



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

JAN 08 2013

Mr. David Bernhart
Assistant Regional Administrator for Protected Resources
National Oceanic and Atmospheric Administration
Southeast Regional Office
263 13th Avenue South
Saint Petersburg, Florida 33701

Dear Mr. Bernhart:

On August 23, 2011, Florida Atlantic University's (FAU) Southeast National Marine Renewable Energy Center (SNMREC) submitted an application to the Bureau of Ocean Energy Management (BOEM) for a lease to conduct marine hydrokinetic (MHK) technology testing on the Outer Continental Shelf (OCS), located approximately 16.7 to 27.8 kilometers offshore of Fort Lauderdale, Florida. On April 24, 2012, BOEM, as the lead Agency in cooperation with the U.S. Army Corps of Engineers (USACE), sent a letter and an environmental assessment (EA) (which served as a Biological Assessment) to the National Marine Fisheries Service (NMFS) requesting the initiation of Section 7 consultation under the Endangered Species Act (ESA) of 1973, on the effects of the following on ESA-listed species: (1) issuing a lease; (2) the lessee's installation, relocation, and removal of mooring systems, which would utilize anchors, cables, and buoys; and (3) the lessee's technology testing activities, which would involve turbine deployment, maintenance, operations, and recovery. On May 30, 2012, NMFS sent two letters responding requesting additional information and providing recommendations for the FAU project. On August 31, 2012, BOEM sent a letter to NMFS stating that comments and concerns will be addressed in more detail in a revised EA, and provided more information regarding BOEM's Renewable Energy Interim Policy. That letter also clarified that BOEM is the lead Federal Agency on the ESA consultation for this activity including towed tests of the test turbines. The U.S. Department of Energy (DOE) is a cooperating Agency for this ESA consultation. This letter and the enclosed draft of the revised EA (serving as the Biological Assessment) respond to NMFS' request for additional information in order to complete Section 7 consultation under the ESA.

In NMFS' May 30, 2012 letter, NMFS requested confirmation that the proposed tow tests and lease issuance are interrelated and interdependent, and that the Section 7 consultations be combined. BOEM has decided that the actions are, interrelated and interdependent and that the consultations should be combined. NMFS requested clarification that FAU would implement all of the listed lease stipulations on page 8 of the EA during the proposed

tow tests. BOEM confirms that there will be lease stipulations which are found in Section 2 of the EA that must be implemented by FAU.

On May 22, 2012, NMFS Habitat Conservation Division recommended expanding the alternatives analysis to include additional lease blocks. In our August 31, 2012 letter to you, and in the revised EA, we clarified which areas are available for lease. Although BOEM is not able to expand the areas available for lease, we did add a new alternative which limits the area that could be used for MHK testing within an aliquot (1/16 of an OCS block) in order to avoid sensitive benthic habitat. For more information, please see Sections 2 and 3 of the enclosed revised EA. Further, NMFS Protected Resources Division (PRD) recommended that BOEM consider requiring the activities be conducted in waters of at least 200m depth to reduce the potential to affect a high-use migratory corridor for loggerhead and green sea turtles. BOEM has determined that the proposed OCS lease blocks are in water depths between 265 and 355m.

NMFS PRD also requested that BOEM: 1) address other potential effects to sea turtles such as sea turtle attraction to the mooring and telemetry buoy and the proposed platform; 2) describe the monitoring and conservation measures to reduce the likelihood of sea turtles becoming misoriented or disoriented from the turbine structures potentially altering magnetic fields; and 3) describe proposed nighttime monitoring activities. BOEM has addressed each of these issues in the revised EA, Section 3.1.2.4.

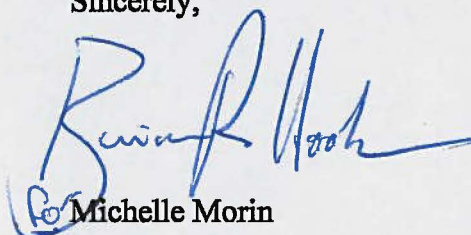
The enclosed revised EA serves as a Biological Assessment for this proposed activity and analyzes the likely impacts to ESA-listed species that may occur in the area of potential effect for the proposed action. Based on the analysis of this document, BOEM concludes that the impacts of the proposed action, in consideration of operating conditions and lease stipulations, are expected to be discountable and thus not likely to adversely affect ESA-listed sea turtles and marine mammals. In addition, BOEM concludes that the proposed action will have no effect on ESA-listed fish. As part of this analysis, BOEM has determined that there is no critical habitat impacted by the proposed action.

We request your concurrence and/or advice regarding our conclusions within 30 days of receiving this letter so that BOEM can finalize the EA. We are also consulting with the U.S. Fish and Wildlife Service under ESA, under separate cover letter. We are also responding to the May 22, 2012 Essential Fish Habitat (EFH) conservation recommendations under separate cover.

If you have any questions or require additional information, please contact Mr. Brian Hooker at (703) 787-1634 or Brian.Hooker@boem.gov. Correspondence may also be sent to the following address:

Bureau of Ocean Energy Management
Environment Branch for Renewable Energy
381 Elden Street, HM 1328
Herndon, Virginia 20170-4817

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle Morin". The signature is stylized with a large initial "M" and a long horizontal stroke at the end.

Michelle Morin
Chief, Environment Branch for Renewable
Energy

Enclosure

cc: USACE
Laura Margason, DOE