

**DATES:** Applications are due by October 11, 2002.

**ADDRESSES:** Applications kits may be obtained from Michael Murray at 115 Harbor Way, suite 150, Santa Barbara, CA 96825. Completed applications should be sent to the same address.

**FOR FURTHER INFORMATION CONTACT:**

Michael Murray at (805) 884-1464, or [michael.murray@noaa.gov](mailto:michael.murray@noaa.gov), or visit the CINMS Web site at: [www.cinms.nos.noaa.gov](http://www.cinms.nos.noaa.gov).

**SUPPLEMENTARY INFORMATION:** The CINMS Advisory Council was originally established in December 1998 and has a broad representation consisting of 20 members, including ten government agency representatives and ten numbers from the general public. The Council functions in an advisory capacity to the Sanctuary Manager. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program. Specially, the Council's objectives are to provide advice on: (1) Protecting natural and cultural resources, and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) Identifying and realizing the Sanctuary's research objectives; (3) Identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) Assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the National Marine Sanctuary Program.

**Authority:** 16 U.S.C. Section 1431 et seq.

Dated: September 23, 2002.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 02-24719 Filed 9-27-02; 8:45 am]

**BILLING CODE 3510-08-M**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 062802C]

#### Small Takes of Marine Mammals Incidental to Specified Activities; Seismic Retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

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

**SUMMARY:** In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) has been issued to the California Department of Transportation (CALTRANS) to take small numbers of Pacific harbor seals and possibly California sea lions, by harassment, incidental to seismic retrofit construction of the Richmond-San Rafael Bridge (the Bridge), San Francisco Bay (SFB), CA.

**DATES:** This authorization is effective from September 23, 2002, through September 22, 2003.

**ADDRESSES:** A copy of the application may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning one of the contacts listed here.

**FOR FURTHER INFORMATION CONTACT:** Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713-2055, ext 128, or Christina Fahy, Southwest Regional Office, NMFS, (562) 980-4023.

**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 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 and comment.

Permission may be granted if NMFS finds 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 subsistence uses and that the permissible methods of taking and requirements pertaining to the 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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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; 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.

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### Summary of Request

On May 28, 2002, NMFS received a letter from CALTRANS, requesting reauthorization of an IHA that was first issued to it on December 16, 1997 (62 FR 6704, December 23, 1997), and was renewed on January 8, 2000 (65 FR 2375, January 14, 2000) and September 19, 2001 (66 FR 49165, September 26, 2001). The current IHA expires on September 18, 2002. The renewed authorization would be for the harassment of small numbers of Pacific harbor seals (*Phoca vitulina*) and possibly California sea lions (*Zalophus californianus*), incidental to seismic retrofit construction of the Bridge.

The Bridge is being seismically retrofitted to withstand a future severe earthquake. Construction is scheduled to extend until the year 2005. A detailed description of the work planned is contained in the Final Natural Environmental Study/Biological Assessment for the Richmond-San Rafael Bridge Seismic Retrofit Project (CALTRANS, 1996). Among other things, seismic retrofit work will include excavation around pier bases, hydro-jet cleaning, installation of steel casings around the piers with a crane, installation of micro-piles, and installation of precast concrete jackets. Foundation construction will require approximately 2 months per pier, with construction occurring on more than one pier at a time. In addition to pier retrofit, superstructure construction and tower retrofit work will also be carried

out. Because seismic retrofit construction between piers 52 and 57 has the potential to disturb harbor seals hauled out on Castro Rocks, an IHA is warranted. The duration for the seismic retrofit of foundation and towers on piers 52 through 57, which has not taken place as of this date, will take approximately 7 to 8 months to complete.

### Comments and Responses

A notice of receipt of the application and proposed authorization was published on July 24, 2002 (67 FR 48443), and a 30-day public comment period was provided on the application and proposed authorization. Comments were received only from the Marine Mammal Commission (the Commission).

*Comment 1:* The Commission notes that CALTRANS is seeking to expand the currently authorized period during which work is allowed and the size of the work zone in the vicinity of those piers. Specifically, CALTRANS is requesting that: (1) the current work period of 1 August to 15 February be extended to the time period from 16 July to 1 March, and (2) the location of the workboat exclusion zone (BEZ) be shifted from the currently authorized location of 100 ft (30.5 m) east of pier 57 to 100 ft (30.5 m) west of the pier, thus reducing the buffer zone between activities being conducted at pier 77 and "A" rock at Castro Rocks from 600 ft (183 m) to 400 ft (122 m). The Commission believes that NMFS' preliminary determination concerning the changes to the work period are reasonable in view of the facts that there will still be a two-week window quiet period before the onset of pupping (approximately 15 March), and disruptions in late August are likely to be less threatening to molting seals than they would be to mother/pup pairs during the reproductive period. However, the application does not provide the rationale for shifting the work zone closer to hauled-out seals. In addition, it does not provide sufficient information for evaluation of the potential effects for doing so. The existing evidence suggests that the seals have already modified their distribution due to construction activity. The CALTRANS application does not discuss whether the expansion of the work area might cause further disturbance to the seals, cause seals to abandon Castro Rocks completely, or whether there are alternative haul-out sites in the vicinity of Castro Rocks. Such information would facilitate an evaluation of whether the proposed expansion of the work area is likely to

have more than a negligible effect. Although it expects that the effects would be negligible if they are short-lived (*i.e.*, a single year), the Commission recommends that NMFS request the above information from CALTRANS to ensure that such is the case.

*Response:* Information on CALTRANS' request to adjust the BEZ is discussed later in this document (see Mitigation). Over the past several years, the number of seals hauling out on Castro Rocks has increased slightly, including the time since construction has begun. Although CALTRANS has noted a shift in the use of Castro Rocks by the seals while work is going on in the immediate area, the overall numbers have not been reduced. Given that the overall seal population size at Castro Rocks have not been negatively impacted by construction, CALTRANS' request to adjust the dimensions of the BEZ to provide contractors access to pier 57 seems reasonable. Assuming that CALTRANS can continue monitoring from pier 55, CALTRANS will be able to assess the changes in the BEZ by comparing disturbances which occurred last year to the number of disturbances recorded once the BEZ dimensions are changed. By making this comparison (mainly using disturbances which cause a flush), CALTRANS will be able to assess if the changes in the exclusion zone are having a greater impact on the seals at Castro Rocks.

If seals discontinue use of Castro Rocks due to construction work, they could potentially shift to another nearby site such as Yerba Buena Island (YBI), Angel Island, and Brooks Island. Although YBI could likely support more seals, both Angel Island and Brooks Island are typically used by a small number of seals - so seals may not use these two sites in high numbers. In addition, CALTRANS has also noted that, since the onset of construction activities, seals are using a couple of small structures located approximately 800 m (2,625 ft) to the north of the Bridge (slightly NE from Castro Rocks). However, these structures can probably only support approximately 12-15 seals. Monitoring impacts from this project can serve as a scientific experiment in that CALTRANS to determine the threshold limits (*e.g.* distance from construction activity) for disturbance to harbor seals. Although shifting the BEZ may cause further disturbances to the seals, we do not know how/if these disturbances will impact the seals. However, given that CALTRANS has not seen a significant decline in seal numbers at Castro Rocks due to construction thus far, it does not

anticipate that the seals will permanently abandon Castro Rocks as a result of changing the dimensions of the BEZ. If the changes in the BEZ dimensions appear to have more than a negligible impact on the seals, CALTRANS will request that the BEZ be moved back out to the original dimensions when the IHA is requested to be renewed in September 2003. Also, the eastern boundary of the exclusion zone will be relocated 300 ft (91 m) from the most eastern tip of Castro Rocks upon conclusion of work at Pier 57.

### Description of Habitat and Marine Mammals Affected by the Activity

A description of the affected SFB ecosystem and its associated marine mammals can be found in the original CALTRANS application (CALTRANS, 1997) and in CALTRANS (1996). Castro Rocks are a small chain of rocky islands located next to the Bridge and approximately 1500 ft (460 m) north of the Chevron Long Wharf. They extend in a southwesterly direction for approximately 800 ft (240 m) from pier 55. The rocks start at about 55 ft (17 m) from pier 55 (A rock) and end at approximately 250 ft (76 m) from pier 53 (F rock). The chain of rocks is exposed during low tides and inundated during high tide.

### Marine Mammals

General information on harbor seals and other marine mammal species found in Central California waters can be found in Forney et al. (2000, 2001), which are available at the following URL: [http://www.nmfs.noaa.gov/prot\\_res/PR2/Stock\\_Assessment\\_Program/sars.html](http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html). Refer to those documents for information on these species. The marine mammals likely to be affected by work in the Bridge area are limited to harbor seals and California sea lions.

The harbor seal is the only marine mammal species expected to be found regularly in the Bridge area. A detailed description of harbor seals was provided in the 1997 notification of proposed authorization (62 FR 46480, September 3, 1997) with corrections and clarifications provided in the notice of IHA issuance (62 FR 67045, December 23, 1997). This information is not repeated here.

It should be noted that pups are born in mid- to late-March, peak numbers of pups are observed in early May, and, by the first week in June, all pups are weaned (Kopec and Harvey, 1995). Estimated pup counts at Castro Rocks were 35 in 1999, 40 in 2000 and 40 in 2001 (A. Bohorquez pers. comm in Green et al., 2001). This represents

approximately 22–24 percent of the pups born in SFB.

The California sea lion primarily uses the Central SFB area to feed. California sea lions are periodically observed at Castro Rocks. No pupping or regular haulouts occur in the project area.

#### Potential Effects on Marine Mammals

The impact to the harbor seals and California sea lions is expected to be disturbance by the presence of workers, construction noise, and construction vessel traffic. Disturbance from these activities is expected to have only a short-term negligible impact to a small number of harbor seals and sea lions. These disturbances will be reduced to the lowest level practicable by implementation of the work restrictions and mitigation measures (see Mitigation).

Marine mammal monitoring under the current and previous IHAs has been conducted at Castro Rocks and at two “control” haul-out locations in SFB, Mowry Slough and YBI (Green et al., 2001, 2002) since 1998. To date, over 10,000 hours of observations have been conducted at these sites with two-thirds of those hours at Castro Rocks. While disturbances can consist of head alerts, approaches to the water, and flushes into the water, only the third behavior is considered by NMFS to rise to Level B harassment. At Castro Rocks, of all flush disturbances monitored during the day, the major harassment sources were watercraft (e.g. motorboats, sailboats, tankers, kayaks and jet skis) with 0.128 disturbances/hr field time (d/hr); wildlife (seals and birds) with 0.075 d/hr; anthropogenic (debris, workmen on bridge with 0.040 d/hr; and research with 0.021 d/hr. Construction activities resulted in 0.0165 d/hr. There were fewer flushes observed at night. For more detailed information on the extent of take by harassment at Castro Rocks by activities other than the requested authorization, refer to Green et al. (2002).

During the work period (July 16 through February 28) the incidental harassment of harbor seals and, on rare occasions, California sea lions is expected to occur on a daily basis upon initiation of the retrofit work. In addition, the number of seals disturbed will vary daily depending upon tidal elevations. Monitoring by Green et al. (2002) indicates that although overall seal numbers each month of the year are not significantly different across years, there are differences in subsite use by seals at Castro Rocks during both the daytime and nighttime. For example, the average number of seals hauled out on 2 main sites on Castro Rocks (rocks

A and C) during the fall of 2001 (when construction activity was taking place within the area of the haul-out site) was significantly different than the average number of seals hauled out at those same sites on Castro Rocks during 1998–2000, prior to the construction period. It was noted, during the construction period, that fewer seals were using rock A, located closest to the Bridge, and more seals were hauling out on rock C, which was located farther from the Bridge than rock A. The number of seals hauled out on rocks B and E was not significantly different between years while the number hauled out on rocks D and F was greater during the fall of 2000 and 2001 than 1998 and 1999. For a more detailed discussion on the distribution of harbor seals during the work and non-work periods and levels of impact by various natural and anthropogenic disturbance sources, see Green et al. (2002) which is available upon request (see ADDRESSES).

Whether California sea lions will react to construction noise and move away from the rocks during construction activities is unknown. Sea lions are generally thought to be more tolerant of human activities than harbor seals and are, therefore, less likely to be affected.

#### Potential Effects on Habitat

Short-term impacts of the activities are expected to result in a temporary reduction in utilization of the Castro Rocks haulout site while work is in progress or until seals acclimate to the disturbance. This will not likely result in any permanent reduction in the number of seals at Castro Rocks. The abandonment of Castro Rocks as a harbor seal haulout and rookery is not anticipated since existing traffic noise from the Bridge, commercial activities at the Chevron Long Wharf used for off-loading crude oil, and considerable recreational boating and commercial shipping that currently occur within the area have not caused long-term abandonment. In addition, mitigation measures and work restrictions are designed to preclude abandonment.

Therefore, as described in detail in CALTRANS (1996), other than the potential short-term abandonment by harbor seals of part or all of Castro Rocks during retrofit construction, no impact on the habitat or food sources of marine mammals are likely from this construction project.

#### Mitigation

Several mitigation measures to reduce the potential for general noise have been implemented by CALTRANS as part of their activity. General restrictions include: with the exception of the

Concrete Trestle Section, no piles will be driven (i.e., no repetitive pounding of piles) on the Bridge between 9 p.m. and 7 a.m.; an imposition of a construction noise limit of 86 dBA (re 20 micro Pascals) at 50 ft (15 m) between 9 p.m. and 7 a.m.; and, a limitation on construction noise levels for 24 hrs/day in the vicinity of Castro Rocks during the pupping/molting restriction period.

To minimize potential harassment of marine mammals, in previous IHAs NMFS required CALTRANS to comply with the following mitigation measures: (1) A March 1 through July 15 restriction on work in the water south of the Bridge center line and retrofit work on the Bridge substructure, towers, superstructure, piers, and pilings from piers 52 through 57; (2) no watercraft will be deployed by CALTRANS employees or contractors during the year within the BEZ located between piers 52 and 57, except for when construction equipment is required for seismic retrofitting of piers 52 through 57; and (3) minimize vessel traffic to the greatest extent practicable in the exclusion zone when conducting construction activities between piers 52 and 57. The boundary of the current and previous BEZs is rectangular in shape (1700 ft (518 m) by 800 ft (244 m)) and completely encloses Castro Rocks and piers 52 through 57, inclusive. The northern boundary of the BEZ is located 300 ft (91 m) from the most northern tip of Castro Rocks, and the southern boundary is located 300 ft (91 m) from the most southern tip of Castro Rocks. The eastern boundary was located 300 ft (91 m) from the most eastern tip of Castro Rocks, and the western boundary is located 300 ft (91 m) from the most western tip of Castro Rocks. The BEZ is restricted as a controlled access area and is marked off with buoys and warning signs for the entire year.

For this IHA, at the request of CALTRANS, NMFS has shifted the boundary of the BEZ from its current location so that the eastern boundary is shifted from 100 ft (30.5 m) east of pier 57 to 100 ft (30.5 m) west of pier 57. This will maintain a 400-ft (122-m) “buffer,” as opposed to the existing 600-ft (183-m) buffer, between the work at pier 57 and “A” rock. CALTRANS believes that this modification is reasonable based on observed seal behavior during the construction within the BEZ that harbor seals adjusted their location preference on Castro Rocks by moving westerly to rocks further from the construction (see discussion previously in this document). However, CALTRANS notes that there has not been a statistically significant change in

the total numbers of animals that utilize the Castro Rocks haulout.

In addition to shifting the eastern boundary of the BEZ, at the request of CALTRANS, NMFS has modified the period in which work is allowed in the vicinity of Castro Rocks from February 15th to March 1st. CALTRANS requested this modification due to unforeseen circumstances affecting the ability of the contractor to conduct seismic retrofit work on pier 57. This will allow the contractor to complete the work this coming season and to stay under budget. The previous Work Closure Period (February 15–July 31) was designed to encompass the entire harbor seal pupping and breeding seasons and nearly the entire molting season at Castro Rocks. Thus, the Work Closure Period included the entire pupping season at Castro Rocks and a substantial pre-pupping period when females are moving into pupping areas (62 FR 67045, December 23, 1997). Because moving the beginning of the Work Closure Period from February 15th to March 1st will still provide a 2-week window prior to the onset of successful pupping (March 15th), and because NMFS does not find scientific evidence indicating that female harbor seals need a “quiet period” from general noise in order to pup successfully, NMFS has determined that shifting the beginning of the Work Closure Period from February 15th to March 1st would not have a significant impact on harbor seal pupping.

Finally, at CALTRANS request, NMFS has modified the period in which work is allowed in the vicinity of Castro Rocks from August 1st to a new date of July 16th. As mentioned in previous documents, newborn harbor seal pups are able to swim immediately after birth (Zeiner et al., 1990) and pups are weaned by the first week of June. Therefore terminating the Work Closure Period on July 16th is not expected to affect pup survival. Under the current and previous authorizations, the July 31st ending date for the Work Closure Period was established to protect harbor seals during the molting season. However, those documents also noted that it is likely that harbor seals evolved adaptive mechanisms to deal with exposure to the water during the molt. For example, on some harbor seal haul-outs (such as Castro Rocks) during the molting season seals must enter the water once or even twice a day due to tidal fluctuations limiting access to the haul-out. Also, since harbor seals lose hair in patches during the molt, they are never completely hairless and would not be as vulnerable to heat loss in the water during this period compared to

other seals (e.g., elephant seals) that lose all their hair at one time. Finally, if the levels of harbor seal disturbance during the molt are relatively high, seals are likely to utilize other local haul-out sites during the molt (DeLong, R., pers. commun. 1997; Hanan, D., pers. commun. 1997; Harvey, J., pers. commun. 1997). Hanan (1996) found that although harbor seals tagged at an isolated southern California haul-out tended to exhibit site fidelity during the molt, some seals were observed molting at other nearby haul-outs. Based on these reasons, NMFS has preliminarily determined that changing the last day of the Work Closure Period to July 15th should not significantly affect harbor seals in general or molting seals at Castro Rocks in particular.

### Monitoring

NMFS is requiring CALTRANS to continue to monitor the impact of seismic retrofit construction activities on harbor seals at Castro Rocks. Monitoring will be conducted by one or more NMFS-approved monitors. CALTRANS is to monitor at least one additional harbor seal haulout within San Francisco Bay to evaluate whether harbor seals use alternative haulout areas as a result of seismic retrofit disturbance at Castro Rocks.

The monitoring protocol is divided into the Work Period Phase (July 16 through February 28) and the Work Closure Period Phase (March 1 through July 15). During the Work Period Phase and Work Closure Period Phase, the monitor(s) will conduct observations of seal behavior at least 3 days/week for approximately one tidal cycle each day at Castro Rocks. The following data will be recorded: (1) Number of seals and sea lions on site; (2) date; (3) time; (4) tidal height; (5) number of adults, subadults, and pups; (6) number of individuals with red pelage; (7) number of females and males; (8) number of molting seals; and (9) details of any observed disturbances. Concurrently, the monitor(s) will record general construction activity, location, duration, and noise levels. At least 2 nights/week, the monitor will conduct a harbor seal census after midnight at Castro Rocks. In addition, prior to any construction between piers 52 and 57, inclusive, the monitor(s) will conduct baseline observations of seal behavior at Castro Rocks and at the alternative site(s) once a day for a period of 5 consecutive days immediately before the initiation of construction in the area to establish pre-construction behavioral patterns. During the Work Period and Work Closure Period Phases, the monitor(s) will conduct observations of seal behavior

and collect appropriate data at the alternative Bay harbor seal haulout at least 3 days/week (Work Period) and 2 days/week (Work Closure Period), during a low tide.

In addition, NMFS is requiring that, immediately following the completion of the seismic retrofit construction of the Bridge, the monitor(s) will conduct observations of seal behavior, at Castro Rocks, at least 5 days/week for approximately 1 tidal cycle (high tide to high tide) each day, for one week/month during the months of April, July, October, and January. At least 2 nights/week during this same period, the monitor will conduct an additional harbor seal census after midnight.

### Reporting

Under previous IHAs, CALTRANS has provided monitoring reports (Green et al. (2001, 2002). The findings from these reports have been summarized previously in this document.

CALTRANS will provide weekly reports to the Southwest Regional Administrator (Regional Administrator), NMFS, including a summary of the previous week's monitoring activities and an estimate of the number of harbor seals that may have been disturbed as a result of seismic retrofit construction activities. These reports will provide dates, time, tidal height, maximum number of harbor seals ashore, number of adults, sub-adults and pups, number of females/males, number of harbor seals with a red pelage, and any observed disturbances. A description of retrofit activities at the time of observation and any sound pressure levels measurements made at the haulout will also be provided. A draft interim report must be submitted to NMFS by April 30, 2003.

A draft final report must be submitted to the Regional Administrator within 90 days after the expiration of this IHA. A final report must be submitted to the Regional Administrator within 30 days after receiving comments from the Regional Administrator on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

CALTRANS will provide NMFS with a follow-up report on the post-construction monitoring activities within 18 months of project completion in order to evaluate whether haulout patterns are similar to the pre-retrofit haul-out patterns at Castro Rocks.

### National Environmental Policy Act

In conjunction with the promulgation of regulations implementing section 101(a)(5)(D) of the MMPA, NMFS completed an Environmental

Assessment (EA) on May 9, 1995, that addressed the impacts on the human environment from issuance of IHAs and the alternatives to that action. NMFS' analysis resulted in a Finding of No Significant Impact. In addition, NMFS prepared an EA in 1997 that concluded that the impacts of CALTRANS' seismic retrofit construction of the Bridge will not have a significant impact on the human environment. Accordingly, this action has not changed significantly from the 1997 action, it is categorically excluded from further NEPA analysis and, therefore, a new EA will not be prepared. A copy of these two relevant EAs are available upon request.

### Conclusions

NMFS has determined that the short-term impact of the seismic retrofit construction of the Bridge, as described in this document, should result, at worst, in the temporary modification in behavior by harbor seals and, possibly, by some California sea lions. While behavioral modifications, including temporarily vacating the haulout, may be made by these species to avoid the resultant visual and acoustic disturbance, this action is expected to have a negligible impact on the animals. In addition, no take by injury and/or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

### Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1-year period, for the incidental harassment of harbor seals and California sea lions by the seismic retrofit of the Richmond-San Rafael Bridge, San Francisco Bay, CA, provided the above mentioned mitigation, monitoring and reporting requirements are incorporated.

Dated: September 23, 2002.

**David Cottingham,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*  
[FR Doc. 02-24758 Filed 9-27-02; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 091802C]

### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of applications for scientific research permits (1400, 1401) and request for comment.

**SUMMARY:** Notice is hereby given that NMFS has received an application for scientific research from Wildlands, Inc. (WILDLANDS) in Citrus Heights, CA (1400), and the California Department of Water Resources (CDWR) in Sacramento, CA (1401). These permits would affect three Evolutionarily Significant Units (ESUs) of salmonids identified in Supplementary Information below. This document serves to notify the public of the availability of the permit application for review and comment before a final approval or disapproval is made by NMFS.

**DATES:** Written comments on the permit applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific Standard Time on October 30, 2002.

**ADDRESSES:** Written comments on the modification request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the request. Comments will not be accepted if submitted via e-mail or the internet. The applications and related documents are available for review, by appointment, for permits 1400 and 1401: Protected Resources Division, NMFS, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814 (ph: 916-930-3600, fax: 916-930-3629). Documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 3226 (301 713 1401).

**FOR FURTHER INFORMATION CONTACT:** For permits 1400 and 1401: Rosalie del Rosario at phone number 916-930-3600, or e-mail:

*Rosalie.delRosario@noaa.gov.*

### SUPPLEMENTARY INFORMATION:

#### Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531 1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are

issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222-226).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

### Species Covered in This Notice

This notice is relevant to three federally-listed salmonid ESUs: endangered Sacramento River Winter-run Chinook salmon (*Oncorhynchus tshawytscha*), threatened Central Valley Spring-run Chinook salmon (*O. tshawytscha*), and threatened Central Valley steelhead (*O. mykiss*).

### New Applications Received

WILDLANDS requests a 1-year permit for takes of adult and juvenile endangered Sacramento River Winter-run Chinook salmon, threatened Central Valley Spring-run Chinook salmon, and threatened Central Valley steelhead to monitor seasonal fish use of newly created aquatic habitat within the restored tidal wetlands on Kimball Island (in the Sacramento-San Joaquin Delta). CDWR requests a 2.5-year permit for takes of adult and juvenile endangered Sacramento River Winter-run Chinook salmon, threatened Central Valley Spring-run Chinook salmon, and threatened Central Valley steelhead to study the temporal and spatial distribution of fish in relation to the Sacramento Deep Water Ship Channel Lock. The goal of the study is to evaluate fish passage in the boat lock system.

Dated: September 23, 2002.

**Phil Williams,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 02-24757 Filed 9-27-02; 8:45 am]

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