

**FINDING OF NO SIGNIFICANT IMPACT  
FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION  
TO DEEPWATER WIND FOR THE TAKE OF MARINE MAMMALS INCIDENTAL TO  
CONSTRUCTION OF THE BLOCK ISLAND TRANSMISSION SYSTEM**

**NATIONAL MARINE FISHERIES SERVICE**

**BACKGROUND**

The National Marine Fisheries Service (NMFS) received an application from Deepwater Wind Block Island Transmission, LLC (DWBIT) requesting an Incidental Harassment Authorization (Authorization) under the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1631 *et seq.*), for the taking of marine mammals incidental to construction of the Block Island Transmission System (BITS) from November 2014 through October 2015.

Under the MMPA, we, NMFS shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The Authorization must prescribe, where applicable, the permissible methods of taking; other means of effecting the least practicable impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking.

The proposed action is a direct outcome of DWBIT requesting an Authorization to take marine mammals, by harassment, incidental to construction of the BITS project. DWBIT's activities, which have the potential to behaviorally disturb marine mammals, warrant an incidental take authorization from us under section 101(a)(5)(D) of the MMPA.

In accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations in 40 CFR §§ 1500-1508, and National Oceanographic and Atmospheric Administration (NOAA) Administrative Order (NAO) 216-6, we completed an Environmental Assessment (EA) titled, *Issuance of an Incidental Harassment Authorizations to Deepwater Wind for the Take of Marine Mammals Incidental to Construction of the Block Island Wind Farm and Block Island Transmission System*. We incorporate this EA in its entirety by reference.

We have prepared this Finding of No Significant Impact (FONSI) to evaluate the significance of the impacts of our selected alternative—Alternative 1 (Preferred Alternative) titled, “Issuance of Authorizations with Mitigation Measures,” and our conclusions regarding the impacts related to our proposed action. Under this Alternative, we would issue an Authorization under the MMPA with required mitigation, monitoring, and reporting measures. Based on our review of DWBIT's proposed action and the measures contained within Alternative 1, we have determined that no direct, indirect, or cumulatively significant impacts to the human environment would occur from implementing the Preferred Alternative.

## ANALYSIS

NAO 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the CEQ regulations at 40 CFR §1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion listed below this section is relevant to making a finding of no significant impact. We have considered each criterion individually, as well as in combination with the others. We analyzed the significance of this action based on the NAO 216-6 criteria and CEQ’s context and intensity criteria. These include:

**1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in Fishery Management Plans?**

*Response:* We do not expect that our action of issuing an Authorization to DWBIT or DWBIT’s proposed construction of the BITS project would cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH). Installation of the BITS cable and temporary offshore cofferdam could cause disruption or modification of benthic habitats and turbidity in the project area. However, these impacts would be limited in time and space and reversible.

EFH has been identified in the nearshore and offshore areas off the coast of Rhode Island and Block Island. Effects on EFH by the BITS construction project and issuance of the Authorization assessed here would be temporary and minor. The main effect would be short-term disturbance that might lead to temporary and localized relocation of EFH species or their food. The mitigation and monitoring measures required by the Authorization would not affect habitat or EFH. Therefore, NMFS, Office of Protected Resources, Permits and Conservation Division has determined that the issuance of an Authorization for the taking of marine mammals incidental to the BITS construction project will not have an adverse impact on EFH, and an EFH consultation is not required.

**2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?**

*Response:* We do not expect that our action of issuing an Authorization to DWBIT or DWBIT’s proposed project would have a substantial impact on biodiversity and/or ecosystem function within the affected environment. The impacts of the proposed action on marine mammals are specifically related to the sounds produced by vibratory pile driving and dynamically positioned (DP) vessel thrusters. Any impacts are expected to be limited to behavioral reactions (e.g., avoidance), and auditory and communication disruption (e.g., temporary threshold shift [TTS], masking), and only during times when pile driving and DP vessel thruster use are occurring. Although some marine mammals may forage opportunistically within the action area, and this behavior may be affected, no substantial predator-prey relationships would be substantially changed. Any impacts would be temporary and highly localized in nature and not result in substantial impacts to marine mammals or to their role in the ecosystem. The Authorization would authorize the Level B harassment of nine species of marine mammals. Neither serious injury nor mortality is anticipated or would be authorized.

**3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?**

*Response:* We do not expect that our action of issuing an Authorization to DWBIT or DWBIT's proposed project would have a substantial adverse impact on public health or safety, as the taking, by harassment, of marine mammals would pose no human risk.

**4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?**

*Response:* We have determined that our issuance of an Authorization and DWBIT's proposed project would likely result in limited adverse effects to Atlantic white-sided dolphins, short-beaked common dolphins, harbor porpoises, minke whales, fin whales, humpback whales, North Atlantic right whales, gray seals, and harbor seals. The EA evaluates the affected environment and potential effects of the proposed actions, indicating that the proposed activities have the potential to affect marine mammals in a way that requires authorization under the MMPA.

We have determined that the proposed activities may result in some Level B harassment (in the form of short-term and localized changes in behavior and/or displacement) of small numbers, relative to the population sizes, of nine species of marine mammals, three of which are listed under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). There will be no effects to critical habitat, as none exists in the proposed project area.

To reduce the potential for disturbance from the activities, DWBIT will implement several monitoring and mitigation measures for marine mammals, which are outlined in the EA. Taking these measures into consideration, we expect that the responses of marine mammals from the Preferred Alternative would be limited to temporary displacement from the area and/or short-term behavioral changes, falling within the MMPA definition of "Level B harassment." We do not anticipate that take by injury (Level A harassment), serious injury, or mortality would occur, nor would we authorize take by injury, serious injury, or mortality. We expect that harassment takes would be at the lowest level practicable due to the incorporation of the proposed mitigation measures.

**5) Are significant social or economic impacts interrelated with natural or physical environmental effects?**

*Response:* We expect that the primary impacts to the natural and physical environment would be temporary in nature (and not significant) and not interrelated with significant social or economic impacts. Issuance of an Authorization or DWBIT's proposed activities would not result in inequitable distributions of environmental burdens or access to environmental goods as the action is confined to DWBIT's personnel and contractors.

We have determined that issuance of the Authorization would not adversely affect low-income or a minority population—as our action only affects marine mammals. Further, there would be no impact of the activity on the availability of the species or stocks of marine mammals for subsistence uses, as there are no such uses of marine mammals in the proposed action area. Therefore, we expect that no significant social or economic effects would result from our issuance of an Authorization or DWBIT's proposed construction project.

**6) Are the effects on the quality of the human environment likely to be highly controversial?**

*Response:* The effects of our issuance of an Authorization for the take of marine mammals incidental to the proposed activities or DWBIT's proposed construction activities are not highly controversial. NMFS has issued numerous incidental take authorizations authorizing harassment of marine mammals from similar activities (e.g., pile driving) which has allowed NMFS to develop relatively standard mitigation and monitoring requirements for these activities and to assess the effects with data from comprehensive monitoring reports. Furthermore, we did not receive any comments raising substantial questions or concerns about the size, nature, or effect of potential impacts from our proposed action or DWBIT's proposed construction activities. There is no substantial dispute over effects to marine mammals.

**7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?**

*Response:* Issuance of the Authorization or DWBIT's proposed project is not expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas as it would only authorize harassment to marine mammals.

**8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?**

*Response:* The potential risks associated with the issuance of the Authorization or the BITS construction activities, including the use of construction equipment that results in elevated in-water sound levels, are not unique or unknown, nor is there significant uncertainty about impacts. NMFS has issued Authorizations for similar activities or activities with similar types of marine mammal harassment and conducted NEPA analysis on those projects. Each Authorization required marine mammal monitoring, and monitoring reports have been reviewed by NMFS to ensure that activities have a negligible impact on marine mammals. In no case have impacts to marine mammals, as determined from monitoring reports, exceeded NMFS' analysis under the MMPA and NEPA. Therefore, the effects on the human environment are not likely to be highly uncertain or involve unique or unknown risks.

**9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?**

*Response:* Issuance of an Authorization to DWBIT or DWBIT's proposed project is not related to other actions with individually insignificant but cumulatively significant impacts. Some uses of Rhode Island Sound and the Atlantic Ocean in general include recreational and commercial fishing, geophysical surveys, and shipping, all of which may have some impact on the environment. However, the addition of the BITS construction activities would not add incremental impacts, particularly those associated with underwater noise, such that these would become significant. Therefore, we do not expect that the impacts would be cumulatively significant. Any future Authorizations would have to undergo the same permitting process and would take DWBIT's proposed project into consideration when addressing cumulative effects.

**10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?**

*Response:* We have determined that the issuance of an Authorization to DWBIT or DWBIT's proposed project would not adversely affect entities listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historical resources. The proposed action is limited to the authorization to harass marine mammals consistent with the MMPA definition of "Level B harassment."

**11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?**

*Response:* The issuance of an Authorization to DWBIT or DWBIT's proposed project is not expected to result in the introduction or spread of a non-indigenous species into the human environment, as equipment that could cause such effects is not proposed for use. Moreover, the Authorization does not mandate marine transits outside of the local area or have any relation to bilge water or other potential causes of the introduction or spread of a non-indigenous species.

**12) Is the proposed action likely to establish a precedent for future actions with significant effects or does it represent a decision in principle about a future consideration?**

*Response:* Our proposed action of issuing an Authorization or DWBIT's proposed project would not set a precedent for future actions with significant effects or represent a decision in principle. Each MMPA authorization applied for under 101(a)(5)(D) must contain information identified in our implementing regulations. We consider each activity specified in an application separately and, if we issue an Authorization to an applicant, we must determine that the impacts from the specified activity would result in a negligible impact to the affected species or stocks and would not have an unmitigable adverse impact on the availability of marine mammals for subsistence uses. Our issuance of an Authorization may inform the environmental review for future projects, but would not establish a precedent or represent a decision in principle about a future consideration.

**13) Can the proposed action reasonably be expected to violate any Federal, State, or local law or requirements imposed for the protection of the environment?**

*Response:* The issuance of an Authorization or DWBIT's proposed project would not result in any violation of federal, state, or local laws for environmental protection. The applicant is required to obtain any additional federal, state and local permits necessary to carry out the proposed activities.

**14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?**

*Response:* The proposed action allows for the taking, by incidental harassment, of marine mammals during the proposed BITS construction. We have determined that marine mammals may exhibit behavioral changes such as avoidance of or changes in movement within the action area. However, we do not expect the authorized harassment to result in significant cumulative adverse effects on the affected species or stocks. We do not expect that the issuance of an Authorization or

DWBIT's proposed project would result in any significant cumulative adverse effects on target or non-target species incidentally taken by harassment due to human presence.

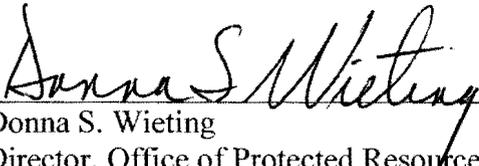
Cumulative effects refer to the impacts on the environment that result from a combination of past, existing, and reasonably foreseeable human activities and natural processes. Because of the relatively small area of potential disturbance and the temporary nature of the potential disturbance or displacement along with the corresponding mitigation measures, the action would not result in synergistic or cumulative adverse effects that could have a substantial effect on any species.

The proposed project does not target any marine species, and we do not expect it to result in any individual, long-term, or cumulative adverse effects on the species incidentally taken by harassment due to these activities. The potential temporary behavioral disturbance of marine species might result in short-term behavioral effects for these marine species within the disturbed areas, but we expect no long-term displacement of marine mammals as a result of the proposed action conducted under the requirements of the Authorization. Thus, we do not expect any cumulative adverse effects on any species as a result of our action.

#### **DETERMINATION**

In view of the information presented in this document and the analysis contained in the supporting EA titled, *Issuance of an Incidental Harassment Authorizations to Deepwater Wind for the Take of Marine Mammals Incidental to Construction of the Block Island Wind Farm and Block Island Transmission System*, we have determined that issuance of an Incidental Harassment Authorization to DWBIT for the take, by Level B harassment only, of marine mammals incidental to construction of the BITS project, in accordance with Alternative 1 in the EA would not significantly impact the quality of the human environment, as described in this FONSI and in the EA.

In addition, we have addressed all beneficial and adverse impacts of the action to reach the conclusion of no significant impacts. Accordingly, the preparation of an Environmental Impact Statement for this action is not necessary.

  
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Donna S. Wieting  
Director, Office of Protected Resources,  
National Marine Fisheries Service

**AUG 19 2014**

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Date