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

AUG 31 2010

Finding of No Significant Impact
Issuance of Scientific Research Permit Nos. 14506 and 14726

Background

In December 2009, and October 2009, the National Marine Fisheries Service (NMFS) received applications for two permits (File Nos. 14506 and 14726, respectively) from Llewellyn Ehrhart, Ph.D., and Blair Witherington, Ph.D., to conduct research on sea turtles in Florida. 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 [EA on the Effects of the Issuance of Scientific Research Permits to Llewellyn Ehrhart (Permit No. 14506) and Blair Witherington (Permit No. 14726)]. In addition, a Biological Opinion was issued under the Endangered Species Act (ESA) (September 2010) summarizing the results of an intra-agency consultation. The analyses in the EA, as informed by the Biological Opinion, support the below findings and determination.

Analysis

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO; May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. 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 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?

> The action is not expected to damage the ocean/coastal habitat or EFH. The study sites consist of seagrass beds interspersed with hard bottom habitat. For File No. 14506, the applicant will select anchoring sites on the sand/mud substrates. The tangle nets will not disturb bottom habitat.

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.)?

> The proposed action is not expected to have a substantial impact on biodiversity and/or ecosystem function. The sea turtles will be released alive, benthic productivity will not be affected, and no sediment will be disrupted as a result of the proposed activities. Any non-target species captured during netting will be

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released alive.

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

The proposed action requires the researchers to store and transport biological samples. Researchers will handle and transport samples following safety protocols to ensure there is no impact to public health or safety.

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?

Critical habitat has been designated for Johnson's sea grass and the Florida manatee in the action area for File No. 14506; however, the proposed action will not adversely affect these areas or threatened Johnson's sea grass. Research activities would occur primarily in the water column. As a condition of the permit researchers would not be authorized to conduct research activities on or around Johnson's sea grass or its critical habitat. As noted in response to Question #1, nets will contact but not disturb the substrate. Based on informal consultation with the U.S. Fish and Wildlife Service, endangered Florida manatees are not likely to be adversely affected given that conditions will be included in the permit to prevent interactions.

The proposed action will affect endangered and threatened sea turtles for both requests. However, the effects of the proposed action on individuals will not be severe and will be short-term in nature. No injuries to listed species are expected and individual animals will be released after they are sampled or handled. The research could affect other non-target species (e.g., skates and rays), but they will be released alive and are not expected to be appreciably affected by this research. The permits will contain conditions to minimize the potential effects and stress to target and non-target species resulting from the capture. Researchers will not set nets if marine mammals are present in the sampling area.

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

There will be no significant social or economic impacts as a result of the proposed action.

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

The action is not likely to be controversial. The applications were made available for public comment and no substantive comments were received. The research methods are commonly used and NMFS is not aware of any controversy surrounding these permit applications.

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, essential fish habitat, or ecologically critical areas?

Both applicants will conduct work within EFH as noted in the response to Question #1 but EFH would not be substantially impacted. File No. 14726 would not occur in any other unique areas. Research proposed under File No. 14506 will occur in the waters of Pelican Island National Wildlife Refuge. The applicant will ensure that the nets will not drag along the bottom and will be watched constantly to minimize impacts to the target species, incidental species and the environment. Given the precautionary approach researchers will take, and the conditions that will be included in the permit, NMFS does not expect the research will adversely impact protected areas. No research activities will affect any other unique areas.

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

The research activities of the proposed permits are not new. Researchers have previously conducted the same type of research with no significant impacts to the environment. The effects on the human environment are not highly uncertain and the risks will be minimal and known.

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

The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. If the proposed permits are issued, it is not expected that the additional effects of this research will result in cumulatively significant impacts. The short-term stresses (separately and cumulatively when added to other stresses the species face in the environment) resulting from the proposed activities will be expected to be minimal. Animals will be exposed to low level harassment and no serious injuries will be expected. The permits will contain conditions to mitigate adverse impacts to species from these activities.

Overall, the proposed action will be expected to have no more than short-term effects on endangered and threatened sea turtles and minimal to no effects on other aspects of the environment. The incremental impact of the action when added to other past, present, and reasonably foreseeable future actions discussed in the EA will be minimal and not significant.

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?

The proposed research will not take place in areas listed or eligible for listing in the National Register of Historic Places. As stated above in Question 7, the researcher would not adversely affect 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?

The proposed research is not expected to result in the spread of non-indigenous species. Researchers will take precautions to ensure all equipment is cleaned before transiting to another capture site. The research vessels will not take on ballast water.

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?

The decision to issue these permits will not be precedent setting and will not affect any future decisions. 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?

The action will not result in any violation of Federal, State, or local laws for environmental protection. In addition, the permits will not relieve the Permit Holders 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. Both researchers have applied for a State of Florida marine turtle research permit. Dr. Ehrhart has applied for a permit to work in the Pelican Island National Wildlife Refuge.

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?

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 will be expected.

DETERMINATION

In view of the information presented in this document, and the analyses contained in the EA and Biological Opinion prepared for issuance of Permit Nos. 14506 and 14726, it is hereby determined that permit issuance will not significantly impact the quality of the human environment. 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 for this action is not necessary.

for James H. Lecky
Director, Office of Protected Resources

Aug 31, 2010
Date