UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

Papahānaumokuākea Marine National Monument
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FINDING OF NO SIGNIFICANT IMPACT

Environmental Assessment for Issuance of a Papahānaumokuākea Marine National Monument Permit for Access and Scientific Research on Cetaceans (PMNM-2010-053)

Cetacean research would be conducted in Papahānaumokuākea Marine National Monument (Monument) via a research permit issued jointly by the National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS), the United States Fish and Wildlife Service and the State of Hawai'i, as co-trustees of the monument. The NOAA National Marine Fisheries Service (NMFS), Southwest Fisheries Science Center (SWFSC) prepared an environmental assessment (dated June, 2010) to evaluate the impacts of conducting population assessments, determining abundance, distribution, movement patterns, stock structure and diet of pinnipeds, cetaceans, and sea turtles. NMFS issued a scientific research permit for takes of marine mammals in the wild, pursuant to the Marine Mammal Protection Act (File No. 14097). The ONMS reviewed the environmental assessment (EA) prepared by NMFS and has utilized it as a basis for this finding of no significant impact for its issuance of a Monument research permit for cetacean research in the Monument.

NOAA Administrative Order (NAO) 216-6 (revised May 20, 1999) provides eleven criteria for determining the significance of the impacts of a proposed action. These criteria are discussed below with respect to the proposed action. Based on the analysis in the adopted supplemental environmental assessment, the Monument finds that:

1. Are there both beneficial and adverse impacts of the proposed action that when combined result in a net benefit?

The proposed action would result in research that may contribute to better management of selected cetacean species observed in the Monument. The proposed action would not be expected to result in any adverse impacts on Monument resources or ecological integrity. The effects of large and small vessel surveys, photo-identification activities, and close approach would be negligible. The effects of biopsy sampling and tagging would be negligible through best management practices included in the EA analysis and conditions specific to the activity placed in the permit. The effects on the physical environment, including effects of anchoring small boats and cross contamination of sampling and field research gear, are non-existent as strict quarantine, gear disinfection protocols are mandatory for all researchers conducting activities in the Monument. The research procedures used for this project have been well-tested and follow professionally accepted protocols, and best management practices would be in place to ensure research activities are only conducted on healthy cetaceans.

2. What is the degree to which public health or safety is affected by the proposed action?

The proposed action involves close approach during aerial surveys and vessel surveys for biopsy sampling, tagging, tracking behavioral observation, and photo identification of cetaceans. It would not involve hazardous methods, toxic agents or pathogens, or other materials that

would have a substantial adverse impact on public health and safety. Research would be conducted by or under the close supervision of experienced personnel, as required by the permit. Therefore, no negative impacts on human health or safety are anticipated during the proposed action.

3. Are there unique characteristics of the geographic area in which the proposed action is to take place?

The Monument contains one of the healthiest coral reef ecosystems in the world. However, the proposed action would take place throughout the Monument, in deep water >100ft., well away from seabird nesting sites, coral reef areas, and known Hawaiian monk seal haul-out areas. The proposed action would not affect any unique characteristics of the geographic area. It is directed specifically at target cetacean species.

4. What is the degree to which effects on the human environment are likely to be highly controversial?

None of the effects on the quality of the human environment are controversial. As noted, the proposed action would be conducted by trained personnel with best management practices in place to ensure that research activities are only conducted on healthy cetaceans not involved in reproduction, pair bonding, feeding or other functions. No lethal takes would be authorized or would be expected as a result of the research activities. This EA was posted on the Monument website (http://hawaiireef.noaa.gov) for public comment for fifteen days (July 20 – August 3, 2010). The comment period yielded no comments.

5. What is the degree to which effects are highly uncertain or involve unique or unknown risks?

The proposed action is not unique. The proposed action has been conducted with regard to cetaceans for decades. The risks are known and would involve the temporary, minimal harassment of individual dolphins and whales. Biopsy sampling has been cited in the literature as leading to the death of one dolphin in poor health in the Mediterranean. Other than this case, there have been no reported serious injuries or mortalities of cetacean species or risks to any other portion of the human environment as a result of the proposed action. Based on the description of the activities by the applicant and mitigation measures of the permit, no mortalities or serious injuries would be expected, therefore, the risks to the human environment are not unique or unknown.

6. *What is the degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration?*

The issuance of a Monument research permit for these activities does not set a precedent for any future decisions on activities proposed in the Monument. Issuance of a Monument permit does not in any way guarantee or imply that Monument Managers will authorize other individuals or organizations to conduct the same research activity. Any future request received would be evaluated upon its own merits relative to the criteria established in the Marine Mammal Protection Act, Endangered Species Act, Monument Proclamation 8031 and Monument regulations at 50 CFR part 404.

7. *Does the proposed action have individually insignificant but cumulatively significant impacts?*

Issuance of the proposed permit is not related to other actions with individually insignificant but cumulatively significant impacts. This action is of limited context and intensity, with limited environmental effects, individually and cumulatively. One Monument permit was issued for these activities in 2007 (PMNM-2007-008) and it is reasonably expected that an annual Monument permit may be issued to continue research and monitoring on select marine mammal species in conjunction with MMPA, ESA and other necessary compliance requirements. Over time, NMFS has issued dozens of permits for the take of marine mammals by harassment from a variety of activities including aerial and vessel surveys, photo-identification, remote biopsy sampling, and attachment of scientific instruments in the Pacific and Southern Oceans. The effects of repeated disturbance from scientific research along with other impacts, (e.g. environmental stressors combined with effects from research activities) have been considered, but are not occurring simultaneously, or on the same individuals. Therefore, the proposed action is not expected to cause significant cumulative effects.

Non-target species would potentially be affected by the proposed action (i.e. disturbance from vessel noise or presence of research personnel), but these potential impacts would be expected to be minimal and insignificant with best management practices included as part of the proposed action. No cumulative adverse effects that would have a substantial effect on the target or non-target species would be expected. Overall, it is anticipated that the proposed action would not have significant cumulative effects.

8. *What is the degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources?*

The proposed action would occur away from sites (Nihoa Island and Mokumanamana) listed on the National Register of Historic Places and therefore would not adversely affect areas listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural or historic places.

9. What is the degree to which endangered or threatened species, or their critical habitat as defined under the Endangered Species Act (ESA) of 1973, are adversely affected?

Section 7 of the ESA requires consultation with the appropriate federal agency (either NMFS or the U.S. Fish and Wildlife Service) for federal actions that "may affect" a listed species or adversely modify critical habitat. NMFS issuance of a permit and subsequent issuance of a Monument permit (the proposed action) affecting ESA-listed species or designated critical habitat, directly or indirectly, is a federal action subject to the requirements of Section 7.

The consultation process pursuant to Section 7 of the ESA was concluded after close of the comment period on the application to ensure that no relevant issues or information were overlooked during the initial scoping process summarized in Chapter 1 of the EA. For the purpose of the consultation, the draft EA represented NMFS' assessment of the potential biological impacts. Informal consultation with the U.S. Fish and Wildlife Service (USFWS) indicated that the proposed action was not likely to adversely affect listed species or designated critical habitat under USFWS jurisdiction. Consultation with NMFS determined that the proposed action would not jeopardize any endangered species, or destroy or modify any critical habitat under NMFS jurisdiction (NMFS 2010; Biological Opinion for Permit Number 14097).

10. Is a violation of Federal, state, or local law for environmental protection threatened?

The proposed action does not threaten a violation of federal, state, or local law requirements imposed for the protection of the environment, natural, or cultural resources. NMFS researchers operate with all necessary and required permits and approvals from Federal, state, and local agencies.

11. Will the proposed action result in the introduction or spread of a non-indigenous species?

The proposed action is not expected to result in the introduction or spread of a nonindigenous species. The species involved in the proposed action are native to the study regions. Deployment and transfer of both equipment and personnel will be bound by strict quarantine procedures which are delineated as part of the Monument permitting process, to prevent introduction of both terrestrial and marine species. Such procedures have been standard practice for the Protected Species Division for many years within the Monument, as well as within USFWS Refuges prior to creation of the Monument.

FONSI Statement

In view of the analysis presented in this document, the environmental assessment for Issuance of a Scientific Research Permit [File No. 14097] for Pinniped, Cetacean, and Sea Turtle Studies, the decision to issue a Monument research permit (PMNM-2010-053) will not significantly affect the quality of the human environment with specific reference to the criteria contained in Section 6.01 of NAO 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act (NEPA). Accordingly, the preparation of an environmental impact statement is not necessary.

Daniel J. Basta
Director
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28 OCT 2013
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