

FINDING OF NO SIGNIFICANT IMPACT FOR THE PROMULGATION OF INCIDENTAL TAKE REGULATIONS AND ISSUANCE OF ASSOCIATED LETTERS OF AUTHORIZATION TO THE PORT OF ALASKA TO TAKE MARINE MAMMALS BY HARASSMENT INCIDENTAL TO THE CARGO TERMINALS REPLACEMENT PROJECT

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). Agencies may issue a Finding of No Significant Impact (FONSI) if they determine that a proposed agency action will not have a significant effect on the human environment and therefore does not require the issuance of an EIS. *Id.* § 4336e(7). To evaluate whether a significant impact on the human environment is likely, NOAA Administrative Order 216-6A and its Companion Manual (NAO 216-6A CM) direct preparers to analyze the potentially affected environment and the degree of the effects of the proposed action. In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area, and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine, as appropriate, short- and long-term effects, beneficial and adverse effects, and effects on public health and safety, as well as effects that would violate laws for the protection of the environment (NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). The Final Environmental Assessment (EA) for a project considers alternatives that meet the purpose and need for the proposed action. NMFS has identified a preferred alternative that would meet the purpose and need, discussed below.

In preparing this FONSI, we reviewed the Promulgation of Incidental Take Regulations and Issuance of a Letter of Authorization for the Take of Marine Mammals Incidental to the Don Young Port of Alaska's Cargo Terminals Replacement (CTR) Project in Anchorage, Alaska Environmental Assessment (EA) which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference.

II. Approach to Analysis:

NMFS proposes to issue incidental take regulations and a Letter of Authorization (LOA) to the POA pursuant to Section 101(a)(5)(A) of the MMPA and 50 Code of Federal Regulations (CFR) Part 216. The regulations and LOA will be valid for five years and will authorize takes, by Level A and Level B harassment, of small numbers of marine mammals incidental to construction activities related to the Cargo Terminals Replacement (CTR) project in Anchorage, Alaska. The POA's activity will include the demolition and replacement of terminals T1 and T2 and the

partial demolition of T3. In-water pile installation will include both temporary (24-in (0.61 m) or 36-in (0.91 m)) and permanent (72-in (1.83 m)) steel pipe piles by impact and vibratory hammers. Removal of temporary piles (24- or 35-in) and existing structures (16-in (0.41 m) to 42-in (1.07 m) steel pipe piles) would be primarily by cutting; dead-pull and vibratory extraction methods may also be used. Existing piles may also be left standing in their current positions. In-water work associated with the project would include installation of approximately 275 permanent piles and 450 temporary piles and vibratory extraction of approximately 46 temporary piles over the 5-year period. The POA's activity is expected to begin in March 2026 and extend through November 2032. Construction is estimated to occur over approximately 699.5 hours over the course of years 1 through 5, and 848.5 hours over the 6 year project.

Sound produced by the POA's construction activities has the potential to result in the take, by Level A and Level B harassment, of seven marine mammal species. Takes are expected to occur in the form of Level A harassment (slight permanent threshold shift (PTS)) or Level B harassment consisting of, at worst, temporary modification in the behavior of individual marine mammals. Specific to Cook Inlet beluga whales, effects would be limited to Level B harassment: consisting of temporary modifications in behavior such as increased swim speeds, tighter group formations, and cessation of vocalizations; but potential effects are not expected to occur through the loss of foraging capabilities or abandonment of habitat. Therefore, the POA requested an authorization from NMFS for incidental taking pursuant to the MMPA. Authorizations for incidental takings of small numbers of marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and, where relevant, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, the regulations and LOA must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

NMFS' proposed action is a direct outcome of the POA's request for an ITR and LOA to authorize take of marine mammals incidental to their CTR project in Anchorage, Alaska, which includes impact and vibratory pile installation and vibratory pile removal. The POA's action may cause effects to the resources in the affected area, though there is no potential for the effects of NMFS' action to add to the effects of other projects, including the POA's action, such that the effects taken together could be significant.

NMFS' proposed action, the issuance of incidental take regulations and a LOA to the POA for their CTR project, is not considered to meaningfully contribute to a significant impact based on the scale of the impact (authorization of take of small numbers of seven species of marine mammal, by Level A and Level B harassment only), and the small-scale, temporary, and short-term duration of the impact. No take of marine mammals by serious injury or mortality is anticipated or authorized in the ITRs or LOA.

NMFS' proposed action, the issuance of ITRs and an LOA to the POA, will not meaningfully contribute to significant impacts to specific resources, given the limited scope of NMFS' action and required mitigation measures, as described in the 2025 EA and this FONSI.

III. Geographic Extent and Scale of the Proposed Action: As stated in the 2025 EA, NMFS' proposed issuance of incidental take regulations and a LOA to the POA would authorize take of seven species of marine mammal incidental to construction activities related to the CTR project in Anchorage, Alaska. The POA is located in Anchorage, Alaska, along the southeastern shoreline of Knik Arm in upper Cook Inlet. The POA's boundaries currently occupy an area of approximately 129 acres; the CTR project would extend the footprint of the cargo terminal facilities approximately 140 ft seaward into subtidal habitat within Knik Arm. A detailed map showing the CTR project area is provided in the EA (Figure 1). The environmental effects analyzed in the 2025 EA would occur at a small scale.

IV. Degree of Effect:

- A. *The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*
NMFS' proposed action of promulgating incidental take regulations and issuing a LOA to the POA to incidentally take marine mammals would not violate any federal, state, or local laws for environmental protection. NMFS' compliance with environmental laws and regulations is based on NMFS' action and the nature of the applicant's activities. NMFS complied with the requirements of the MMPA in developing the IHA. NMFS Office of Protected Resources (OPR) also consulted with the NMFS Alaska Region under Section 7 of the ESA to determine if the issuance of the IHA would likely jeopardize the continued existence of listed species or result in the destruction or adverse modification of ESA designated critical habitat. The Section 7 consultation concluded that the issuance of the IHA would not jeopardize the continued existence of any listed species or destroy or adversely modify critical habitat, described further in section C, below. The POA would be required to obtain any additional federal, state, and local permits necessary to carry out CTR project and any other associated activities.
- B. *The degree to which the proposed action is expected to affect public health or safety.*
NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals is not likely to affect public health or safety because NMFS only authorizes the take of marine mammals associated with the POA's construction activities, which does not involve the public or expose the public directly (e.g., chemicals, diseases) or indirectly (e.g., food sources) to hazardous or toxic materials in a way that would be linked to the quality of the environment and well-being of humans. Furthermore, public access, including public/civilian vessel use, is restricted around the POA.
- C. *The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*
- a. *Federal threatened or endangered species and critical habitat;*
NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals is not expected to have a significant impact on endangered or threatened species or critical habitat. Based on the conclusions of the ESA section 7 consultation (summarized below) along with mitigation measures designed to avoid, minimize and mitigate impacts to ESA-listed species and critical habitat, NMFS expects that any impacts to ESA-

listed marine mammals, as well as their critical habitat, would be limited to slight auditory injury (PTS) or behavioral harassment as a result of take, by acoustic exposure to pile driving and removal, and would not be significant.

The POA's proposed CTR project has the potential to affect the following species listed as threatened or endangered under the ESA: Cook Inlet beluga whales, humpback whales (Mexico Distinct Population Segment (DPS) and Western North Pacific DPS), and western DPS Steller sea lions. In 2024, NMFS' Permits and Conservation Division initiated consultation with NMFS' Alaska Regional Office for the issuance of the IHA. In April 2025, NMFS' Endangered Species Act Interagency Cooperation Division concluded that NMFS' issuance of regulations and an LOA is not likely to jeopardize the continued existence of these endangered or threatened species and would not affect critical habitat. NMFS issued a Biological Opinion providing conclusions specific to NMFS' actions relevant to the proposed construction activities (NMFS, 2025).

NMFS also requires the implementation of mitigation to reduce potential exposure of marine mammals to sound levels likely to result in take. These are described in detail in the EA and the final rule, as well in section VI of this FONSI.

The only critical habitat designation within the action area relevant to NMFS' action is for Cook Inlet beluga whales, which includes much of Cook Inlet, Alaska. The waters directly surrounding the POA are excluded from critical habitat designation but noise from pile driving and removal will propagate into critical habitat. Use of the critical habitat by Cook Inlet beluga whales of the greater habitat area varies temporally, specifically with a peak in beluga abundance in Knik Arm in later summer and early autumn months (i.e., August, September, and October). As described above, NMFS is requiring stringent mitigation and monitoring measures throughout the construction season (April through November) and requests that the POA to complete as much work as is practicable in April to July to reduce the amount of pile driving and removal activities needed in August through November. The action is not likely to destroy or adversely modify Cook Inlet beluga whale, or other listed species, critical habitat.

Therefore, in consideration of the factors above, while NMFS' proposed action is likely to adversely affect ESA-listed species, the potential impacts are not expected to be significant as defined by NOAA NEPA procedures (NAO 216-6A CM (2017)) and Section 106(b)(2) of NEPA (42 USC 4336).

- b. Stocks of marine mammals as defined in the Marine Mammal Protection Act;* NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA has the potential to result in the take of small numbers of seven species of marine mammals, by Level A (five species) and Level B harassment (all seven species), as defined in the MMPA. However, we expect

take to result in a negligible impact on species or stocks. Importantly, effects on individuals or groups of animals does not necessarily translate into an adverse effect to a stock or species, unless such effects result in reduced fitness for those individuals and, ultimately, accrue to the point that there is reduced reproduction or survival leading to effects on annual rates of recruitment or survival for the species.

In addition to considering estimates of the number of marine mammals that may be “taken” by harassment, NMFS considered other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assessed the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

For this proposed action, the taking of marine mammals would be incidental to pile driving and removal associated with the POA’s CTR project. The source of harassment would be limited to noise exposure from pile driving and removal. NMFS calculated the number of estimated exposures of marine mammals to noise levels exceeding our thresholds approximating Level A and Level B harassment based on in-situ sound measurements. In general, the effects on marine mammals from pile driving and removal are expected to be temporary and lower level and may include, but are not limited to, hearing threshold shift (temporary and permanent), masking, stress response, and behavioral changes such as temporary avoidance of the immediate vicinity of pile driving and removal, increased travel speed and dive times, and cessation of foraging and vocalizing. The magnitude of the effect of sound on marine mammals is highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. For the POA activities, the required mitigation and monitoring measures prescribed in the regulations and LOA and described in the EA (including the implementation of shutdown zones) will result in reduced exposure to pile driving and removal noise and help further ensure that any resulting take will impact the fitness of any individual marine mammals or, thereby, have any effect on any annual rates of recruitment or survival. The number of anticipated takes are low relative to the estimated abundance of the affected stock (less than 2 percent for all stocks except 35.6% percent for the Cook Inlet beluga whale stock, and the Mexico-North Pacific stock of humpback whales, for which the abundance is unknown).

For CIBW, the stock abundance estimate is 331 individuals (Goetz *et al.*, 2023). The maximum annual number of takes that may be authorized is 118, amounting to 35.6 percent of the stock if each take accrued to a new individual. NMFS typically presumes that each take is of a different individual. However, in this scenario, a portion of the authorized takes are expected to represent repeat individuals; that is, some individual CIBWs will likely be counted more than once as they move through the only route into and out of Knik Arm past the POA towards feeding grounds in the upper Arm near Eagle Bay. McGuire *et al.* 2020 demonstrated that nearly all (93%; 78 of 84 identifiable whales) of the known individuals in the CIBW stock were sighted within Knik Arm between 2005 and 2017, noting that groups tended to travel up and down the arm with the tides.

The daily duration of active hammer use (impact and vibratory) at the POA is expected to be in the range of 3.3 to 9.8 hours per day (mean of 6.5 hours per day), with vibratory pile driving expected to account for 2.6 to 5.5 hours (mean of 4 hours) and impact driving accounting for 0.7 to 4.3 hours (mean of 2.4 hours). Large Level B harassment zones generated by vibratory pile driving would generally be expected for approximately half of a typical workday.

Given the expectations for typical active hammer duration per day (4 hours vibratory, 2.5 hours impact), the sporadic use of hammers during a typical work day (crews require time between active driving of piles to move cranes and set the next piles) and the known movements of CIBW into and out of Knik Arm with the tidal cycle (McGuire *et al.* 2020), NMFS expects that animals exposed on one passage past the POA at the beginning of a tidal cycle are also likely to be exposed moving in the opposite direction when the tides align with construction work hours. Since there is only one opening to Knik Arm, and CIBWs spend the majority of their time in other areas of Cook Inlet, it is likely that animals that enter and exit Knik Arm could be exposed both on entry and exit passages. Thus, the actual number of individuals affected is expected to be fewer than 118, and the maximum annual number of animals taken from this stock is considered small relative to the relevant stock's abundance.

Abundance estimates for the Mexico-North Pacific stock of humpback whales are based upon data collected more than 8 years ago, and therefore, current estimates are considered unknown (Young *et al.*, 2023). The most recent minimum population estimates (N_{MIN}) for this population include an estimate of 2,241 individuals between 2003 and 2006 (Martinez-Aguilar, 2011) and 766 individuals between 2004 and 2006 (Wade, 2021). NMFS' Guidelines for Assessing Marine Mammal Stocks suggest that the N_{MIN} estimate of the stock should be adjusted to account for potential abundance changes that may have occurred since the last survey and provide reasonable assurance that the stock size is at least as large as the estimate (NMFS, 2023). The abundance trend for this stock is unclear; therefore, there is no basis for adjusting these estimates (Young *et al.*, 2023). Assuming the population has been stable, the maximum annual 4 takes of this stock proposed for authorization represents small numbers of this stock (0.18

percent of the stock assuming a N_{MIN} of 2,241 individuals and 0.52 percent of the stock assuming an N_{MIN} of 766 individuals).

Additionally, the POA's proposed action is temporary and of relatively short duration. Potential adverse effects on prey species would also be temporary and spatially limited. Furthermore, alternate areas of similar habitat value for affected marine mammals would be available allowing animals to temporarily vacate the affected areas to avoid exposure to sound.

For these reasons, impacts resulting from this activity are not expected to significantly affect the marine mammal species or stocks as defined in the MMPA. Accordingly, NMFS determined that the specified activity would have a negligible impact on the affected species and stocks of marine mammals.

The mitigation measures required by the IHA to ensure the least practicable impact on affected marine mammals and their habitat, are described in the Mitigation Measures section of the 2025 EA and are summarized below in section VI of this FONSI.

c. Essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals, by Level A or Level B harassment, would not adversely affect essential fish habitat as identified under the Magnuson-Stevens Fishery Conservation and Management Act. Essential fish habitat has been designated in the estuarine and marine waters in the vicinity of the proposed project area for all five species of salmon (i.e., chum salmon, pink salmon, coho salmon, sockeye salmon, and Chinook salmon), which are common prey of marine mammals, as well as for other species. However, there are no designated habitat areas of particular concern in the vicinity of the POA, and therefore, adverse effects on essential fish habitat in this area are not expected. In general, any negative impacts on fish habitat are expected to be minor and temporary.

d. Bird species protected under the Migratory Bird Treaty Act;

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals, by Level A or Level B harassment, would not result in a significant adverse effect on a population of migratory bird species. The impacts of NMFS' proposed action on marine mammals would be temporary and localized in nature and would not result in substantial impacts to marine mammals or to their role in the ecosystem, including in relation to birds.

e. National marine sanctuaries or monuments;

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals would not affect a

national marine sanctuary or monument, as the POA's proposed activity does not take place within or near either. Therefore, take authorized under the regulations and LOA, if issued, would also not occur within or near a national marine sanctuary or monument.

f. Vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals would not cause substantial damage to vulnerable marine or coastal ecosystems, as the action would be limited to the authorization of take by Level A and Level B harassment of marine mammals incidental to the POA's CTR construction activities. LOAs do not authorize the underlying activity (in this case, pile driving and removal), only the take incidental to that activity. The incidental harassment of marine mammals would not have any effect on vulnerable marine or coastal ecosystems, nor any aspects of biodiversity or functioning of marine ecosystems, in a significant manner.

As described elsewhere in this document and the EA, the impact from our action is limited to impacts to marine mammals and their habitat, due to the potential increased noise levels into the marine environment during pile driving and removal. The scientific literature does indicate that impacts to the marine mammal habitat, in the form of effects to marine mammal prey species, is likely. Studies have shown that some fish and invertebrate species may experience displacement or behavioral changes as a result of acoustic exposure from pile driving and removal, such as temporary displacement or cessation in vocalization. However, any noise impact is expected to be limited to the duration of pile driving and removal. Thus, short-term, minor adverse effects are likely to occur but are not expected to rise to the level of significance. Furthermore, we do not anticipate significant physical interactions from pile driving and removal on the environment, other than temporary disturbance and temporarily increased turbidity in the vicinity of pile driving and removal, and do not expect that noise from pile driving and removal would impact coastal ecosystems.

g. Biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals would not have a substantial impact on biodiversity or ecosystem functioning within the affected environment. NMFS expects that the POA's proposed action may result in take by Level A and Level B harassment, and has proposed promulgating incidental take regulations and issuing an LOA to authorize this take. Any impacts would be temporary and localized in nature and would not result in substantial impacts to marine mammals in the area or to their role in the ecosystem. Take by serious injury or mortality is not anticipated nor proposed to be authorized.

Cook Inlet beluga whales may avoid foraging near the site of the CTR project during pile driving and removal; however, the area near the POA is not considered high quality foraging habitat and richer, more productive and significant foraging grounds north of the POA would not be ensounded from pile driving and removal. The effects of our proposed action are expected to be limited to behavioral disturbance, masking, or stress. These effects are anticipated to be short term, minor, and localized. Any auditory injury incurred by non-Cook Inlet beluga whales is expected to be minor (slight threshold shift).

Some recent studies show potential impacts on zooplankton, which form the basis of many food webs, but while there is some scientific disagreement on impacts to zooplankton from this activity, those impacts are not expected to affect predator-prey relationships or otherwise impact any form of benthic productivity. Further, many marine mammals are primarily targeting eulachon runs and pile driving and removal is not anticipated to effect the life cycles of fish such that those fish would not be available as prey.

- D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals would have no foreseeable impact to unique areas, such as historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. NMFS expects that the POA's proposed action may result in take by Level A or Level B harassment, in the form of short-term and localized changes in behavior or slight auditory injury in non-beluga species. Such harassment is not expected to substantially impact ecologically critical areas or cultural resources, as the impacts would be to marine mammals themselves as well as being temporary and localized in nature. Take by injury serious injury or mortality is not anticipated nor proposed to be authorized.

As stated in Table 1 of the 2025 EA, no known historical and cultural resources are located within the POA's action area. The site of the CTR project is unlikely to overlap with activities conducted by the public. Public access, including vessel use, is restricted around the POA. NMFS only authorizes the take of marine mammal species associated with pile driving and removal, which does not involve the public.

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals is not reasonably likely to cause impacts to resources important to traditional culture and religious tribal practice, given the short-term, temporary nature of the activity, and the negligible impact of the take on affected marine mammals. As stated in Chapter 4 of the 2025 EA, though seals are harvested for subsistence uses by several communities along Cook Inlet, the POA's proposed action

(and therefore, the take of seals that would be authorized through the LOA), would occur for a brief period of time outside of the primary subsistence hunting areas. As described in the EA, Cook Inlet beluga whales were historically harvested for subsistence uses but no hunt has occurred since 2005. Further, take of marine mammals by serious injury or mortality is not anticipated nor proposed to be authorized in the LOA.

The effects of the issuance of these incidental take regulations and LOA are limited to those occurring to marine mammals and their habitat; and, therefore, NMFS' proposed action is not expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. Likewise, it is not expected to cause loss or destruction of significant scientific, cultural, or historical resources. The underlying pile driving and removal activities would take place at the POA and there are no such resources there; therefore, the chance of affecting such resources is so remote and unlikely as to be discountable.

- E. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals would not result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The LOA would be limited to the take of marine mammals incidental to construction activities associated with the POA's proposed CTR project. LOAs do not authorize the underlying activity (in this case, pile driving and removal), only the take incidental to that activity. The incidental take of marine mammals, by Level A and Level B harassment, that would be authorized under the LOA would not contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.

Furthermore, while the CTR project would result in increased vessel use during construction, leading to ballast water exchange, the vessels are primarily small work skiffs that are not uncommon to Cook Inlet. Further, POA is required to implement best management practices to prevent the introduction, continued existence, or spread of noxious organisms or other non-native species. Therefore, it is not likely that NMFS' issuance of the LOA would promote or result in the introduction or spread of noxious weeds or nonnative invasive species at a level that would reach significance under NEPA.

- F. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

NMFS' proposed action of promulgating incidental take regulations and issuing an LOA to the POA to incidentally take marine mammals is not expected to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement. NMFS' proposed LOA would authorize incidental take by Level A and Level B harassment of seven species of marine mammal. The take that is expected to occur and proposed for authorization is based on the best available science. This incidental take is expected to be in the form of short-term and localized changes in behavior and/or temporary displacement, based on numerous scientific studies, modeling informed by scientific studies, and monitoring conducted as a requirement under previous IHAs for other projects. Take by serious injury, or mortality is not anticipated nor proposed to be authorized.

The POA's construction activities would occur within the same footprint as existing marine infrastructure, and when construction is complete, subtidal and intertidal habitats previously lost at the project site would be restored. Impacts to the immediate substrate are anticipated, but these would be limited to minor, localized, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time but which would not be expected to have any effects on physical or biological resources. While the area is generally not high quality habitat, it is expected to be of higher quality to marine mammals and fish after CTR construction is complete as the site returns to its natural state and is colonized by marine organisms.

V. Other Actions Including Connected Actions:

As described in Section 1.4 (Purpose and Need) of the 2025 EA, NMFS' proposed action and the purpose and need for that action, are a direct outcome of the POA's request for a MMPA ITS and LOA in connection with construction activities associated with the CTR project. The Cumulative Impacts section of the 2025 EA discusses cumulative impacts, and describes other known recent past, present, and reasonably foreseeable future actions within the vicinity of the POA's action area. As described in the EA, the POA's activities are short-term and conducted over approximately 699.5 hours over years 1 through 5 of the project and 848.5 hours over 6 years. Based on the past, present, and reasonably foreseeable future actions within the CTR project area, the incidental take associated with NMFS' issuance of the regulations and LOA are not expected to considerably contribute to any cumulative impacts from all other actions and activities in Cook Inlet.

VI. Mitigation and Monitoring:

The proposed action was developed to be consistent with previous IHAs issued to the POA. The following mitigation measures are included in the incidental take regulations and LOA and will be undertaken to avoid significant impacts under NEPA:

- Training of construction supervisors and crews, the protected species observers (PSO) monitoring team, and relevant POA staff prior to the start of construction activities;
- The establishment of shutdown zones for non-beluga species;
- The establishment of shutdown zones equivalent to the estimated Level B harassment zone for beluga whales;
- The establishment of measures to avoid direct physical interactions with marine mammals;
- The establishment of a minimum of four PSO stations to ensure that shutdown zones are fully monitored and that shutdowns are implemented as necessary;
- Monitoring of shutdown zones 30 minutes prior and 30 minutes post-completion of pile driving activity;
- The implementation of soft start protocols during impact driving;
- The use of bubble curtains during all impact driving and vibratory installation of permanent piles in waters deeper than 3 meters;
- Cease or delay of in-water activity if a marine mammal is observed entering or is within a shutdown zone; and
- The establishment of shut down measures if any species for which take has not been authorized enters the estimated Level B harassment zone.

NMFS has determined that the required mitigation measures are sufficient to achieve the least practicable adverse impact on the affected species and stocks of marine mammals and their habitat, as required by the MMPA. In addition, the following monitoring and reporting requirements are included in the ITR and LOA:

- Employment of at least two PSOs at each PSO station to monitor the shutdown zones;
- Placement of PSO stations at the best vantage points to observe the entire estimated Level A harassment zones and shutdown zones;
- Submission of weekly and monthly monitoring reports (that include quality controlled electronic data sheets), which include a summary of marine mammal species and behavioral observations, construction shutdowns or delays, and construction work completed;
- Submission of draft annual and comprehensive reports detailing monitoring within ninety days after the completion of the activity or sixty days prior to the issuance of any subsequent authorization for this project, whichever comes first;
- Preparation and submission of final reports within thirty days following resolution of comments on each draft report from NMFS;
- Submission of all PSO datasheets and/or sighting data (in a separate file from the final report referenced immediately above); and
- Reporting of injured or dead marine mammals.

DETERMINATION

The NOAA NEPA NOAA Administrative Order 216-6A and its Companion Manual (NAO 216-6A CM) implementation procedures direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the

analysis contained in the supporting Final EA prepared for the POA's CTR project in Anchorage, Alaska, it is hereby determined that the promulgation of incidental take regulations and issuance of an LOA for the take of marine mammals incidental to the POA's CTR project will not significantly impact the quality of the human environment. The Environmental Assessment for the Issuance of an Incidental Harassment Authorization for the Take of Marine Mammals Incidental to the POA's CTR Project in Anchorage, Alaska is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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