UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

# Finding of No Significant Impact
# Issuance of Scientific Research Permit No. 15606

## Background

In September 2010, the National Marine Fisheries Service (NMFS) received an application for a permit (File No. 15606) from Andre Landry [Texas A&M University] to conduct research on sea turtles in the Gulf of Mexico. In accordance with the National Environmental Policy Act, NMFS has prepared an Environmental Assessment (EA) analyzing the impacts on the human environment associated with permit issuance (Environmental Assessment for Emergency Action Issuance of Scientific Research Permit to Andre Landry (File No. 15606) to Conduct Research on Threatened and Endangered Sea Turtles). In addition, a Biological Opinion (BO) was issued under the Endangered Species Act (ESA) (3/7/2011) summarizing the results of an intra-agency consultation. The analyses in the EA, as informed by the BO, support the below findings and determination.

## Analysis

National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. On July 22, 2005, NOAA published a Policy Directive with guidelines for the preparation of a Finding of No Significant Impact (FONSI). In addition, the CEQ regulations at 40 C.F.R. Section 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity". Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria, the recent Policy Directive from NOAA, and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?

> Response: The study area is designated as EFH for several species of fishes and invertebrates. However, the proposed action is not reasonably expected to cause substantial damage to the ocean and coastal habitats and/or EFH. Although the researcher's entanglement nets would come into contact with bottom habitat, no substantial adverse effects to the physical environment are expected. The applicant will select anchoring sites on sand/mud substrates. The tangle nets will not disturb bottom habitat. For the issuance of the applicant's previous permit (No. 1526), it was determined that the research activities would not significantly impact EFH and the permit was conditioned to protect them. The proposed permit likewise will contain measures to minimize impacts to bottom habitat and EFH.



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2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No, the proposed action is not expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area. The proposed action is intended to study sea turtle biology in the Gulf of Mexico using standard methods, and all by-catch will be released alive. Thus, the proposed action is not expected to have any substantial impact on biodiversity or ecosystem function.

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: No, the proposed action is not reasonably expected to have a substantial adverse impact on public safety or health. The proposed action will allow a small number of personnel to conduct scientific research on sea turtles in the Gulf of Mexico, following safe practices and standard protocols. Therefore, public health and safety is not likely to be affected.

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: The proposed action is not expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species. Individual sea turtles would be affected, but these impacts would not result in species- or population-level effects. The proposed action is intended to allow the applicant to conduct research on sea turtles within specified areas in the Gulf of Mexico, including those affected by the Deepwater Horizon oil spill. The research would provide information on sea turtle assemblages, movement, habitat preference, and other important data. Given the mitigation measures contained in the permit, the proposed action is not expected to jeopardize the sustainability of the target species. Further, the BO prepared pursuant to the ESA for the proposed action concluded that no listed species, including target sea turtles, would be jeopardized. The BO also concluded that no critical habitat would be adversely modified or destroyed. The sampling will follow sea turtle handling protocols established by NMFS Southeast Fisheries Science Center (SEFSC).

The proposed action is not expected to jeopardize the sustainability of any non-target species. The proposed research is not likely to result in the mortality of non-target species or stocks. NMFS coordinated and consulted with marine mammal experts to ensure the proposed action would not adversely affect marine mammals. Further, the permit will contain conditions to mitigate potential harm and harassment to any non-target species in the area. Therefore, the proposed action is not expected to jeopardize the sustainability of any non-target species

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No, the proposed action would not create any significant social or economic impacts interrelated with natural or physical environmental effects. The oil spill event itself is expected to lead to significant social and economic impacts on the human environment, but the proposed action to allow sea turtle research in areas affected by the oil spill are not expected to exacerbate the situation. Sea turtle research within the action area affected by the Deepwater Horizon oil spill will not have direct or indirect social and economic impacts. Thus, any impacts of the proposed action are not related to, nor have an impact on, the natural or physical environment.

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No, the effects on the quality of the human environment are not likely to be highly controversial. The proposed action will provide vital information on the impacts of the oil spill on sea turtles populations that is essential to NOAA's restoration efforts and will ultimately benefit green, loggerhead, Kemp's ridley, and hawksbill sea turtles populations in the Gulf of Mexico. The proposed research methods are commonly used and NMFS is not aware of any controversy surrounding the permit application. The application was made available for public comment and no substantive comments were received.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, EFH, or ecologically critical areas?

Response: No, the proposed action is not reasonably expected to result in substantial impacts to unique areas, park land, prime farmlands, wetlands, wild and scenic rivers, EFH, or ecologically critical areas. Many of these resources, such as farmlands, park land, and rivers, are not found within the action area and therefore will not be impacted. The oil spill event itself is expected to lead to significant impacts on the physical and biological environment, but the proposed action to permit scientific research in areas affected by the oil spill are not expected to exacerbate the situation. The proposed permit likewise will contain measures to minimize impacts to bottom habitat and EFH. Therefore, there would be no additional impacts on these components of the environment from the proposed action.

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No, the effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks. The proposed research actions are not new and are well-established protocols within the research community. Researchers have previously conducted the same type of research with no significant impacts to the environment.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No, the proposed action is not related to other actions with individually insignificant but cumulatively significant impacts. The proposed action is to permit the applicant to conduct research on sea turtle assemblages in the Gulf of Mexico, including waters affected by the Deepwater Horizon Oil Spill. Thus, any impacts of the proposed action will not have an impact on the physical environment. The oil spill event itself is expected to lead to cumulatively significant impacts on the physical, biological, and human environment, but the proposed action to allow sea turtle research in areas affected by the oil spill are not expected to exacerbate the situation.

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

Response: No, the proposed action does not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, as none are designated in the action area. The proposed action is not expected to cause loss or destruction of significant scientific, cultural, or historical resources.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No, the proposed action is not reasonably expected to result in the introduction or spread of a non-indigenous species. The proposed action will allow sea turtle research to be conducted in the Gulf of Mexico and does not include actions that would lead to the introduction of non-indigenous species.

12) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: No, the proposed action does not establish a precedent for future action with significant effects, and it does not represent a decision in principle about future consideration. Issuing a permit to a specific individual or organization for a given activity does not in any way guarantee or imply that NMFS will authorize other individuals or organizations to conduct the same or similar activity, nor does it involve irreversible or irretrievable commitment of resources.

13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No, the proposed action is not reasonably expected to threaten a violation of Federal, State, local law or requirements imposed for the protection of the environment. The proposed action is in concert with other laws imposed to protect the environment. The permit will not relieve the Permit Holder of the responsibility to obtain any other

permits, or comply with any other Federal, State, local or international laws or regulations necessary to carry out the action.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No, the proposed action to permit sea turtle research is not reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species. The action is not expected to result in cumulative adverse effects to any species. The proposed action is expected to have minimal effects on affected target species' populations. No substantial adverse effects on non-target species are expected. No cumulative adverse effects that could have a substantial effect on any species are expected.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA prepared for the Emergency Action on Issuance of a Scientific Research Permit to Andre Landry (File No. 15606) to Conduct Research on Endangered and Threatened Sea Turtles, it is hereby determined that this action will not significantly impact the quality of the human environment as described above and in the supporting EA. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement (EIS) for this action is not necessary.

MAR 25 2011

James H. Lecky
Director, Office of Protected Resources

Date