



MARINE MAMMAL COMMISSION

11 December 2015

Ms. Jolie Harrison, Chief
Permits and Conservation Division
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910-3225

Dear Ms. Harrison:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the application submitted by Excelerate Energy, L.P. and TetraTech, Inc. on behalf of Northeast Gateway Energy Bridge, L.P. (Northeast Gateway) and Algonquin Gas Transmission L.L.C. (Algonquin), seeking authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA) to take small numbers of marine mammals by harassment. The taking would be incidental to operation, maintenance, and repair of the Northeast Gateway liquefied natural gas (LNG) port and the Algonquin Pipeline Lateral facilities in Massachusetts Bay during a one-year period. The Commission also has reviewed the National Marine Fisheries Service's (NMFS) 20 November 2015 notice (80 Fed. Reg. 72688) announcing receipt of the application and proposing to issue the authorization, subject to certain conditions. In addition, NMFS requested comments on Northeast Gateway and Algonquin's request for five-year regulations under 101(a)(5)(D) of the MMPA.

The Northeast Gateway LNG port is used for delivery of re-gasified natural gas to onshore markets and is located 21 km offshore of Massachusetts in waters 82 to 88 m in depth. Northeast Gateway uses specially designed energy bridge re-gasification vessels that dock at the submerged buoys to deliver natural gas via the Algonquin Pipeline Lateral. Those vessels use a dynamic positioning system during re-gasification. In addition, routine and emergency maintenance and operation of the Northeast Gateway LNG port and the Algonquin Pipeline Lateral involves various support vessels, divers, a remotely operated vehicle, and tugs/barges—some of those vessels are equipped with a dynamic positioning system as well.

NMFS preliminarily has determined that the proposed activities could temporarily modify the behavior of small numbers of up to 14 species of marine mammals, but that the total taking would have a negligible impact on the affected species or stocks. NMFS does not anticipate any take of marine mammals by death or serious injury and believes that the potential for temporary or permanent hearing impairment from the proposed activities would be at the least practicable level because of the proposed mitigation measures. The proposed mitigation, monitoring, and reporting measures include—

- (1) restricting planned maintenance and repair activities to between 1 May and 30 November;
- (2) conducting in-situ sound measurements of all sound-emitting construction equipment and all vessels involved in maintenance and repair activities;

- (3) using ramp-up, delay, and shut-down procedures;
- (4) using vessel-based, trained observers/look-outs to visually monitor for the presence of marine mammals;
- (5) requiring all vessels approaching, departing from, or docked at the Northeast Gateway LNG port to take appropriate actions to minimize the strike of whales by obtaining sighting information, reporting their activities, reducing vessel speed, and other vessel strike mitigation measures as specified in the proposed incidental harassment authorization;
- (6) minimizing the use of entangling material (e.g., anchor lines, cables, rope) and removing it from the water immediately after use;
- (7) using 10 auto-detection buoys located within the Boston Traffic Separation Scheme to monitor vocalizations of North Atlantic right whales within 9.3 km of each buoy;
- (8) deploying additional long-term passive acoustic monitoring (using devices such as marine autonomous recording units) if the anticipated LNG deliveries exceed 5 shipments in a 30-day period or 20 shipments in a 6-month period;
- (9) notifying the NMFS Office of Protected Resources, NMFS Northeast Ship Strike Coordinator, and Stellwagen Bank National Marine Sanctuary 30 days prior to any planned port repair or maintenance activity or as soon as possible before any unplanned or emergency port repair or maintenance activities;
- (10) reporting injured and dead marine mammals to NMFS and the local stranding network using NMFS's phased approach and suspending activities, if appropriate; and
- (11) submitting monthly monitoring reports, weekly status reports during repair and maintenance activities, and a final report to NMFS.

The Commission concurs with NMFS's preliminary finding and therefore recommends that NMFS issue the incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures. The Commission is encouraged to see that NMFS plans to propose regulations to govern the incidental taking of marine mammals during a five-year period after the proposed one-year authorization expires.

The Commission trusts these comments will be helpful to NMFS. Please let me know if you have any questions with regard to this letter.

Sincerely,



Rebecca J. Lent, Ph.D.
Executive Director