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

Finding of No Significant Impact
Issuance of Scientific Research Permit No. 14726-01

Background

In January 2011, the National Marine Fisheries Service (NMFS) received an application to modify Permit No. 14726 from Blair Witherington, Ph.D., to conduct research on sea turtles in Florida. In accordance with the National Environmental Policy Act, NMFS has prepared a Supplemental Environmental Assessment (SEA) analyzing the impacts on the human environment associated with permit issuance [SEA for Emergency Action Issuance of a Modification to Scientific Research Permit No. 14726 for Research on Protected Sea Turtles]. In addition, a Biological Opinion was issued under the Endangered Species Act (ESA) (April 2011) summarizing the results of an intra-agency consultation. The analyses in the SEA, as informed by the Biological Opinion, support the below findings and determination.

Analysis

National Oceanic and Atmospheric Administration (NOAA) Administrative Order (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 FMPs?

> Response: The study area is designated as EFH for several species of fish (e.g., tuna, sharks). However, given the nature of the proposed research activities, the Proposed Action is not reasonably expected to cause substantial damage to the ocean and coastal habitats and/or EFH. Researchers would not come into contact with bottom habitat and no substantial adverse effects to the physical environment are expected. Therefore the Proposed Action is not expected to result in impacts to any physical habitat not previously considered in the environmental assessment (EA, NMFS 2010) prepared for issuance of Permit No. 14726.

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.)?

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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 turtles in the Gulf of Mexico using standard methods. No other species or portions of the ecosystem would be impacted. 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 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: Permit No. 14726-01 would authorize takes of endangered and threatened sea turtles resulting in no more than short-lived minimal impacts to individual animals. No serious injury or mortality would be expected, nor impacts at the population or species level. The Proposed Action cannot be reasonably expected to jeopardize the sustainability of any target stocks. The Proposed Action would allow the applicant to conduct scientific studies on sea turtles within areas affected by the Mississippi Canyon (MC) 252 oil spill. The research would provide managers with critical data on the impacts of the MC 252 oil spill on sea turtle populations as part of the Natural Resource Damage Assessment. Given the mitigation measures contained in the permit, the proposed action is not expected to jeopardize the sustainability of the target species. Further, the biological opinion (BO) prepared pursuant to the ESA concluded that no listed species, including the target sea turtles, would be jeopardized by the Proposed Action. The BO also concluded that no critical habitat would be adversely modified or destroyed by the Proposed Action. Further, the permit for the proposed action will contain mitigation measures to prevent adverse effects to endangered or threatened species and marine mammals.

The Proposed Action is not expected to jeopardize the sustainability of any non-target stocks. The applicant would not attempt to approach or interact with any non-target species as the research would involve visually counting and dip netting sea turtles from a vessel conducting routine movements at the water surface. No interactions with other species are expected, including harm, injury or mortality of non-target animals. Further, as an added precaution the modified permit would continue to contain conditions to mitigate potential harm and harassment to any non-target stocks 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 MC 252 oil spill would not have direct or indirect social and economic impacts. Thus, no social or economic effects are expected to be interrelated with effects to 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 turtle populations that is essential to NOAA's restoration efforts and will ultimately benefit sea turtle populations that use the Gulf of Mexico. The proposed research methods are commonly used and NMFS is not aware of any controversy surrounding the modification request. 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, biological, and human environment, but the Proposed Action to permit scientific research in areas affected by the oil spill is not expected to exacerbate the situation. Therefore, no additional impacts on these components of the environment are expected 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 activities 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 MC 252 Oil Spill. As described in previous responses, 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 is 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 would 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 non-indigenous species. Based on the nature of the Proposed Action and methods that would be followed, it is not expected to 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 would 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, or local law or requirements imposed for the protection of the environment. The Proposed Action is considered to be in concert with other laws imposed to protect the environment. The modified 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 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 no more than minimal effects on the individual target sea turtles. As noted in previous responses, no substantial adverse effects on non-target species are expected. No cumulative adverse effects that could have a substantial effect on any species would be 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 Modification to Scientific Research Permit No. 14726 for Research on Protected 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 for this action is not necessary.

James H. Lecky
Director, Office of Protected Resources

APR 07 2011
Date