



## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**[RTID 0648-XF770]**

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Coeur Alaska, Inc.'s Kensington Dock Repair Project in Berners Bay, Alaska**

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

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

**SUMMARY:** In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Coeur Alaska, Inc. (Coeur) for authorization to take marine mammals incidental to the Kensington Dock Repair Project in Berners Bay, Alaska.

**DATES:** This authorization is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of issuance (June 16, 2026).

**ADDRESSES:** Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, can be obtained online at:

*<https://www.fisheries.noaa.gov/action/incidental-take-authorization-kensington-dock-repair-project-berners-bay-alaska>*. For any issues accessing these documents, please contact the person listed below.

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

#### **SUPPLEMENTARY INFORMATION:**

#### **MMPA Background and Determinations**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Among the exceptions is section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*), which directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking by harassment 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 the public has an opportunity to comment on the proposed IHA.

Specifically, NMFS shall issue an IHA if it determines that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where applicable). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least [practicable] adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation”). NMFS must also prescribe requirements for monitoring and reporting of such takings. The definitions of key terms, such as “take,” “harassment,” and “negligible impact,” are found in the MMPA and NMFS’ implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

On April 29, 2026, a notice of NMFS’ proposal to issue an IHA to Coeur for take of marine mammals incidental to the Kensington Dock Repair Project in Berners Bay, Alaska, was published in the **Federal Register** (91 FR 23065). In that notice, NMFS provided estimates of the numbers, types, and methods of incidental take proposed for each species or stock, as well as the mitigation, monitoring, and reporting measures that would be required should the IHA be issued. The **Federal Register** notice also included an analysis to support NMFS’ preliminary conclusions and determinations that the IHA, if issued, would satisfy the requirements of section 101(a)(5)(D) of the MMPA for

issuance of the IHA. The **Federal Register** notice included web links to a draft IHA for review, along with other supporting documents.

Two comment letters from Coeur were received during the public comment period, both supporting the issuance of the IHA. Additionally, no new information has become available that would substantively change any of the preliminary analyses, conclusions, or determinations in the proposed IHA. Therefore, the preliminary analyses, conclusions, and determinations included in the proposed IHA are considered final.

### **National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment, and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that issuance of the IHA qualifies to be categorically excluded from further NEPA review.

### **Endangered Species Act**

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires each Federal agency to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to

authorize take of endangered or threatened species, in this case, with NMFS' Alaska Regional Office.

NMFS is authorizing incidental take of the humpback whale (*i.e.*, the Mexico distinct population segment (DPS) (Mexico–North Pacific stock), ESA-listed as threatened and the Western North Pacific DPS (Western North Pacific stock), ESA-listed as endangered) and the Steller sea lion (*i.e.*, Western DPS (Western stock), ESA-listed as endangered).

### **Authorization**

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued an IHA to Coeur for authorization to take marine mammals incidental to the Kensington Dock Repair Project in Berners Bay, Alaska.

Dated: June 16, 2026.

**Kimberly Damon-Randall,**

*Director, Office of Protected Resources,*

*National Marine Fisheries Service.*