APPENDIX A:
AGENCY AND PUBLIC CORRESPONDENCE/COORDINATION
Notice of Intent (NOI) and Public Scoping
respond: It is estimated that 255 persons submit 1,106 completed DEA Forms 250, at 1 hour per form, for an annual burden of 1,106 hours. It is estimated that 25 companies submit information pertaining to new drug applications or abbreviated new drug applications, at 2 hours per response, for an annual burden of 50 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that the total annual burden associated with this information collection is 1,156 hours. If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530, or by e-mail at brenda.e.dyer@usdoj.gov.

Dated: September 16, 2005.

Brenda E. Dyer,
Department Clearance Officer, Department of Justice.

[FR Doc. 05–18903 Filed 9–21–05; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for the National Science Foundation To Address Potential Impacts on the Marine Environment Related to the Use of Seismic Sources in Support of NSF-Funded Research by U.S. Academic Scientists.

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the National Science Foundation (NSF) announces its intent to prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to evaluate the potential environmental impacts associated with the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service (NMFS), a part of the National Oceanic and Atmospheric Administration, is being invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

Publication of this notice begins the official scoping process that will help identify alternatives and determine the scope of environmental issues to be addressed in the Programmatic EIS/OEIS. This notice requests public participation in the scoping process and provides information on how to participate.

ADDRESSES AND DATES: Public-scoping meetings will be held at the following dates, times, and locations:

1. Wednesday, October 5, 2005, 1–5 p.m., Silver Spring Metro Center Building 4, Science Center, 1301 East-West Highway, Silver Spring, MD;
2. Thursday, October 6, 2005, 5–9 p.m., J. Erick Jonhson Center of the National Academy of Sciences, Carriage House, 314 Quisisset Avenue, Woods Hole, MA;
3. Wednesday, October 12, 2005, 5–9 p.m., Room C126, 1000 Discovery Drive, Texas A&M University, College Station, TX;
4. Friday, October 14, 2005, 5–9 p.m., Egan Civic and Convention Center, 555 West Fifth Avenue, Anchorage, AK;
5. Monday, October 17, 2005, 5–9 p.m., 100 Vaughn Hall, Discovery Way, Scripps Institution of Oceanography, La Jolla, CA; and
6. Wednesday, October 19, 2005, 5–9 p.m., Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI.

Written comments will be accepted at these meetings as well as during the scoping period, and can be mailed to NSF by October 28, 2005 (see FOR FURTHER INFORMATION CONTACT).

FOR FURTHER INFORMATION CONTACT: Written statements and questions regarding the scoping process should be mailed to Dr. Alexander Shor, Program Director, Oceanographic Instrumentation and Technical Services, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Boulevard, Suite 725, Arlington, VA 22230; voice (703) 292–8583 or e-mail at OCE–EIS@nsf.gov.

SUPPLEMENTARY INFORMATION: In the last 2 years, NSF has prepared 16 environmental assessments (EAs) on the impact of seismic noise on endangered species and marine mammals during planned marine research projects concerning the geology and geophysics of the seafloor. The EAs were prepared for various worldwide, academic research cruises that required the use of various marine seismic sources. These EAs were intended to address regulations and public concern over anthropogenic noise in the marine environment and its possible, negative impacts on marine life. They were prepared in line with S.U.S. laws and regulations, including NEPA; the Marine Mammal Protection Act of 1972 (MMPA); the endangered Species Act of 1973 (ESA); and Executive Order (EO) 12114 (1979), Environmental Effects Abroad of Major Federal Actions. In some cases they have also been used as background information to address foreign regulations, especially where research has been carried out entirely or partially within territorial waters or Exclusive Economic Zone waters surrounding a foreign nation.

In each case, the NSF EA and a Finding of No Significant Impact (FONSI) has been used as the basis for consultation with NMFS Office of Protected Resources (OPR) under Section 7(a)(2) of the ESA, and in each case for which an action is finalized, NMFS OPR has issued a Biological Opinion and a related Incidental Take Statement authorizing the proposed project to be undertaken, and indicating any mitigation measures needed to reduce impacts on endangered species. In parallel with this effort, a separate application has been submitted for each cruise to apply for an Incidental Harassment Authorization (IHA) under the MMPA from NMFS OPR, and an IHA has also been issued by NMFS for each of the projects. Increasingly over the past 2 years, public comments have expressed concern that by evaluating individual projects in isolation, the cumulative impacts of NSF-funded seismic activities on the marine environment are not being adequately addressed. NSF and NMFS OPR personnel have examined this concern and have concluded that a Programmatic EIS/OEIS could provide both the holistic view of cumulative impacts, as well as provide the principal technical and environmental foundation to form the basis of evaluating environmental impacts of most NSF-funded seismic efforts.

The Programmatic EIS/OEIS will take a view of the planned program as a whole and thereby assemble and analyze the broadest range of direct, indirect, and cumulative impacts associated with the entire program rather than assessing individual cruises separately. This approach will also address possible concerns that NSF is analyzing their research program in segments, rather than holistically where the true cumulative impacts of the entire program can be identified. Further, the parent Programmatic EIS/OEIS will provide a broad analytical backdrop within which NSF, using tiered documents, will be able to analyze cruise-specific issues relevant for analysis and decision. Additionally, it will streamline the preparation of subsequent environmental documents for the individual cruises and also...
enable NSF to identify any prudent conservation practices and mitigation measures that may be applied across the entire program. The site-specific information is required by NMFS (and sometimes the U.S. Fish and Wildlife Service) for purposes of preparing Biological Opinions and Incidental Take Statements required by ESA.

The main focus of the Programmatic EIS/OEIS will be on the seismic operations to be conducted from NSF’s primary seismic ship, soon to be the R/V Marcus G. Langseth. The Programmatic EIS/OEIS will address the variety of airgun configurations to be operated from the Langseth, as well as the multi-beam bathymetric sonar, sub-bottom profiler, and other acoustic sources to be deployed as standard equipment. In addition, the Programmatic EIS/OEIS will deal with the generally small airgun sources occasionally operated from other vessels under NSF’s sponsorship.

Major environmental issues that will be addressed in the Programmatic EIS/OEIS include marine biological resources including Essential Fish Habitat (EFH), acoustic impacts to marine mammals, fish, sea turtles, invertebrates, and threatened and endangered species; cultural resources; human health and safety; socioeconomics and land use (i.e., commercial, private, and recreational uses of the marine environment); and water quality.

NSF is initiating this scoping process for the purpose of determining the extent of issues to be addressed and identifying the significant issues related to this action. NSF will hold public scoping meetings as identified in the DATES AND ADDRESSES section of this notice. These meetings will also be advertised in area newspapers. NSF and NMFS representatives will be available at these meetings to receive comments from the public regarding issues of concern to the public. Federal, state, and local agencies and interested individuals are encouraged to take this opportunity to identify environmental concerns that should be addressed during the preparation of the Programmatic EIS/OEIS. Agencies and the public are also invited and encouraged to provide written comments on scoping issues in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe issues or topics that the commenter believes the Programmatic EIS/OEIS should address.

We invite you to learn about the NSF seismic research program at an informational open house, and to assist NSF in defining the alternatives and the scope of environmental issues related to the seismic research program. All our public meeting locations are wheelchair-accessible. If you plan to attend a scoping meeting/open house, and need special assistance such as sign language interpretation or other reasonable accommodation, please notify NSF (see FOR FURTHER INFORMATION CONTACT) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

We request public comments or other relevant information on environmental issues related to the NSF seismic research program. The public meetings are not the only opportunity you have to comment. In addition to or in place of attending a meeting, you can submit comments to Dr. Alexander Shor by October 28, 2005 (see FOR FURTHER INFORMATION CONTACT). We will consider all comments received during the comment period. We request that you include in your comments:

- Your name and address (especially if you would like to receive a copy of the Draft Programmatic EIS/OEIS upon completion);
- An explanation for each comment; and
- Include any background materials to support your comments as you feel necessary.

You may mail, e-mail, or hand deliver your comments to NSF (see FOR FURTHER INFORMATION CONTACT). All comment submissions must be unbound, no larger than 8½ by 11 inches, and suitable for copying and electronic scanning. Please note that regardless of the method used for submitting comments or material, all submissions will be publicly available and, therefore, any personal information you provide in your comments will be open for public review. In addition, if you wish to receive a copy of the Draft Programmatic EIS/OEIS, please indicate this in your comment. No decision will be made to implement any alternative until the NEPA process is completed.


Alexander Shor,
Program Director, Division of Ocean Sciences,
National Science Foundation.

[FR Doc. 05–18962 Filed 9–21–05; 8:45 am]
BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board and its Subdivisions


September 28, 2005, 8:15 a.m.–5 p.m.

Sessions:
8:15 a.m.–9 a.m., Open;
9 a.m.–9:30 a.m., Closed;
9:30 a.m.–10:30 a.m., Open;
10:30 a.m.–11 a.m., Open;
11 a.m.–11:45 a.m., Open;
11:45 a.m.–12:05 p.m., Open;
12:05 p.m.–12:15 p.m., Closed;
12:15 p.m.–12:55 p.m., Closed;
12:55 p.m.–3 p.m., Open;
3 p.m.–5 p.m., Open.

September 29, 2005, 8 a.m.–3:30 p.m., Sessions:
8:30 a.m.–10 a.m., Open;
10 a.m.–10:30 a.m., Closed;
10:30 a.m.–11 a.m., Open;
11 a.m.–11:15 a.m., Closed;
1 p.m.–1:15 p.m., Executive Closed;
1:15 p.m.–1:30 p.m., Closed;
1:30 p.m.–3:30 p.m., Open.

PLACE: National Science Foundation, 4201 Wilson Blvd, Room 1235, Arlington, VA 22230.

PUBLIC MEETING ATTENDANCE: All visitors must report to the NSF’s visitor’s desk at the 9th and N. Stuart Streets entrance to receive a visitor’s badge.

CONTACT INFORMATION: Please refer to the National Science Board Web site (www.nsf.gov/nsb) for updated schedule. NSB Office: (703) 292–7000.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, September 28, 2005

Open

Committee on Programs and Plans
Subcommittee on Polar Issues (8:15 a.m.–9 a.m.), Room 1235
• Chair’s Remarks and Approval of Minutes
• OPP Director’s Report
• Update on Icebreaker Issues
• Antarctic Geological Drilling Project
• Collaboration of Researchers with Native Communities: King Island, Alaska

Education and Human Resources
Subcommittee on S&E Indicators (9:30 a.m.–10:30 a.m.), Room 1235
• Approval of Minutes
• Chairman’s Remarks
• Brief Progress Report on Science and Engineering Indicators 2006
• Discussion of Draft Companion Piece
• Contractor Presentation on Indicators

Committee on Programs and Plans Task Force on Transformative Research (10:30 a.m.–11 a.m.), Room 1235
• Approval of Minutes
• Brief Overview of Workshop I: August 12, 2005
Workers press for slot machine bill, but measure sees long shot

City & Region 13

Thur., Oct. 20, 2005

The Boston Globe

Workers press for slot machine bill, but measure sees long shot

2 adults, toddler hurt in Route 3 crash

Racing is probed as possible cause

By John Ellement

Three people, including a 3-year-old girl who was thrown from a car, were injured in a single-vehicle crash on Route 3 in Andover on Tuesday. A fourth person, a 4-year-old boy, was not thrown from the car, police said.

The crash happened about 3:30 p.m. when the car, a Ford Taurus, crashed into a concrete barrier on the southbound lanes of Route 3 near the 35th Avenue exit, police said.

The driver of the Taurus, a 42-year-old man, and his 14-year-old passenger were transported to area hospitals with minor injuries, police said. The 4-year-old boy, who was not thrown from the car, was also taken to a hospital for treatment of minor injuries, police said.

The cause of the crash is under investigation, but police said it appears to have been caused by the driver losing control of the car. No other vehicles were involved in the crash, police said.

The crash occurred on a busy stretch of Route 3 that is known for its high speeds and frequent accidents. Police said they have received reports of other crashes in the area in recent weeks.

The crash came on the same day that the Massachusetts State Police announced that they would be stepping up patrols in the area to address safety concerns. The police said they have been responding to an increase in complaints about speeding and other traffic violations in the area.

The crash also occurred on the same day that the Massachusetts Senate passed a bill that would allow the state to issue slot machine licenses. The bill, which was sponsored by a number of state lawmakers, would allow up to 10 slot machines to be licensed in the state, with half of the proceeds going to education and the other half to local communities.

However, the bill has faced resistance from some members of the state House, who have expressed concerns about the potential for increased gambling addiction and other negative effects.

The bill now goes to the state House for consideration. If passed, it would then need to be signed into law by the governor.
The Undersigned, declares under penalty of perjury under the laws of the State of California, That... She is a resident of the County of San Diego.

The San Diego Union-Tribune, a newspaper of general circulation, printed and published daily in the City of San Diego, County of San Diego, and which newspaper is published for the dissemination of local news and intelligence of a general character, and which newspaper at all the times herein mentioned had and still has a bona fide subscription list of paying subscribers, and which newspaper has been established, printed and published at regular intervals in the said City of San Diego, County of San Diego, for a period exceeding one year next preceding the date of publication of the notice hereinafter referred to, and which newspaper is not devoted to nor published for the interests, entertainment or instruction of a particular class, profession, trade, calling, race, or denomination, or any number of same; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following date, to wit:

OCTOBER 8, 2005

[Signature]
Chief Clerk for the Publisher
The National Science Foundation (NSF) announces its intent to prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service (NMFS) is being invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

NSF is holding a public scoping meeting in Silver Spring, MD, Wednesday, October 5, 1-5 PM. This meeting will be an open house format at the Silver Spring Metro Center Building 4, 1301 East-West Highway. If you are unable to attend this open house meeting, you may submit written comments to:

Dr. Alexander Shor
National Science Foundation
4201 Wilson Boulevard, Suite 725, Arlington, VA 22230
or via email at OCE-EIS@nsf.gov

Although we will accept comments throughout the preparation of the EIS/OEIS, we recommend that your scoping comments be sent to NSF by October 28, 2005, to ensure equitable consideration in the Draft EIS/OEIS.

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Grand Forks, N.D., she lived in the Angus, Minn., area until she was 4 and graduated from Warroad High School in 2002. That summer she invited recruiter to their home to sign up, Steve LaDupe, who was with the divisionary Transportation Command, Combat Support Branch.

March, she returned to employment in support of Operation Iraqi Freedom. Her dad said lasted seven years, while in Iraq she drove between Tikrit and Baghdad. Dad, sometimes wounded, was a door gunner.

The family isn't sure if Felicia's body will be brought home, but her father said she will be in Warrenton, Virginia, at the church, where Felicia was baptized.

Admiral Advertiser staff writer Mike Gordon and Grand Forks (N.D.) Herald reporter Stephen J. Lee contributed to this report.
Hearing

The property tax rate was raised 4.18% which was used for maintenance and

proposing a rate would add $23,446 more

The National Science Foundation (NSF) announces its intent to prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service (NMFS) is being invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

NSF is holding a public scoping meeting in College Station, TX on Wednesday, October 12, 5-9 PM. This meeting will be an open house format at Texas A&M University, 1000 Discovery Drive, Room C126. If you are unable to attend this open house meeting, you may submit written comments to:

Dr. Alexander Shor
National Science Foundation
4201 Wilson Boulevard, Suite 725, Arlington, VA 22230
or via email at OCE-IIES@nsf.gov

Although we will accept comments throughout the preparation of the EIS/OEIS, we recommend that your scoping comments be sent to NSF by October 28, 2005, to ensure equitable consideration in the Draft EIS.

Hearings

As you wish, you may attend the second hearing at 9:30 a.m. at 901 Bagby St. for the hearing on the 5th Annual Accolades 2005 event benefiting CHILDREN AT RISK.

5th Annual

Accolades 2005

Full luncheon event benefiting CHILDREN AT RISK

Honor Mark & Shannon Wallace

Presenting the Children at Risk Award:

Doctors Ralph & Judith Feigl

Co-Sponsors: Ton & Laura Bellows

Children at Risk:

30 a.m., 1 p.m.

10th Street, Houston, Texas

October 5, 2005
Spanish soldiers patrol the border between Morocco and Spain's enclave of Melilla on Thursday. Both countries are finalizing a plan to return Africans who illegally entered Spain from Morocco.
September 29, 2005

USFWS Headquarters
1849 C St. NW
Washington, DC 20242

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Written comments will be accepted at these meetings as well as during the scoping period, and can be sent to NSF by October 28, 2005. Information on addressing comments and details on NSF’s proposal is available in the September 22, 2005 Federal Register.

for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Marvin Moriarty  
Field Supervisor (Regional Director)  
USFWS  
300 Westgate Center Dr  
Hadley, MA 1035

Dear Mr. Moriarty,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
4201 Wilson Boulevard, Suite 725  
Arlington, VA 22230  
Phone: (703) 292-7711 (Direct Line)  
Phone: (703) 292-8583 (Program Assistant)  
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Sue Hamilton
Field Supervisor (Regional Director)
USFWS
1875 Century Blvd
Atlanta, GA 30345

Dear Ms. Hamilton,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Written comments will be accepted at these meetings as well as during the scoping period, and can be sent to NSF by October 28, 2005. Information on addressing comments and details on NSF's proposal is available in the September 22, 2005 Federal Register.

Kathy Shorr
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

William Seawell  
Field Supervisor (Regional Director)  
USFWS  
10711 Burnet Road, Ste. 200  
Austin, TX 78758

Dear Mr. Seawell,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Written comments will be accepted at these meetings as well as during the scoping period, and can be sent to NSF by October 28, 2005. Information on addressing comments and details on NSF's proposal is available in the September 22, 2005 Federal Register.

for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
4201 Wilson Boulevard, Suite 725  
Arlington, VA 22230  
Phone: (703) 292-7711 (Direct Line)  
Phone: (703) 292-8583 (Program Assistant)  
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Steve Thompson
Field Supervisor (Regional Director)
USFWS
2800 Cottage Way Suite W2606
Sacramento, CA 95825

Dear Mr. Thompson,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Kathy Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Dave Allen
Field Supervisor (Regional Director)
USFWS
911 NE 11th St
Portland, OR 97232

Dear Mr. Allen,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Written comments will be accepted at these meetings as well as during the scoping period, and can be sent to NSF by October 28, 2005. Information on addressing comments and details on NSF's proposal is available in the September 22, 2005 Federal Register.

Kathy Hon
for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
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Arlington, VA 22230
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Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Tauline Davis
Field Supervisor (Regional Director)
USFWS
1011 East Tudor Rd
Anchorage, AK 99503

Dear Ms. Davis,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/OEIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
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September 29, 2005

Ted Swem  
Wildlife Biologist  
USFWS  
101 12th Avenue, Box 19  
Fairbanks, AK 99701

Dear Mr. Swem,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
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September 29, 2005

Craig Perham  
Wildlife Biologist  
USFWS  
1011 East Tudor Rd  
Anchorage, AK 99503

Dear Mr. Perham,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
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September 29, 2005

Maggie Ahmaogak
Executive Director
AEWC
P.O. Box 570
Barrow, AK 99723

Dear Ms. Ahmaogak,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
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September 29, 2005

Craig George  
Wildlife Biologist  
DWM  
Department of Wildlife Management, North Slope Borough, PO Box 69  
Barrow, AK 99723

Dear Mr. George,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
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September 29, 2005

Charles Brower  
Director  
Department of Wildlife Management  
North Slope Borough, PO Box 69  
Barrow, AK 99723

Dear Mr. Brower,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Kathy Zich
for Alexander Shor
Program Director
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September 29, 2005

NOAA/NMFS Headquarters
14th St. & Constitution Ave Rm 6217
Washington, DC 20230

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
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September 29, 2005

Patricia A. Kurkul  
Regional Administrator  
NOAA/NMFS  
One Blackburn Drive  
Gloucester, MA 1930

Dear Ms. Kurkul,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
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September 29, 2005

Dr. Roy E. Crabtree  
Regional Administrator  
NOAA/NMFS  
236 13th Avenue South  
St. Petersburg, FL 33701

Dear Dr. Crabtree,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
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September 29, 2005

Rodney McInnis  
Regional Administrator  
NOAA/NMFS  
501 W. Ocean Blvd  
Long Beach, CA 90802

Dear Mr. McInnis,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
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September 29, 2005

Bob Lohn
Regional Administrator
NOAA/NMFS
7600 Sand Point Way NE
Seattle, WA 98115

Dear Mr. Lohn,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
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September 29, 2005

James Balsiger  
Regional Administrator  
NOAA/NMFS  
PO Box 21668  
Juneau, AK 99802

Dear Mr. Balsiger,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
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September 29, 2005

Joseph Montgomery
Director NEPA Compliance, Off. of Federal Activities
USEPA
1200 Pennsylvania Ave., NW (6403J)
Washington, DC 20460

Dear Mr. Montgomery,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
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Dear Mr. Varney,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Alan J. Steinburg
Regional Administrator
USEPA
290 Broadway, 26th Floor
New York, NY 10007

Dear Mr. Steinburg,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

Donald S. Welsh
Regional Administrator
USEPA
1650 Arch St
Philadelphia, PA 19103

Dear Mr. Welsh,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

J.I. Palmer, Jr
Regional Administrator
USEPA
61 Forsyth Street, SW
Atlanta, GA 30303

Dear Mr. Palmer,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for

[Signature]

for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
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September 29, 2005

Thomas V. Skinner  
Regional Administrator  
USEPA  
77 West Jackson Blvd  
Chicago, IL 60604

Dear Mr. Skinner,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Kathy Shor
for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
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September 29, 2005

Richard Greene
Regional Administrator
USEPA
1445 Ross Avenue
Dallas, TX 75202

Dear Mr. Greene,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

James B. Gulliford
Regional Administrator
USEPA
901 N. 5th Street
Kansas City, KS 66101

Dear Mr. Gulliford,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Program Director
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September 29, 2005

Robbie Roberts  
Regional Administrator  
USEPA  
999-18th St. Suite 300  
Denver, CO 80202

Dear Mr. Roberts,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

Wayne Nastri  
Regional Administrator  
USEPA  
75 Hawthorne Street  
San Francisco, CA 94105

Dear Mr. Nastri,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic  
EIS/Overseas EIS to address potential impacts on the marine environment related to the use of  
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Oceanographic Instrumentation and Technical Services  
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September 29, 2005

Ron Kreizenbeck
Regional Administrator
USEPA
1200 Sixth Avenue
Seattle, WA 98101

Dear Mr. Kreizenbeck,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

Tony MacDonald
Executive Director
Coastal States Organization
444 N. Capitol, NW
Washington, DC 20001

Dear Mr. MacDonald,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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September 29, 2005

Minerals Management Service
Environmental Branch
1849 C Street NW
Washington, DC 20240

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
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September 29, 2005

G. Ed Richardson  
Minerals Management Service  
139 Deerlake Drive  
Asheville, NC 28803

Dear Mr. Richardson,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Kathylv

for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
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September 29, 2005

James Bennett  
Minerals Management Service/Environmental Branch  
381 Elden Street, MS 4023  
Herndon, VA 20170

Dear Mr. Bennett,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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Kathy F. Thor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
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September 29, 2005

Minerals Management Service
Environmental Branch
770 Paseo Camarillo
Camarillo, CA 93010

Dear Sir or Madam,

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Kathy House
for Alexander Shor
Program Director
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Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

David Moore  
Minerals Management Service  
381 Elden Street  
Herndon, VA 21071

Dear Mr. Moore,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

To begin the process, NSF is holding a series of public scoping meetings. Public scoping meetings will be held at the following dates, times, and locations: 1. Wednesday, October 5, 2005, 1-5 P.M., Silver Spring Metro Center Building 4, Science Center, 1301 East-West Highway, Silver Spring, MD; 2. Thursday, October 6, 2005, 5-9 p.m., J. Erik Jonsson Center of the National Academy of Sciences, Carriage House, 314 Quissett Avenue, Woods Hole, MA; 3. Wednesday, October 12, 2005, 5-9 p.m., Room C126, 1000 Discovery Drive, Texas A&M University, College Station, TX; 4. Friday, October 14, 2005, 5-9 p.m., Egan Civic and Convention Center, Space 1, 13-14, 555 West Fifth Ave. Anchorage, AK; 5. Monday, October 17, 2005, 5-9 p.m., Scripps Institution of Oceanography, 100 Vaughn Hall, Discovery Way, La Jolla, CA; and 6. Wednesday, October 19, 2005, 5-9 p.m., Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI.

Written comments will be accepted at these meetings as well as during the scoping period, and can be sent to NSF by October 28, 2005. Information on addressing comments and details on NSF's proposal is available in the September 22, 2005 Federal Register.

Kathy Thomson  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
4201 Wilson Boulevard, Suite 725  
Arlington, VA 22230  
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September 29, 2005

Alaska Intertribal Council
431 West 7th Ave Suite 201
Anchorage, AK 99501

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

National Congress of American Indians
1300 Connecticut Ave Suite 200
Washington, DC 20036

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

Office of Hawaiian Affairs
711 Kapi‘olani Blvd. Suite 500
Honolulu, HI 96813

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overses EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
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Phone: (703) 292-8583 (Program Assistant)
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September 29, 2005

Northwest Indian Fisheries Council
6730 Martin Way E.
Olympia, WA 98516

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230
Phone: (703) 292-7711 (Direct Line)
Phone: (703) 292-8583 (Program Assistant)
Fax: (703) 292-9085; Email: ashor@nsf.gov
September 29, 2005

National Tribal Environmental Council  
2501 Rio Grande Blvd. NW, Suite A  
Albuquerque, NM 87104  

Dear Sir or Madam,

The National Science Foundation (NSF) has announced its intention to prepare a Programmatic EIS/Overseas EIS to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists. The National Marine Fisheries Service will be invited to be a cooperating agency in the preparation of the Programmatic EIS/OEIS.

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for Alexander Shor  
Program Director  
Oceanographic Instrumentation and Technical Services  
Division of Ocean Sciences, NSF  
4201 Wilson Boulevard, Suite 725  
Arlington, VA 22230  
Phone: (703) 292-7711 (Direct Line)  
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October 25, 2005

Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences, NSF
4201 Wilson Boulevard, Suite 725
Arlington, VA 22230

RE: Request for public scoping on the preparations of a Programmatic EIS/Overseas EIS about potential impacts on the marine environment by the use of seismic sources in support of National Science Foundation-funded scientific research

Dear Alexander Shor,

The Office of Hawaiian Affairs (OHA) is in receipt of your September 29, 2005, request for comments on the above-referenced proposal. While our staff was unable to attend the public scoping meeting at the Ala Moana Hotel on October 19, 2005, we look forward to the opportunity to review and comment upon the forthcoming Draft Environmental Impact Statement.

Thank you for the opportunity to comment. If you have further questions or concerns, please contact Heidi Guth at (808) 594-1962 or e-mail her at heidig@oha.org.

Sincerely,

[Signature]

Clyde W. Nāmu‘o
Administrator
In Reply Refer To: October 28, 2005  
Mail Stop 423  
ER 05/833  

Dr. Alexander Shor, Program Director  
National Science Foundation  
4201 Wilson Boulevard, Suite 725  
Arlington, VA 22230  

RE: Review of Notice of Intent to Prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for the National Science Foundation to Address Potential Impacts on the Marine Environment Related to the Use of Seismic Sources in Support of NSF-Funded Research by U.S. Academic Scientists  

Dr. Alexander:  

The U.S. Geological Survey has reviewed the programmatic/overseas environmental impact statements and has no comments.  

Sincerely,  

/Signed/  
Lloyd H. Woosley, Jr., P.E.  
Chief, Environmental Affairs Program  

Cc: EAP Chron, MS 423  
USGS:WRD:LWOOSLEY:bjjohnso:x6832:10/28/05
By U.S. Mail and Email

October 28, 2005

Dr. Alexander Shor
Program Director
Oceanographic Instrumentation and Technical Services
Division of Ocean Sciences
National Science Foundation
4201 Wilson Blvd., Suit 725
Arlington, VA 22230
Email: OCE-EIS@nsf.gov

Re: Scoping comments for Programmatic EIS/OEIS for National Science Foundation Funding of Research Using Seismic Sources

Dear Dr. Shor:

On behalf of the Natural Resources Defense Council ("NRDC") and our more than 650,000 members nationwide, I submit these scoping comments on the National Science Foundation's ("NSF") notice of intent to prepare a programmatic environmental impact statement: and oversea environmental impact statement ("P/OEIS") for its funding of research by U.S. scientists using seismic sources. See "Notice of intent to prepare a Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for the National Science Foundation to address potential impacts on the marine environment related to the use of seismic sources in support of NSF-funded research by U.S. academic scientists," 70 Fed. Reg. 55630 (Sept. 22, 2005) ("Scoping Notice").

We appreciate NSF's commitment to prepare an EIS for these activities, as the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4331 et seq., requires. Moreover, NRDC welcomes the decision to review NSF's funding of seismic research programatically. As you are aware, maritime acoustic activities such as the seismic surveys at issue here have the potential to kill, injure, and harass marine mammals and other marine life over wide geographic areas. It is imperative, in approaching such activities, that NSF incorporate the rigorous, objective analysis demanded by NEPA into the earliest possible stages of its planning. To this end, we offer the following comments and recommendations.

A. General Requirements of the National Environmental Policy Act
Enacted by Congress in 1969, NEPA establishes a national policy to "encourage productive and enjoyable harmony between man and his environment" and "promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." 42 U.S.C. § 4321. In order to achieve its broad goals, NEPA mandates that "to the fullest extent possible" the "policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with [NEPA]." 42 U.S.C. § 4332. As the Supreme Court explained,

NEPA's instruction that all federal agencies comply with the impact statement requirement - and with all the requirements of § 102 - "to the fullest extent possible" [cit. omit.] is neither accidental nor hyperbolic. Rather the phrase is a deliberate command that the duty NEPA imposes upon the agencies to consider environmental factors not be shunted aside in the bureaucratic shuffle.


Central to NEPA is its requirement that, before any federal action that "may significantly degrade some human environmental factor" can be undertaken, agencies must prepare an environmental impact statement. *Steamboaters v. F.E.R.C.*, 759 F.2d 1382, 1392 (9th Cir. 1985) (emphasis in original). The fundamental purpose of an EIS is to force the decision-maker to take a "hard look" at a particular action - at the agency's need for it, at the environmental consequences it will have, and at more environmentally benign alternatives that may substitute for it - before the decision to proceed is made. 40 C.F.R. §§ 1500.1(b), 1502.1; *Baltimore Gas & Electric v. NRDC*, 462 U.S. 87, 97 (1983). The law is clear that the EIS must be a pre-decisional, objective, rigorous, and neutral document, not a work of advocacy to justify a decision that has already, in essence, been made.

A few of the elements most pertinent to the instant process may briefly be described as follows:

*First*, in order to satisfy NEPA, an EIS must include a "full and fair discussion of significant environmental impacts." 40 C.F.R. § 1502.1. It is not enough, for the purposes of this discussion, to consider the proposed action in isolation, divorced from other public and private activities that impinge upon the same resource; rather, it is incumbent on NSF to assess cumulative impacts as well, including the "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future significant actions." *Id.* § 1508.7.

*Second*, the preparer of an EIS must make every attempt to obtain and disclose data necessary to its analysis. The simple assertion that "no information exists" will not suffice; unless the costs of obtaining the information are exorbitant, NEPA requires that it be obtained. *See id.* § 1502.22(a). If the costs are deemed excessive, then the EIS must explain the relevance of incomplete information, summarize existing credible scientific evidence on the issue, and evaluate impacts using theoretical approaches or research
case-by-case basis, but which may become practicable through application across the entire program. An example of such mitigation measures is source-based modification, especially as many or most of the research projects being funded will be conducted from one boat, the R/V Marcus G. Langseth. Doing so would fulfill NEPA’s mandate to “inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts.” 40 C.F.R. § 1502.1.

B. Specific Points Requiring Particular Emphasis

In light of the requirements discussed above, a number of points require further mention:

(1) **Impacts of Ocean Noise on Marine Biota** — As marine science and the courts have increasingly recognized, intense underwater sound can have a range of deleterious effects on marine mammals and other ocean life. *See*, e.g., *National Parks & Conservation Ass'n v. Babbitt*, 241 F.3d 722 (9th Cir. 2001); *NRDC v. Evans*, 279 F.Supp.2d 1129 (N.D. Cal. 2003); International Whaling Commission, Report of the Scientific Committee to the International Whaling Commission, at § 12.2.5 and Annex K (2004) (hereinafter “Report”) (concluding that there is “now compelling evidence implicating anthropogenic sound as a potential threat to marine mammals” at both the “regional and ocean scale levels,” and expressing, in particular, “serious concerns over seismic survey impacts on cetaceans”).

The P/OEIS must take this important issue into account in a meaningful and comprehensive way, accounting not only for the possibility of direct physical injury to marine life from underwater noise, but also for behavioral effects and for delayed indirect effects that, in some cases, may be lethal or severe. *See* 40 C.F.R. § 1508.8 (requiring analysis of both direct and indirect impacts). In particular, the risk that animals exposed to intense noise will later succumb to ship-strikes or entanglements has been documented in the literature and should be addressed.

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(2) **Conflicts with Preservation Values** – The areas affected by seismic surveying to be conducted under this P/OEIS may include marine protected areas and preserves. Where this is the case, it can reasonably be anticipated that NSF’s activities may have direct or indirect effects on their resources and values. NSF must consider these effects. See 40 C.F.R. § 1508.8. Potential conflicts with any other federal, state, or local policies governing use of the area must also be discussed.

(3) **Alternatives Analysis**—The analysis of alternatives must be objective, unbiased and searching. In addition to the “no action” alternative (which, in this case, would mean denying NSF funding for seismic surveys), the EIS should consider alternative levels of restrictions on funded research, as well as alternative mitigation and monitoring measures. For example, the alternatives considered must take into account the possibility of restricting surveys geographically or temporally—restricting them from certain areas, or from certain areas at particular times of the year, or allowing them to proceed only in certain weather states and visual conditions—in order to lessen impacts on natural resources. They should also consider capping the total number of takes of protected species permissible under the funded projects. No alternative can be disregarded merely because it does not offer a complete solution to the problem. *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 836 (D.C. Cir. 1972).

(4) **Monitoring and Additional Mitigation** – A thorough and well-planned monitoring program is essential, not only to keep such vulnerable species as marine mammals and sea turtles away from planned activities, but also to assess activities’ indirect impacts and behavioral effects and to make appropriate changes in management if unforeseen impacts are observed. To begin with, any reliable program must provide independent observation and monitoring of acoustic activities, a well-funded response and reporting system for marine mammal strandings, and a means of investigating unusual mortality events, such as fish kills. Details of the monitoring program, including funding and identification of independent individuals, organizations, or agencies conducting the program, should be considered in the P/OEIS.

Furthermore, per 40 C.F.R. § 1502.14(f), NSF must consider ways to mitigate activities’ impacts, in addition to modifying the source to reduce output to the lowest practicable levels and avoiding areas with high marine mammal and endangered species abundance. The importance of considering a wide variety of mitigation measures at the programmatic level is discussed *supra* at 3-4. Measures should include, for example and without limitation, safety zones, other

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operational restrictions, modifications to acoustic and other technologies, site remediation, reductions in activities, and the establishment of an independent, publicly inclusive committee to review relevant environmental management practices.\(^5\)

(5) Cumulative and Synergistic Impacts – As mentioned above, in order to satisfy NEPA, an EIS must include a “full and fair discussion of significant environmental impacts.” 40 C.F.R. § 1502.1. This discussion must take account of the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future significant actions.”  Id. § 1508.7.

A thorough cumulative impacts analysis is especially important to understanding the harm that may be caused by undersea noise generated by seismic surveys. In reporting that there is “now compelling evidence implicating anthropogenic sound as a potential threat to marine mammals” at both the “regional and ocean scale levels,” the Scientific Committee of the International Whaling Commission has stressed the significance of cumulative effects from acoustic activities. International Whaling Commission, Report of the Scientific Committee to the International Whaling Commission, at Annex K § 6.4 (2004). The Committee found that evidence of increased sound from several different sources, including military sonar, ships and seismic activities, was “cause for serious concern.”  Id. at § 12.2.5.1. The Committee also noted “the potential for cumulative or synergistic effects of sounds . . . with non-acoustic anthropogenic stressors.”  Id.

These concerns highlight the importance of considering both the cumulative effects of various sources of noise on the natural resources of the area and the synergistic effects of such acoustic impacts together with other environmental stressors, such as chemical and biological pollution, habitat degradation, fishing bycatch, and ship strikes.

Here, the P/OEIS must consider at least the cumulative impacts of (1) all the research projects proposed to be funded by NSF, taken together; (2) all military activities in the region of these projects; (3) recreational watercraft activities in the region; and (4) industrial and commercial activities such as fishing and shipping that may impact the same populations of animals. These impacts must


be considered in light of current and reasonably foreseeable future environmental stressors. Only by analyzing these impacts together – by considering, for example, how they may cumulatively compromise biologically important activities by elevating stress, masking relevant sounds, and altering behavior – can NSF reach a full understanding of the environmental consequences of its proposed funding.

Similarly, NSF’s analysis cannot be limited only to the activities’ direct effects, i.e., effects that occur at the same time and place as the proposed activities themselves. See 40 C.F.R. § 1508.8(a). It must also take into account their indirect effects, which, though reasonably foreseeable, may occur later in time or at a farther remove. See id. § 1508.8(b). This requirement is particularly critical in the present case given the potential of underwater noise to cause indirect harms not clearly observable in the short or immediate term. For example, any analysis of the effects of acoustic activities must discuss indirect effects such as shifts in abundance or distribution of prey species and secondary effects of hearing loss.

(6) **Range of Species and Impacts** – The P/OEIS must carefully investigate, describe, and analyze potential impacts to the affected environment and to all species that may be impacted, including, but not limited to, marine mammals, sea turtles, fish, invertebrates, and sea birds. Marine mammals should not be the sole focus of the analysis. Indeed, although marine mammals have been the subject of much research on the effects of underwater noise, other species are also at risk by such noise—especially by noise generated by seismic survey airguns—including commercial fish stocks, snow crabs, and giant squid.6 Impacts on these and other species must be considered.

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(7) **Impacts on Endangered Species** — While analyzing potential impacts of the proposed expansion on all species that may be affected, the P/OEIS must pay particular heed to vulnerable species, including especially those listed species, such as whales and sea turtles, that have been shown to be particularly vulnerable to disturbance from intense undersea noise.

(8) **Impacts on Human Divers** — High-intensity seismic survey noise may have adverse impacts on human divers. The effects of this proposed rulemaking on human divers must be incorporated into the P/OEIS.

(9) **Public Disclosure** — Disclosure of the specific activities contemplated by NSF is essential if the P/OEIS process is to be a meaningful one. *See, e.g.,* *LaFlamme v. F.E.R.C.*, 852 F.2d 389, 398 (9th Cir. 1988) (noting that NEPA’s goal is to facilitate “widespread discussion and consideration of the environmental risks and remedies associated with [a proposed action]”). NSF must describe the full extent of noise-producing activities to be funded, as well as source levels, frequency ranges, and other technical parameters relevant to determining their potential impacts. Without this information, the P/OEIS process will be inadequate, with the public guessing at the nature of the activities to take place.

(10) **Tiering concerns** — Programmatic review is important for allowing comprehensive consideration of related impacts from different aspects of a program, and we applaud NSF’s decision to perform a comprehensive analysis of the impacts of its seismic survey research funding. At the same time, however, we urge NSF to avoid the most common pitfalls of programmatic review, such as the deferral of important analysis to the site-specific stage, which in turn gets short shrift in reliance on the programmatic EIS.⁷ Here, NSF should be careful to tackle important questions—such as those concerning source-based mitigation—up front and not defer them until funding commitments have already been made to specific research projects. NSF should also take care to provide notice of proposed decisions, and the right to comment on those proposed decisions, through each stage of review.

(11) **Compliance with Other Federal and State Laws** — A number of federal laws are implicated by the research funding at issue here. Among those that should be disclosed and addressed in the P/OEIS are the following:

*First,* NSF should address fully its proposal to fulfill the requirements of the Marine Mammal Protection Act, 16 U.S.C. § 1361 *et seq.* As you know, any actions adopted through the present process must conform with the incidental take provisions, including the “small numbers” and “negligible impact” standards, of the MMPA. *See, e.g.,* *NRDC v. Evans,* 279 F.Supp.2d 1129, 1141 (N.D. Cal.

2003). In addition, NSF should address the methods and means of effecting the “least practicable adverse impact” on species and stock and their habitat. *Id.*

**Second,** the federal Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, requires NSF to enter into formal consultation with NMFS and the U.S. Fish and Wildlife Service and receive a legally valid Incidental Take Permit prior to its “take” of any endangered or threatened marine mammals or other threatened or endangered species, including fish, sea turtles, or birds, or its “adverse modification” of any designated critical habitat. *See, e.g.,* 16 U.S.C. 1536(a)(2); *Romero-Barcelo v. Brown,* 643 F. 2d 835 (1st Cir. 1981), *rev’d on other grounds, Weinberger v. Romero-Barcelo,* 456 U.S. 304, 313 (1982). Under NMFS’ regulations, formal consultation *must* be requested by NSF (or by NMFS) where agency action “may affect listed species or critical habitat.” 50 C.F.R. § 402.14(a), (c). In addition to an Incidental Take Permit, each of these consultations must result in a Biological Opinion that validly concludes no jeopardy and no adverse modification of critical habitat before the federal action may proceed. Moreover, NSF is prohibited from irretrievably committing resources to the proposed action until these consultations are complete. 16 U.S.C. § 1536(d). NSF should address fully its compliance with these requirements in its funding of seismic survey activities.

**Third,** the federal consistency provisions of the Coastal Zone Management Act, 16 U.S.C. § 1456(c)(1)(A), govern the resources off the coast and may also apply.

As you know, we are committed to minimizing the impact of high-energy seismic surveys on the marine environment, including on marine mammals. We remain confident that NSF’s scientific mission can be met in ways consistent with the conservation of our natural resources. Thank you for your consideration of our comments on this important matter.

Very truly yours,

Cara Horowitz
Project Attorney

Encl.