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. 13602-01

Background

In March 2010, the National Marine Fisheries Service (NMFS) received an application for an amendment to Permit No. 13602 from Terrie Williams, Ph.D., to conduct research on threatened and endangered marine mammals in captivity. 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 Issuance of a Permit Amendment to Conduct Research on Captive and Rehabilitating Threatened and Endangered Marine Mammals (Permit No. 13602-01). 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 (EFH) as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?

> Issuance of this permit would not affect ocean and coastal habitats or any designated EFH. There is no EFH present in the action area, which only includes facilities housing captive marine mammals. No activities in the wild are proposed.

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.)?

> Again, issuance of the permit would not authorize any activities in the wild; therefore, there would be no impact on biodiversity or ecosystem function. The subject animals of this permit would already be in captivity (either permanently

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captive or in rehabilitation); rehabilitating animals would be collected and released to the wild under separate federal authorizations.

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

The issuance of this permit would not have a substantial adverse impact on public health and safety. Research on these animals would be conducted by qualified individuals who are properly trained in husbandry protocols and safety procedures to minimize the risk of zoonotic disease transmission.

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?

Permanently captive Hawaiian monk seals and rehabilitating ESA-listed species in California (Steller sea lions, Guadalupe fur seals, and possible Southern resident killer whales) may be adversely affected by the proposed action. However, a biological opinion (NMFS 2011) was prepared that concluded the proposed action would not likely jeopardize the existence of these ESA-listed species. The permit would be conditioned to require mitigation to minimize adverse impacts to ESA-listed species. No critical habitat or non-target species would be affected.

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

There are no significant social or economic impacts anticipated from conducting research on a limited number of captive marine mammals, and there are no social or economic impacts related to environmental effects anticipated. The action will not result in unequal distributions of environmental problems or unequal access to any natural resources.

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

This application was made available for public review and no public comments were received on this application. Those comments received by solicited reviewers were positive and recommended approval of the permit amendment.

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?

Issuance of the permit amendment would not result in impacts to any of these types of areas. The action area for the proposed research activities is the Long Marine Laboratory and cooperating public display or rehabilitation facilities.

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

The potential risks of conducting the permitted research are not unique or unknown, nor is there significant uncertainty about impacts. This applicant is seeking authorization for the conducting activities already permitted on non-listed species and has been conducting this type of research for close to 30 years. There is nothing in the reports of this past research to indicate that there are any unique or unknown risks associated with this project. NMFS does not expect significant adverse impacts given the limited number of animals that would be affected, the captive locations of the animals to be used, the limited duration of each research trial, veterinary oversight, and the use of operant conditioning to the maximum extent possible.

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

Issuance of this permit is not interrelated with or interdependent on any other federal, state or local actions that could have environmental impacts. The permit would be restricted to research on captive marine mammals. In order to avoid cumulative impacts on individual animals, the research protocols are written with specific mitigation measures that outline the conditions under which animals may participate (i.e., number of tests in a given period, rest periods, and grouping measurements when possible). This research is also based on the voluntary participation of test subjects to the maximum extent possible.

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 issuance of this permit would not adversely affect entities listed in or eligible for listing in the National Register of Historic Places, nor would it cause loss or destruction of significant scientific, cultural, or historic resources. The permitted activities would be restricted to the facilities in which the captive animals are held.

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

Issuance of this permit amendment is not likely to result in the introduction or spread of a non-indigenous species. The individual marine mammals to be used in the proposed research activities include those held in permanent captivity. The permit would be conditioned to prohibit the release of any permanently captive animals to the wild unless done pursuant to a separate federal research permit. The release of rehabilitating animals would be done pursuant to separate federal

authorizations given by the Marine Mammal Health and Stranding Response Program and is not part of the proposed action for this amendment.

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?

Issuance of this permit amendment would not set a precedent for future actions or represent a decision in principle. Nothing about NMFS' decision making process pursuant to the statutory and regulatory criteria is unique to this permit, nor is this the first permit NMFS has issued for this type of research. Issuance of this permit does not involve any irreversible or irretrievable commitments 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?

Issuance of the permit is not expected to violate any Federal, State, or local laws or requirements related to environmental protection. NMFS has sole jurisdiction for issuance of such permits for marine mammal species requested under this permit and has determined the proposed research to be consistent with the applicable provisions of the MMPA and ESA. The permit is conditioned to require any other Animal Welfare Act (AWA) permits and authorizations necessary for research on marine mammals.

Consistent with the requirements of the AWA, approval for this research project, including research on rehabilitating animals and permanent captives, was granted by the University of California at Santa Cruz's Chancellor's Animal Research Committee (CARC). The applicant's institution, Long Marine Laboratory, also has an Animal Welfare Assurance on file with the National Institute of Health, Office for Protection from Research Risks. Approval for this research was also granted by the Office of Naval Research Animal Use Division.

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?

Issuance of the permit amendment is not expected to result in significant adverse impacts on its own, or when the incremental impacts are considered in combination with impacts of other past, present or reasonably foreseeable future actions. This permit is specific to a select number of captive marine mammals. Only one other permit has been issued for research on captive Hawaiian monk seals at the Waikiki Aquarium; no other permits have been issued or are under consideration related to marine mammals undergoing rehabilitation at Long Marine Laboratory. For the stranded marine mammals, mitigation measures would be in place to ensure that research activities will not jeopardize an animal's potential for being a release candidate at the conclusion of rehabilitation activities and to minimize impacts of the research.

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. 13602-01, 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.

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James H. Lecky
Director, Office of Protected Resources

Date