installation using impact and vibratory pile driving, and pipe laying in the Inlet.

## **Authorization**

We have issued an LOA to AGDC authorizing the take of marine mammals incidental to LNG facilities construction activities as described above. Take of marine mammals will be minimized through implementation of the following mitigation measures: (1) Implementing time/area restriction to minimize potential noise exposure to Cook Inlet beluga whales in the Susitna River Delta; (2) Implementing exclusion zones for all in-water construction activities to prevent or reduce Level A harassment for all marine mammals and to prevent Level B harassment for Cook Inlet beluga whales; (3) Employing protected species observers (PSOs) to monitor exclusion zones before, during, and after the in-water construction activities to ensure that no marine mammal is within the exclusion zone during the activities; (4) Implementing soft start for impact pile

driving; and (5) Deploying air bubble curtains to attenuate noise from in-water pile driving.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under the LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: September 15, 2020.

**Donna S. Wieting,**

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