UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

THE DIRECTOR

DEC 2 2004

MEMORANDUM FOR: Susan A. Kennedy
Deputy Director
Strategic Planning Office
NOAA

FROM: William T. Hogarth
William T. Hogarth, Ph.D.

SUBJECT: Finding of No Significant Impact for the Environmental Assessment of Changes to the Steller Sea Lion Protection Measures for the Pollock and Pacific Cod Fisheries in the Gulf of Alaska – DECISION MEMORANDUM

Based on the subject environmental assessment, Changes to Gulf of Alaska Steller Sea Lion Protection Measures, dated October 2004, I have determined that no significant environmental impacts will result from this action. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

1. I concur. _____ 12/3/04
Date

2. I do not concur. _____
Date

Attachments

Finding of No Significant Impact for Regulatory Amendments to the Gulf of Alaska Steller Sea Lion Protection Measures for the Pollock and Pacific Cod Fisheries

The October 2004 Environmental Assessment/Regulatory Impact Review (EA/RIR) provides an analysis of a suite of measures to change Steller Sea Lion (SSL) protection measures in the Gulf of Alaska (GOA) that could provide economic relief to GOA groundfish fisheries and local fishery-dependent communities. These regulatory amendments include changing the closure areas around four SSL haulouts in the GOA and providing changes in procedures for pollock total allowable catch (TAC) rollover, in addition to eliminating stand-down periods between seasons in the pollock fishery.

One of the purposes of an EA is to provide the evidence and analysis necessary to decide whether an agency must prepare an environmental impact statement (EIS). This Finding of No Significant Impact (FONSI) is the decision maker's determination that the action will not result in significant impacts to the human environment, and therefore, further analysis in an EIS is not needed. Council on Environmental Quality regulations define significance in terms of context and intensity (40 CFR 1508.27). An action must be evaluated at different spatial scales and settings to determine the context of the action. Intensity is evaluated with respect to the nature of impacts and the resources or environmental components affected by the action. The National Oceanic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6 provides guidance on the National Environmental Policy Act (NEPA) specific to line agencies within NOAA. It further defines significance in the fishery management context by listing factors that should be used to test the significance of fishery management actions (NAO 216-6, Sections 6.01 and 6.02). These factors form the basis of the analysis presented in the attached EA. The results of that analysis are summarized here for each factor. The significance of impacts of the actions analyzed in this EA were determined through consideration of the following information, as required by NEPA and 50 CFR 1508.27:

Context: Adjustment to SSL protection measures would be implemented for the groundfish fisheries of the GOA. Any effects of the action are limited to these fisheries and areas. The effects on society within these areas are on individuals directly and indirectly participating in the groundfish fisheries and on those who use the ocean resources. The action is to consider less restrictive measures on the GOA pollock trawl fishery and Pacific cod pot gear fishery. The proposed actions involve relatively small amounts of groundfish harvest, although they still could have localized or regional impacts on society.

Intensity: Listing of considerations to determine intensity of the impact is in 50 CFR 1508.27 (b) and in the NAO 216-6, Section 6. Each consideration is addressed below in order as it appears in the regulations.

Adverse or beneficial impact determination for marine resources, including sustainability of target and nontarget species, damage to ocean or coastal habitat or essential fish habitat, effects on biodiversity and ecosystems, and marine mammals. Adverse or beneficial impact

determinations accruing under SSL protection measures are described in the SSL SEIS dated November 2001. The alternatives considered in the EA would have minor, incremental effects on the spatial and temporal harvest of pollock and Pacific cod. No significant impacts on target and nontarget species, on the ocean or coastal habitat or EFH, on biodiversity and ecosystems, or on marine mammals were identified in this analysis.

Public Health and Safety will not be negatively affected in any way not evaluated under the SSL EIS nor will it be disproportionately affected. Safety of harvesters may be improved by opening nearshore water to pollock and Pacific cod fishing.

Cultural resources and ecologically critical areas: This action takes place in the GOA, generally from shore to 200 nm offshore. The land adjacent to these areas contains cultural resources and ecologically critical areas. The marine waters where the fisheries occur contain ecologically critical areas. Effects on the unique characteristics of these areas are not anticipated to occur. Mitigation measures are incorporated in existing fisheries management measures.

Controversy: This action deals with the temporal and spatial distribution of fisheries as necessary to protect the western DPS of SSL and its critical habitat. Differences of opinion exist among various industry, environmental, management, and scientific groups on fishery restrictions necessary to accomplish an adequate level of protection while minimizing burden on the fishing industry. This action is a small component of the total suite of management measures implemented for SSL protection, which are considered as a whole controversial. The action would not result in significant effects that have not already been analyzed in the SSL SEIS or ESA section 7 consultations. Because the action is very limited in the changes that it makes to the SSL GOA protection measures, and the options result in minor impacts on the human environment, the action is not considered controversial.

Risks to the human environment, including social and economic effects from current fishing activities, particularly those targeting important SSL prey items such as pollock and Pacific cod fisheries, are described in the SSL SEIS (Chapter 4, Section 4.12, pages 4-342 to 4-439). Additional risks are also described in the Alaska Groundfish Programmatic SEIS dated June 2004. Because of mitigation measures previously implemented, it is anticipated that there will be no significant impacts on the human environment from this action. Section 2.7 of this EA describes the effects of this action on the human environment.

Future Actions related to this action may result in impacts. Additional information regarding marine species or fisheries may make it necessary to change management measures. Any changes in management measures that could impact the effectiveness of SSL protection may result in significant impacts. Appropriate environmental analysis documents (EA or EIS) and ESA consultations will be prepared to evaluate potential impacts to the human environment. These future actions likely will include mitigation measures that avoid significant adverse impacts.

Cumulatively significant impacts, including those on target and nontarget species, beyond

those described in the SSL Protection Measures SEIS (Chapter 4, Section 4.13, pages 4-440 to 4-628) are not anticipated with this action. Even though the SEIS found that the SSL protection measures as a whole were likely to have conditionally significant adverse effects, this action is so limited in scale and in overall potential impact that even combined with the past, present, and foreseeable future actions, it is not be likely to result in significant cumulative effects on the human environment.

Districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places: This action will have no effect on districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places nor cause loss or destruction of significant scientific, cultural, or historical resources. This consideration is not applicable to this action.

Impact on ESA listed species and designated critical habitat: None of the alternatives considered in this action would impact any listed species to an extent not previously considered in the 2001 biological opinion (BiOp) on Steller sea lion protection measures and other previous consultations. Details are in the EA for ESA listed seabirds (section 2.7.1), salmon (section 2.6.4) and marine mammals (section 2.7.1).

An informal consultation on proposed amendments to the Steller sea lion conservation measures for the pollock, Pacific cod, and Atka mackerel fisheries in the GOA, Bering Sea and Aleutian Islands areas dated January 13th, 2004, identified the potential effects of this action on SSLs and their critical habitat. The informal consultation process was completed on August 26, 2004, with a finding that the action is not likely to adversely affect the western DPS of SSL and its critical habitat beyond those effects already considered in the 2000 fishery management plan level BiOp, the 2001 BiOp, and the June 19, 2003 supplement to the 2001 BiOp. Therefore, a formal consultation is not needed.

This action poses **no known violation of Federal, State, or local laws or requirements for the protection of the environment**. Section 1.0 describes the legal consideration of tiering the EA off of the SSL SEIS. This action will be conducted in a manner consistent with the enforceable provisions of the Alaska Coastal Zone Management Act of 1972 and its implementing regulations.

This action will not result in the introduction or spread of a non-indigenous species beyond status quo because fishing practices that may lead to such impacts are not changed.

Based on the information contained in the EA/RIR for Regulatory Amendments to the Gulf of Alaska Steller Sea Lion Protection Measures for the Pollock and Pacific Cod Fisheries, dated October 2004, I have determined that the proposed action would not significantly affect the quality of the human environment. The preparation of an environmental impact statement is not required under section 102(2)(c) of the National Environmental Policy Act or its implementing regulations, and therefore, a FONSI is appropriate.

William T. Hogarth

William T. Hogarth, Ph.D.
Assistant Administrator
for Fisheries, NOAA

12-1-04

Date