



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

Robert LaBelle
Science Advisor, BOEM
Office of the Director, HM317
3 81 Elden Street
Herndon, VA 20170-48170

May 24, 2013

Dear Mr. LaBelle:

Enclosed is the National Marine Fisheries Service's (NMFS') Biological Opinion, issued under the authority of section 7(a)(2) of the Endangered Species Act, on the effects of the Bureau of Ocean Energy Management's (BOEM's) and the Bureau of Safety and Environmental Enforcement's (BSEE's) proposed geological and geophysical (G&G) activities on threatened and endangered species and designated critical habitat. The proposed activities are in support of BOEM's and BSEE's oil and gas, renewable energy, and marine minerals programs in the Mid and South Atlantic Planning Areas occurring from 2013 through 2020.

The opinion describes the potential for incidental effects from G&G activities on endangered blue, fin, sei, humpback, North Atlantic right and sperm whales as well as green, hawksbill, Kemp's ridley, leatherback and Northwest Atlantic loggerhead sea turtles, and certain fish species. After considering the status of threatened and endangered species, the environmental baseline, and the direct, indirect and cumulative effects of the action on threatened and endangered species, we conclude that these proposed activities are not likely to jeopardize the continued existence of threatened or endangered species nor destroy or adversely modify designated critical habitat under NMFS' jurisdiction.

Section 7(b)(4) of the ESA requires that when a proposed agency action is found to be consistent with section 7(a)(2) of the ESA and the proposed action may incidentally take individuals of listed species, NMFS will issue an incidental take statement (ITS) which provides an exemption from the taking prohibitions contained in Section 9 of the ESA. The incidental take statement attached to this biological opinion includes several non-discretionary reasonable and prudent measures to minimize effects to listed species from G&G activities. These measures are binding conditions and must be followed for the exemption provided by the ITS to apply. The ITS that is attached to this biological opinion becomes effective immediately for threatened and endangered sea turtles and remains in effect through 2020 if BOEM and BSEE implement the reasonable and prudent measures and terms and conditions contained in the ITS.

Section 7(b)(4)(C) of the ESA provides that if an endangered or threatened marine mammal is involved, the taking must first be authorized by Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended (MMPA), before take can be exempted through an ITS. Accordingly, this opinion does not exempt the incidental take of blue, fin, sei, humpback, North Atlantic right or sperm whales. In order to be exempt from the Section 9 take prohibitions, an



MMPA incidental take authorization is required. NMFS will reinitiate this consultation as appropriate on NMFS Permits and Conservation Division's proposed issuance of any MMPA incidental take authorization and may exempt the take of listed marine mammals at that time.

This concludes formal consultation for BOEM's and BSEE's proposed G&G activities. Consultation must be reinitiated if: (1) the amount or extent of taking specified in the Incidental Take Statement is exceeded; (2) new information reveals effects of these actions that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) any of the identified actions are subsequently modified in a manner that causes an effect to the listed species that was not considered in the Biological Opinion; or (4) a new species is listed or critical habitat designated that may be affected by the identified actions.

I look forward to continued cooperation with BOEM and BSEE during future section 7 consultations.

Sincerely,

Donna S. Wieting
Director,
Office of Protected Resources

Enclosure
cc: Charles Barbee