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. 14534-02

Background

In July 2011, the National Marine Fisheries Service (NMFS) received an application for an amendment to Permit No. 14534-01 from the NOAA Office of Science and Technology, Silver Spring, MD (Responsible Party: Ned Cyr, Director), to take marine mammals during conduct of research in coastal waters of California. 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 Marine Mammal Scientific Research Permit No. 14534-02; 2012). The analyses in the EA support the findings and determination below. NMFS has chosen to issue a permit for activities as described in Alternative 2 of the EA.

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?

> Issuance of an amendment to a permit for takes of marine mammals as described in Alternative 2 of the EA will not cause substantial damage to ocean and coastal habitats or essential fish habitat (EFH). The "takes" of marine mammals authorized by the permit will not affect components of ocean and coastal habitat, including EFH. The takes will consist of harassment of individual marine mammals which may result in behavioral changes. However, these changes will have no impact on any component of the physical environment.

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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Issuance of the permit will not affect biodiversity or ecosystem function. The takes of marine mammals authorized by the permit will not alter foraging patterns, dietary preferences, or relative distribution or abundance of species groups within the area. The takes of marine mammals will not affect nutrient flux, primary productivity, or other factors related to ecosystem function in the area.

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

Issuance of the permit will not affect public health or safety. The takes of marine mammals authorized by the permit will not affect things typically associated with impacts on public health and safety such as traffic and transportation patterns; noise levels; risks of exposure to hazardous materials and wastes; risks of contracting disease; risks of damages from natural disasters; or food 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?

Issuance of the permit will not adversely affect endangered or threatened species, marine mammals, critical habitat, etc. The takes of a specified number of marine mammals, as authorized by the permit, will directly and indirectly result in adverse effects on a the individual marine mammals targeted by the research, as well as non-target marine mammals in the immediate vicinity of the research. Given the mitigation measures required by the permit, these adverse effects are likely to result only in transitory and recoverable changes in behavior and physiological parameters of the affected animals, including those listed as threatened or endangered, but are not expected to result in measurable effects at the level of marine mammal populations, stocks, or species.

Issuance of the permit, and associated takes of marine mammals, will not adversely affect critical habitat because none is designated within the area.

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

There are no significant social or economic impacts interrelated with potential natural or physical impacts of the action. The takes of marine mammals authorized by the permit will result in insignificant effects on the natural and physical environment, and there are no significant social or economic impacts interrelated with these effects. The action does not involve and is not associated with factors typically related to effects on the social and economic environment such as inequitable distributions of environmental burdens, or differential access to natural or depletable resources in the action area.

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

The effects of the action are not uncertain; they are predictable based on information about marine mammal hearing, sound propagation in water, and monitoring reports from permit for similar research activities. Research involving exposing marine mammals to sound has been the subject of public controversy for previous permits. That controversy was not related to uncertainty about impacts but represented opposition to the research in general. The likely adverse effects of the techniques in the subject permit are limited to a specified number of marine mammals targeted by the research and are predicted to involve only transitory stress, but no pain or injury. Although the precise levels of a sound that will provoke a behavioral response may be uncertain, and the research seeks to provide answers to this question, there is no substantial dispute as to what resources will be affected, or the temporal and geographic scale of those effects.

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 is not expected to affect unique or ecologically critical areas. Takes of marine mammals authorized by the permit will not impact unique or ecologically critical areas. The action does not involve contact with or activities that may indirectly impact physical structures or features of the environment.

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

The effects of permit issuance on the human environment are not highly uncertain and the takes of marine mammals authorized by the permit do not involve unique or unknown risks. The applicant's action does not involve techniques for which the risks to and effects on the biological and physical environment cannot reasonably be predicted based on monitoring reports from previous permits and published literature on the effects of human activities on marine mammals and other wildlife.

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

Issuance of the permit will not result in individually or cumulatively significant impacts. The EA considered the other activities affecting the resources in the area. The impacts of this action are expected to be short-term and transitory.

Issuance of the permit and subsequent takes of marine mammals, are not related to other federal actions. Results of the applicant's research may inform future

management actions. However, those future actions are too speculative to evaluate at this time and would themselves be subject to consideration under NEPA.

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?

Issuance of the permit will not adversely affect the above mentioned places and resources. The takes of marine mammals authorized by the permit will not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places because none are present in the action area and the effects of the action are limited to resources within the action area. Taking marine mammals by level B harassment represents non-consumptive use and will not cause loss or destruction of significant resources as none are present.

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

Issuance of the permit is not expected to result in the spread or introduction of non-indigenous species. The takes of marine mammals authorized by the permit will not result in the spread or introduction of non-indigenous species. The action does not involve handling animals in the wild, or transporting animals among locations. The action does not involve movement of vessels, or researchers and their equipment, among water bodies. There are no routes by which non-indigenous organisms can be transmitted or introduced by the research.

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 proposed action does not establish a precedent for future actions with significant effects nor represent a decision in principle about a future consideration. Issuance of the permit enables the applicant to take marine mammals by harassment during conduct of research consistent with provisions of the Marine Mammal Protection Act, Endangered Species Act, and applicable regulations. These provisions are applicable to all such permits and decision to issue. It does not involve an irreversible or irretrievable commitment of resources, limit the choice of reasonable alternatives for future decisions, or otherwise represent a decision in principle about future considerations.

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 will be consistent with applicable provisions of the Marine Mammal Protection Act, Endangered Species Act, and NMFS regulations. NMFS engaged in consultation under Section 7 of the ESA and obtained a

Biological Opinion which concluded the action was not likely to jeopardize the continued existence of listed species. There are no other permits, licenses, consultations, etc. necessary for NMFS issuance of the permit.

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 will not result in cumulative adverse effects substantially affecting target or non-target species. The takes of marine mammals authorized by the permit will result in adverse impacts on a specified number of marine mammals in the immediate vicinity of the research. These adverse impacts are expected to be transitory and recoverable and, when considered in combination with other actions or factors affecting the populations, stocks, and species, not likely to result in significant impacts on the species or the environment.

DETERMINATION

In view of the information presented in this document, and the analyses contained in the EA prepared for issuance of Permit No. 14534-02, 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.

MAY 14 2012

Helen M. Golde
Acting Director, Office of Protected Resources

Date