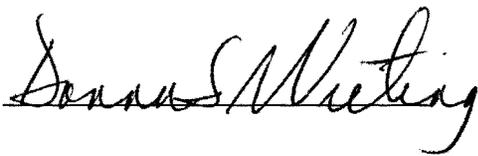


**Finding of No Significant Environmental Impact**  
**Incidental Take Permit to Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc.**  
**(Permit File No. 21293)**

The Endangered Species Division has prepared the attached Environmental Assessment (EA) for Mr. Jack Rudloe, Gulf Specimen Marine Laboratories, Inc., (Permit File No. 21293). The proposed action is as follows:

NOAA Fisheries, Office of Protected Resources proposes to issue an ITP to GSML under Section 10(a)(1)(B) of the ESA, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226). ITP No. 21293 would be valid through December 11, 2035.

Having reviewed the EA, I have determined that this action would not have a significant impact on the quality of the human environment. Therefore, preparation of an EIS on the action is not required by Section 102(2)(c) of the National Environmental Policy Act or its implementing regulations.



Donna S. Wieting  
Director, Office of Protected Resources

DEC 12 2017

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Date

**Environmental Assessment**  
**Incidental Take Permit to Mr. Jack Rudloe,**  
**Gulf Specimen Marine Laboratories, Inc. (GSML)**  
**(Permit File No. 21293)**

**Background:** NOAA Fisheries, Office of Protected Resources proposes to issue an ITP to GSML under Section 10(a)(1)(B) of the ESA, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226). ITP No. 21293 will be valid through [18 years after date of issuance], 2035.

*Program Description:* Section 10(a)(1)(B) of the ESA allows for issuance of ITPs if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. These permits must specify the number and species of animals that can be taken, and designate the manner, period, and locations in which the takes may occur. The regulations promulgated at 50 CFR §222 specify criteria to be considered by NOAA Fisheries in reviewing applications and making a decision regarding issuance of a permit.

*Description of the Action Authorized Under the Permit:* GSML proposes to use small trawls (under 500 sq. ft. (46.5 sq. m)) with two foot (0.61 m) long trawl doors to collect marine fish, invertebrates and algae for the purpose of supplying specimens for research and educational activities. These trawls will be used without turtle excluder devices (TEDs). Trawl times will be less than 30 minutes in duration with the depth of trawling activity seldom exceeding 15 meters. Collecting trips will be made year round in the Florida state waters of Gulf, Franklin, and Wakulla Counties. The applicant could not supply NMFS with a precise number of collecting days, as the amount of trawling activity depends on the demands of the client base, which varies considerably.

The duration of the proposed ITP (21293) is for 18 years.

The application for an ITP included the Kemp's ridley, green and loggerhead sea turtle species. Although GSML has never taken any turtles with the gear described under the proposed action, a take of one turtle (any species) every 3 years is possible. No mortalities or injuries are expected should this take occur. The applicant did not include the possibility of interaction with the leatherback sea turtle, Gulf sturgeon, or Gulf sturgeon critical habitat. NOAA Fisheries determined that these species and habitat could be affected and thus included them in the analysis of the application for ITP No. 21293. The species affected and take that will be authorized under the ITP are as follows:

Endangered

Leatherback turtle

*Dermochelys coriacea*

Green turtle (North Atlantic Distinct Population Segment)

*Chelonia mydas*

Kemp's ridley turtle

*Lepidochelys kempii*

Threatened

Loggerhead turtle (Northwest Atlantic Ocean Distinct Population Segment)

*Caretta caretta*

Gulf Sturgeon

*Acipenser oxyrinchus desotoi*

NOAA Fisheries will authorize, for the entire life of ITP No. 21293, an **incidental take of one sea turtle, live, of any species, and one Gulf sturgeon, alive, every three years throughout the duration of the permit.**

NOAA Fisheries will also authorize GSML, for the life of ITP No. 21293, to remove any turtles it encounters ensnared in fishing lines, nets, and trap ropes. If any of these sea turtles require care, this ITP authorizes GSML to transport them to a rehabilitation facility. This authorization is necessary to allow GSML to carry out the activities specified in its conservation plan as outlined in the ITP application.

*Conservation Plan:* As required under Section 10(a)(1)(B), GSML will implement a conservation plan to include several measures designed to minimize and mitigate the impacts of any incidental takes of ESA-listed species. The plan includes resuscitation and safe handling of captured sea turtles per NOAA Fisheries guidelines. Any comatose or inactive turtle caught during the <30-minute trawls will be placed on its bottom shell (plastron) so that the turtle is right side up and its hindquarters will be elevated at least 6 inches (15.2 cm) for a period of 4 up to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations will be used for larger turtles. GSML will periodically rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternating to the other side. Sea turtles being resuscitated will be shaded and kept damp or moist but under no circumstance will be placed into a container holding water. A water-soaked towel will be placed over the head, carapace, and flippers to keep the turtle moist. Any animals needing medical attention or rehabilitation will be cared for by authorized persons and facilities.

ITP No. 21293 will require the applicant to follow specific handling procedures for Gulf sturgeon to minimize impacts to this species. Should a Gulf sturgeon be taken incidentally during the course of trawling, it will be returned to the water immediately. Sturgeon tend to inflate their swim bladder when stressed and in air (if the fish has air in its bladder, it will float and be susceptible to sunburn or bird attacks). All efforts will be made to return the fish to neutral buoyancy prior to and during release. Air will be released by gently applying ventral pressure in a posterior to anterior direction of the animal. The specimen will then be propelled rapidly downward into the water during release.

Sea turtles can become entangled in fishing line, nets and ropes. These interactions can result in injury or death. Various fishing activities occur in the action area (please refer to the attached biological opinion). GSML's conservation plan includes actively assisting any sea turtles it encounters that are entangled or ensnared in such gear. Turtles will be captured, the gear removed, and the animals will be returned to the water. This effort will help turtles that might not be able to conduct normal activities (e.g. feed or swim) or might otherwise even die due to this gear. If any of these sea turtles are found to require care after having the gear removed, GSML will transport them to a rehabilitation facility. This portion of the conservation plan (disentangling turtles ensnared in fishing lines, nets, and trap ropes) will mitigate the impacts of any incidental takes of ESA-listed sea turtles by GSML's trawling activities.

*Alternatives Under Consideration:* Two alternatives have been considered: (1) approving the permit request, i.e. the proposed action; (2) not approving the requested permit, i.e. the no action alternative.

*Description of the Affected Environment:* The proposed action area is Florida state waters of the Apalachee Bay region of the Florida panhandle, specifically the state waters of Gulf, Franklin, and Wakulla Counties. The majority of the area affected by the proposed action is waters of depths seldom exceeding 15 meters, and is found in six approximately rectangular trawl areas distributed from Dog Island (St. George Sound) to St. Marks Lighthouse (approximately Big Cove). Approximately one quarter of the area of the earlier mentioned trawl areas includes Gulf sturgeon critical habitat. The overlap between the Gulf sturgeon critical habitat and the area proposed by GSML for their marine collections includes the nearshore waters out to 1 nm (1.9 km) from the East Pass (west end of Dog Island) in St. George Sound east to the shore from Lanark Village, Franklin County.

The area affected by the proposed trawling by GSML has been identified as Essential Fish Habitat (EFH) for shrimp, red drum, reef fish, coastal migratory pelagic, stone crab, and spiny lobster. No coral reef ecosystems occur in the area. The affected EFH would consist primarily of hard, unvegetated sand, shell (including oyster & oyster reefs), or mud bottom, submerged aquatic vegetation, and water column.

*Environmental Consequences:*

*A. Proposed Action:* Any impacts of the proposed action would be limited to the biological and physical environment. The type of action proposed in the permit request is not likely to affect the socioeconomic environment, or pose a risk to public health and safety.

Authorization of ITP No. 21293 would allow GSML to use small trawls (under 500 sq. ft. (46.5 sq. m)) with two foot (0.61 m) long trawl doors to collect marine fish, invertebrates and algae for the purpose of supplying entities conducting scientific research and educational activities. Capture of endangered and threatened sea turtles and the threatened Gulf sturgeon is not considered likely, but is possible. ITP No. 21293 would authorize, for the entire life of the permit, an incidental take of six sea turtles, all live, in any combination, of loggerhead, green, Kemp's ridley or leatherbacks and six Gulf sturgeon, alive. These takes, if they occur, would be non-lethal and result in no injury to these species.

A biological opinion (Public Consultation Tracking System Number FPR-2017-9206) was completed for the proposed action. Capture during trawling can result in physiological effects on both sea turtles and Gulf sturgeon. However, NOAA Fisheries believes that in the unlikely event of a capture of a turtle or Gulf sturgeon during trawling as described in the proposed action, the capture would have a low level of physiological effect on these species. Additionally, the permit would contain specific handling and care procedures to minimize the effects of capture to sea turtles and Gulf sturgeon in the unlikely event that they are captured (please refer to "Mitigation Measures" below). Possible indirect effects of the trawling activity on sea turtles and Gulf sturgeon may be the disturbance of the benthic environment by the trawl gear. This disturbance would also result in a direct effect to Gulf sturgeon critical habitat for the marine component. Many studies have documented the adverse effects that trawling has on specific benthic communities, however we lack spatial resolution on gear effort, deployment and habitat mapping to fully evaluate the ecosystem effects on a broader scale. Benthic molluscan and crustacean prey items favored by the Kemp's ridley turtle, loggerhead turtle, and Gulf sturgeon could conceivably

be negatively affected by trawl disturbance. Additionally, the trawling may catch and remove a small, unquantifiable quantity of turtle and Gulf sturgeon prey items.

After reviewing the current status of the leatherback, loggerhead, green, Kemp's ridley sea turtles, and Gulf sturgeon, the environmental baseline for the action area, the effects of the incidental take that would be authorized in this ITP, the effects of the proposed action on Gulf sturgeon designated critical habitat, and probable cumulative effects, NOAA Fisheries' concluded that issuance of ITP No. 21293, as proposed, is not likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat. A copy of the biological opinion is attached.

NOAA Fisheries also evaluated the impacts to EFH and coral reef ecosystems due to the trawling, as conducted under the permit. No coral reef ecosystems occur in the action area and thus will not be affected. We found that impacts to EFH would be minimal and short term, and that the activities proposed under the permit will not adversely affect EFH.

NOAA Fisheries is not aware of any controversy or public concern over the activities conducted in the proposed permit. A Notice of Receipt was published in the *Federal Register* on April 12, 2017 (82 FR 17638) making the ITP application available for public review and comment. The comment period ended on May 12, 2017, and seven comments were received. Of these, three were germane to the action.

One commenter was concerned that the conservation plan doesn't address oversight of the activities nor does it require the "take" to be registered and monitored. However, the permit requires that all sea turtle or Gulf sturgeon incidental takes during GSML trawling activities must be reported within 24 hours of their occurrence. Reports of incidental take should include the date of the take, the condition of the turtle, the species (if known), and any other pertinent details of the circumstances of the taking (e.g. location). In addition, the applicant is required to submit both annual reports and a final report at the end of the permit period, as detailed in the Reporting Requirements section of this permit. The applicant is subject to all other legal and statutory requirements.

One commentator was concerned that the activities were not restricted to a time of day in which the animals are less active to limiting the potential for the take. However, it is our determination that restricting the activities to a particular time of day will not significantly impact the likelihood for takes, and that takes are unlikely. However, the applicant is subject to the conditions of the permit to reduce the likelihood of take, and the effects of any such takes as described in the Conditions to Monitor, Minimize, and Mitigate Impacts to Listed Species section of the permit.

Three commenters were concerned with the duration of the permit. However, given the lack of takes over the nine year duration of the previous permit, and the expertise and skill of the applicant, the reporting requirements, and the number of takes that are permitted, we determine that 18 years is an appropriate duration for the permit.

A Notice was published in the *Federal Register* on December 6, 2017 (82 FR 51398) making the draft EA available for public review and comment. The comment period ended on December 6, 2017, and no germane comments were received.

*B. No Action:* An alternative to the proposed action is no action, i.e. denial of the ITP request. This alternative would eliminate the possible risk to sea turtles, Gulf sturgeon, and benthic habitat associated with the trawling activity. However, it would not allow GSML to conduct its trawling, which would affect its non-profit activities. GSML is engaged in marine education, research, and coastal conservation. Since NMFS has concluded that ITP No. 21293, as proposed, is not likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat, it would be difficult to justify denial of the permit.

*Minimization and Mitigation Measures:* ITP No. 21293, if approved, would require GSML to follow certain procedures in order to minimize and mitigate any effects of the proposed action.

1. *Tow times.* Tow times shall not exceed 30 minutes.

2. *Sea Turtle Handling and Resuscitation Requirements.* All incidentally captured sea turtles will be handled according to procedures specified in 50 CFR 223.206(d)(1)(i). Any specimen taken incidentally during the course of trawling activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water as soon as possible. They must be released only when trawling gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

Resuscitation (as described at 50 CFR 223.206(d)(1)(i)) must be attempted on sea turtles that are comatose or inactive, and sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water.

3. *Gulf Sturgeon Handling Requirements.* Should a Gulf sturgeon be taken incidentally during the course of trawling, it will be required to be returned to the water immediately. GSML will be required to return the fish to neutral buoyancy prior to and during release, following procedures described in the permit application.

4. *Additional Restrictions.* If observed interactions with sea turtles or Gulf sturgeon within the waters covered by this ITP reach thresholds specified in the AUTHORIZED INCIDENTAL TAKES section of the ITP, GSML must immediately stop all trawling activities. GSML must then consult with NMFS to determine the appropriate next steps.

5. GSML will disentangle, to the maximum extent practicable and with vigilante consideration of safety, any live turtle or Gulf sturgeon that is found in fishing gear.

6. *Take Reports.* All sea turtle incidental takes during GSML trawling activities must be reported to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, via email ([angela.somma@noaa.gov](mailto:angela.somma@noaa.gov)) or by phone (301.427.8403), within 24 hours of their occurrence, as outlined in the ITP.

Any Gulf sturgeon incidental take during GSML trawling activities must be reported to NMFS Protected Resources, Southeast Regional Office, NMFS, via email at ([takereport.nmfsser@noaa.gov](mailto:takereport.nmfsser@noaa.gov)) or facsimile (Fax: 727-570-5517), within 24 hours of their occurrence, as outlined in the ITP.

*Cumulative Impacts:* There are no other NMFS section 10(a)1(B) ITPs authorized for the waters of the action area. Anthropogenic activities occurring in the action area were described in the baseline section of the biological opinion done for the Section 7 Consultation for this ITP [see Biological Opinion]. Anthropogenic effects include commercial and recreational fishing, military

training and testing activities, vessel traffic, oil and gas activities, scientific research, ocean noise, and pollution. An increase in these activities could result in an increased effect on ESA-listed species; however, the magnitude and significance of any anticipated effects remain unknown. These activities are expected to continue into the future. During the consultation process, information was sought on any expected new future actions that might occur in the action area that could affect sea turtles or Gulf sturgeon. Cumulative impacts were considered in reaching the conclusion of the biological opinion written for the proposed action. The conclusion was that the proposed action is not likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat.

All cumulative effects of the harvest of the target species marine organisms is considered by the state of Florida under their permit process (e.g. bag limits, size limits, etc.).

*Compliance with Endangered Species Act:* To comply with Section 7 of the regulations (50 CFR §402.14(c)), a Section 7 Consultation was initiated by the NOAA Endangered Species Division, Office of Protected Resources under the Endangered Species Act. In accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), a Biological Opinion was prepared for this proposed action and it concluded that "After reviewing the current status of the leatherback, loggerhead, green, Kemp's ridley sea turtles, Gulf sturgeon, and Gulf sturgeon critical habitat, the environmental baseline for the action area, the effects of the incidental take authorized in this permit, and probable cumulative effects, it is NOAA Fisheries' biological opinion that issuance of the permit (21293), as proposed, is not likely to jeopardize the continued existence of the leatherback, loggerhead, green, Kemp's ridley turtles and Gulf sturgeon and is not likely to destroy or adversely modify designated critical habitat."

*Compliance with the Magnuson-Stevens Act:* Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) requires NMFS to complete an EFH consultation for any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken by the agency that may adversely affect EFH. The Office of Protected Resources has determined that the activities proposed in ITP #21293 will not adversely affect EFH for species with designated EFH in the action area. Therefore, an EFH consultation was not required. Further coordination on this matter was not deemed necessary unless future modifications are proposed which may adversely impact EFH.

*Coordination with the National Ocean Service:* The action in the application for ITP #21293 will not impact a National Marine Sanctuary, so no consultation was conducted.

**Consideration of NOAA And CEQ Significance Criteria:** The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 CFR 1508.27). In addition, the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A provides sixteen criteria, the same ten as the CEQ Regulations and six additional, for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

*1. Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?*

**RESPONSE:** The proposed action involves both beneficial and adverse impacts but overall effects will be insignificant.

*2. Can the proposed action reasonably be expected to significantly affect public health or safety?*

**RESPONSE:** The proposed action involves collecting marine organisms with a small trawl, and it will not have a substantial adverse impact on public health and safety.

*3. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?*

**RESPONSE:** The action is not expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. No unique geographic area is affected.

*4. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?*

**RESPONSE:** A Federal Register notice (82 FR 17638) was published to allow other agencies and the public the opportunity to review and comment on the action. Comments are addressed above. The U.S. Fish and Wildlife Service was contacted to review the action and had no concerns with it. The action has been occurring for several years with no indications of controversy. There are no highly uncertain effects or effects that involve unique or unknown risks. No new precedence is set by this action. There is no impact on State or local regulations, and the permit applicant is required to obtain any State and local permits necessary to carry out the action.

*5. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

**RESPONSE:** The proposed action to permit the use of small trawls without TEDs to collect marine fish, invertebrates and algae for the purpose of supplying specimens for research and educational activities is not uncertain and will not involve unique or unknown risks.

*6. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?*

**RESPONSE:** The proposed action to permit the use of small trawls without TEDs to collect marine fish, invertebrates and algae for the purpose of supplying specimens for research and educational activities will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

*7. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?*

**RESPONSE:** The action is not expected to result in any cumulative adverse effects that would

affect species that would be affected by the action. The effects on non-target species were considered in the Section 7 analysis described above, and no adverse effects to them are expected. The harvest of target species is regulated and controlled by the state of Florida, and the action is not expected to result in cumulative adverse effects that could have a substantial effect on them.

*8. Can the proposed action reasonably be expected 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: The action is not expected to adversely affect any entities listed in or eligible for listing in the National Register of Historic Places, nor cause loss or destruction of significant scientific, cultural, or historic resources.

*9. Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?*

RESPONSE: A biological opinion was written for the proposed action, and its analysis concluded that the action is not likely to jeopardize the continued existence of any listed species and is not likely to destroy or adversely modify designated critical habitat. The action will not have an adverse impact on any marine mammals or their critical habitat. Additionally, ITP No. 21293 will contain mitigating measures to minimize cumulative effects and to avoid unnecessary stress to any listed species incidentally captured by requiring use of specific handling protocols.

*10. Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?*

RESPONSE: The proposed action is not expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?

*11. Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?*

RESPONSE: The action is not expected to have an adverse impact on any marine mammals or any critical habitat designated for any marine mammal.

*12. Can the proposed action reasonably be expected to adversely affect managed fish species?*

RESPONSE: Though individual managed fish may be taken, the proposed action is not expected to adversely affect any managed fish population, stock or species.

*13. Can the proposed action reasonably be expected to adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?*

RESPONSE: Any impacts to essential fish habitat would be minimal and short term, and the activities proposed under the permit will not adversely affect essential fish habitat.

*14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?*

RESPONSE: The action to permit the use of small trawls without TEDs to collect marine fish,

invertebrates and algae is not expected to adversely affect vulnerable marine or coastal ecosystems, including deep coral ecosystems.

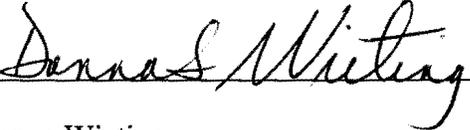
15. *Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?*

RESPONSE: The effects of the action on *biodiversity or ecosystem functioning* was considered and no substantial impact within the affected area is expected.

16. *Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?*

RESPONSE: The action is not expected to result in the introduction/spread of nonindigenous species.

**DETERMINATION**: In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the issuance of an Incidental Take Permit to Mr. Jack Rudloe, GSML, it is hereby determined that the issuance of this permit will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.

  
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Donna Wieting

Director, Office of Protected Resources

  
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Date