FINDING OF NO SIGNIFICANT IMPACT FOR THE ISSUANCE OF AN INCIDENTAL HARASSMENT AUTHORIZATION TO GLACIER BAY NATIONAL PARK SERVICE TO TAKE MARINE MAMMALS INCIDENTAL TO CONDUCTING SEABIRD MONITORING AND RESEARCH OPERATIONS IN ALASKA

NATIONAL MARINE FISHERIES SERVICE

BACKGROUND

We (National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division) propose to issue an Incidental Harassment Authorization (Authorization) to Glacier Bay National Park (Glacier Bay NP) under the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1631 *et seq.*) for the incidental taking of small numbers of marine mammals, incidental to the conduct of seabird monitoring and research in Glacier Bay National Park and Preserve for one year.

Under the MMPA, 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.

Our proposed action is a direct outcome of Glacier Bay NP requesting an authorization to take marine mammals, by harassment, incidental to conducting seabird monitoring and research activities Glacier Bay National Park and Preserve. Glacier Bay NP's seabird monitoring and research 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 (NEPA; 42 U.S.C. 4321 *et seq.*), we completed an Environmental Assessment (EA) titled, *Issuance of an Incidental Harassment Authorization to Glacier Bay National Park to Take Marine Mammals by Harassment Incidental to Seabird Monitoring and Research Conducted in Glacier Bay National Park, Alaska.* 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 an Authorization with Mitigation Measures," and our conclusions regarding the impacts related to our proposed action. Based on our review of Glacier Bay NP's proposed seabird monitoring and research activities 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 (FMP)?**

   Response: We do not expect our proposed action of issuing an Authorization for the take of marine mammals incidental to the conduct of seabird monitoring and research activities or Glacier Bay NP's proposed activities would cause substantial damage to the ocean and coastal habitats and/or essential fish habitat. The mitigation and monitoring measures required by the Authorization for Glacier Bay NP's proposed activities would not affect ocean and coastal habitats or essential fish habitat.

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 our proposed action of issuing an Authorization for the take of marine mammals incidental to the conduct of seabird monitoring and research activities to have a substantial impact on biodiversity or ecosystem function within the affected environment. The proposed seabird monitoring and research activities may temporarily disturb pinnipeds hauled out on the perimeter of the research areas, but the effects would be short-term and localized.

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

   Response: The proposed seabird monitoring and research would occur in Glacier Bay National Park and Preserve away from any populated area. We do not expect our proposed action (i.e., issuing an Authorization to Glacier Bay NP) to have a substantial adverse impact on public health or safety as the taking, by harassment, of marine mammals would pose no risk to humans.

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 proposed issuance of an Authorization would likely result in limited adverse effects to harbor seals (*Phoca vitulina richardsi*) only.

   Glacier Bay NP researchers would not conduct ground-based or vessel-based surveys if they observe Steller sea lions before accessing Boulder, Lone, and Flapjack Islands, and Geikie Rock. Thus, we do not expect that Glacier Bay NP's proposed activities would affect the western stock of Steller sea lions listed under the Endangered Species Act. Our proposed action and Glacier Bay NP's proposed activities would not adversely affect critical habitat as there is

none designated within Glacier Bay. Therefore, we determined that our proposed issuance of an Authorization is not subject to the section 7 consultation requirements.

The EA evaluates the affected environment and potential effects of Glacier Bay's proposed activities, indicating that only the presence and approach of the researchers during the seabird monitoring and research activities have the potential to affect one species of marine mammal in a way that requires authorization under the MMPA.

The seabird monitoring and research activities and the required mitigation measures would not affect physical habitat features, such as substrates and water quality.

The impacts of the seabird monitoring and research activities on marine mammals are specifically related to acoustic and visual stimuli. To reduce the potential for disturbance from the activities, Glacier Bay NP would 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 have we authorized 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 interrelated with significant social or economic impacts. Issuance of an Authorization would not result in inequitable distributions of environmental burdens or access to environmental goods as the action is confined to university 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 proposed issuance of an Authorization or Glacier Bay NP's proposed seabird monitoring and research activities.

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

Response: The effects of our proposed issuance of an Authorization for the take of marine mammals incidental to seabird monitoring research are not highly controversial. There is not a substantial dispute about the size, nature, or effect of our proposed action and the scope of this proposed action is no different than previously authorized seabird monitoring and research activities in other areas.

For several years, we have assessed and authorized incidental take for similar seabird research activities and have developed relatively standard mitigation and monitoring measures, all of which have been vetted during past public comment periods. We are unaware of any party characterizing Glacier Bay NP's proposed activities as controversial and there is no substantial dispute over effects to marine mammals.

We fully considered all of the public comments in preparing the proposed final Authorization and the EA. Although one member of the public raised concern over the effects of the survey, we have determined, based on the best available scientific literature, the limited duration of the project, and the low-level effects to marine mammals, that our proposed Authorization would not result in significant impacts to the human environment. The Marine Mammal Commission which provides comments on all proposed incidental take authorizations as part of their established role under the MMPA (§ 202 (a)(2)) concurred with these findings and recommended that we issue the Authorization to Glacier Bay NP subject to inclusion of the proposed mitigation and monitoring measures.

Previous projects of this type required marine mammal monitoring and monitoring reports, which have been reviewed by us 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 our analyses under the MMPA and NEPA.

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: The issuance of an Authorization for the take of marine mammals incidental to seabird and monitoring research would not 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.

The proposed research areas are located within a National Park and other conservation areas. The proposed activity —which uses one small vessel— would minimally add to limited vessel/pedestrian traffic to the region and would not result in substantial damage to historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas.

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

Response: The potential risks of seabird monitoring and research are neither unique nor unknown nor is there significant uncertainty about impacts. We have issued incidental take authorizations for similar activities or activities with similar types of marine mammal harassment in the Pacific Ocean and conducted NEPA analysis on those projects. In no case have impacts to marine mammals from these past activities, as determined from monitoring reports, exceeded our analysis under the MMPA and NEPA. Therefore, we expect any potential effects from the proposed issuance of our Authorization to be similar to prior activities and 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: The EA and the documents it references analyzed the proposed issuance of an Authorization for the take of marine mammals incidental to the conduct of seabird monitoring and research and the impacts of the proposed seabird monitoring and research activities in light of other human activities within the study area.

We expect the following combination to result in no more than minor and short-term impacts to marine mammals in the area in terms of overall disturbance effects: (a) our issuance of an Authorization with prescribed mitigation and monitoring measures; (b) past, present, and reasonably foreseeable activities within Glacier Bay National Park and Preserve; and (c) climate change.

The proposed activities of Glacier Bay NP conducting seabird monitoring and research and our proposed action of issuing an Authorization to Glacier Bay NP for the incidental take (Level B behavioral harassment) of a small number of harbor seals are interrelated. The monitoring and research activities conducted under the requirements of the proposed Authorization authorizing Level B harassment of marine mammals is not expected to result in cumulatively significant impacts when considered in relation to other separate actions with individually insignificant effects.

We are unaware of any synergistic impacts to marine resources associated with reasonably foreseeable future actions that may be planned or occur within the same region of influence as the proposed survey. We have issued incidental take authorizations for other seabird monitoring and research activities that may have resulted in the harassment of marine mammals. These research activities are dispersed both geographically (throughout the world) and temporally; are short-term in nature; and use mitigation and monitoring measures to minimize impacts to marine mammals.

The proposed issuance of an Authorization to Glacier Bay NP is not related to other actions with individually insignificant, but cumulatively significant impacts. While other research projects in Alaska may result in harassment to marine mammals, we do not expect that the impacts would be cumulatively significant. Any future incidental take authorizations would have to undergo the same permitting process and would take Glacier Bay NP's action into consideration when addressing cumulative effects.

The Cumulative Effects section of the EA and the material incorporated by reference go into more detail regarding other past, present, and reasonably foreseeable future actions, but concludes that the impacts of Glacier Bay NP's seabird and research monitoring are expected to be no more than minor and short-term with no potential to contribute to cumulatively significant impacts.

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 our proposed action is not an undertaking with the potential to affect historic resources because our proposed action is limited to the issuance of an Authorization to harass marine mammals consistent with the MMPA definition of Level B harassment. There are no districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places within the activity area. Our proposed action would not cause loss or destruction of significant scientific, cultural or historical resources as traditional cultural practices including seal hunting, mountain goat hunting and sea otter harvest, as well as several traditional fisheries, are prohibited within Glacier Bay National Park.

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

Response: Our proposed action is the issuance of an Authorization to Glacier Bay NP which does not have the potential to introduce or spread non-indigenous species because it will not require or encourage Glacier Bay NP personnel to conduct long-range vessel transit that could result in the introduction or spread of invasive 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 for the take of marine mammals incidental to the conduct of seabird and research monitoring would not set a precedent for future actions with significant effects or represent a decision in principle. Each MMPA authorization applied for under section 101(a)(5) must contain information identified in our implementing regulations. We consider each activity specified in an application separately and, if we issue an Authorization, we must determine that the impacts from the specified activity would result in a negligible impact to the affected species or stocks. Our proposed 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 threaten a violation of any Federal, State, or local law or requirements imposed for the protection of the environment?

Response: The proposed issuance of an Authorization 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 would not result in any significant cumulative adverse effects on target or non-target species incidentally taken by harassment due to seabird monitoring and research activities.

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 proposed activities to result in significant cumulative adverse effects on the affected species or stocks.

We have issued incidental take authorizations for other conduct of seabird and research monitoring (to other agencies) that may have resulted in the harassment of marine mammals, but they are dispersed both geographically (throughout the world) and temporally, are short-term in nature, and all use mitigation and monitoring measures to minimize impacts to marine mammals. Because of the project's relatively short timeline (1 month), the proposed activities would not result in synergistic or cumulative adverse effects that could have a substantial effect on any species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting EA titled, *Issuance of an Incidental Harassment Authorization to Glacier Bay National Park to Take Marine Mammals by Harassment Incidental to Seabird Monitoring and Research Conducted in Glacier Bay National Park, Alaska,* and documents that it references, we have determined that issuance of an Incidental Harassment Authorization to Glacier Bay NP in accordance with Alternative 1 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.

Donna S. Wieting

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

August 29, 2014
Date