

FINDING OF NO SIGNIFICANT IMPACT

For the Issuance of Permit 26342 under Section 10(a)(1)(A) of the Endangered Species Act

I. Purpose of Finding of No Significant Impact (FONSI)

The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) NEPA implementing regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded from the need for further NEPA review will not have a significant impact on the human environment (40 CFR §§ 1500.4(b) & 1500.5(b)). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action as well as connected actions (40 CFR § 1501.3(b)). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i)); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration (40 CFR § 1501.3(b)(ii)-(iv)). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment (EA) of the Effects Scientific Research and Enhancement Activities would have on Endangered Black Abalone (*Haliotis cracherodii*) under Proposed Permit 26342, which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference (40 CFR § 1501.6(b)).

II. Approach to Analysis

We base our analysis on our review of the proposed action and the information presented in the EA, including the affected area, the resources in the affected area, and the potential effects of the proposed action on those resources. We also considered the scale of the proposed action and its potential effects on resources, individually and in combination with other related actions.

We consider the proposed action's effects to be minor (small in scale), and we therefore do not expect them to meaningfully contribute to a significant impact on the human environment. The proposed action would occur in localized sites within rocky intertidal reefs along the coast. The affected area would be small compared to the larger area affected by emergency events.

We also expect the potential effects on the physical and biological environment to be minor to moderate and we do not believe they would meaningfully contribute to a significant impact on the human environment. Potential effects include minor trampling of rocky intertidal habitats, disturbance effects associated with removing fouling organisms from small areas in or adjacent to cracks and crevices, and minor substrate alterations that could arise from installing abalone recruitment modules (ARMs). These activities could cause black abalone to experience minor stress. Rescued black abalone could be injured or even killed by collection, handling, and relocation activities.

The proposed action is not connected to other actions that have caused or may cause effects on resources in the affected area. There is no potential for the effects of the proposed action to interact with the effects of other projects in a manner that would cause the combined effects to be significant.

III. Geographic Extent and Scale of the Proposed Action

The geographic extent of the proposed action includes rocky intertidal reefs throughout the California coast within the range of black abalone. We consider the scale of the proposed action to be small, because the proposed rescue and relocation activities themselves would be conducted at very specific, localized sites. The actual affected areas would be much smaller than any area affected by an emergency event.

IV. Degree of Effect

A. The potential for the proposed action to threaten a violation of federal, state, or local law or requirements imposed for environmental protection.

We do not expect the proposed action would in any way violate federal, state, or local law or fail to meet requirements imposed for environmental protection. Researchers would comply with federal, state, and local laws and requirements, including laws governing access to the rocky intertidal sites and any requirements specifically put into effect in response to an emergency event.

B. The degree to which the proposed action is expected to affect public health or safety.

We do not expect the proposed action to affect public health or safety. Only trained, experienced personnel would conduct field activities. Researchers would coordinate with the appropriate agencies to access field sites and would comply with any safety requirements that may arise in response to an emergency event.

C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:

- a. Federal threatened or endangered species and critical habitat;*
- b. stocks of marine mammals as defined in the Marine Mammal Protection Act (MMPA);*
- c. essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;*

- d. bird species protected under the Migratory Bird Treaty Act;*
- e. national marine sanctuaries or monuments;*
- f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;*
- g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

Section 4.2 of the EA describes and evaluates the effects of the proposed action on biological resources. The proposed action would affect endangered black abalone and their habitat, including designated critical habitat. We expect rescue, transport, holding, relocation, and spawning activities to cause stress to rescued black abalone and potentially injure or kill some black abalone. Some or all of the captive-bred larvae and juveniles may die during culturing and experimental outplanting. We expect these effects on the species not to be significant because, although some of the rescued black abalone may die, we expect that more abalone would die if they were not rescued through the permitted activities and thus the net effect is positive despite the negative effect on some individuals. In addition, any survival of captive-bred and outplanted black abalone would benefit the species by increasing their abundance and reproductive potential in the wild. Researchers would implement best practices to minimize stress, injury, and mortality to black abalone during the proposed activities. Researchers may also collect empty shells and dead or obviously unhealthy black abalone for analysis.

We expect effects on habitat to be minor and limited to small areas. Rescue, relocation, and monitoring activities may result in minor trampling of rocky intertidal habitat. Installation of ARMs would result in minor, temporary effects on small areas of rocky substrate. Mounting materials may be left in place but would only affect very small areas of rocky substrate. Removal of fouling/encrusting organisms would be limited to small areas (pre-selected cracks and crevices where rescued black abalone would be placed) and such action would be expected to improve habitat quality for black abalone and the rocky intertidal community. The affected habitat includes essential fish habitat (EFH) for Pacific groundfish, salmon, and coastal pelagic species. However, we do not expect the proposed action to adversely affect EFH.

Researchers would minimize any disturbance to marine mammals (e.g., California sea lions, Pacific harbor seals, Northern elephant seals) by approaching the sites quietly and cautiously and avoiding surveys during pupping seasons. Researchers have obtained or will obtain the appropriate MMPA authorizations.

- D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

We do not expect the proposed action to affect properties listed or eligible for listing on the National Register of Historic Places or any cultural, archeological, or other resources important to traditional cultural and religious tribal practice.

- E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

We do not expect the proposed action to have a disproportionately high and adverse effect on the health or environment of minority or low-income communities compared to expected impacts on other communities.

- F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

We do not expect the proposed action to contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species, or promote the introduction, growth, or expansion of such species. To minimize the spread of pathogens and non-native species, the permit would require researchers to wash all gear and equipment with fresh water between sites as well as quarantine black abalone from other abalone species (including the endangered white abalone, *Haliotis sorenseni*) that may be held at the captive facilities.

- G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

We do not expect the proposed action to affect any other physical or biological resources in a way that would be considered substantial, highly uncertain, or subject to scientific disagreement. The effects of the proposed action are fairly well understood and based on analysis of previous black abalone rescue and relocation efforts conducted by the University of California Santa Cruz in response to emergency events.

V. Other Actions Including Connected Actions

The proposed permit would allow and streamline rescue and relocation of black abalone in response to emergency events. The proposed rescue and relocation activities would likely be conducted in coordination with other emergency response activities. We do not expect the effects of the proposed activities and other emergency response activities to result in synergistically significant impacts. The proposed action would focus on black abalone, whereas the other emergency response activities would focus on mitigating other aspects of the emergency event.

VI. Mitigation and monitoring

The permit application includes several measures to minimize effects on black abalone; these have been incorporated into the permit as terms and conditions. These measures include best practices and protocols to minimize stress and injury to the abalone during collection, transport, holding, release, monitoring, spawning, and outplanting activities. The researchers will evaluate the

effectiveness of these measures and document injury and mortality levels in the annual and final reports.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on its EA for the proposed action, determines not to prepare an EIS because the action would not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA and in the Endangered Species Act (ESA) Section 7/MSA Essential Fish Habitat Consultation prepared for the issuance of ESA Permit 26342, it is hereby determined that the issuance of ESA Permit 26342 will not significantly impact the quality of the human environment. The EA on the Effects Scientific Research and Enhancement Activities would have on Endangered Black Abalone (*Haliotis cracherodii*) under Proposed Permit 26342 is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



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Date