



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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Action Memo

File Number: REP 15-150

Agenda Date 10/5/2015

Agenda Number: B6

Dan Hull, Chairman
Chris Oliver, Executive Director

SUBJECT:
Protected Species Report

ACTION REQUIRED:
Review Protected Species report; action as necessary.

BACKGROUND:

Steller sea lions

On August 25 2015, US District Court judge Timothy Burgess ruled against Oceana and Greenpeace and upheld NMFS' 2014 EIS and Biological Opinion that relaxed protection measures for Steller sea lions in the BSAI pollock, cod, and Atka Mackerel fisheries in the western Aleutian Islands. In the ruling (attached electronically B6-1), Judge Burgess determined that the agency used the best available data and "considered the relevant factors and articulated a rational connection between the facts found and the choice made" to reach a conclusion that competition between commercial fisheries and Steller sea lions is unlikely. Judge Burgess also found no evidence that NMFS failed to consider scientific criticisms of the conclusions in the BiOp, or failed to adequately respond to them in the Final EIS. As a result, the protection measures enacted in January 2015 remain in place.

Short-tailed albatross and Steller's eider

On August 12 2015, the National Marine Fisheries Service requested reinitiation of formal consultation pursuant to Section 5 of the Endangered Species Act (ESA) on the effects of the GOA and BSAI groundfish fisheries and parallel state waters fisheries on the Short-tailed albatross and Alaska breeding population of Steller's eider. The NMFS prepared a Biological Assessment (attached electronically B6-2) that concluded that the Alaska groundfish fisheries are likely to adversely affect short-tailed albatross due to documented take incidental to the fisheries, but are not likely to adversely affect the Alaska breeding population of the Steller's eider, or adversely modify its designated critical habitat.

Previous consultations have anticipated that up to four short-tailed albatross could be reported taken bi-annually as a result of hook-and-line groundfish fishing activities in the BSAI and GOA. The USFWS has concurred with NMFS' previous determinations that the Alaska groundfish fisheries were not likely to adversely affect short-tailed albatross or Steller's eider populations. NMFS has reinitiated consultation because increases in the short-tailed albatross population - in conjunction with increases in observer coverage and total effort - increase the likelihood of observing short-tailed albatross interactions in the groundfish fisheries. There is, therefore, concern that exceeding the anticipated take could result in an interruption to fishing prior to reinitiating consultation.

Western GOA Unusual Mortality Event

Since May 2015, 11 fin whales, 14 humpback whales, one gray whale, and four unidentified cetaceans have stranded around the islands of the western Gulf of Alaska and southern shoreline of the Alaska Peninsula. On

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August 20 2015, NOAA declared that the large number of cetacean deaths constituted an Unusual Mortality Event (UME), which triggered a focused, expert investigation into the cause of the deaths. To date, only one whale has been sampled because most of the whales have been floating and not retrievable, and most have been in states of moderate to severe decomposition. No definitive cause of death was identified for the single sampled whale. As part of the UME investigation process, an independent team of scientists is being assembled to coordinate with the Working Group on Marine Mammal Unusual Mortality Events to review the data collected, sample additional whales that strand, and to determine the next steps for investigation. NOAA has asked all members of the public to immediately report any sightings of live whales in distress or stranded, or dead whales by calling the Alaska Marine Mammal Stranding Hotline at 877-925-7773. Additional information is available on the NOAA AKR website at

http://www.nmfs.noaa.gov/pr/health/mmume/large_whales_2015.html.

Entangled bowhead whale

On July 7 2015, a dead bowhead whale was found floating approximately 15-20 miles east of Savoonga on the north shore of St. Lawrence Island. The dead whale was estimated to be 15-18 m (50-60 ft) in length and female (Sheffield and SWCA 2015, attached electronically B6-3). The condition of the seas at that time precluded additional investigation. On July 8 2015, members of the Savoonga Whaling Captains Association (SWCA) returned to the whale and attempted to tow it to shore. The observers noted two floats located under the fluke, and lines wrapped around the peduncle region of the whale. The gear attached to the whale was recovered on July 9 and shipped to the UAF-Northwest campus science lab where it was documented. Approximately 81 m (265 ft) of line and two floats were recovered from the whale. Alaska registration numbers were marked on the floats and permit tags were attached to the line. Based on analyses of the gear, the bowhead was entangled in Bering Sea commercial crab fishing gear prior to death.

Proposed Rule - Implementing provisions of MMPA

On August 11 2015, NMFS published a proposed rule in the US Federal Register (attached B6-4) to revise its regulations to implement provisions of the Marine Mammal Protection Act (MMPA). The proposed regulations would establish conditions for evaluating a fish harvesting nation's regulatory program for reducing marine mammal incidental mortality and serious injury in fisheries that export fish and fish products to the US. Under this proposed rule, harvesting nations must apply for and receive a comparability finding for each fishery identified by the Assistant Administrator in the List of Foreign Fisheries in order to import fish and fish products into the US. NMFS is accepting comment on the proposed rule until November 9 2015.

2015 Draft List of Fisheries

On September 29, 2015 The National Marine Fisheries Service published its proposed List of Fisheries for 2016 (attached B6-5), as required by the Marine Mammal Protection Act. The proposed LOF for 2016 reflects new information on interactions between commercial fisheries and marine mammals. NMFS classifies each commercial fishery on the LOF into one of three categories, based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. NMFS is accepting comments until October 29, 2015.

PR Science Review

In 2013, NOAA Fisheries began a systematic peer review process at all six regional science centers and HQ Office of Science and Technology. Experts within and external to NMFS carefully examine the science programs on a five year cycle to improve integration, identify best practices, and share successes and challenges in order to maximize transparency and effectiveness of major science programs. In 2015, the objectives of the reviews are to examine and evaluate protected species stock assessment and applied research programs conducted pursuant to the Marine Mammal Protection Act, Endangered Species Act, and

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Magnuson-Stevens Act and comparable international agreements. At the AFSC, the review panel considered materials provided by the AFSC and provided input on ways to improve the quality of marine mammal science programs. The panel reviewed and provided comment on science programs addressing: Steller sea lions, northern fur seals, ice-associated seals, harbor seals, large whales, Cook Inlet beluga, and other cetaceans. Within those programs, the reviewers addressed the following themes, according to the Terms of Reference (attached B6-6): (1) research priorities, (2) objectives, (3) partners, (4) methods, (5) data quality, (6) strengths,

(7) weaknesses, (8) mandates, (9) recommendations, (10) communication, and (11) access to data. The review panel for the AFSC review included Jim Harvey (Chairman, Moss Landing Marine Laboratory), Laura Cowen (University of Victoria), Mike Simpkins (Northeast Fisheries Science Center), John Stein (Northwest Fisheries Science Center), and Mike Tillman (Scripps Institution of Oceanography).

The review panel produced a report (attached B6-7) that provided a summary of the review themes outlined above, reviews by each panel member, and recommended actions for the AFSC to improve their Protected Resources science program. The AFSC prepared a summary response document (attached B6-8) that presented the Center's response and plans to address the recommendations from the panel.

In 2016, the science review will focus on ecosystem and climate science.

On September 30 2015, NMFS released the draft Stock Assessment Reports for 2015. NMFS reviewed and revised the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports in accordance with the Marine Mammal Protection Act. Draft 2015 SARs are available at <http://www.nmfs.noaa.gov/pr/sars/draft.htm>. NMFS is soliciting input on the draft 2015 SARs until December 29, 2015.