

vessels. However, dolphins as well as some other types of odontocetes sometimes show avoidance responses and/or other changes in behavior when near operating seismic vessels.

For most species, including endangered sperm and blue whales, the total estimated "take by harassment" by species presented in Table 3 of the application (Scripps 2003) represents less than 1.0 percent of the eastern tropical Pacific population of any of these species. For the remaining three cetacean species, the total estimated "take by harassment" is 1.8 percent of the estimated pygmy sperm whale population in and adjacent to the study area, 6.2 percent of the dwarf sperm whale population, and 1.8 percent of endangered humpback whales. Although the absolute numbers of odontocetes that may be harassed by the proposed activities may be large, the population sizes of the main species are also large; therefore, the numbers potentially affected are small relative to the population sizes.

Taking account of the mitigation measures that are planned, effects on cetaceans are generally expected to be limited to avoidance of the area around the seismic operation and short-term changes in behavior, falling within the MMPA definition of "Level B harassment." Based on the relatively low numbers of marine mammals that will be exposed at levels ≤ 160 dB and the expected impacts at these levels, NMFS has determined that this action will have a negligible impact on the affected species or stocks of cetaceans.

Conclusions-effects on Pinnipeds

Responses of pinnipeds to acoustic disturbance are variable, but usually quite limited. Early observations provided considerable evidence that pinnipeds are often quite tolerant of strong pulsed sounds. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior. These studies show that pinnipeds frequently do not avoid the area within a few hundred meters of an operating airgun array. Even so, results from initial telemetry studies suggest that avoidance and other behavioral reactions may be stronger than has been evident from visual studies.

Very few, if any, pinnipeds are expected to be encountered during the proposed seismic survey by Scripps in the ETP.

If pinnipeds are encountered, the proposed seismic activities would have, at most, a short-term effect on their behavior and no long-term impacts on

individual seals or their populations. Effects are expected to be limited to short-term and localized behavioral changes falling within the MMPA definition of Level B harassment. These effects would have no more than a negligible impact on the affected species or stocks of pinnipeds.

Determinations

Based on the information contained in the SIO application, the EA referenced herein, and the August 26, 2003 (68 FR 51245) **Federal Register** notice and this document, NMFS has determined that conducting a seismic survey program in the ETP by the *Revelle* would result in the harassment of small numbers of marine mammals; would have no more than a negligible impact on the affected marine mammal stocks; and would not have an unmitigable adverse impact on the availability of stocks for subsistence uses. This activity will result, at worst, in a temporary modification in behavior by certain species of marine mammals. While behavioral modifications may be made by these species as a result of seismic survey activities, this behavioral change is expected to result in no more than a negligible impact on the affected species. While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated, and the potential for temporary or permanent hearing impairment is low and will be avoided through the incorporation of the mitigation measures mentioned in this document and required under the IHA. For these reasons therefore, NMFS has determined that the requirements of section 101(a)(5)(D) of the MMPA have been met and the authorization can be issued.

Endangered Species Act (ESA)

NMFS has concluded consultation under section 7 of the ESA on NMFS' issuance of an IHA to take small numbers of marine mammals, by harassment, incidental to conducting an oceanographic seismic survey in the ETP by SIO. The consultation concluded with a biological opinion that this action is not likely to jeopardize the continued existence of marine species listed as threatened or endangered under the ESA. No critical habitat has been designated for these species in the ETP; therefore, none will be affected. The Biological Opinion concluded that 1 fin whale may be harassed during the seismic surveys, and that Guadalupefur seals are not

likely to be adversely affected by the proposed research activities. Therefore, NMFS has removed the Guadalupe fur seal from, and added the fin whale to, the proposed list of species authorized to be taken by Level B harassment under the IHA. A copy of the Biological Opinion is available upon request (see **ADDRESSES**).

National Environmental Policy Act (NEPA)

An Environmental Assessment (EA) on a similar action for this area of the Pacific Ocean was prepared and released to the public on July 11, 2003 (68 FR 41314). NMFS' analysis resulted in a Finding of No Significant Impact (FONSI). The SIO acoustic survey described in this document will use acoustic instruments that are significantly less intense and will therefore have a significantly lower impact on the marine environment than acoustic sources addressed in the EA. Therefore, based on that EA, and review of the information contained in the IHA application from Scripps, NMFS has made a finding that this action will not have a significant effect, individually or cumulatively, on the human environment. Further, this is an action of limited size or magnitude. Accordingly, under NAO 216-6, the action is categorically excluded from the need to prepare another environmental assessment or environmental impact statement. A copy of the relevant EA and FONSI is available (see **ADDRESSES**).

Authorization

NMFS has issued an IHA to take small numbers of marine mammals, by harassment, incidental to conducting a seismic survey by the *Revelle* in the ETP to Scripps for a 1-year period, provided the proposed mitigation, monitoring, and reporting requirements described in this document and the IHA are incorporated.

Dated: October 17, 2003.

Donna Wieting,

*Acting Director, Office of Protected Resources,
National Marine Fisheries Service.*

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