



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503



In Reply Refer to:
FWS/R7/AFES/MMM

Mr. Jarred Brand
Trident Seafoods Corporation
5303 Shilshole Ave. N.W.
Seattle, Washington 98107

Dear Mr. Brand:

On May 25, 2023, the U.S. Fish and Wildlife Service (Service) received a request from Trident Seafoods Corporation for an Incidental Harassment Authorization (IHA) for take by harassment of northern sea otters (*Enhydra lutris kenyoni*) in Kodiak, Alaska. The application was revised and resubmitted several times and was determined to be adequate and complete on October 9, 2023. The project entails pile driving and marine construction activities during the replacements and improvements to Trident's bunkhouse dock at Kodiak, Alaska.

On January 25, 2024, the Service published a Proposed IHA and supporting analysis in the *Federal Register* and provided a 30-day public comment period (89 FR 4970). After considering public comment, we have determined that any incidental take of northern sea otters will be limited to harassment and meets the requirements for issuance of an IHA under the Marine Mammal Protection Act. We note that no lethal take is expected or is authorized.

This letter transmits the enclosed final IHA and its operational conditions and monitoring and reporting requirements to Trident Seafoods Corporation. This IHA is issued in accordance with section 101(A)(5)(D) of the MMPA and authorizes incidental take of northern sea otters from March 1, 2024, through February 28, 2025.

Should you have any questions regarding this IHA and the required conditions, please contact Acting Field Office Supervisor, Mr. Charles Hamilton, at 1-800-362-5148, or via email at r7mmmregulatory@fws.gov.

Sincerely,

Assistant Regional Director
Fisheries and Ecological Service, Alaska Region

Enclosure

Email cc: U.S. Fish and Wildlife Service Office of Law Enforcement



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INCIDENTAL HARASSMENT AUTHORIZATION (23-IHA-04)

ISSUED: March 1, 2024
EXPIRES: February 28, 2025

Trident Seafoods Corporation, as well as contractors and subcontractors operating under the authority of Trident Seafoods Corporation, are authorized to take, by non-lethal Level A and Level B harassment, small numbers of northern sea otters (*Enhydra lutris kenyoni*; hereafter “sea otters”) during marine construction and pile driving activities at Kodiak, Alaska. This Incidental Harassment Authorization (IHA) is valid between March 1, 2024, and February 28, 2025. It is issued by the Assistant Regional Director for Fisheries and Ecological Services in the Alaska Region, U.S. Fish and Wildlife Service (Service) in accordance with section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA), as amended (16 U.S.C. 1371(a)(5)(D)).

Activities are described in full in the following documents:

- Notice of receipt of application; *proposed incidental harassment authorization; draft environmental assessment; request for comments. Proposed Incidental Harassment Authorization for Southwest Alaska Stock of Northern Sea Otters in Kodiak, Alaska* (89 FR 4970, January 25, 2024, the “Proposed IHA”); and
- Solstice Alaska Consulting (SolsticeAK). 2023. *Request for an Incidental Harassment Authorization Trident Seafoods Corporation Bunkhouse Dock Replacement Project*. Anchorage, Alaska, United States of America.

General Conditions

- 1) Activities must be conducted in the manner described in the request from Trident Seafoods Corporation for an IHA and in accordance with all applicable conditions and mitigation 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 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., greater than 3,160 takes of 460 of the Southwest Alaska stock of northern sea otters, a form of take other than Level B harassment, or take of one or more sea otters through methods not described in the IHA), Trident Seafoods Corporation 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 Service within 48 hours; and

- iii. suspend further activities until the Service has reviewed the circumstances and determined whether additional mitigation measures are necessary to avoid further unauthorized taking.
- 3) All operations 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 Trident Seafoods Corporation's request. Changes to the specified project without prior authorization may invalidate the IHA.
 - 5) Trident Seafoods Corporation's request is approved and fully incorporated into this IHA unless exceptions are specifically noted herein. The request includes:
 - i. Trident Seafoods Corporation's original request for an IHA, dated May 25, 2023;
 - ii. Revised requests, dated July 17, September 5, and October 9, 2023; and
 - iii. Marine Mammal Mitigation and Monitoring Plan.
 - 6) Operators will allow Service personnel or the Service'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 Trident Seafoods Corporation's authority, including all contractors and subcontractors.

Avoidance and Minimization

- 7) Construction activities must be conducted using equipment that generates the lowest practicable levels of underwater sound within the range of frequencies audible to sea otters.
- 8) If the number of sea otters present in the area of Near Island Channel exceeds 450, or if the number of sea otters present in a Level B monitoring zone exceeds 25, or if the combination of sea state and a high number of sea otters in the area is so high as to preclude an accurate count, work will cease until the protected species observers (PSO) can confirm that the number of sea otters in the area is less than above limits.
- 9) During all pile-installation activities, regardless of predicted sound levels, a physical interaction shutdown zone of 10 meters (m) (33 feet [ft]) must be enforced. A shutdown zone of 15 m (49 ft) will be enforced for DTH drilling where the 160 dB sound isopleth exceeds the 10 m (33 ft) physical interaction shutdown zone. If a sea otter enters the shutdown zone, in-water activities must be delayed until either the animal has been visually observed outside the shutdown zone, or 15 minutes have elapsed since the last observation time without redetection of the animal.

- 10) 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, followed by a 1-minute waiting period, before full powered proofing strikes.
- 11) 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.
- 12) All in-water work along the shoreline must be conducted during low tide when the site is dewatered to the maximum extent practicable.

Mitigation Measures for Vessel Operations

Vessel operators must take every precaution to avoid harassment of sea otters when a vessel is operating near these animals. The applicant must carry out the following measures:

- 13) Vessels must remain at least 500 m (0.3 miles) from rafts of sea otters, unless safety is a factor. Vessels must reduce speed and maintain a distance of 100 m (328 ft) from all sea otters, unless safety is a factor.
- 14) Vessels must not be operated in such a way as to separate members of a group of sea otters from other members of the group and must avoid alongshore travel in shallow water (<20 m (66 ft)) whenever practicable.
- 15) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to avoid the likelihood of injury to sea otters.
- 16) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in paragraphs (12) through (15) of this section.

Monitoring

- 17) Operators shall work with the 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.
- 18) 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.
- 19) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of exclusion zones during all daytime periods of underwater noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of approximately 12 hours on watch per day per PSO.

- 20) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. 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 for the Service to review.
- 21) Observers 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.
- 22) Observers 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, wind force, and weather will be collected at the beginning and end of a monitoring period, every hour in between, at the change of an observer, and upon sightings of sea otters;
 - iii. Observation records of sea otters will include date; time; the observer's locations, heading, and speed (if moving); weather; visibility; number of animals; group size and composition (adults/juveniles); and the location of the animals (or distance and direction from the observer);
 - iv. Observation records will also include initial behaviors of the sea otters, descriptions of project activities and underwater sound 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, observers 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. Observers will note any instances of animals lingering close to or traveling with vessels for prolonged periods of time.
- 23) Monitoring of the shutdown zone must continue for 30 minutes following completion of pile installation.

Measures to Reduce Impacts to Subsistence Users

- 24) Prior to conducting the work, Trident Seafoods Corporation 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; and
 - ii. If any concerns remain, develop a POC in consultation with the Service and subsistence stakeholders to address these concerns.

Reporting Requirements

- 25) Trident Seafoods Corporation must notify the Service at least 48 hours prior to commencement of activities.
- 26) Monthly reports will be submitted to the Service's Marine Mammal 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 sighted; 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.
- 27) A final report will be submitted to the Service'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 Service, the daily monitoring logs);
 - ii. A description of all project activities, along with any additional work yet to be done. Factors influencing visibility and detectability of marine mammals (e.g., sea state, number of observers, and fog and glare) will be discussed;
 - iii. A description of the factors affecting the presence and distribution of sea otters (e.g., weather, sea state, and project activities). An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to 160 dB (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 Service in the form of electronic database or spreadsheet files.
- 28) 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 Service within 24 hours of the discovery to either the Service's MMM (1-800-362-5148, business hours), the Alaska SeaLife Center in Seward (1-888-774-7325, 24 hours a day), or both. Photographs, video, location information, or any other available documentation must be provided to the Service.
- 29) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov*.

30) Trident Seafoods Corporation must notify the Service upon project completion or end of the work season.

*Assistant Regional Director,
Fisheries and Ecological Services, Alaska Region*

Date