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

Finding of No Significant Impact on Issuance of a Permit Amendment for Field Research and Enhancement Activities on the Endangered Hawaiian Monk Seal

National Marine Fisheries Service

Background

The National Marine Fisheries Service (NMFS) proposes to issue a permit amendment (File No. 10137-03) to the NMFS Pacific Islands Fisheries Science Center Marine Mammal Research Program (MMRP) to authorize ultrasound measurements concurrent with permitted captures in the Northwestern Hawaiian Islands and Main Hawaiian Islands. In accordance with the National Environmental Policy Act, NMFS prepared a Supplemental Environmental Assessment (SEA) analyzing the impacts on the human environment associated with permit issuance (Supplemental Environmental Assessment on Issuance of a Permit for Field Research and Enhancement Activities on the Endangered Hawaiian Monk Seal; December 2009). This SEA described the procedures for and analyzed the effects of using ultrasound on monk seals. An informal Endangered Species Act consultation concluded that the proposed action may affect, but is not likely to adversely affect Hawaiian monk seals or result in destruction of critical habitat. The analysis in the SEA supports the below findings and determination.

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 the following:

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?

> The proposed use of ultrasound on monk seals would involve activities directed on Hawaiian monk seals on land for capturing and sampling seals. The activities that would be authorized by the proposed permit amendment are not expected to cause damage to the ocean and coastal habitats or essential fish habitat.

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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 impacts of the activities permitted in the amendment would be related to direct takes of the target species, Hawaiian monk seals. Short-term responses from disturbance and capture activities are not likely to have a measurable effect on productivity, foraging, predator avoidance or other essential biological functions.

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

NMFS has not identified any aspects of public health and safety (e.g., traffic and transportation; noise; risk of exposure to hazardous materials, wastes; risk of contracting disease; risk of damages from natural disasters) that could reasonably be expected to be affected by conducting research on seals within the Northwestern Hawaiian Islands, which is a protected area that requires a permit for entrance and is not accessible to the general public. While the research would involve handling wild animals, these activities would be conducted by trained individuals and would be performed using specific protocols to minimize potential for zoonotic disease transmission.

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 activities proposed include conducting ultrasound on Hawaiian monk seals that are already permitted to be captured and handled. Ultrasound itself is not considered detrimental to mammals. Risks inherent to capturing wild animals include animals dying from capture stress or other factors. The researchers have standardized their handling techniques over decades of work with Hawaiian monk seals, and determined that if conducted in a conservative manner, the risk of incidental mortality is low. NMFS determined that the proposed use of ultrasound on monk seals may affect but is not likely to adversely affect this listed species or adversely modify critical habitat. The NMFS Endangered Species Division concurred with this determination.

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

There are no significant social or economic impacts directly related to potential impacts of permit amendment issuance. Issuance of the permit amendment would not substantially impact short- or long-term use of the environment or result in use of natural or depletable resources, such as might be expected from construction or resource extraction activities. There would be no significant social or economic impacts as a result of the work conducted on the target

species, Hawaiian monk seals. Hawaiian monk seal are not permitted to be harvested for economic purposes; therefore, there is no impact to socio-economic resources (e.g., business, industry, etc.) associated with the activities conducted on this biological resource. Issuance of the permit and conduct of the research would not result in inequitable distributions of environmental burdens or access to environmental goods. NMFS does not expect issuance of the permit to adversely affect low-income or minority populations.

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

The effects on the quality of the human environment are not likely to be highly controversial. This amendment is being processed as a minor amendment, which is not subject to public review (50 CFR 216.39). The use of ultrasound on pinnipeds is not considered 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?

The proposed action is not expected to result in substantial impacts to such unique areas. The subject amendment would authorize work on Hawaiian monk seals within the Papahānaumokuākea Marine National Monument (hereinafter "Monument"), which encompasses the Northwestern Hawaiian Islands. There are cultural and historic resources within the Monument, and the Monument is considered a unique and ecologically critical area. The applicant is required to obtain a Monument permits to access the islands to conduct research on Hawaiian monk seals. The Monument permits contain mitigation requirements to minimize impacts to resources in the Northwestern Hawaiian Islands.

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

The potential risks of conduct of the permitted activities are not unique or unknown, nor is there significant uncertainty about impacts. NMFS has previously permitted the use of ultrasound on pinnipeds, including captive Hawaiian monk seals.

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

Issuance of the proposed permit amendment is not related to other actions with individually insignificant but cumulatively significant impacts. There are no other activities proposed that are interrelated with or interdependent on other actions that could have cumulatively significant impacts.

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 activities proposed in the permit amendment would occur in the Monument where cultural and historic resources occur, and the applicant is required to obtain annual permits from the Monument to access the islands and conduct research on Hawaiian monk seals. The Monument permits contain mitigation requirements to minimize impacts to cultural and historic resources within this area.

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

Any work conducted in the Monument requires strict quarantine procedures when transiting to islands within the Monument (i.e., in the Northwestern Hawaiian Islands), such as freezing field camp supplies for 24 hours prior to landing on an island, and thoroughly cleaning boat hulls in between landing on islands. The Monument permits contain conditions researchers must follow to prevent 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 represents a decision in principle about a future consideration?

Issuance of the proposed permit amendment is not likely to establish a precedent for future actions with significant effects or represent a decision in principle about future considerations. NMFS has been issuing research permits pursuant to section 104 of the MMPA since 1972. Nothing about NMFS' decision making process pursuant to the statutory and regulatory criteria is unique to this permit. Issuance of this permit amendment does not involve any irreversible or irretrievable commitments 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?

Issuance of the permit amendment is not expected to violate any Federal, State, or local laws or requirements related to environmental protection. NMFS has jurisdiction for issuance of permits for research on endangered pinnipeds and has determined the proposed research and enhancement to be consistent with all applicable provisions of the MMPA and ESA. Conduct of the activities authorized by the permit amendment requires the researchers to obtain permits from other environmental resource management agencies, such as the Monument and the State of Hawaii Department of Land and Natural Resources. Obtaining such permits is the responsibility of the researchers, and they have demonstrated that such permits have been consistently obtained in the past. The researchers must also obtain approvals consistent with the Animal Welfare Act, and have

demonstrated that such approval has previously been obtained and would be obtained for the proposed activities. NMFS has not identified anything about the proposed research that would prohibit securing such permits and approvals.

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?

Activities proposed in the permit amendment would result in disturbance of the target species, and capture activities could result in unintentional mortality. The analysis presented in the SEA and consistent with the original EA (NMFS 2009) provides evidence that if conducted conservatively and with caution, capture and sampling activities do not have significant long-term adverse effects for the species; and based on past-performance, the probability that incidental mortalities would occur during handling events is low. Limited other activities occur in the Northwestern Hawaiian Islands to add to the effects from the MMRP, the only entity permitted to enter the Northwestern Hawaiian Islands to take Hawaiian monk seals for research purposes. One other permit issued to the NMFS Marine Mammal Health and Stranding Response Program (MMHSRP) authorizes takes of Hawaiian monk seals. However, these take activities do not duplicate or overlap with those proposed by the MMRP, as the MMRP researchers are listed as Co-investigators on the MMHSRP permit and work closely with that permit holder to coordinate activities. Overall, based on the analyses in the SEA, it is highly unlikely that activities carried out by the MMRP under the proposed amendment would have significant cumulative effects when considered with other factors affecting monk seals.

DETERMINATION

In view of the information presented in this document and the analysis contained in the SEA prepared on the Effects of the Issuance a Permit for Field Research and Enhancement Activities on the Endangered Hawaiian Monk Seal, it is hereby determined that the issuance of the proposed Permit No. 10137-03 would not significantly impact the quality of the human environment as described above and in the SEA. 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.

James H. Lecky
Director, Office of Protected Resources

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Date