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 Nos. 16482-01

Background

On September 7, 2013, the National Marine Fisheries Service (NMFS) received an application to modify Permit No. 16482 from Warnell School of Forest Resources, Fisheries Division [hereinafter, Permit Holder, and Douglas Peterson, PhD, Responsible Party (RP)/Principal Investigator (PI)], University of Georgia, Athens, Georgia 30602] to include additional "takes" of shortnose sturgeon (*Acipenser brevirostrum*) and Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and to consolidate such takes in Georgia and Florida rivers into a modified permit, pursuant to the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq*.).

In accordance with the National Environmental Policy Act, NMFS has prepared a Supplemental Environmental Assessment (SEA) analyzing the impacts on the human environment associated with permit issuance entitled: *Supplemental Environmental Assessment (SEA) on the Issuance of a Modified Scientific Research Permit (File No. 16482-01) to the Warnell School of Forest Resources, Fisheries Division, to Conduct Scientific Research on Endangered Shortnose and Atlantic sturgeon in Georgia and Florida Waters.* This SEA updates the prior EA prepared for the original action in 2012 entitled: *Environmental Assessment for the Issuance of 12 Scientific Research Permits for Research on Atlantic Sturgeon*. The Biological Opinion prepared for the original action summarized the results of an intra-agency consultation, and authorized two non-lethal, incidental takes of listed sea turtles, which is carried over onto the new permit. The analyses in the current SEA of the proposed action, 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 actions 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?

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The methods and action area authorized in the prior 2012 EA analysis for sturgeon research in the original action, have not changed. In the 2012 EA, NMFS PR analyzed the impacts of authorizing 12 scientific research permits, two of which overlap the identical current proposed action area using identical methods.

NMFS concluded in the original action that the potential for adverse impacts on the physical environment from proposed netting activities would be minimal and would have no substantial impacts on the bottom substrate of rivers, coastal estuaries, or near-shore marine areas, including any portion considered EFH. The NMFS Southeast Regional Office of Habitat Conservation concurred, agreeing that the actions would not adversely affect essential fish habitat and thus no formal consultation was required. Although the Permit Holder is now expanding similar research activities into Florida waters, there would be no change in the assessment of impacts caused to the mentioned resources by issuing the modified permit as they have already been analyzed in the original action.

(2) Can the proposed actions 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 issuing a scientific research permit to target shortnose and Atlantic sturgeon and does not interfere with benthic productivity, predator-prey interactions or other biodiversity or ecosystem functions. Minimal impact on biodiversity or ecosystem function within the affected areas is expected as a result of the permit modifications. Disturbance to the benthic habitat resulting from anchoring nets to river bottoms would be minimal.

The permit modification provides for the same level of incidental lethal takes or injuries of juvenile and adult sturgeon as the prior permit due to research effects. However, it also provides for a limited number of additional ELS lethal collections to verify spawning success. The lethal take of ELS would not significantly impact the river populations or species, as was documented in the Biological Opinion for the original and current action. However, with exception of the limited mortality authorized, the targeted sturgeon life stages will not be removed from the ecosystem or be displaced from habitat; nor will the action affect their diet or foraging patterns.

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

Issuance of the permit modification is not expected to have a substantial adverse impact on public health or safety. The proposed modification will 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. .

(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 modification may have adverse effects on individual shortnose and Atlantic sturgeon, but the effects are not expected to be significant at the population or species level. Furthermore, we do not anticipate any increase in unintentional individual sturgeon mortality or serious injuries than previously analyzed in the Permit No. 16482. While the permit modification does authorize additional numbers of intentional lethal takes of shortnose and Atlantic sturgeon ELS, the Biological Opinion produced for this action concludes issuance of the permit modification, would not likely jeopardize the continued existence of either of the targeted sturgeon species.

The permit contains the same NMFS mitigation protocols to minimize stress and harmful effects on the species as the original permit. Further, critical habitat has not yet been designated for either shortnose or Atlantic sturgeon; thus, it would not be affected. However, should critical habitat be designated prior to the expiration of the permit, then consultation under section 7 of the ESA would be re-initiated in order to determine the impact of the research activities on the critical habitat.

The Biological Opinion for this action adopted the same incidental take for sea turtles as authorized in Permit No. 16482 (i.e., capture of up to two listed turtle species and released alive). Also, other non-target non-listed species under U.S. Fish and Wildlife Service jurisdiction (e.g., wood stork, West Indian manatee and sea turtles on land), as mitigated, would not be affected by the methods recommended by the USFWS and adopted by NMFS; and thus, these species and any of their respective critical habitat would not be affected by issuing the permit modification.

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

The analyses in the 2012 EA prepared for the issuance of Permit No. 16482 and the SEA prepared for issuing the modification, found no known social or economic impacts interrelated with natural or physical environmental effects.

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

A *Federal Register* notice (78 FR 66901) was published on November 7, 2013, allowing other agencies and the public to comment on the action. The USFWS requested to update its contact information and protective measures it suggested for its species, the West Indian manatee. These were added to the permit as an attachment. All intra-agency comments from the Southeast Regional Office of PR were highly supportive of the application. Also, no comments from the public

were received on this application. Given that the proposed research methodologies are well known and are expected to have minimal effects, NMFS believes it is not likely to be controversial.

(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?

There would be no substantial changes in the former assessments' conclusions made about unique areas as a result of the permit modifications (See No. 1 above with respect to no adverse impacts concluded for EFH).

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

The effects of the proposed modification on the human environment are predictable based on evaluation of the effects of previously permitted research on the same species, including Florida waters, where the Permit Holder plans to expand research. The risks analyzed to the environment for issuing the permit modification are known in that they are expected to be the same as those considered in the identical rivers systems wherein permits were issued for Atlantic sturgeon research in the original 2012 EA.

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

Issuance of the permit modification is not interrelated with or interdependent on any other federal, state or local actions that could have environmental impacts. This permit modification is independent of other permits authorized, although by issuing this permit modification, the efforts of the Permit Holder would now consolidate the former separate research permits for both shortnose and Atlantic sturgeon within the action area of Florida and Georgia waters. While the results of the research may inform future management actions affecting the environment, the nature and timing of those actions is too speculative to consider, and those actions would be subject to separate NEPA analysis.

Furthermore, although there would be one other Atlantic sturgeon permit authorized in two river systems of Northeast Florida (Permit No. 16508), overlapping of the efforts of this permit and the Permit Holder in the same rivers, would result in limited cumulative impact as each researcher would coordinate his actions with the other, thereby limiting netting efforts at the same time. Consequently, in these waters, there would be no expected overlapping parts of the action areas that would be cumulative to the proposed action.

(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?

The 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 also not occur in areas of significant scientific, cultural or historical resources and so would not cause their loss or destruction.

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

The potential impact on the introduction or spread of non-indigenous species would be minimized in the modification as previously discussed in the 2012 EA and conditioned in the 2012 permit. All of the conditions in the original permit would remain in place to limit spread of organisms between watersheds. That is, to prevent potential spread of aquatic nuisance species identified between watersheds, all equipment assigned to the research will not be reassigned to other watersheds until the research is completed or suspended. And, if the research has been completed or suspended, all gear and equipment would be bleached, washed and air dried before being re-deployed to a new location. Further, the proposed action does not involve activities known or likely to result in the introduction or spread of non-indigenous species through ballast water exchange. Thus, the modification is not reasonably expected to result in the introduction or spread of non-indigenous species.

(12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

The decision to issue this permit modification would not be precedent setting, nor would it affect any future decisions. NMFS has issued numerous scientific research permits to study Atlantic sturgeon and shortnose sturgeon pursuant to section 10 of the Endangered Species Act; thus, the permit modification is not the first permit NMFS has issued for this type of research activity. Issuance of a permit or permit modification to a specific individual or organization for a given research activity does not in any way guarantee or imply NMFS would authorize other individuals or organizations the to conduct the same research activity. Any future requests received, including those by the Permit Holder, would be evaluated upon their own merits relative to the criteria established in the 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?

Issuance of the proposed permit modification is not expected to violate any Federal, State, or local laws for environmental protection. NMFS has sole jurisdiction for issuance of such permits for shortnose or Atlantic sturgeon and has determined the research consistent with applicable provisions of the ESA. The modification contains language stating that this permit does not relieve the

Permit Holder of the responsibility to obtain other permits, or comply with other Federal, State, local, or international laws or regulations.

(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?

NMFS concluded that issuing the proposed modification may have adverse effects on individual Atlantic or shortnose sturgeon. However, while the action would impact individuals of the targeted species' life stages, NMFS concluded that the research would not have any cumulative effects on each of the populations studied, or either species as a whole; and, thus, the permit issuance is not likely to result in long-term or significant impacts.

The mitigation measures imposed by the permit modification's conditions are intended to reduce, to the maximum extent practical, the potential for adverse effects of the research. Since the proposed action would be related to the study of Atlantic and shortnose sturgeon life stages, no other portion of the human environment would be affected in a manner not already considered as discussed in the SEA or separate EAs. Further, NMFS adopted similar permit conditions mitigating the impacts on other listed species (e.g., marine mammals, sea turtles etc.) as in Permit No. 16482 to be protective of these species in marine environments.

DETERMINATION

In view of the information presented in this document, and the analyses contained in the SEA and Biological Opinion prepared for issuance of Permit Modification No.16482-01, it is hereby determined that the permit modification's 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.

Donna S. Wieting

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Director, Office of Protected Resources

APR 25 2014

Date