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. 15802

Background

In December 2010, the National Marine Fisheries Service (NMFS) received an application for a permit (File No. 15802) from Florida Fish and Wildlife Conservation Commission [Gregg Poulakis, Responsible Party] to conduct research on smalltooth sawfish and sea turtles species in the waters of North Carolina to Texas, primarily off of the coast of Florida. 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 Effects of Issuing Endangered Species Scientific Research Permit No. 15802; June 2012). In addition, a Biological Opinion was issued under the Endangered Species Act (June 1, 2012) 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?

> Within the proposed action areas, essential fish habitat (EFH) is designated for various species of fish, which includes hard and soft bottom substrates. The proposed action is directed at smalltooth sawfish and listed sea turtle species and does not alter or affect unique areas, including any components of EFH. The permit would contain standard conditions to mitigate potential adverse impacts to bottom substrate and EFH.

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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 directed at endangered smalltooth sawfish and listed sea turtle species and does not interfere with benthic productivity, predator-prey interactions or other biodiversity or ecosystem functions. Target species will not be removed from the ecosystem or displaced from habitat, nor will the permitted research affect their diet or foraging patterns. In addition to the species that are the subject of the permit, an assortment of sea birds, fish and invertebrates may be found in the action area. Bycatch species would likely be released alive, due to mitigation measures such as frequent net checks.

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

The proposed action involves basic research of smalltooth sawfish and sea turtle species and does not involve hazardous methods, toxic agents or pathogens, other materials, or activities 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?

The proposed action would affect individual target animals (ESA-listed smalltooth sawfish and sea turtle species). However, the effects of the proposed action on these animals would not be severe and would be short-term in nature. No severe injuries or mortalities would be expected and all animals would be released after sampling. The proposed action would not destroy or adversely modify any critical habitat.

The research could adversely affect individuals of other non-target species (e.g., fish and invertebrates), but it is expected that this bycatch would be released alive. The research would not reduce the likelihood of the survival and recovery of their populations in the wild and would not likely jeopardize the continued existence of these species. The take would not be expected to have a significant effect on these non-target species.

While marine mammals occur in waters of Florida (e.g. dolphins and manatees), interaction with these species would be a low probability occurrence. Permit No. 15802 would contain standard conditions to minimize the effects of the research and to avoid unnecessary stress to species by requiring use of specific research protocols. These measures already incorporated into the researchers' methodology to avoid interactions are sufficient to reduce adverse affects to marine mammals to the level that they are discountable. The action would not have an adverse impact on any marine mammals.

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

The proposed action does not affect distribution of environmental burdens, access to natural or depletable resources or other social or economic concerns. It does not affect traffic and transportation patterns, risk of exposure to hazardous materials or wastes, risk of contracting disease, risk of damages from natural disasters, food safety, or other aspects of public health and safety.

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

A *Federal Register* notice (76 FR 45230) was published to allow other agencies and the public the opportunity to review and comment on the issuance of the proposed permit. No comments were received. The proposed research methods are well known and are expected to have minimal effects. There is no scientific controversy about potential impacts of the action.

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 proposed action areas would primarily be the state and federal waters of Florida, largely in the Charlotte Harbor estuarine system, but could also encompass unique areas like Everglades National Park. The applicant would be required to obtain all necessary permits and permissions in order to conduct sampling within Everglades National Park or any other unique or ecologically critical areas. Within the proposed action areas, essential fish habitat (EFH) is designated for various species of fish, which includes hard and soft bottom substrates. The proposed action is directed at smalltooth sawfish and listed sea turtle species and does not alter or affect unique areas, including any components of EFH. Furthermore, the permit would contain standard conditions to mitigate adverse impacts to bottom substrate and EFH.

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 permit are not new. Researchers have previously conducted the same type of research with no significant impacts to the environment. 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?

The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts. If Permit No. 15802 is issued, it is not expected that the additional effects of this research would result in cumulatively significant impacts. The short-term stresses to smalltooth sawfish and sea turtles (separately and cumulatively when added to other stresses the species face in the environment) resulting from the sampling and tagging activities would be expected to be minimal. These animals would be exposed to low level harassment and no serious injuries would be expected. The permit would contain standard conditions to mitigate adverse impacts to species from these activities.

Overall, the proposed action is expected to have no more than short-term effects on ESA-listed smalltooth sawfish and sea turtles, and minimal to 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 environmental assessment 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?

There are no districts, sites, highways or structures listed in or eligible for listing in the National Register of Historic Places in the action area. The proposed action represents non-consumptive use of marine animals and does not preclude their availability for other scientific, cultural, or historic uses.

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

The action would not remove or introduce any species; therefore, it would not result in the introduction or spread of a nonindigenous species. Researchers would take precautions to ensure all equipment is cleaned before transiting to another study location, and no movement between water bodies is expected.

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 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 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 would not result in any violation of Federal, State, or local laws for environmental protection. In addition, the permit would 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?

The action is not expected to result in cumulative adverse effects to the species that are the subject of the proposed research. The proposed action is expected to have minimal effects on affected species' populations. No substantial adverse effects on non-target species populations are expected. No cumulative adverse effects that could have a substantial effect on any species are 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. 15802, 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.

JUN 0 1 2012

Helen M. Golde
Acting Director, Office of Protected Resources

Date