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. 15672

Background

In February 2011, the National Marine Fisheries Service (NMFS) received an application for a permit (File No. 15672) from Dr. Molly Lutcavage to conduct research on leatherback sea turtles in the Atlantic waters of Massachusetts, New York and New England. 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 on the Effects of the Issuance of a Scientific Research Permit File No. 15672 to Molly Lutcavage to Conduct Leatherback Sea Turtle Research; March 2012). In addition, a Biological Opinion was prepared under the Endangered Species Act (ESA) (NMFS 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?

Response: The proposed action would take place in Essential Fish Habitat (EFH), but the action is not expected to damage the ocean/coastal habitat or EFH. The permit would authorize the capture of leatherback sea turtles using a hoopnet. Researchers would not interact with any substrate nor affect the quality of the water column in which they would work.

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.)?

Response: The effects of the action on ESA-listed species and their habitat, EFH, marine sanctuaries, and marine mammals were all considered. The research would not affect predator-prey relationships, other species, or habitat. The research would cause short-term effects to leatherback sea turtles; however they would be returned alive to the water. No substantial impact on biodiversity and ecosystem function within the affected areas would be expected.

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

Response: The proposed action involves basic research (e.g., handling, measuring, and sampling) of sea turtles and does not involve hazardous methods, toxic agents or pathogens, or other materials that would have a substantial adverse impact on public health and 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?

Response: As determined in the associated Biological Opinion, the proposed action would adversely affect individual leatherback sea turtles during the research. However, the Biological Opinion concluded that the effects of the proposed action would be short-term in nature. The proposed action would not likely jeopardize the continued existence of ESA-listed species and would not likely destroy or adversely modify designated critical habitat.

The action would not have an adverse impact on any marine mammals or any critical habitat. The research would take place in right whale critical habitat (e.g., Cape Cod Bay); however, the researchers would only capture sea turtles using a hoop net in the water column. None of the research activities would affect the constituent elements of the habitat. The research activities would not affect the whale's prey species or the quality of the water. Researchers would not interact with the whales or negatively affect its critical habitat in any way. No non-target species would be captured, handled, or affected by this research.

Additionally, Permit No. 15672 would contain mitigation measures to minimize the effects of the research and to avoid unnecessary stress to any listed species by requiring use of specific research protocols. The permit would contain conditions to minimize the potential effects and stress to target and non-target species resulting from capture and research activities.

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

Response: Based on the nature of the research proposed, there would be no significant social or economic impacts interrelated with natural or physical environmental effects. Previous, similar work by the permit applicant in the same area did not have significant social or economic impacts.

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

Response: A Federal Register notice (76 FR 23305) was published to provide the public the opportunity for 30 days to review and comment on the permit application associated with the proposed action. No substantive public comments were received; therefore NMFS does not expect the issuance of the proposed permit to have highly controversial effects on the quality of the human environment. The same type of research has been conducted previously with no public controversy.

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?

Response: The applicant would conduct work within EFH as noted in the response to Question #1, but EFH would not be substantially impacted. The applicant would ensure that all measures will be taken to minimize impacts to the target species, incidental species and the environment.

The research could take place in right whale critical habitat and possibly Stellwagen Bank National Marine Sanctuary. However, as discussed earlier, the researchers would only capture sea turtles using a hoop net in the water column. None of the research activities would affect the constituent elements of the habitat (which is an important foraging area) or sanctuary. The research activities would not affect the whale's prey species or the quality of the water. Researchers would not interact with the whales or negatively affect their critical habitat or the sanctuary in any way.

Given the precautionary approach researchers will take, and the conditions that will be included in the permit, NMFS does not expect the research to adversely impact protected areas.

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

Response: The proposed research activities are not new or unique. The same type of research has been conducted previously and has not resulted in significant impacts to the environment. NMFS believes that the effects on the human environment would not be highly uncertain and the risks would be minimal and known.

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

Response: The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. The short-term stresses (separately and cumulatively when added to other stresses the turtles face in the environment) resulting from the research activities would be expected to be minimal. The permit would contain conditions to mitigate adverse impacts to turtles from these activities.

Overall, the proposed action would be expected to have no more than short-term effects on endangered leatherback sea turtles. The incremental impact of the action when added to other past, present, and reasonably foreseeable future actions discussed in the EA would 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?

Response: No impacts to the physical environment are expected. The proposed research would 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?

Response: The action would not be removing nor introducing any species in the marine environment. The proposed research is not expected to result in the spread of non-indigenous species. Researchers would take precautions to ensure all equipment is cleaned before transiting to another capture site.

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: The decision to issue this permit would not be precedent setting and would 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 would authorize other individuals or organizations to conduct the same or similar activity.

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: The action would not result in any violation of Federal state or local laws for environmental protection. The applicant is required to obtain any state and local permits 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: The action is not expected to result in any cumulative adverse effects to the species that are the subject of the proposed research. The proposed action would not be expected to have more than short-term effects on the target species. No adverse effects on non-target species, regardless of ESA-listing status, 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 analyses contained in the EA and Biological Opinion prepared for issuance of Permit No. 15672, 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.

for James H. Lecky
Director, Office of Protected Resources

3/7/12
Date