

- No serious injury or mortality is anticipated or authorized;
- No Level A harassment is anticipated or authorized;
- The number and intensity of anticipated takes by Level B harassment is relatively low for all stocks;
- No biologically important areas have been identified for the effected species within Coos Bay;
- For all species, including the Oregon/Washington Coastal stock of harbor seals, Coos Bay is a very small part of their range; and
- No pile driving would occur during the harbor seal pupping season; therefore, no impacts to pups from this activity is likely to occur.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from each of the two years of proposed activity will have a negligible impact on all affected marine mammal species or stocks.

#### Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The take of seven marine mammal stocks proposed for authorization comprises no more than 2.3 percent of any stock abundance.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, for each proposed IHA, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or

species implicated by this action. Therefore, for both proposed IHAs, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure 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, in this case with the West Coast Region Protected Resources Division, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed marine mammal species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### Proposed Authorizations

As a result of these preliminary determinations, NMFS proposes to issue two IHAs to USACE for pile driving and removal activities associated with the North Jetty maintenance and repairs project in Coos Bay, Oregon over the course of two non-consecutive years, beginning September 2020 through June 2023, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. Drafts of the proposed IHAs can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

#### Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHAs for the proposed pile driving and removal activities associated with the USACE's North Jetty maintenance and repairs project in Coos Bay, Oregon. We also request at this time comment on the potential renewal of these proposed IHAs as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for these IHAs or a subsequent Renewal.

On a case-by-case basis, NMFS may issue a one-year IHA renewal with an additional 15 days for public comments when (1) another year of identical or nearly identical activities as described in the Specified Activities section of this notice is planned or (2) the activities as described in the Specified Activities section of this notice would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:
  - (1) An explanation that the activities to be conducted under the requested Renewal are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take because only a subset of the initially analyzed activities remain to be completed under the Renewal).
  - (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: October 17, 2019.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No. PTO-P-2019-0012]

### Updated Legal Framework for Patent Electronic System

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) published on its website an updated legal framework for its Patent Electronic System. The updated legal framework provides guidance on the background statutes, regulations and policies that support the USPTO's Patent Electronic System. The Patent Electronic System currently comprises EFS-Web, which is the USPTO's web-based patent application and document submission system; and the Patent Application Information Retrieval (PAIR) system, which is the USPTO's web-based means for electronically viewing the status of, and documents filed in or associated with, patent applications and proceedings. The updated legal framework also discusses the two-step authentication method now in place for accessing the Patent Electronic System. The updated legal framework serves as a reference for applicants, parties in reexamination proceedings, attorneys, and agents.

**DATES:** *Applicability Date:* October 23, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Inquiries regarding the Patent Electronic System and other USPTO information technology (IT) systems may be directed to the Patent Electronic Business Center (Patent EBC), by telephone: (866) 217-9197 (toll-free) and (571) 272-4100, or by email: [ebc@uspto.gov](mailto:ebc@uspto.gov).

Inquiries regarding IT policy for U.S. national patent applications may be directed to Mark Polutta, Senior Legal Advisor (telephone (571) 272-7709; email at [mark.polutta@uspto.gov](mailto:mark.polutta@uspto.gov)), or Gena Jones, Senior Legal Advisor (telephone (571) 272-7727; email at [eugenia.jones@uspto.gov](mailto:eugenia.jones@uspto.gov)), both with the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

Inquiries regarding IT policy for international applications (PCT) may be directed to Tamara Graysay, Special Program Examiner (telephone (571) 272-6728; email at [tamara.graysay@uspto.gov](mailto:tamara.graysay@uspto.gov)), and inquiries regarding IT policy for international design applications may be directed to Boris Milef, Senior Legal Examiner (telephone (571) 272-3288; email at [boris.milef@uspto.gov](mailto:boris.milef@uspto.gov)), both with the Office of International Patent Legal Administration, Office of International Patent Cooperation.

**SUPPLEMENTARY INFORMATION:** On October 23, 2019, the USPTO published on its website an updated legal framework for its Patent Electronic System. The updated legal framework is

available at <https://www.uspto.gov/sites/default/files/documents/2019LegalFrameworkPES.pdf>. The updated legal framework supersedes all prior versions of the legal framework and Manual of Patent Examining Procedure (MPEP) section 502.05, Ninth Edition, Rev. 08.2017 (January 2018). The following is a brief summary of the major differences introduced by the updated legal framework:

1. Section B has been revised to further clarify that third-party papers are generally prohibited from being filed via EFS-Web unless specifically authorized.

2. Section D has been revised to clarify that providing an incorrect application number and confirmation number when filing a follow-on document will result in the follow-on document being entered in the wrong application. This may result in either the unintentional abandonment of the intended application for failure to reply to an Office action (or notice) or a reduction in patent term adjustment for failure to take reasonable steps to conclude processing or examination of an application. This may result in applicant having to file a petition to revive an unintentionally abandoned application.

3. Section E has been rewritten to discuss the two-step authentication method now being used to log into EFS-Web and Private PAIR.<sup>1</sup> The two-step authentication method replaced the prior use of Public Key Infrastructure (PKI) certificates to access the Patent Electronic System. PKI certificates were discontinued on July 2, 2019.

Dated: October 18, 2019.

**Andrei Iancu,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2019-23139 Filed 10-22-19; 8:45 am]

**BILLING CODE 3510-16-P**

<sup>1</sup> PAIR includes both Public PAIR and Private PAIR. Public PAIR provides access to all issued patents and published patent applications. Private PAIR allows registered users to access pending application information in addition to what is also available in Public PAIR. Two-step authentication is required for Private PAIR but not for Public PAIR.

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 15006-000]

**Owyhee Energy Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications**

October 17, 2019.

On September 4, 2019, Owyhee Energy Storage, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Owyhee Pumped Storage Project (Owyhee Project or project) to be located on Lake Owyhee, near Adrian, Malheur County, Oregon. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new 105-foot-high, 1,260-foot-long zoned earth and rockfill or concrete-face rockfill dam forming a lined upper reservoir with a surface area of 85 acres and a storage capacity of 3,410 acre-feet at a maximum surface elevation of 4,330 feet mean sea level (msl); (2) an existing 470-foot-high, 833-foot-long concrete arch dam forming the existing Lake Owyhee (lower reservoir) with a surface area of 13,900 acres and a storage capacity of 1,120,000 acre-feet at a maximum surface elevation of 2,650 feet msl; (3) a new 14,100-foot-long conduit connecting the upper and lower reservoirs consisting of a 2,200-foot-long, 17-foot-diameter concrete-lined low-pressure tunnel, a 7,100-foot-long, 17-foot-diameter concrete and steel lined pressure shaft, and a 4,800-foot-long, 20-foot-diameter concrete-lined tailrace; (4) a new 80-foot-long, 280-foot-wide, 120-foot-high underground powerhouse containing three reversible pump-turbine units rated at 200 megawatts (MW) each for a total capacity of 600 MW; (5) either 2.6 or 8 miles of double circuit 230-kilovolt transmission line interconnecting with either the Midpoint-Hemingway-Summer Line or the Boardman-Hemingway line, depending on the design of infrastructure; and (6) appurtenant facilities. The estimated annual generation of the Owyhee Project would be 946,080 megawatt-hours.