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

APR 27 2012

Finding of No Significant Impact
Issuance of Scientific Research Permit No. 14118

Background

In March 2010, the National Marine Fisheries Service (NMFS) received a complete application for a permit (File No. 14118) from Becky Woodward, Ph.D., to conduct research that would lead to harassment of ESA-listed humpback, fin, and sei whales, and non-listed Eastern gray, minke, and short- and long-finned pilot whales. 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 (EA for Issuance of Scientific Research Permit No. 14118 for Cetacean Research in the Atlantic and Pacific Oceans). In addition, a Biological Opinion was issued under the Endangered Species Act (ESA) (2012) summarizing the results of an intra-agency consultation. The analyses in the EA, as informed by the Biological Opinion, support the following findings and determination.

Analysis

National Oceanic and Atmospheric Administration Administrative Order (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 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?

Response: Although Essential Fish Habitat (EFH) may be present in the action area, the Proposed Action would only affect cetaceans authorized for research by the permit. Because in-water research would only involve routine vessel movements at the water surface and all tagging equipment is expected to be retrieved the Proposed Action would not be expected to cause damage to other aspects of ocean and coastal habitat such as reefs, seagrass beds, soft-bottom sediment, etc. Therefore, no EFH consultation was required.

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 target species, including ESA-listed

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species and their habitat, EFH, marine sanctuaries, and other marine mammals were all considered. The Proposed Action would target cetaceans for tagging and observation, which is expected to result in short-term minimal disturbance to individual whales. This work is not expected to affect an animal's susceptibility to predation, alter dietary preferences or foraging behavior, or change distribution or abundance of predators or prey. Therefore, the Proposed Action is not expected to have a 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: The Proposed Action is the issuance of a permit for close approach by vessels for research which would include tagging, behavioral observation, and photo-identification of large whales. It would not involve hazardous methods, toxic agents or pathogens, or other materials that would have a substantial adverse impact on public health and safety. Research would be conducted by or under the close supervision of experienced personnel, as required by the permit. Therefore, no negative impacts on human health or safety are anticipated during research.

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: The Proposed Action would affect the species authorized by the permit - ESA-listed humpback, fin, and sei whales, and non-listed Eastern gray, minke, and short- and long-finned pilot whales - during vessel surveys. The 2012 biological opinion prepared for the Proposed Action concluded that the effects of the Proposed Action on individual humpback, fin, and sei whales would be short-term in nature, and would not be likely to jeopardize the continued existence of endangered species or to cause the destruction or adverse modification of designated critical habitat. The Proposed Action would also affect endangered fin and sei whales, which would be harassed incidental to research. No other non-target species would be affected by the proposed research. The permit would contain mitigation measures to minimize the effects of the research and to avoid unnecessary stress to any protected species by requiring use of specific research protocols.

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

Response: Effects of the research would be limited to the short-term harassment of target animals. Permitting the proposed research could result in a low level of economic benefit to local economies in the action area. However, such impacts would be negligible on a national or regional level and therefore are not considered significant. These impacts are not interrelated with any natural or physical impacts. The Proposed Action would not result in inequitable distributions of environmental burdens or affect access (short- or long-term use) to any natural or depletable resources in the action area.

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

Response: NMFS does not consider the Proposed Action controversial nor have similar actions been considered controversial in the past. While the specific tag attachment method has not been used on cetaceans in the United States, tagging activities are standard research activities that have been conducted on these species by the scientific community for decades. No other portion of the environment beyond the whale species identified above would be impacted by the Proposed 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?

Response: The proposed research would not be expected to result in substantial impacts to any such area. The majority of these are not part of the action area. EFH would not be substantially impacted because research would not affect bottom habitat (see Question 1). Research activities might occur in National Marine Sanctuaries but would be coordinated with Sanctuary staff and would not result in substantial impacts to the Sanctuary.

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

Response: The proposed research does not involve unique or unknown risks to the human environment. While the specific tag attachment technique is new in the United States, tagging activities have been previously authorized as research activities for large whales; some activities have occurred for decades. There have been no reported serious injuries or mortalities of cetacean species or risks to any other portion of the human environment as a result of these research activities. Therefore, the risks to the human environment are not unique or unknown.

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. While these species are impacted by other human activities, including other scientific research, these activities are not occurring simultaneously on the same individuals of a population/stock. The short-term stresses (separately and cumulatively when added to other stresses whales face in the environment) resulting from the research activities would be expected to be minimal. Behavioral reactions suggest that harassment is brief, lasting minutes, before animals resume normal behaviors. Hence, NMFS expects any effects of research to dissipate before animals could be harassed by other human activities. Significant cumulative impacts are not expected because no serious injury or mortality is expected (resulting in no direct loss of animals from the population), nor is an appreciable reduction in the

fecundity of target individuals. Furthermore, the permit would contain conditions to mitigate and minimize any impacts to the animals from research activities, including the coordination of research activities with other researchers in the area and the local disentanglement network and whale watch vessels.

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: The Proposed Action would not take place in any district, site, highway, structure, or object listed in or eligible for listing in the National Register of Historic Places, thus none would be impacted. The Proposed Action would not occur in other areas of significant scientific, cultural or historical resources and thus would not cause their loss or destruction. None of these resources are expected to be directly or indirectly impacted.

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 or introducing any species; therefore, it would not likely result in the introduction or spread of a non-indigenous species. Researchers would not be exchanging ballast water during the course of 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?

Response: The decision to issue the permit would not be precedent setting and would not affect any future decisions. Issuance of a permit to a specific individual or organization for a given research activity does not in any way guarantee or imply that NMFS will authorize other individuals or organizations to conduct the same research activity. Any future request received would be evaluated on its own merits relative to the criteria established in the MMPA, ESA, and NMFS' implementing regulations.

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 permit would contain language stating that the Holder is required to obtain any federal, 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 target or non-target species. For targeted species, the Proposed Action would not be expected to have more than short-term effects to individuals and negligible effects to large whale populations. The effects on non-target species were also considered and no substantial effects are expected as research would not be directed on these species. Therefore, no cumulative adverse effects that could have a substantial effect on any species, target or non-target, would be expected.

DETERMINATION

In view of the information presented in this document and the analysis contained in the EA prepared for Issuance of Permit No. 14118, pursuant to the ESA and MMPA, and the ESA section 7 biological opinion, it is hereby determined that the issuance of Permit No. 14118 will not significantly impact the quality of the human environment as described above and in the 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 Environment Impact Statement for this action is not necessary.

Helen M. Golde
Acting Director, Office of Protected Resources

April 27, 2012
Date