Finding of No Significant Impact (FONSI) for the Regulatory Amendment to the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands Establishing Compatible Closures

National Marine Fisheries Service

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 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 in 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.

Subsequent references throughout the following FONSI refer to the consolidated document containing the Environmental Assessment (EA) and Regulatory Amendment.

These criteria include:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: No. The action proposes to prohibit the harvest and possession of queen conch in federal waters when harvest is closed in territorial waters, which will help increase the sustainability of those species. The purpose of the action is to provide further protection to queen conch populations than current regulations allow. Supporting analysis can be found in Section 5.0 of the consolidated EA and Regulatory Amendment.

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

Response: No. Because the proposed action relates only to the harvest and possession of queen conch in Lang Bank (Section 3.0), and will not result in any increased extractive activities in the area, the proposed action cannot reasonably be expected to jeopardize the sustainability of non-target species.

3) 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 FMPs?

Response: No. The proposed action will reduce fishing pressure by prohibiting fishing for or possession of queen conch when the territorial quota has been met and when territorial waters are seasonally closed. According to Section 5.1 of the consolidated EA and Regulatory Amendment, the reduction in fishing pressure would equate to reducing impacts on the ocean and essential fish habitat by reducing interactions with SCUBA divers and associated gear and reducing fishing effort.

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

Response: No. Establishing a compatible quota and seasonal closure will not affect harvest methods, the safety of fishermen at sea, nor will it change the quality or safety of seafood harvested in the

area. According to Section 5.1, the proposed action is designed to protect the biological environment of queen conch. Therefore, the proposed action is not likely to affect public health and safety.

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

Response: No. Two coral species found in the Caribbean are listed as threatened. However, because this action will limit fishing activities within Lang Bank for a longer period of time than under the current regulations, there are no adverse impacts expected to the threatened corals or other endangered and threatened species. According to Section 5.1, incidental catch and interactions, including entanglements, with threatened or endangered species (i.e. coral and turtles) and to their critical habitat is likely to be reduced as a result of reduced fishing pressure on the area. An Endangered Species Act Section 7 Consultation was conducted and determined the continued authorization of the queen conch fishery is not likely to adversely affect the two listed *Acropora* species or their designated critical habitat.

6) 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.)?

Response: No. The proposed action is expected to have a positive (beneficial) long-term impact on biodiversity and ecosystem function in the area by providing further protection for queen conch populations (Section 5.1). However, since current fishing pressure within the area is not expected to be substantial during the proposed compatible closure, the positive long-term impact on the queen conch resources is not expected to be substantial.

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

Response: No. According to Sections 3.1 and 5.2, transport of queen conch through federal waters to other landing locations is prohibited. The territorial regulations stipulate that possession of queen conch is prohibited in territorial waters during any closure of territorial waters. Harvests from Lang Bank during open season can be legally transported through territorial waters, assuming they were legally harvested under federal law and landed in St. Croix. Whether such transit actually occurs is unknown do to a lack of data. Current fishing pressure within the area is not expected to be substantial during the proposed compatible quota closure. Fishers will be able to fish for other species during the year and should not be economically impacted by the management action. Consequently, proposed regulations are not expected to result in significant social or economic impacts.

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

Response: No. Quota and seasonal closures have historically been used in the U.S. and elsewhere for fisheries management and allow fishers to adjust their fishing targets accordingly. The proposed regulations have also been subject to public comment and are not likely to cause controversy.

9) 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 or ecologically critical areas?

Response: No. In the area where regulations are proposed, no known historic or cultural resources are found. Also, ecologically critical areas (such as coral reef habitats) have been identified and would be afforded additional protection by the proposed actions through reduced fishing pressure (Sections 3.1, and 5.1). No substantial impacts to these areas or resources are expected as a result of the proposed actions.

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

Response: No. As outlined in Section 5.2, it is unknown whether harvests currently continue when territorial waters are closed. If such harvests do occur, the proposed action would not be expected to result in any biological or associated economic and social benefits relative to the no action alternative. If, however, harvests currently continue in the Lang Bank when territorial waters are closed, the proposed action is expected to result in unquantified biological benefits and reduced short-term social and economic benefits. Regardless of current practices, the proposed action is expected to result in increased social benefits as a result of regulatory simplicity. No highly uncertain or unique or unknown risks are anticipated.

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

Response: No. The proposed action will not be cumulatively significant or result in significant changes to the area. As outlined in Section 3.1, the action proposes to establish quota and seasonal closures compatible with St. Croix, U.S.V.I. In addition, there are no additional actions pertaining to Lang Bank that may result in cumulatively significant impacts. This rule is not directly related to any other future action currently under consideration.

12) 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. Lang Bank is not in proximity of any locations listed in or eligible for listing in the National Register of Historic Places. As a result, the proposed action is not expected to have any effect on such locations or cause loss or destruction of significant scientific, cultural, or historical resources.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Response: No. The proposed action to establish compatible quota and seasonal closures for queen conch on Lang Bank (Section 3.1) proposes only to limit extractive uses by prohibiting fishing for and possession of queen conch in the area while St. Croix territorial waters are closed and will neither introduce nor spread non-indigenous species.

14) 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. As outlined in Section 3.1, the action proposes to establish compatible quota and seasonal closures with St. Croix, U.S.V.I. Establishing compatible closures to protect fishery resources and habitat is a well established management strategy that has historically been used in fishery management. As a result, this action does not present any new or unusual issues for future consideration. FMPs and their implementing regulations are always subject to future changes. NOAA Fisheries Service has discretion to amend its regulations, in accordance with the fishery management plan, and may do so at any time, subject to the Administrative Procedures Act, National Environmental Policy Act, and other applicable laws.

15) 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 consolidated EA and Regulatory Amendment was developed under the guidelines of various federal laws, including National Environmental Policy Act and Magnuson-Stevens Fishery Conservation and Management Act. The consolidated EA and Regulatory Amendment outlines the other laws that were considered during this federal fishery management decision-making process (Section 9.0).

16) 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. There are no additional actions pertaining to Lang Bank that may result in cumulatively significant impacts. As outlined in Section 3.1, the proposed action prohibits harvest and possession of queen conch when St. Croix territorial waters close due to the quota being met, which will prevent resultant adverse effects to queen conch. The action is not expected to be cumulatively significant to target or non-target species in the area.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for Proposed Rule to Implement Compatible Closures with U.S.V.I. Territorial Waters, it is hereby determined that the regulatory proposed rule 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.

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Date