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. 14622

Background

In January 2010, the National Marine Fisheries Service (NMFS) received an application for a permit (File No. 14622) from Allen Foley to conduct research on sea turtles in Florida Bay. 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 ("On the Effects of the Issuance of a Permit to Conduct Research on Sea Turtles in Florida Bay"). In addition, a Biological Opinion was issued under the Endangered Species Act (February 2011) 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 (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 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. The applicant will be conducting visual surveys from a boat and capturing turtles by hand or dipnet. The research activities will not disturb bottom habitat since no gear will enter the water column.

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. The capture method would not result in bycatch or impacts to non-target species.

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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 the Florida manatee in the action area for File No. 14622; however, the proposed action will not adversely affect these areas. Research activities would occur primarily in the water column. As noted in response to Question #1, nets will not be used and thus 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. 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 permit will contain conditions to minimize the potential effects and stress to target and non-target species resulting from the capture.

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

There are no significant social or economic impacts directly related to potential impacts of permit issuance. Issuance of the permit would not substantially impact short- or long-term use of the environment or result in use of natural or depletable resources, such as might be expected from construction or resource extraction activities. There would be no significant social or economic impacts as a result of the work conducted on sea turtles. Issuance of the permit and conduct of the research would not result in inequitable distributions of environmental burdens or access to environmental goods. NMFS does not expect issuance of the permit to adversely affect low-income or minority populations.

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 application was made available for public comment and no public comments were received. The research

methods are commonly used and NMFS is not aware of any controversy surrounding the permit application.

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?

The applicant will conduct work within EFH as noted in the response to Question #1 but EFH would not be substantially impacted. Research would occur within the boundaries of the Everglades National Park (ENP) around the vicinity of the Arsnicker Keys, Rabbit Keys, and Twin Keys in southwestern Florida Bay. The applicant has a permit from the ENP to work in the park and would follow all ENP protocols for the use of vessels.

The applicant will ensure that all measures will be taken 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 similar research (i.e., visual surveys, hand capture of turtles) 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 permit is 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 is expected to be minimal. Animals will be exposed to a low level of harassment and no serious injuries will be expected. The permit 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. All research would occur in the same area so vessels would not be transiting between water bodies.

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 the permit 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 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. The applicant works for the State of Florida and is aware that he must have a state permit to do the proposed work. Dr. Foley has a permit to work in the Everglades National Park.

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 No. 14622, 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.

James H. Lecky
Director, Office of Protected Resources

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Date