

monitoring program and eliminate the requirement for dockside monitoring for both sector and common pool vessels. As this measure has not yet been approved, and a sector may elect to retain dockside monitoring through its operations plan, NMFS is also approving dockside monitoring service providers.

Approved Monitoring Service Providers

NMFS received complete applications from three service providers intending to provide dockside and/or at-sea monitoring services, and one service provider intending to provide only at-sea monitoring services. All four applicants were previously approved

and provided dockside and/or at-sea monitoring services to sectors. The Regional Administrator has approved the following service providers as eligible to provide dockside monitoring and/or at-sea monitoring services in FY 2013:

TABLE 1—APPROVED FY 2013 PROVIDERS

| Provider name | At-Sea monitoring | Dockside monitoring | Address | Phone | Fax | Web site |
|------------------------------------|-------------------|---------------------|------------------------------------------------------------------|----------------|----------------|------------------------------------------------------------------------|
| A.I.S., Inc | X | X | 89 North Water Street, New Bedford, MA 02747. | (508) 990–9054 | (508) 990–9055 | www.aisobservers.com |
| MRAG Americas. | X | X | 65 Eastern Ave., Unit B2C, Essex, MA 01929. | (978) 768–3880 | (978) 768–3878 | www.mragamericas.com |
| Atlantic Catch Data Ltd.. | X | X | 99 Wyse Road, Suite 815, Dartmouth, Nova Scotia, CANADA B3A 4S5. | (902) 422–4745 | (902) 422–9780 | www.atlanticcatchdata.ca |
| East West Technical Services, LLC. | | X | 34 Batterson Drive, New Britain, CT 06053. | (860) 223–5165 | (860) 223–6005 | www.ewts.com |

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 8, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–03371 Filed 2–12–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC238

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey on the Mid-Atlantic Ridge in the Atlantic Ocean, April 2013, Through June 2013

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: We have received an application from the Lamont-Doherty Earth Observatory (Observatory), in collaboration with the National Science Foundation (Foundation), for an Incidental Harassment Authorization to take marine mammals, by harassment, incidental to conducting a marine geophysical (seismic) survey on the Mid-Atlantic Ridge in the north Atlantic Ocean in international waters, from April 2013 through May 2013. Per the Marine Mammal Protection Act, we are

requesting comments on our proposal to issue an Incidental Harassment Authorization to the Observatory and the Foundation to incidentally harass by Level B harassment only, 28 species of marine mammals during the 20-day seismic survey.

DATES: Comments and information must be received no later than March 15, 2013.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is ITP.Cody@noaa.gov. Please include 0648–XC238 in the subject line. We are not responsible for email comments sent to other addresses other than the one provided here. Comments sent via email to ITP.Cody@noaa.gov, including all attachments, must not exceed a 10-megabyte file size.

All submitted comments are a part of the public record and we will post to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application, write to the previously mentioned address, telephone the

contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or visit the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

The following associated documents are also available at the same internet address:

The Foundation's draft environmental analysis titled, "Marine geophysical survey by the R/V MARCUS G. LANGSETH on the mid-Atlantic Ridge, April–May 2013," for their federal action of funding the Observatory's seismic survey. LGL Ltd., Environmental Research Associates (LGL), prepared this analysis on behalf of the Foundation pursuant to Executive Order 12114: Environmental Effects Abroad of Major Federal Actions. The Foundation's environmental analysis evaluates the effects of the proposed seismic survey on the human environment including impacts to marine mammals. We will prepare a separate National Environmental Policy Act (NEPA: 42 U.S.C. 4321 *et seq.*) analysis to evaluate the environmental effects related to the scope of our federal action which is the proposed issuance of an incidental take authorization to the Observatory and the Foundation. We plan to incorporate the Foundation's environmental analysis, in whole or part, by reference, into our NEPA document as that analysis provides a detailed description of the planned survey and its anticipated effects on marine mammals. This notice and the referenced document present detailed information on the scope of our federal action under NEPA (i.e., potential impacts to marine mammals from

issuing the proposed IHA including measures for mitigation, and monitoring) and we will consider comments submitted in response to this notice as we prepare our NEPA analysis.

The public can view documents cited in this notice by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT:
Jeannine Cody, National Marine Fisheries Service, Office of Protected Resources, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice of a proposed authorization to the public for review and public comment: (1) We make certain findings; and (2) the taking is limited to harassment.

We 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 set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such taking. We have defined “negligible impact” in 50 CFR 216.103 as “* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment

period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

We received an application from the Observatory on December 7, 2012, requesting that we issue an Incidental Harassment Authorization (Authorization) for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a marine seismic survey in the north Atlantic Ocean in international waters from April 8, 2013, through May 13, 2013. We received a revised application from the Observatory on December 23, 2012 and January 17, 2013, which reflected updates to the mitigation safety zones, incidental take requests for marine mammals, and information on marine protected areas. Upon receipt of additional information, we determined the application complete and adequate on January 18, 2013.

Project Purpose—The Observatory plans to conduct a two-dimensional (2-D) seismic survey on the Mid-Atlantic Ridge in the north Atlantic Ocean. Specifically, the proposed survey would image the Rainbow massif to determine the characteristics of the magma body that supplies heat to the Rainbow hydrothermal field; determine the distribution of the different rock types that form the Rainbow massif; document large- and small-scale faults in the vicinity and investigate their role in controlling hydrothermal fluid discharge.

Vessel—The Observatory plans to use one source vessel, the R/V *Marcus G. LANGSETH* (LANGSETH), a seismic airgun array, a single hydrophone streamer, and ocean bottom seismometers (seismometers) to conduct the seismic survey. In addition to the operations of the seismic airgun array and hydrophone streamer, and the seismometers, the Observatory intends to operate a multibeam echosounder

and a sub-bottom profiler continuously throughout the proposed survey.

Marine Mammal Take—Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun arrays, may have the potential to cause behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal take associated with these activities and the Observatory requested an authorization to take 28 species of marine mammals by Level B harassment.

In the Observatory’s application, they did not request authorization to take marine mammals by Level A Harassment because their environmental analyses estimate that marine mammals would not be exposed to levels of sound likely to result in Level A harassment (we refer the reader to Appendix B of the Foundation’s NEPA document titled, “2011 Final Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement (2011 PEIS) for Marine Seismic Research funded by the National Science Foundation or Conducted by the U.S. Geological Survey,” (NSF/USGS, 2011) at <http://www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis-with-appendices.pdf> for details). Consequently, the Observatory’s request for take by Level A harassment is zero animals for any species.

We do not expect that the use of the multibeam echosounder, the sub-bottom profiler, or the ocean bottom seismometer would result in the take of marine mammals and will discuss our reasoning later in this notice. Also, we do not expect take to result from a collision with the LANGSETH during seismic acquisition activities because the vessel moves at a relatively slow speed (approximately 8.3 kilometers per hour (km/h); 5.2 miles per hour (mph); 4.5 knots (kts)), for a relatively short period of time (approximately 20 operational days). It is likely that any marine mammal would be able to avoid the vessel during seismic acquisition activities. The Observatory has no recorded cases of a vessel strike with a marine mammal during the conduct of over eight years of seismic surveys covering over 160,934 km (86,897.4 nmi) of transect lines.

Description of the Proposed Specified Activities

Survey Details

The Observatory’s proposed seismic survey on the Mid-Atlantic Ridge in the north Atlantic Ocean would commence

on April 8, 2013, and end on May 13, 2013. The LANGSETH would depart from St. George's, Bermuda, on April 8, 2013, and transit to the proposed survey area in international waters approximately 300 km (186.4 miles (mi)) offshore of Pico and Faial Islands in the Azores. At the conclusion of the proposed survey activities, the LANGSETH would arrive in Ponta Delgada, Azores on May 13, 2012. The proposed study area would encompass an area on the Mid-Atlantic Ridge bounded by the following coordinates: Approximately 35.5° to 36.5° North by 33.5° to 34.5° West.

Some minor deviation from these dates is possible, depending on logistics, weather conditions, and the need to repeat some lines if data quality is substandard. Therefore, we propose to issue an authorization that is effective from April 8, 2013, to June 24, 2013.

Typically, 2-D surveys acquire data along single track lines with wide intervals; cover large areas; provide a coarse sampled subsurface image; and project less acoustic energy into the environment than other types of seismic surveys. During the survey, the LANGSETH would deploy an 36-airgun array as an energy source, an 8-kilometer (km)-long (3.7 mi-long) hydrophone streamer, and 46 seismometers. The seismometers are portable, self-contained passive receiver systems designed to sit on the seafloor and record seismic signals generated primarily by airguns and earthquakes.

The LANGSETH would transect approximately 2,582 km (1.6 mi) of transect lines which are spaced 1 to 2 meters (m) (3.2 to 6.6 feet (ft)) apart from one another (see Figure 1 in the Observatory's application). As the LANGSETH tows the airgun array along the transect lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the vessel's onboard processing system. The seismometers also record and store the returning signals for later analysis. The LANGSETH would retrieve the seismometers at the conclusion of the survey.

The proposed study (e.g., equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) would require approximately 20 days. At the proposed survey area, the LANGSETH would conduct seismic acquisition activities in a grid pattern using the seismometers as a receiver over a total of approximately 1,680 km (1,044 mi) of survey lines and would also conduct seismic acquisition activities in multichannel seismic (MCS) mode using the 8-km (3.7 mi) streamer as the receiver over a total of

approximately 900 km (559 mi). The seismic lines are over water depths of approximately 900 to 3,000 m (2,952 ft to 1.9 mi). Approximately 2,565 km (1,594 mi) of the survey effort would occur in depths greater than 1,000 m (3,280 ft). The remaining effort (17 km; 10.5 mi) would occur in water depths of 100 to 1,000 m (328 to 3,280 ft).

The proposed data acquisition would include approximately 480 hours of airgun operations (i.e., 20 days over 24 hours), with airgun discharges occurring on either a 3.25 minute interval with the seismometers or a 16-second interval for the MCS seismic portion. The Observatory would conduct all planned seismic activities with on-board assistance by the scientists who have proposed the study, Drs. J.P. Canales and R. Sohn of Woods Hole Oceanographic Institution and Dr. R. Dunn of the University of Hawaii. The vessel is self-contained and the crew would live aboard the vessel for the entire cruise.

Vessel Specifications

R/V LANGSETH

The LANGSETH, owned by the Foundation and operated by the Observatory, is a seismic research vessel with a quiet propulsion system that avoids interference with the seismic signals emanating from the airgun array. The vessel is 71.5 m (235 ft) long; has a beam of 17.0 m (56 ft); a maximum draft of 5.9 m (19 ft); and a gross tonnage of 3,834 pounds. Its two 3,550 horsepower (hp) Bergen BRG-6 diesel engines drive two propellers. Each propeller has four blades and the shaft typically rotates at 750 revolutions per minute. The vessel also has an 800-hp bowthruster, which is not used during seismic acquisition. The cruising speed of the vessel outside of seismic operations is 18.5 km/h (11.5 mph; 10 kts).

The LANGSETH would tow the 36-airgun array, as well as the hydrophone streamer during the first and last surveys, along predetermined lines. When the LANGSETH is towing the airgun array and the hydrophone streamer, the turning rate of the vessel is limited to five degrees per minute. Thus, the maneuverability of the vessel is limited during operations with the streamer.

The vessel also has an observation tower from which protected species visual observers (observer) would watch for marine mammals before and during the proposed seismic acquisition operations. When stationed on the observation platform, the observer's eye level would be approximately 21.5 m

(71 ft) above sea level providing the observer an unobstructed view around the entire vessel.

Acoustic Source Specifications

Seismic Airguns

The LANGSETH would deploy an 36-airgun array, with a total volume of approximately 6,600 cubic inches (in³). The airguns are a mixture of Bolt 1500LL and Bolt 1900LLX airguns ranging in size from 40 to 360 in³, with a firing pressure of 1,900 pounds per square inch. The dominant frequency components range from zero to 188 Hertz (Hz). The array configuration consists of four identical linear strings, with 10 airguns on each string; the first and last airguns would be spaced 16 m (52 ft) apart. Of the 10 airguns, nine would fire simultaneously while the tenth airgun would serve as a spare in case of failure of one of the other airguns. The LANGSETH would distribute the array across an area of approximately 24 x 16 m (78.7 x 52.5 ft) and would tow the array approximately 30 m (98.4 ft) behind the vessel at a tow depth of 12 m (39.4 ft) (see Figure 2-11, page 2-25 in the Foundation's 2011 PEIS) (NSF/USGS, 2011). During firing, the airguns would emit a brief (approximately 0.1 s) pulse of sound; during the intervening periods of operations, the airguns are silent.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. We express sound pressure level as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for sound pressure levels are dB re: 1 μPa. Sound pressure level (in decibels (dB)) = 20 log (pressure/reference pressure).

Sound pressure level is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square. Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to sound pressure level in this document refer to the root mean square unless otherwise noted. Sound

pressure level does not take the duration of a sound into account.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal source levels of the airgun array on the LANGSETH is 236 to 265 dB re: 1 $\mu\text{Pa}_{(p-p)}$ and the root mean square value for a given airgun pulse is typically 16 dB re: 1 μPa lower than the peak-to-peak value (Greene, 1997; McCauley *et al.*, 1998, 2000a). However, the difference between root mean square and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors.

Accordingly, the Observatory predicted the received sound levels in relation to distance and direction from the 36-airgun array and the single Bolt 1900LL 40-in³ airgun.

Appendix H of the Foundation’s PEIS (NSF/USGS, 2011) provides a detailed description of the modeling for marine seismic source arrays for species mitigation. These are the source levels applicable to downward propagation. The effective source levels for horizontal propagation are lower than those for downward propagation because of the directional nature of the sound from the airgun array. We refer the reader to the Observatory’s authorization application and the Foundation’s PEIS for additional information.

Predicted Sound Levels for the Airguns

The Observatory has developed a model (Diebold *et al.*, 2010) that predicts received sound levels as a function of distance from the airguns for the 36-airgun array and the single 40-in³ airgun. Their modeling approach uses ray tracing (i.e., a graphical representation of the effects of refracting sound waves) for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor).

Additionally, Tolstoy *et al.*, (2009) reported results for propagation measurements of pulses from the LANGSETH’s 36-airgun array in shallow-water (approximately 50 m (164 ft)) and deep-water depths (approximately 1,600 m (5,249 ft)) in the Gulf of Mexico in 2007 and 2008. Results of the Gulf of Mexico calibration study (Tolstoy *et al.*, 2009) showed that radii around the airguns for various received levels varied with water depth and that sound propagation varied with array tow depth.

The Observatory used the results from their algorithm for acoustic modeling (Diebold *et al.*, 2010) to calculate the exclusion zones for the 36-airgun array and the single airgun. These values designate mitigation zones used during power downs or shutdowns for marine mammals. The Observatory uses the mitigation zones to estimate take (described in greater detail in Chapter 7 of the application) for marine mammals.

Comparison of the Tolstoy *et al.* (2009) calibration study with the Observatory’s model (Diebold *et al.*, 2010) for the LANGSETH’s 36-airgun array indicated that the Observatory’s model represents the actual received levels, within the first few kilometers and the locations of the predicted exclusions zones. Thus, the comparison

of results from the Tolstoy *et al.* (2009) calibration study with the Observatory’s model (Diebold *et al.*, 2010) at short ranges for the same array tow depth are in good agreement (see Figures 12 and 14 in Diebold *et al.*, 2010). As a consequence, isopleths falling within this domain can be predicted reliably by the Observatory’s model.

In contrast, for actual received levels at longer distances, the Observatory found that their model (Diebold *et al.*, 2010) was a more robust tool for estimating mitigation radii in deep water as it did not overestimate the received sound levels at a given distance. To estimate mitigation radii in intermediate water depths, the Observatory applied a correction factor (multiplication) of 1.5 to the deep water mitigation radii. We refer the reader to Appendix H of the Foundation’s PEIS (NSF/USGS, 2011) for a detailed description of the modeling for marine seismic source arrays for species mitigation.

Table 1 summarizes the predicted distances at which one would expect to receive three sound levels (160-, 180-, and 190-dB) from the 36-airgun array and a single airgun. To avoid the potential for injury or permanent physiological damage (Level A harassment), serious injury, or mortality we have concluded that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re: 1 μPa and 190 dB re: 1 μPa , respectively (NMFS, 1995, 2000). The 180-dB and 190-dB level shutdown criteria are applicable to cetaceans and pinnipeds, respectively, specified by us (NMFS, 1995, 2000). Thus the Observatory used these received sound levels to establish the mitigation zones. We also assume that marine mammals exposed to levels exceeding 160 dB re: 1 μPa may experience Level B harassment.

TABLE 1—MODELED DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160 AND 180 dB RE: 1 μPa COULD BE RECEIVED DURING THE PROPOSED SURVEY OVER THE MID-ATLANTIC RIDGE IN THE NORTH ATLANTIC OCEAN, DURING APRIL THROUGH JUNE, 2013

| Source and volume (in ³) | Tow depth (m) | Water depth (m) | Predicted RMS distances ¹ (m) | |
|------------------------------------------------|---------------|-----------------|------------------------------------------|--------|
| | | | 160 dB | 180 dB |
| Single Bolt airgun (40 in ³) | 12 | > 1,000 | 388 | 100 |
| 36-Airgun Array (6,600 in ³) | 12 | 100 to 1,000 | 582 | 100 |
| | | > 1,000 | 6,908 | 1,116 |
| | | 100 to 1,000 | 10,362 | 1,674 |

¹ Diebold, J.B., M. Tolstoy, L. Doermann, S.L. Nooner, S.C. Webb, and T.J. Crone. 2010. R/V Marcus G. Langseth seismic source: Modeling and calibration. *Geochem. Geophys. Geosyst.*

Ocean Bottom Seismometers

The Observatory proposes to place 46 seismometers on the sea floor prior to the initiation of the seismic survey. Each seismometer is approximately 0.9 m (2.9 ft) high with a maximum diameter of 97 centimeters (cm) (3.1 ft). An anchor, made of a rolled steel bar grate which measures approximately 7 by 91 by 91.5 cm (3 by 36 by 36 inches) and weighs 45 kilograms (99 pounds) would anchor the seismometer to the seafloor.

After the Observatory completes the proposed seismic survey, an acoustic signal would trigger the release of each of the 46 seismometers from the ocean floor. The LANGSETH's acoustic release transponder, located on the vessel, communicates with the seismometer at a frequency of 9 to 13 kilohertz (kHz). The maximum source level of the release signal is 242 dB re: 1 μ Pa with an 8-millisecond pulse length. The received signal activates the seismometer's double burn-wire release assembly which then releases the seismometer from the anchor. The seismometer then floats to the ocean surface for retrieval by the LANGSETH. The steel grate anchors from each of the seismometers would remain on the seafloor.

The LANGSETH crew would deploy the seismometers one-by-one from the stern of the vessel while onboard protected species observers will alert them to the presence of marine mammals and recommend ceasing deploying or recovering the seismometers to avoid potential entanglement with marine mammal. Thus, entanglement of marine mammals is highly unlikely.

Although placement of the seismometers is dispersed over approximately 1,500 square km (km²) (579 square mi (mi²) of seafloor habitat and may disturb benthic invertebrates, we and the Observatory expect these impacts to be localized and short-term because of natural sedimentation processes and the natural sinking of the anchors from their own weight resulting in no long-term habitat impacts. Also, the deep water habitat potentially affected by the placement of the seismometers is not designated as a marine protected area.

Multibeam Echosounder

The LANGSETH would operate a Kongsberg EM 122 multibeam echosounder concurrently during airgun

operations to map characteristics of the ocean floor. The hull-mounted echosounder emits brief pulses of sound (also called a ping) (10.5 to 13.0 kHz) in a fan-shaped beam that extends downward and to the sides of the ship. The transmitting beamwidth is 1 or 2° fore-aft and 150° athwartship and the maximum source level is 242 dB re: 1 μ Pa.

For deep-water operations, each ping consists of eight (in water greater than 1,000 m; 3,280 ft) or four (less than 1,000 m; 3,280 ft) successive, fan-shaped transmissions, from two to 15 milliseconds (ms) in duration and each ensonifying a sector that extends 1° fore-aft. Continuous wave pulses increase from 2 to 15 ms long in water depths up to 2,600 m (8,530 ft). The echosounder uses frequency-modulated chirp pulses up to 100-ms long in water greater than 2,600 m (8,530 ft). The successive transmissions span an overall cross-track angular extent of about 150°, with 2-ms gaps between the pulses for successive sectors.

Sub-Bottom Profiler

The LANGSETH would also operate a Knudsen Chirp 3260 sub-bottom profiler concurrently during airgun and echosounder operations to provide information about the sedimentary features and bottom topography. The profiler is capable of reaching depths of 10,000 m (6.2 mi). The dominant frequency component is 3.5 kHz and a hull-mounted transducer on the vessel directs the beam downward in a 27° cone. The power output is 10 kilowatts (kW), but the actual maximum radiated power is three kilowatts or 222 dB re: 1 μ Pa. The ping duration is up to 64 ms with a pulse interval of one second, but a common mode of operation is to broadcast five pulses at 1-s intervals followed by a 5-s pause.

We expect that acoustic stimuli resulting from the proposed operation of the single airgun or the 36-airgun array has the potential to harass marine mammals, incidental to the conduct of the proposed seismic survey. We assume that during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the echosounder and sub-bottom profiler would already be affected by the airguns. We also expect these disturbances to result in a temporary modification in behavior and/or low-level physiological effects (Level B

harassment) of small numbers of certain species of marine mammals.

We do not expect that the movement of the LANGSETH, during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (4.6 kts; 8.5 km/hr; 5.3 mph) during seismic acquisition.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Twenty-eight marine mammal species under our jurisdiction may occur in the proposed survey area, including seven mysticetes (baleen whales), and 21 odontocetes (toothed cetaceans) during April through May, 2013. Six of these species are listed as endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including: the blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), humpback (*Megaptera novaeangliae*), north Atlantic right (*Eubalaena glacialis*), sei (*Balaenoptera borealis*), and sperm (*Physeter macrocephalus*) whales.

Based on the best available data, the Observatory does not expect to encounter the following species because of these species rare and/or extralimital occurrence in the survey area. They include the: Atlantic white-sided dolphin (*Lagenorhynchus acutus*), white-beaked dolphin (*Lagenorhynchus albirostris*), harbor porpoise (*Phocoena phocoena*), Clymene dolphin (*Stenella clymene*), Fraser's dolphin (*Lagenodelphis hosei*), spinner dolphin (*Stenella longirostris*), melon-headed whale (*Peponocephala electra*), Atlantic humpback dolphin (*Souza teuszii*), long-beaked common dolphin (*Delphinus capensis*), and any pinniped species. Accordingly, we did not consider these species in greater detail and the proposed authorization would only address requested take authorizations for the 28 species.

Of these 28 species, the most common marine mammals in the survey area would be the: short-beaked common dolphin (*Delphinus delphis*), striped dolphin (*Stenella coeruleoalba*), and short-finned pilot whale (*Globicephala macrorhynchus*).

Table 2 presents information on the abundance, distribution, and conservation status of the marine mammals that may occur in the proposed survey area during April through June, 2013.

TABLE 2—ABUNDANCE ESTIMATES, MEAN DENSITY, AND ESA STATUS OF MARINE MAMMALS THAT MAY OCCUR IN THE PROPOSED SEISMIC SURVEY AREA OVER THE MID-ATLANTIC RIDGE IN THE NORTH ATLANTIC OCEAN, DURING APRIL THROUGH JUNE, 2013.

[See text and Table 2 in the Observatory's application for further details]

| Species | Abundance in the N. Atlantic Ocean | ESA ^a | Estimated Density (#/100 km ²) ^b |
|-----------------------------|--------------------------------------------|------------------|---------------------------------------------------------|
| Mysticetes: | | | |
| North Atlantic right whale | 396 ¹ | EN | 0 |
| Humpback whale | 11,570 ² | EN | 0 |
| Minke whale | 121,000 ³ | NL | 0 |
| Bryde's whale | Not available | NL | 0.19 |
| Sei whale | 12–13,000 ⁴ | EN | 0.19 |
| Fin whale | 24,887 ⁵ | EN | 4.46 |
| Blue whale | 937 ⁶ | EN | 1.49 |
| Odontocetes: | | | |
| Sperm whale | 13,190 ⁷ | EN | 3.71 |
| Pygmy sperm whale | 395 ¹ | NL | 0 |
| Dwarf sperm whale | 395 ¹ | NL | 0 |
| Cuvier's beaked whale | 3,513 ^{1,8} | NL | 0 |
| <i>Mesoplodon spp.</i> | 3,513 ^{1,8} | NL | 7.04 |
| True's beaked whale | 3,513 ^{1,8} | NL | 7.04 |
| Gervais beaked whale | 3,513 ^{1,8} | NL | 7.04 |
| Sowerby's beaked whale | 3,513 ^{1,8} | NL | 7.04 |
| Blainville's beaked whale | 3,513 ^{1,8} | NL | 7.04 |
| Northern bottlenose whale | 40,000 ⁹ | NL | 0 |
| Rough-toothed dolphin | Not available | NL | 0 |
| Common bottlenose dolphin | 81,588 ¹⁰ | NL | 8.35 |
| Pantropical spotted dolphin | 4,439 ¹ | NL | 0 |
| Atlantic spotted dolphin | 50,978 ¹ | NL | 20.03 |
| Striped dolphin | 94,462 ¹ | NL | 185.50 |
| Short-beaked common dolphin | 120,741 ⁴ | NL | 379.52 |
| Risso's dolphin | 20,479 ⁴ | NL | 3.83 |
| Pygmy killer whale | Not available | NL | 0 |
| False killer whale | Not available | NL | 1.17 |
| Killer whale | Not available | NL | 0 |
| Long-finned pilot whale | 12,619, ¹ 780,000 ¹¹ | NL | 0 |
| Short-finned pilot whale | 24,674, ¹ 780,000 ¹¹ | NL | 120.96 |

^aESA status codes: NL—not listed under the ESA; EN—Endangered; T—Threatened

^bThe Observatory used Waring *et al.*, 2008 to calculate density from sightings, effort, mean group sizes, and values for f(0) for the southern part of the survey area.

¹Western North Atlantic, in U.S. and southern Canadian waters (Waring *et al.*, 2012)

²Likely negatively biased (Stevick *et al.*, 2003)

³Central and Northeast Atlantic (IWC, 2012)

⁴North Atlantic (Cattanach *et al.*, 1993)

⁵Central and Northeast Atlantic (Vikingsson *et al.*, 2009)

⁶Central and Northeast Atlantic (Pike *et al.*, 2009).

⁷For the northeast Atlantic, Faroes-Iceland, and the U.S. east coast (Whitehead, 2002).

⁸*Ziphius* and *Mesoplodon spp.* combined

⁹Eastern North Atlantic (NAMMCO, 1995)

¹⁰Offshore, Western North Atlantic (Waring *et al.*, 2012)

¹¹*Globicephala sp.* combined, Central and Eastern North Atlantic (IWC, 2012)

Refer to Section 4 of the Observatory's application and Sections 3.6.3.4 and 3.7.3.4 of the 2011 PEIS (NSF/USGS, 2011) for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the proposed project area. We have reviewed these data and determined them to be the best available scientific information for the purposes of the proposed incidental harassment authorization.

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine

environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent impairment, or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift is not an injury (Southall *et al.*, 2007). Although we cannot exclude the possibility entirely, it is

unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, we expect some behavioral disturbance, but we expect the disturbance to be localized. We refer the reader to a more comprehensive review of these issues in the 2011 PEIS (NSF/USGS, 2011).

Tolerance

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defined

tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or manmade noise. In many cases, tolerance develops by the animal habituating to the stimulus (i.e., the gradual waning of responses to a repeated or ongoing stimulus) (Richardson, *et al.*, 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.*, 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Several studies have shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the marine mammal group. Although various baleen whales and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times marine mammals of all three types have shown no overt reactions (Stone, 2003; Stone and Tasker, 2006; Moulton *et al.* 2005, 2006a; Weir 2008a for sperm whales), (MacLean and Koski, 2005; Bain and Williams, 2006 for Dall's porpoises). The relative responsiveness of baleen and toothed whales are quite variable.

Masking

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.*, 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.*, 1995).

We expect that the masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds will be limited, although there are very few specific data on this. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between

pulses (e.g., Simard *et al.*, 2005; Clark and Gagnon, 2006) which could mask calls. We understand that some baleen and toothed whales continue calling in the presence of seismic pulses, and that some researchers have heard these calls between the seismic pulses (e.g., Richardson *et al.*, 1986; McDonald *et al.*, 1995; Greene *et al.*, 1999; Niekirk *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a,b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.*, 1994). However, more recent studies have found that they continued calling in the presence of seismic pulses (Madsen *et al.*, 2002; Tyack *et al.*, 2003; Smultea *et al.*, 2004; Holst *et al.*, 2006; and Jochens *et al.*, 2008). Several studies have reported hearing dolphins and porpoises calling while airguns were operating (e.g., Gordon *et al.*, 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a, b; and Potter *et al.*, 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior through shifting call frequencies, increasing call volume, and increasing vocalization rates. For example, blue whales are found to increase call rates when exposed to noise from seismic surveys in the St. Lawrence Estuary (Dilorio and Clark, 2009). The North Atlantic right whales exposed to high shipping noise increased call frequency (Parks *et al.*, 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *et al.*, 2000).

In general, we expect that the masking effects of seismic pulses would be minor, given the normally intermittent nature of seismic pulses.

Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors

(Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007; Weilgart, 2007). These behavioral reactions are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (e.g., pinnipeds flushing into the water from haul-outs or rookeries). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, and/or reproduction. Some of these significant behavioral modifications include:

- Change in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson *et al.*, 1995; Southall *et al.*, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of industrial sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be

disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Scientists have conducted detailed studies on humpback, gray, bowhead (*Balaena mysticetus*), and sperm whales. There are less detailed data available for some other species of baleen whales and small toothed whales, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.*, 1995). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away from the area. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson *et al.*, 1995). They avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re: 1 μ Pa seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.*, 1986, 1988; Richardson *et al.*, 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from four to 15 km (2.5 to 9.3 mi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies summarized in Appendix B(5) of the Foundation's Assessment have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re: 1 μ Pa.

Researchers have studied the responses of humpback whales to seismic surveys during migration, feeding during the summer months, breeding while offshore from Angola, and wintering offshore from Brazil. McCauley *et al.* (1998, 2000a) studied

the responses of humpback whales off western Australia to a full-scale seismic survey with a 16-airgun array (2,678-in³) and to a single, 20-in³ airgun with source level of 227 dB re: 1 μ Pa (p-p). In the 1998 study, the researchers documented that avoidance reactions began at five to eight km (3.1 to 4.9 mi) from the array, and that those reactions kept most pods approximately three to four km (1.9 to 2.5 mi) from the operating seismic boat. In the 2000 study, McCauley *et al.* noted localized displacement during migration of four to five km (2.5 to 3.1 mi) by traveling pods and seven to 12 km (4.3 to 7.5 mi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re: 1 μ Pa for humpback pods containing females, and at the mean closest point of approach distance, the received level was 143 dB re: 1 μ Pa. The initial avoidance response generally occurred at distances of five to eight km (3.1 to 4.9 mi) from the airgun array and two km (1.2 mi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re: 1 μ Pa.

Data collected by observers during several seismic surveys in the northwest Atlantic Ocean showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic versus non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100-in³) airgun (Malme *et al.*, 1985). Some humpbacks seemed “startled” at received levels of 150 to 169 dB re: 1 μ Pa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 re: 1 μ Pa. However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Other studies have suggested that south Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.*, 2004). Although, the evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.*, 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was “no observable direct correlation” between strandings and seismic surveys (IWC, 2007: 236).

A few studies have documented reactions of migrating and feeding (but not wintering) gray whales to seismic surveys. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100-in³ airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re: 1 μ Pa on an (approximate) root mean square basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re: 1 μ Pa. Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.*, 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.*, 1999; Gailey *et al.*, 2007; Johnson *et al.*, 2007; Yazvenko *et al.*, 2007a,b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Observers have seen various species of *Balaenoptera* (blue, sei, fin, and minke whales) in areas ensounded by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and have localized calls from blue and fin whales in areas with airgun operations (e.g., McDonald *et al.*, 1995; Dunn and Hernandez, 2009; Castellote *et al.*, 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010) observed

localized avoidance by fin whales during seismic airgun events in the western Mediterranean Sea and adjacent Atlantic waters from 2006–2009 and reported that singing fin whales moved away from an operating airgun array for a time period that extended beyond the duration of the airgun activity.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and whales) in the northwest Atlantic found that overall, this group had lower sighting rates during seismic versus non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.*, 1984; Richardson *et al.*, 1995; Allen and Angliss, 2011). The western Pacific gray whale population did not appear affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.*, 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.*, 1987; Allen and Angliss, 2011). The history of coexistence between seismic surveys and baleen whales suggests that brief exposures to sound pulses from any single seismic survey are unlikely to result in prolonged effects.

Toothed Whales—There is little systematic information available about reactions of toothed whales to noise pulses. There are few studies on toothed whales similar to the more extensive

baleen whale/seismic pulse work summarized earlier in this notice. However, there are recent systematic studies on sperm whales (e.g., Gordon *et al.*, 2006; Madsen *et al.*, 2006; Winsor and Mate, 2006; Jochens *et al.*, 2008; Miller *et al.*, 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.*, 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.*, 2006; Stone and Tasker, 2006; Potter *et al.*, 2007; Hauser *et al.*, 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.*, 2009; Richardson *et al.*, 2009; Moulton and Holst, 2010).

Seismic operators and protected species observers (observers) on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (e.g., Goold, 1996a,b,c; Calambokidis and Osmeck, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.*, 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.*, 2009; Barkaszi *et al.*, 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (e.g., Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Stone and Tasker, 2006; Weir, 2008; Barry *et al.*, 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance.

Captive bottlenose dolphins (*Tursiops truncatus*) and beluga whales (*Delphinapterus leucas*) exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.*, 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Results for porpoises depend on species. The limited available data suggest that harbor porpoises (*Phocoena phocoena*) show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006),

although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmeck, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.*, 1995; Southall *et al.*, 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the whale shows considerable tolerance of airgun pulses (e.g., Stone, 2003; Moulton *et al.*, 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call. However, controlled exposure experiments in the Gulf of Mexico indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.*, 2008; Miller *et al.*, 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.*, 2005). Most beaked whales tend to avoid approaching vessels of other types (e.g., Wursig *et al.*, 1998). They may also dive for an extended period when approached by a vessel (e.g., Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.*, 2006; Tyack *et al.*, 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales (*Ziphius cavirostris*) may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating. There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are underway

within the vicinity of the animals (e.g., Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.*, 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the Stranding and Mortality section in this notice). These types of strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes. However, other data suggest that some odontocete species, including harbor porpoises, may be more responsive than might be expected given their poor low-frequency hearing. Reactions at longer distances may be particularly likely when sound propagation conditions are conducive to transmission of the higher frequency components of airgun sound to the animals' location (DeRuiter *et al.*, 2006; Goold and Coates, 2006; Tyack *et al.*, 2006; Potter *et al.*, 2007).

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran *et al.*, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (Southall *et al.*, 2007).

Researchers have studied temporary threshold shift in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.*, 2007). However, there has been no specific documentation of temporary threshold shift let alone permanent hearing damage, (i.e., permanent threshold shift, in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions).

Temporary Threshold Shift—This is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing temporary threshold shift, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, temporary threshold shift can last from minutes or hours to (in cases of strong shifts) days. For sound exposures at or somewhat above the temporary threshold shift threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. There are few data on sound levels and durations necessary to elicit mild temporary threshold shift for marine mammals, and none of the published data focus on temporary threshold shift elicited by exposure to multiple pulses of sound. Southall *et al.* (2007) summarizes available data on temporary threshold shift in marine mammals. Table 1 (introduced earlier in this document) presents the estimated distances from the LANGSETH's airguns at which the received energy level (per pulse, flat-weighted) would be greater than or equal to 180 or 190 dB re: 1 μ Pa.

To avoid the potential for Level A harassment, serious injury or mortality we (NMFS 1995, 2000) concluded that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re: 1 μ Pa. We do not consider the established 180 criterion to be the level above which temporary threshold shift might occur. Rather, it is a received level above which, in the view of a panel of bioacoustics specialists convened by us before temporary threshold shift measurements for marine mammals started to become available, one could not be certain that there would be no injurious effects, auditory or otherwise, to marine mammals. We also assume that cetaceans exposed to levels exceeding 160 dB re: 1 μ Pa may experience Level B harassment.

For toothed whales, researchers have derived temporary threshold shift information for odontocetes from studies on the bottlenose dolphin and beluga. The experiments show that exposure to a single impulse at a received level of 207 kilopascals (or 30 psi, p-p), which is equivalent to 228 dB re: 1 Pa (p-p), resulted in a 7 and 6 dB temporary threshold shift in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.*, 2002). For the one harbor porpoise tested, the received level of airgun sound that elicited onset of temporary

threshold shift was lower (Lucke *et al.*, 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of temporary threshold shift occurs at similar received levels in all odontocetes (cf. Southall *et al.*, 2007). Some cetaceans apparently can incur temporary threshold shift at considerably lower sound exposures than are necessary to elicit temporary threshold shift in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce temporary threshold shift. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, one could suspect that received levels causing temporary threshold shift onset may also be higher in baleen whales (Southall *et al.*, 2007).

In pinnipeds, researchers have not measured temporary threshold shift thresholds associated with exposure to brief pulses (single or multiple) of underwater sound. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur temporary threshold shift at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.*, 1999, 2005; Ketten *et al.*, 2001). The indirectly estimated temporary threshold shift threshold for pulsed sounds (in sound pressure level) would be approximately 181 to 186 dB re: 1 μ Pa (Southall *et al.*, 2007), or a series of pulses for which the highest sound exposure level values are a few decibels lower.

Permanent Threshold Shift—When permanent threshold shift occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause permanent threshold shift in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild temporary threshold shift, there has been further speculation about the

possibility that some individuals occurring very close to airguns might incur permanent threshold shift (e.g., Richardson *et al.*, 1995, p. 372ff; Gedamke *et al.*, 2008). Single or occasional occurrences of mild temporary threshold shift are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing temporary threshold shift onset might elicit permanent threshold shift.

Relationships between temporary and permanent threshold shift thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. Permanent threshold shift might occur at a received sound level at least several decibels above that inducing mild temporary threshold shift if the animal were exposed to strong sound pulses with rapid rise times. Based on data from terrestrial mammals, a precautionary assumption is that the permanent threshold shift threshold for impulse sounds (such as airgun pulses as received close to the source) is at least six decibels higher than the temporary threshold shift threshold on a peak-pressure basis, and probably greater than 6 dB (Southall *et al.*, 2007).

Given the higher level of sound necessary to cause permanent threshold shift as compared with temporary threshold shift, it is considerably less likely that permanent threshold shift would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Stranding and Mortality

When a living or dead marine mammal swims or floats onto shore and becomes “beached” or incapable of returning to sea, the event is termed a “stranding” (Geraci *et al.*, 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that “(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance”.

Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxins, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.*, 1976; Eaton, 1979; Odell *et al.*, 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.*, 2003; Fair and Becker, 2000; Foley *et al.*, 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.*, 2004).

Strandings Associated with Military Active Sonar—Several sources have published lists of mass stranding events of cetaceans in an attempt to identify relationships between those stranding events and military active sonar (Hildebrand, 2004; IWC, 2005; Taylor *et al.*, 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (2005) identified ten mass stranding events and concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been coincident with the use of mid-frequency active sonar and most involved beaked whales.

Over the past 12 years, there have been five stranding events coincident with military mid-frequency active sonar use in which exposure to sonar is believed to have been a contributing factor to strandings: Greece (1996); the Bahamas (2000); Madeira (2000); Canary Islands (2002); and Spain (2006). Refer to Cox *et al.* (2006) for a summary of common features shared by the strandings events in Greece (1996), Bahamas (2000), Madeira (2000), and Canary Islands (2002); and Fernandez *et al.*, (2005) for an additional summary of the Canary Islands 2002 stranding event.

Potential for Stranding from Seismic Surveys—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten

et al., 1993; Ketten, 1995). However, explosives are no longer used in marine waters for commercial seismic surveys or (with rare exceptions) for seismic research. These methods have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays.

However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar and, in one case, the co-occurrence of a Lamont-Doherty’s seismic survey (Malakoff, 2002; Cox *et al.*, 2006), has raised the possibility that beaked whales exposed to strong “pulsed” sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (e.g., Hildebrand, 2005; Southall *et al.*, 2007).

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

- (1) Swimming in avoidance of a sound into shallow water;
- (2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

- (3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

- (4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are increasing indications that gas-bubble disease (analogous to the bends), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. However, the evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.*, 2006; Southall *et al.*, 2007).

Seismic pulses and mid-frequency sonar signals are quite different from one another, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse

sounds at frequencies of two to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct correlation between the potential effects of military sonar on marine mammals and those caused by seismic surveys using airguns. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (e.g., Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.*, 2003; Fernández *et al.*, 2004, 2005; Hildebrand 2005; Cox *et al.*, 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.*, 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, two Cuvier's beaked whales stranded in the Gulf of California, Mexico while Lamont-Doherty's R/V *Maurice Ewing* had been operating a 20-airgun (8,490 in³) array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005).

We anticipate no injuries of beaked whales during the proposed study because of:

- (1) The likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels; and
- (2) Differences between the sound sources operated by the LANGSETH and those involved in the naval exercises associated with strandings.

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong

underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.*, 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.*, 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales and some odontocetes, are especially unlikely to incur non-auditory physical effects.

Potential Effects of Other Acoustic Devices

Multibeam Echosounder

The Observatory would operate the Kongsberg EM 122 multibeam echosounder from the source vessel during the planned study. Sounds from the multibeam echosounder are very short pulses, occurring for two to 15 ms once every five to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this echosounder is at frequencies near 12 kHz, and the maximum source level is 242 dB re: 1 μ Pa. The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (less than 1,000 m deep) successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore aft

width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the vessel (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2- to 15-ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an echosounder emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause temporary threshold shift.

Navy sonars linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Kongsberg EM 122; and (2) are often directed close to horizontally versus more downward for the echosounder. The area of possible influence of the echosounder is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During the Observatory's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by the animal. The following section outlines possible effects of an echosounder on marine mammals.

Masking—Marine mammal communications would not be masked appreciably by the echosounder's signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the echosounder's signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.*, 1985), increased vocalizations and no dispersal by pilot whales (*Globicephala melas*) (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz "whale-finding" sonar with a source level of 215 dB re: 1 μ Pa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (Frankel, 2005). When a 38-kHz

echosounder and a 150-kHz acoustic Doppler current profiler were transmitting during studies in the eastern tropical Pacific Ocean, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1-s tonal signals at frequencies similar to those that would be emitted by the Observatory's echosounder, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.*, 2000; Finneran *et al.*, 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an echosounder.

Hearing Impairment and Other Physical Effects—Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the echosounder proposed for use by the LANGSETH is quite different than sonar used for navy operations. The echosounder's pulse duration is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the echosounder's beam for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; navy sonar often uses near-horizontally-directed sound. Those factors would all reduce the sound energy received from the echosounder relative to that from naval sonar.

Based upon the best available science, we believe that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the echosounder is not likely to result in the harassment of marine mammals.

Sub-Bottom Profiler

The Observatory would also operate a sub-bottom profiler from the source vessel during the proposed survey. The profiler's sounds are very short pulses, occurring for one to four ms once every second. Most of the energy in the sound pulses emitted by the profiler is at 3.5 kHz, and the beam is directed downward. The sub-bottom profiler on the LANGSETH has a maximum source level of 222 dB re: 1 μ Pa. Kremser *et al.* (2005) noted that the probability of a

cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for a profiler more powerful than that on the LANGSETH—if the animal was in the area, it would have to pass the transducer at close range and in order to be subjected to sound levels that could cause temporary threshold shift.

Masking—Marine mammal communications would not be masked appreciably by the profiler's signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the profiler's signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the profiler are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the profiler are considerably weaker than those from the echosounder. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the profiler produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The profiler operates simultaneously with other higher-power acoustic sources. Many marine mammals would move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the profiler.

Potential Effects of Vessel Movement and Collisions

Vessel movement in the vicinity of marine mammals has the potential to result in either a behavioral response or a direct physical interaction. Both scenarios are discussed below this section.

Behavioral Responses to Vessel Movement

There are limited data concerning marine mammal behavioral responses to vessel traffic and vessel noise, and a lack of consensus among scientists with respect to what these responses mean or whether they result in short-term or long-term adverse effects. In those cases where there is a busy shipping lane or where there is a large amount of vessel

traffic, marine mammals may experience acoustic masking (Hildebrand, 2005) if they are present in the area (e.g., killer whales in Puget Sound; Foote *et al.*, 2004; Holt *et al.*, 2008). In cases where vessels actively approach marine mammals (e.g., whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Bursk, 1983; Acevedo, 1991; Baker and MacGibbon, 1991; Trites and Bain, 2000; Williams *et al.*, 2002; Constantine *et al.*, 2003), reduced blow interval (Ritcher *et al.*, 2003), disruption of normal social behaviors (Lusseau, 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.*, 2003; 2004)). A detailed review of marine mammal reactions to ships and boats is available in Richardson *et al.* (1995). For each of the marine mammal taxonomy groups, Richardson *et al.* (1995) provides the following assessment regarding reactions to vessel traffic:

Toothed whales: "In summary, toothed whales sometimes show no avoidance reaction to vessels, or even approach them. However, avoidance can occur, especially in response to vessels of types used to chase or hunt the animals. This may cause temporary displacement, but we know of no clear evidence that toothed whales have abandoned significant parts of their range because of vessel traffic."

Baleen whales: "When baleen whales receive low-level sounds from distant or stationary vessels, the sounds often seem to be ignored. Some whales approach the sources of these sounds. When vessels approach whales slowly and non-aggressively, whales often exhibit slow and inconspicuous avoidance maneuvers. In response to strong or rapidly changing vessel noise, baleen whales often interrupt their normal behavior and swim rapidly away. Avoidance is especially strong when a boat heads directly toward the whale."

Behavioral responses to stimuli are complex and influenced to varying degrees by a number of factors, such as species, behavioral contexts, geographical regions, source characteristics (moving or stationary, speed, direction, etc.), prior experience of the animal and physical status of the animal. For example, studies have shown that beluga whales' reactions varied when exposed to vessel noise and traffic. In some cases, naive beluga whales exhibited rapid swimming from ice-breaking vessels up to 80 km (49.7 mi) away, and showed changes in

surfacing, breathing, diving, and group composition in the Canadian high Arctic where vessel traffic is rare (Finley *et al.*, 1990). In other cases, beluga whales were more tolerant of vessels, but responded differentially to certain vessels and operating characteristics by reducing their calling rates (especially older animals) in the St. Lawrence River where vessel traffic is common (Blane and Jaakson, 1994). In Bristol Bay, Alaska, beluga whales continued to feed when surrounded by fishing vessels and resisted dispersal even when purposefully harassed (Fish and Vania, 1971).

In reviewing more than 25 years of whale observation data, Watkins (1986) concluded that whale reactions to vessel traffic were “modified by their previous experience and current activity: Habituation often occurred rapidly, attention to other stimuli or preoccupation with other activities sometimes overcame their interest or wariness of stimuli.” Watkins noticed that over the years of exposure to ships in the Cape Cod area, minke whales changed from frequent positive interest (e.g., approaching vessels) to generally uninterested reactions; fin whales changed from mostly negative (e.g., avoidance) to uninterested reactions; right whales apparently continued the same variety of responses (negative, uninterested, and positive responses) with little change; and humpbacks dramatically changed from mixed responses that were often negative to reactions that were often strongly positive. Watkins (1986) summarized that “whales near shore, even in regions with low vessel traffic, generally have become less wary of boats and their noises, and they have appeared to be less easily disturbed than previously. In particular locations with intense shipping and repeated approaches by boats (such as the whale-watching areas of Stellwagen Bank), more and more whales had positive reactions to familiar vessels, and they also occasionally approached other boats and yachts in the same ways.”

Although the radiated sound from the LANGSETH would be audible to marine mammals over a large distance, it is unlikely that animals would respond behaviorally (in a manner that we would consider MMPA harassment) to low-level distant shipping noise as the animals in the area are likely to be habituated to such noises (Nowacek *et al.*, 2004). In light of these facts, we do not expect the LANGSETH’s movements to result in Level B harassment.

Vessel Strike

Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or an animal just below the surface could be cut by a vessel’s propeller. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (e.g., the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.*, 2004). These species are primarily large, slow moving whales. Smaller marine mammals (e.g., bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records in which vessel speed was known, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24.1 km/h (14.9 mph; 13 kts).

The Observatory’s proposed operation of one vessel for the proposed survey is relatively small in scale compared to the number of commercial ships transiting at higher speeds in the same areas on an annual basis. The probability of vessel and marine mammal interactions occurring during the proposed survey is unlikely due to the LANGSETH’s slow operational speed, which is typically 4.6 kts (8.5 km/h; 5.3 mph). Outside of seismic operations, the LANGSETH’s cruising speed would be approximately 11.5 mph (18.5 km/h; 10 kts) which is generally below the speed at which studies have noted reported increases of marine mammal injury or death (Laist *et al.*, 2001).

As a final point, the LANGSETH has a number of other advantages for avoiding ship strikes as compared to

most commercial merchant vessels, including the following: The LANGSETH’s bridge offers good visibility to visually monitor for marine mammal presence; observers posted during operations scan the ocean for marine mammals and must report visual alerts of marine mammal presence to crew; and the observers receive extensive training that covers the fundamentals of visual observing for marine mammals and information about marine mammals and their identification at sea.

Entanglement

Entanglement can occur if wildlife becomes immobilized in survey lines, cables, nets, or other equipment that is moving through the water column. The proposed seismic survey would require towing approximately 8.0 km (4.9 mi) of equipment and cables. This large of an array carries the risk of entanglement for marine mammals. Wildlife, especially slow moving individuals, such as large whales, have a low probability of becoming entangled due to slow speed of the survey vessel and onboard monitoring efforts. The Observatory has no recorded cases of entanglement of marine mammals during the conduct of over 8 years of seismic surveys covering over 160,934 km (86,897.4 nmi) of transect lines.

In May, 2011, there was one recorded entanglement of an olive ridley sea turtle (*Lepidochelys olivacea*) in the LANGSETH’s barovanes after the conclusion of a seismic survey off Costa Rica. There have been cases of baleen whales, mostly gray whales (Heyning, 1990), becoming entangled in fishing lines. The probability for entanglement of marine mammals is considered not significant because of the vessel speed and the monitoring efforts onboard the survey vessel.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the “Proposed Mitigation” and “Proposed Monitoring and Reporting” sections) which, as noted are designed to effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey is not anticipated to have any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (i.e., fish and invertebrates). Additionally, no physical damage to any habitat is

anticipated as a result of conducting the proposed seismic survey. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice. The next section discusses the potential impacts of anthropogenic sound sources on common marine mammal prey in the proposed survey area (i.e., fish and invertebrates).

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is limited. There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (e.g., startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (i.e., mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound

on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (e.g., predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as the Observatory, and we know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated temporary threshold shift in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only temporary threshold shift (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to

sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns (less than 400 Hz in the study by McCauley *et al.* (2003) and less than approximately 200 Hz in Popper *et al.* (2005)) likely did not propagate to the fish because the water in the study areas was very shallow (approximately 9 m in the former case and less than 2 m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (i.e., the cutoff frequency) at about one-quarter wavelength (Urlick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.*, 1987; La Bella *et al.*, 1996; Santulli *et al.*, 1999; McCauley *et al.*, 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.*, 2003; Popper *et al.*, 2005; Boeger *et al.*, 2006).

An experiment of the effects of a single 700 in³ airgun was conducted in Lake Meade, Nevada (USGS, 1999). The data were used in an Environmental Assessment of the effects of a marine reflection survey of the Lake Meade fault system by the National Park Service (Paulson *et al.*, 1993, in USGS, 1999). They suspended the airgun 3.5 m (11.5 ft) above a school of threadfin shad in Lake Meade and fired three successive times at a 30 second interval. Neither surface inspection nor diver observations of the water column and bottom found any dead fish.

For a proposed seismic survey in Southern California, USGS (1999) conducted a review of the literature on the effects of airguns on fish and fisheries. They reported a 1991 study of the Bay Area Fault system from the continental shelf to the Sacramento River, using a 10 airgun (5,828 in³) array. Brezzina and Associates were hired by USGS to monitor the effects of the surveys, and concluded that airgun operations were not responsible for the

death of any of the fish carcasses observed, and the airgun profiling did not appear to alter the feeding behavior of sea lions, seals, or pelicans observed feeding during the seismic surveys.

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.*, 1996; Dalen *et al.*, 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a worst-case scenario, mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.*, 1994; Santulli *et al.*, 1999; McCauley *et al.*, 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (e.g., Chapman and Hawkins, 1969; Pearson *et al.*, 1992; Santulli *et al.*, 1999; Wardle *et al.*, 2001; Hassel *et al.*, 2003). Typically, in these studies fish exhibited a sharp startle response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

The Minerals Management Service (MMS, 2005) assessed the effects of a proposed seismic survey in Cook Inlet, Alaska. The seismic survey proposed using three vessels, each towing two, four-airgun arrays ranging from 1,500 to 2,500 in³. The Minerals Management Service noted that the impact to fish

populations in the survey area and adjacent waters would likely be very low and temporary and also concluded that seismic surveys may displace the pelagic fishes from the area temporarily when airguns are in use. However, fishes displaced and avoiding the airgun noise are likely to backfill the survey area in minutes to hours after cessation of seismic testing. Fishes not dispersing from the airgun noise (e.g., demersal species) may startle and move short distances to avoid airgun emissions.

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.*, 2001).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two

taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is in Appendix E of the 2011 PEIS (NSF/USGS, 2011).

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.*, 1994; Christian *et al.*, 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.*, 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.*, 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.*, 2004), but the article provides little evidence to support this claim.

Tenera Environmental (2011b) reported that Norris and Mohl (1983, summarized in Mariyasu *et al.*, 2004) observed lethal effects in squid (*Loligo vulgaris*) at levels of 246 to 252 dB after 3 to 11 minutes.

Andre *et al.* (2011) exposed four cephalopod species (*Loligo vulgaris*, *Sepia officinalis*, *Octopus vulgaris*, and *Ilex coindetii*) to two hours of continuous sound from 50 to 400 Hz at 157 ± 5 dB re: 1 μPa. They reported lesions to the sensory hair cells of the statocysts of the exposed animals that

increased in severity with time, suggesting that cephalopods are particularly sensitive to low-frequency sound. The received sound pressure level was 157 ± 5 dB re: $1 \mu\text{Pa}$, with peak levels at 175 dB re $1 \mu\text{Pa}$. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (i.e., changes in haemolymph levels of enzymes, proteins, etc.) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.*, 2007). It was noted however, than no behavioral impacts were exhibited by crustaceans (Christian *et al.*, 2003, 2004; DFO, 2004). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (e.g., squid in McCauley *et al.*, 2000a,b). In other cases, no behavioral impacts were noted (e.g., crustaceans in Christian *et al.*, 2003, 2004; DFO, 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andrighetto-Filho *et al.*, 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in

question and the nature of the fishery (season, duration, fishing method).

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

The Observatory has reviewed the following source documents and have incorporated a suite of proposed mitigation measures into their project description.

(1) Protocols used during previous Foundation and Observatory-funded seismic research cruises as approved by us and detailed in the Foundation's 2011 PEIS;

(2) Previous incidental harassment authorizations applications and authorizations that we have approved and authorized; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the Observatory, and/or its designees have proposed to implement the following mitigation measures for marine mammals:

- (1) Vessel-based visual mitigation monitoring;
- (2) Proposed exclusion zones;
- (3) Power down procedures;
- (4) Shutdown procedures;
- (5) Ramp-up procedures; and
- (6) Speed and course alterations.

Vessel-Based Visual Mitigation Monitoring

The Observatory would position observers aboard the seismic source vessel to watch for marine mammals near the vessel during daytime airgun operations and during any start-ups at night. Observers would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (i.e., greater than approximately eight minutes for this proposed cruise). When feasible, the observers would conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on the observations, the

LANGSETH would power down or shutdown the airguns when marine mammals are observed within or about to enter a designated 180-dB exclusion zone.

During seismic operations, at least four protected species observers would be aboard the LANGSETH. The Observatory would appoint the observers with our concurrence and they would conduct observations during ongoing daytime operations and nighttime ramp-ups of the airgun array. During the majority of seismic operations, two observers would be on duty from the observation tower to monitor marine mammals near the seismic vessel. Using two observers would increase the effectiveness of detecting animals near the source vessel. However, during mealtimes and bathroom breaks, it is sometimes difficult to have two observers on effort, but at least one observer would be on watch during bathroom breaks and mealtimes. Observers would be on duty in shifts of no longer than four hours in duration.

Two observers on the LANGSETH would also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third observer would monitor the passive acoustic monitoring equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation tower, and an observer (acoustic) on the passive acoustic monitoring system. Before the start of the seismic survey, the Observatory would instruct the vessel's crew to assist in detecting marine mammals and implementing mitigation requirements.

The LANGSETH is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level would be approximately 21.5 m (70.5 ft) above sea level, and the observer would have a good view around the entire vessel. During daytime, the observers would scan the area around the vessel systematically with reticle binoculars (e.g., 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices would be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly;

that is done primarily with the reticles in the binoculars.

When the observers see marine mammals within or about to enter the designated exclusion zone, the LANGSETH would immediately power down or shutdown the airguns. The observer(s) would continue to maintain watch to determine when the animal(s) are outside the exclusion zone by visual confirmation. Airgun operations would not resume until the observer has confirmed that the animal has left the zone, or if not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Proposed Exclusion Zones—The Observatory would use safety radii to designate exclusion zones and to estimate take for marine mammals. Table 1 (presented earlier in this document) shows the distances at which one would expect to receive three sound levels (160- and 180-dB) from the 36-airgun array and a single airgun. The 180-dB level shutdown criteria are applicable to cetaceans as specified by us (2000). The Observatory used these levels to establish the exclusion zones.

If the protected species visual observer detects marine mammal(s) within or about to enter the appropriate exclusion zone, the LANGSETH crew would immediately power down the airgun array, or perform a shutdown if necessary (see Shut-down Procedures).

Power Down Procedures—A power down involves decreasing the number of airguns in use such that the radius of the 180-dB zone is smaller to the extent that marine mammals are no longer within or about to enter the exclusion zone. A power down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power down for mitigation, the LANGSETH would operate one airgun (40 in³). The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. A shutdown occurs when the LANGSETH suspends all airgun activity.

If the observer detects a marine mammal outside the exclusion zone and the animal is likely to enter the zone, the crew would power down the airguns to reduce the size of the 180-dB exclusion zone before the animal enters that zone. Likewise, if a mammal is already within the zone when first detected, the crew would power-down the airguns immediately. During a

power down of the airgun array, the crew would operate a single 40-in³ airgun which has a smaller exclusion zone. If the observer detects a marine mammal within or near the smaller exclusion zone around the airgun (Table 1), the crew would shut down the single airgun (see next section).

Resuming Airgun Operations After a Power Down—Following a power-down, the LANGSETH crew would not resume full airgun activity until the marine mammal has cleared the 180-dB exclusion zone (see Table 1). The observers would consider the animal to have cleared the exclusion zone if:

- The observer has visually observed the animal leave the exclusion zone; or
- An observer has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes or pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales); or

The LANGSETH crew would resume operating the airguns at full power after 15 minutes of sighting any species with short dive durations (i.e., small odontocetes or pinnipeds). Likewise, the crew would resume airgun operations at full power after 30 minutes of sighting any species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales).

We estimate that the LANGSETH would transit outside the original 180-dB exclusion zone after an 8-minute wait period. This period is based on the 180-dB exclusion zone for the 36-airgun array towed at a depth of 12 m (39.4 ft) in relation to the average speed of the LANGSETH while operating the airguns (8.5 km/h; 5.3 mph). Because the vessel has transited away from the vicinity of the original sighting during the 8-minute period, implementing ramp-up procedures for the full array after an extended power down (i.e., transiting for an additional 35 minutes from the location of initial sighting) would not meaningfully increase the effectiveness of observing marine mammals approaching or entering the exclusion zone for the full source level and would not further minimize the potential for take. The LANGSETH's observers are continually monitoring the exclusion zone for the full source level while the mitigation airgun is firing. On average, observers can observe to the horizon (10 km; 6.2 mi) from the height of the LANGSETH's observation deck and should be able to say with a reasonable degree of confidence whether a marine mammal would be encountered within

this distance before resuming airgun operations at full power.

Shutdown Procedures—The LANGSETH crew would shutdown the operating airgun(s) if a marine mammal is seen within or approaching the exclusion zone for the single airgun. The crew would implement a shutdown:

- (1) If an animal enters the exclusion zone of the single airgun after the crew has initiated a power down; or
- (2) If an animal is initially seen within the exclusion zone of the single airgun when more than one airgun (typically the full airgun array) is operating.

Considering the conservation status for north Pacific right whales, the LANGSETH crew would shutdown the airgun(s) immediately in the unlikely event that this species is observed, regardless of the distance from the vessel. The LANGSETH would only begin ramp-up would only if the north Pacific right whale has not been seen for 30 minutes.

Resuming Airgun Operations After a Shutdown—Following a shutdown in excess of eight minutes, the LANGSETH crew would initiate a ramp-up with the smallest airgun in the array (40-in³). The crew would turn on additional airguns in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per five-minute period over a total duration of approximately 30 minutes. During ramp-up, the observers would monitor the exclusion zone, and if he/she sights a marine mammal, the LANGSETH crew would implement a power down or shutdown as though the full airgun array were operational.

During periods of active seismic operations, there are occasions when the LANGSETH crew would need to temporarily shut down the airguns due to equipment failure or for maintenance. In this case, if the airguns are inactive longer than eight minutes, the crew would follow ramp-up procedures for a shutdown described earlier and the observers would monitor the full exclusion zone and would implement a power down or shutdown if necessary.

If the full exclusion zone is not visible to the observer for at least 30 minutes prior to the start of operations in either daylight or nighttime, the LANGSETH crew would not commence ramp-up unless at least one airgun (40-in³ or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the vessel's crew would not ramp up the airgun array from a complete shutdown at night or in thick fog, because the outer part of the zone

for that array would not be visible during those conditions.

If one airgun has operated during a power down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The vessel's crew would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones during the day or close to the vessel at night.

Ramp-Up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to “warn” marine mammals in the vicinity of the airguns, and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities. The Observatory would follow a ramp-up procedure when the airgun array begins operating after an 8 minute period without airgun operations or when shut down has exceeded that period. The Observatory has used similar waiting periods (approximately eight to 10 minutes) during previous seismic surveys.

Ramp-up would begin with the smallest airgun in the array (40 in³). The crew would add airguns in a sequence such that the source level of the array would increase in steps not exceeding six dB per five minute period over a total duration of approximately 30 to 35 minutes. During ramp-up, the observers would monitor the exclusion zone, and if marine mammals are sighted, the Observatory would implement a power-down or shut-down as though the full airgun array were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, the Observatory would not commence the ramp-up unless at least one airgun (40 in³ or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the crew would not ramp up the airgun array from a complete shut-down at night or in thick fog, because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the

sounds from the single airgun and could move away. The Observatory would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones.

Speed and Course Alterations

If during seismic data collection, the Observatory detects marine mammals outside the exclusion zone and, based on the animal's position and direction of travel, is likely to enter the exclusion zone, the LANGSETH would change speed and/or direction if this does not compromise operational safety. Due to the limited maneuverability of the primary survey vessel, altering speed and/or course can result in an extended period of time to realign onto the transect. However, if the animal(s) appear likely to enter the exclusion zone, the LANGSETH would undertake further mitigation actions, including a power down or shut down of the airguns.

We have carefully evaluated the applicant's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- (1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;
- (2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- (3) The practicability of the measure for applicant implementation.

Proposed Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA states that we must set forth “requirements pertaining to the monitoring and reporting of such taking.” The Act's implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

Proposed Monitoring

The Observatory proposes to sponsor marine mammal monitoring during the

present project to supplement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the Incidental Harassment Authorization. The Observatory understands that this monitoring plan would be subject to review by us, and that we may require refinements to the plan. The Observatory planned the monitoring work as a self-contained project independent of any other related monitoring projects that may occur in the same regions at the same time. Further, the Observatory is prepared to discuss coordination of its monitoring program with any other related work that might be conducted by other groups working insofar as it is practical and desirable.

Vessel-Based Passive Acoustic Monitoring

Passive acoustic monitoring would complement the visual mitigation monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Passive acoustical monitoring can be used in conjunction with visual observations to improve detection, identification, and localization of cetaceans. The passive acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. The acoustic observer would monitor the system in real time so that he/she can advise the visual observers if they acoustic detect cetaceans.

The passive acoustic monitoring system consists of hardware (i.e., hydrophones) and software. The “wet end” of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths less than 20 m (65.6 ft). The LANGSETH crew would deploy the array from a winch located on the back deck. A deck cable would connect the tow cable to the electronics unit in the main computer lab where the acoustic station, signal conditioning, and processing system would be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The system

can detect marine mammal vocalizations at frequencies up to 250 kHz.

One acoustic observer, an expert bioacoustician with primary responsibility for the passive acoustic monitoring system would be aboard the LANGSETH in addition to the four visual observers. The acoustic observer would monitor the towed hydrophones 24 hours per day during airgun operations and during most periods when the LANGSETH is underway while the airguns are not operating. However, passive acoustic monitoring may not be possible if damage occurs to both the primary and back-up hydrophone arrays during operations. The primary passive acoustic monitoring streamer on the LANGSETH is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone.

One acoustic observer would monitor the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The observer monitoring the acoustical data would be on shift for one to six hours at a time. The other observers would rotate as an acoustic observer, although the expert acoustician would be on passive acoustic monitoring duty more frequently.

When the acoustic observer detects a vocalization while visual observations are in progress, the acoustic observer on duty would contact the visual observer immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), so that the vessel's crew can initiate a power down or shutdown, if required. The observer would enter the information regarding the call into a database. Data entry would include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

Observer Data and Documentation

Observers would record data to estimate the numbers of marine

mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. They would use the data to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a power down or shut down of the airguns when a marine mammal is within or near the exclusion zone.

When an observer makes a sighting, they will record the following information:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The observer will record the data listed under (2) at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Observers will record all observations and power downs or shutdowns in a standardized format and will enter data into an electronic database. The observers will verify the accuracy of the data entry by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow the preparation of initial summaries of data during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power down or shutdown).
2. Information needed to estimate the number of marine mammals potentially taken by harassment, which the Observatory must report to the Office of Protected Resources.
3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where the Observatory would conduct the seismic study.
4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.
5. Data on the behavior and movement patterns of marine mammals detected during non-active and active seismic operations.

Proposed Reporting

The Observatory would submit a report to us and to the Foundation within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals and turtles near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that could result in "takes" of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), the Observatory shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and/or by email to Jolie.Harrison@noaa.gov and ITP.Cody@noaa.gov. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Observatory shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Observatory to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Observatory may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Observatory discovers an injured or dead marine

mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the Observatory will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301-427-8401 and/or by email to Jolie.Harrison@noaa.gov and ITP.Cody@noaa.gov. The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We would work with the Observatory to determine whether modifications in the activities are appropriate.

In the event that the Observatory discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Observatory would report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301-427-8401 and/or by email to Jolie.Harrison@noaa.gov and ITP.Cody@noaa.gov, within 24 hours of the discovery. The Observatory would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We propose to authorize take by Level B harassment for the proposed seismic survey. Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array may have the potential to result in the behavioral disturbance of some marine mammals. There is no evidence that planned activities could result in serious injury or mortality within the specified geographic area for the

requested authorization. The required mitigation and monitoring measures would minimize any potential risk for serious injury or mortality.

The following sections describe the Observatory’s methods to estimate take by incidental harassment and present their estimates of the numbers of marine mammals that could be affected during the proposed seismic program. The estimates are based on a consideration of the number of marine mammals that could be harassed by seismic operations with the 36-airgun array during approximately 5,572 km² (2,151 mi²) of transect lines on the Mid-Atlantic Ridge in the north Atlantic Ocean, as depicted in Figure 1 of the application.

We assume that during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the echosounder and sub-bottom profiler would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, we expect that the marine mammals would exhibit no more than short-term and inconsequential responses to the echosounder and profiler given their characteristics (e.g., narrow downward-directed beam) and other considerations described previously. Based on the best available information, we do not consider that these reactions constitute a “take” (NMFS, 2001). Therefore, the Observatory did not provide any additional allowance for animals that could be affected by sound sources other than the airguns.

Ensonified Area Calculations—Because the Observatory assumes that the LANGSETH may need repeat some tracklines, accommodate the turning of the vessel, address equipment malfunctions, or conduct equipment testing to complete the survey; they have increased the proposed number of line-kilometers for the seismic operations by 25 percent (i.e., contingency lines).

Density Information—The Observatory based the density estimates on information calculated from sightings, effort, mean group sizes, and values for $f(0)$ for the southern part of the survey area in Waring et al. (2008), which extends from the Azores at approximately 38° N to 53° N. The allocated densities calculated for undifferentiated “common/striped dolphins” to common and striped dolphins in proportion to the calculated densities of the two species. The density calculated for “unidentified dolphin” was allocated to bottlenose, Atlantic spotted, and Risso’s dolphins, species that could occur in the proposed survey

area based on their presence in the Azores, in proportion to the number of sightings in the OBIS database for those species around the Azores. The density calculated for “unidentified small whale” was allocated to the false killer whale, the one small whale species that could occur in the proposed survey area based on its presence in the Azores. The four “long-finned/short-finned pilot whales” sighted in the southern part of the survey area by Waring et al. (2008) were assumed to be short-finned pilot whales based on OBIS sightings around the Azores. The density calculated for the one “sei/Bryde’s whale” sighting in the southern part of the survey area was allocated to sei and Bryde’s whales in equal proportions. The authors’ calculated value of $f(0)$ for the sei whale was used for calculating densities of Bryde’s, fin, and blue whales, and that for “small Delphinidae” was used for calculating densities of *Mesoplodon spp.*, dolphins, the false killer whale, and the short-finned pilot whale. Because the survey effort in the southern stratum of Waring et al. (2008) is limited (1,047 km; 650 mi), the survey area is north of the proposed seismic area (38–52° N versus 36–36.5° N), and the survey was conducted during a somewhat different season (June versus April–May), there is some uncertainty about the representativeness of the data and the assumptions used in the calculations.

Exposure Estimation—The Observatory estimated the number of different individuals that could be exposed to airgun sounds with received levels greater than or equal to 160 dB re: 1 μ Pa on one or more occasions by considering the total marine area that would be within the 160-dB radius around the operating airgun array on at least one occasion and the expected density of marine mammals. The number of possible exposures (including repeat exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160-dB radius around the operating airguns, excluding areas of overlap. Some individuals may be exposed multiple times since the survey tracklines are spaced close together, however, it is unlikely that a particular animal would stay in the area during the entire survey.

The number of different individuals potentially exposed to received levels greater than or equal to 160 re: 1 μ Pa (rms) was calculated by multiplying:

- (1) The expected species density (in number/km²), times
- (2) The anticipated area to be ensonified to that level during airgun operations (5,571 km²; (2,151 mi²).

The Observatory’s estimates of exposures to various sound levels assume that the proposed surveys would be carried out in full (i.e., approximately 20 days of seismic airgun operations), however, the ensonified

areas calculated using the planned number of line-kilometers have been increased by 25 percent to accommodate lines that may need to be repeated, equipment testing, account for repeat exposure, etc. As is typical during

offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken.

TABLE 3—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 dB RE: 1 µPa DURING THE PROPOSED SEISMIC SURVEY OVER THE MID-ATLANTIC RIDGE IN THE NORTH ATLANTIC OCEAN, DURING APRIL THROUGH JUNE, 2013

| Species | Estimated number of individuals exposed to sound levels ≥160 dB re: 1 µPa ¹ | Requested or adjusted take authorization ² | Regional population ³ | Approx. percent of regional population ³ |
|-----------------------------------|----------------------------------------------------------------------------------------|-------------------------------------------------------|----------------------------------|-----------------------------------------------------|
| Mysticetes: | | | | |
| North Atlantic right whale | 0 | 0 | 0 | 0 |
| Humpback whale | 0 | 42 | 0 | 0 |
| Minke whale | 0 | 43 | 0 | 0 |
| Bryde’s whale | 1 | 1 | N/A | N/A |
| Sei whale | 1 | 1 | 13,000 | 0.01 |
| Fin whale | 25 | 25 | 24,887 | 0.10 |
| Blue whale | 8 | 8 | 937 | 0.89 |
| Odontocetes | | | | |
| Sperm whale | 21 | 21 | 13,190 | 0.16 |
| Pygmy sperm whale | 0 | 0 | 395 | 0 |
| Dwarf sperm whale | 0 | 0 | 395 | 0 |
| Cuvier’s beaked whale | 0 | 47 | 3,513 | 0.2 |
| <i>Mesoplodon spp.</i> | | | | |
| True’s beaked whale | | | | |
| Gervais beaked whale | 39 | 39 | | 1.12 |
| Sowerby’s beaked whale | | | | |
| Blainville’s beaked whale | | | 3,502 | |
| Northern bottlenose whale | 0 | 44 | ~40,000 | 0 |
| Rough-toothed dolphin | 0 | 0 | N/A | 0 |
| Common bottlenose dolphin | 47 | 47 | 81,588 | 0.06 |
| Pantropical spotted dolphin | 0 | 0 | 4,439 | 0 |
| Atlantic spotted dolphin | 112 | 112 | 50,978 | 0.22 |
| Striped dolphin | 1,034 | 1,034 | 94,462 | 1.09 |
| Short-beaked common dolphin | 2,115 | 2,115 | 120,741 | 1.75 |
| Risso’s dolphin | 21 | 21 | 20,479 | 0.10 |
| Pygmy killer whale | 0 | 0 | N/A | 0 |
| False killer whale | 7 | 7 | N/A | N/A |
| Killer whale | 0 | 45 | N/A | 0 |
| Long-finned pilot whale | 0 | 0 | 780,000 | 0 |
| Short-finned pilot whale | 674 | 674 | 780,000 | 0.09 |

N/A = Not Available.

¹ Estimates are based on densities in Table 2 and an ensonified area of (5,571 km²; (2,151 mi²))

² Requested or adjusted take includes a 25 percent contingency for repeated exposures due to the overlap of parallel survey tracks.

³ Regional population size estimates are from Table 2.

⁴ Requested take authorization increased to group size for species for which densities were not calculated but for which there were OBIS sightings around the Azores.

Encouraging and Coordinating Research

The Observatory would coordinate the planned marine mammal monitoring program associated with the seismic survey on the Mid-Atlantic Ridge in the north Atlantic Ocean with other parties that may have interest in the area and/or may be conducting marine mammal studies in the same region during the seismic surveys.

Negligible Impact and Small Numbers Analysis and Determination

We have defined “negligible impact” in 50 CFR 216.103 as “* * * an impact resulting from the specified activity that

cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

In making a negligible impact determination, we consider:

- (1) The number of anticipated injuries, serious injuries, or mortalities;
- (2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

For reasons stated previously in this document and based on the following factors, the specified activities associated with the marine seismic surveys are not likely to cause permanent threshold shift, or other non-auditory injury, serious injury, or death. They include:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, we expect marine mammals to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and that we would likely avoid this impact through the incorporation of the required monitoring and mitigation measures (including power-downs and shutdowns); and

(3) The likelihood that marine mammal detection ability by trained visual observers is high at close proximity to the vessel.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the Observatory's planned marine seismic surveys, and we do not propose to authorize injury, serious injury or mortality for this survey. We anticipate only behavioral disturbance to occur during the conduct of the survey activities.

Table 4 in this document outlines the number of requested Level B harassment takes that we anticipate as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see "Potential Effects on Marine Mammals" section in this notice), we do not expect the activity to impact rates of recruitment or survival for any affected species or stock.

Further, the seismic surveys would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). While we anticipate that the seismic operations would occur on consecutive days, the estimated duration of the survey would last no more than 20 days. Additionally, the seismic survey would be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, and some animals may only be exposed to and harassed by sound for shorter less than day.

Of the 28 marine mammal species under our jurisdiction that are known to

occur or likely to occur in the study area, six of these species are listed as endangered under the ESA, including: The blue, fin, humpback, north Atlantic right, sei, and sperm whales. These species are also categorized as depleted under the MMPA. With the exception of the north Atlantic right whale, the Observatory has requested authorized take for these listed species.

As mentioned previously, we estimate that 28 species of marine mammals under our jurisdiction could be potentially affected by Level B harassment over the course of the proposed authorization. For each species, these take numbers are small (most estimates are less than or equal to two percent) relative to the regional or overall population size and we have provided the regional population estimates for the marine mammal species that may be taken by Level B harassment in Table 4 in this document.

Our practice has been to apply the 160 dB re: 1 μ Pa received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provides a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

We have preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a proposed survey on the Mid-Atlantic Ridge in the north Atlantic Ocean in international waters, from April 2013 through June 2013, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

While these species may make behavioral modifications, including temporarily vacating the area during the operation of the airgun(s) to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led us to preliminarily determine that this action would have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we preliminarily find that the Observatory's planned research activities would result in the incidental take of small numbers of marine mammals, by Level B

harassment only, and that the required measures mitigate impacts to affected species or stocks of marine mammals to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the Marine Mammal Protection Act also requires us to determine that the authorization would not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (on the Mid-Atlantic Ridge in the north Atlantic Ocean in international waters) that implicate section 101(a)(5)(D) of the Marine Mammal Protection Act.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, several are listed as endangered under the Endangered Species Act, including the blue, fin, humpback, north Atlantic right, sei, and sperm whales. The Observatory did not request take of endangered north Atlantic right whales because of the low likelihood of encountering these species during the cruise.

Under section 7 of the Act, the Foundation has initiated formal consultation with the Service's, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed seismic survey. We (i.e., National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division), have also initiated formal consultation under section 7 of the Act with the Endangered Species Act Interagency Cooperation Division to obtain a Biological Opinion (Opinion) evaluating the effects of issuing an incidental harassment authorization for threatened and endangered marine mammals and, if appropriate, authorizing incidental take. Both agencies would conclude the formal section 7 consultation (with a single Biological Opinion for the Foundation's Division of Ocean Sciences and NMFS' Office of Protected Resources, Permits and Conservation Division federal actions) prior to making a determination on whether or not to issue the authorization. If we issue the take authorization, the Foundation and the Observatory must comply with the mandatory Terms and Conditions of the Opinion's Incidental Take Statement which would incorporate the mitigation and monitoring requirements included

in the Incidental Harassment Authorization.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an IHA to the Observatory, we intend to prepare an Environmental Assessment (EA) titled "Issuance of an Incidental Harassment Authorization to the Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical on the Mid-Atlantic Ridge in the north Atlantic Ocean, from April 2013 through June 2013." This EA would incorporate as appropriate the Foundation's Environmental Analysis Pursuant To Executive Order 12114 (NSF, 2010) titled, "Marine geophysical survey by the R/V MARCUS G. Langseth on the mid-Atlantic Ridge, April–May 2013," by reference pursuant to 40 CFR 1502.21 and NOAA Administrative Order (NAO) 216–6 § 5.09(d). Prior to making a final decision on the IHA application, we would decide whether or not to issue a Finding of No Significant Impact (FONSI).

The Foundation's environmental analysis is available for review at the addresses set forth earlier in this notice. This notice and the documents it references provide all relevant environmental information related to our proposal to issue the IHA. We invite the public's comment and will consider any comments related to environmental effects related to the proposed issuance of the IHA submitted in response to this as we conduct and finalize our NEPA analysis.

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to the Observatory's proposed marine seismic surveys on the Mid-Atlantic Ridge in the north Atlantic Ocean from April 2013, through June 2013, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the incidental harassment authorization would not exceed one year from the date of its issuance.

Information Solicited

We request interested persons to submit comments and information concerning this proposed project and our preliminary determination of issuing a take authorization (see ADDRESSES). Concurrent with the publication of this notice in the **Federal Register**, we will forward copies of this application to the Marine Mammal

Commission and its Committee of Scientific Advisors.

Dated: February 6, 2013.

Matthew J. Brookhart,

*Acting Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2013–03321 Filed 2–12–13; 8:45 am]

BILLING CODE 3510–22–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, March 5, 2013. A business meeting will be held the following day on Wednesday, March 6, 2013. Both the hearing and business meeting are open to the public and will be held at the Commission's office building located at 25 State Police Drive, West Trenton, New Jersey.

Public Hearing. The public hearing on March 5, 2013 will run from 1:00 p.m. until approximately 4:00 p.m. The list of projects scheduled for hearing, with descriptions, is currently available in a long form of this notice posted on the Commission's Web site, www.drbc.net. Draft dockets and resolutions for hearing items will be posted on the Web site approximately ten days prior to the hearing date. Because hearings on particular projects may be postponed to allow additional time for the commission's review, interested parties are advised to check the Web site periodically prior to the hearing date. Postponements, if any, will be duly noted there.

Public Meeting. The business meeting on March 6, 2013 will begin at 12:15 p.m. and will include the following items: adoption of the Minutes of the Commission's December 5, 2012 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, consideration of items for which a hearing has been completed, and a public dialogue session. The Commissioners also may consider action on matters not subject to a public hearing.

There will be no opportunity for additional public comments at the March 6 business meeting on items for which a hearing was completed on March 5 or a previous date. Commission consideration on March 6 of items for which the public hearing is closed may

result in either approval of the docket or resolution as proposed, approval with changes, denial, or deferral. When the commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the commission on a future date.

Advance sign-up for oral comment.

Individuals who wish to comment for the record at the public hearing on March 5th or to address the Commissioners informally during the public dialogue portion of the meeting on March 6 are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at paula.schmitt@drbc.state.nj.us or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Addresses for written comment.

Written comment on items scheduled for hearing may be delivered by hand at the public hearing or submitted in advance of the hearing date to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522 or by email to paula.schmitt@drbc.state.nj.us. Written comment on dockets should also be furnished directly to the Project Review Section at the above address or fax number or by email to william.muszynski@drbc.state.nj.us.

Accommodations for Special Needs.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Other meeting items also are subject to change. Please check the Commission's Web site, www.drbc.net, closer to the meeting date for changes that may be made after the deadline for filing this notice.

Additional Information, Contacts. The list of projects scheduled for hearing, with descriptions, is currently available in a long form of this notice posted on the Commission's Web site, www.drbc.net. Draft dockets and resolutions for hearing items will be posted as hyperlinks from the notice at