March 05, 2018

Brian Cameron
U.S. Department of the Interior
Bureau of Ocean Energy Management
Gulf of Mexico OCS Region (GM 623E)
1201 Elmwood Park Boulevard
New Orleans, LA 70123-2394

Braxton Davis
NC Division of Coastal Management
Dept. of Environment and Nat. Resources
1601 Mail Service Center
Raleigh, NC 27699-1601

Re: Response to North Carolina Coastal Management Request for Supplemental Consistency Certification

Dear Messrs. Cameron and Davis:

We have received the request from the North Carolina Division of Coastal Management ("DCM") for a supplemental consistency certification under 15 C.F.R. § 930.66 (the "Request"). We respectfully disagree with the state's assertion that a supplemental consistency certification is needed and request that the Bureau of Ocean Energy Management ("BOEM") issue the offshore seismic exploration permit without further review of consistency with North Carolina's coastal management program.

The coastal management regulations, 15 C.F.R. part 930, provide that an applicant shall prepare a supplemental consistency certification if the proposed activity will affect a coastal use or resource substantially different than originally described. 15 C.F.R. § 930.66(a). The regulations further provide that a state may give notice that it believes a supplemental certification is needed, but such notice does not trigger an obligation to provide the supplemental certification.[1] As the permitting agency, BOEM must decide how it will proceed with respect to the pending permit applications.

Under the Coastal Zone Management Act ("CZMA" or "Act"), a federal agency generally cannot issue a federal license or permit for an activity that requires a consistency certification until the state has concurred with, or is deemed to have concurred with, the applicant's consistency certification. 16 U.S.C. § 1456(c)(3)(A). Here, DCM concurred with TGS-NOPEC's consistency certification on June 16, 2015, ("DCM Concurrence"), and a copy of DCM's concurrence is attached for your convenience. Unless BOEM determines that the proposed surveys will have substantially different impacts than those previously analyzed, no further review under the CZMA is needed before BOEM issues the offshore seismic exploration permit.

As the record demonstrates, the full range of potential impacts to commercial and recreational fishing off the North Carolina coast has already been reviewed and analyzed. In issuing its consistency concurrence in 2015, DCM recognized that "disturbances could impact local fish abundance by

[1] DCM has not complied with the requirement in 15 C.F.R. § 930.66 that DCM notify the applicant, BOEM, and the Director. DCM's request was addressed only to the applicant and a copy was sent to BOEM, but there is no indication that it was sent to the Director.

deterring foraging, refuge, and spawning activities, possibly affecting economically valuable commercial and recreational fisheries operations throughout the proposed survey area." DCM Concurrence at 2. Nonetheless, DCM found that "the proposed project is consistent with the relevant enforceable polices [sic] of North Carolina's approved coastal management program, specifically 15A NCAC 07H and 15A NCAC 07M, when performed in accordance with the conditions outlined below." *Id*. The only condition requires a pre-survey coordination meeting with DCM and others.

DCM now suggests that recently published studies regarding the potential impacts of seismic activities on fish and other marine species indicate substantially different effects than were described in the original consistency certification. This is not the case. As more fully explained below, the potential impacts that DCM claims to be "new" or "substantially different" are, in fact, the same types of impacts that were already considered. DCM claims that:

> The recently-published research [] shows that sound produced from the proposed G&G surveys activities has a direct impact on fishes by masking biologically relevant sounds and altering normal behaviors, and can possibly affect the survival of individuals or populations. Sound-related disturbances in areas of concentrated fish and sensitive fish habitat *could impact local fish abundance by deterring foraging, refuge, and spawning activities*.

See Request at 4 (last paragraph; emphasis added). Although, as explained below, we disagree with this characterization of the recently published research, even assuming DCM's characterization is accurate, DCM identifies *exactly the same potential impacts* that it already addressed in its consistency concurrence:

> We recognize that disturbances *could impact local fish abundance by deterring foraging, refuge, and spawning activities*, possibly affecting economically valuable commercial and recreational fisheries operations throughout the proposed survey area.

DCM Concurrence at 2 (emphasis added). Accordingly, DCM has made no demonstration that the proposed activity will affect a coastal use or resource substantially different than originally described in the original consistency certification and DCM's consistency concurrence. Consequently, no supplemental certification is warranted. 15 C.F.R. § 930.66(a).

Even though DCM has not identified any new or different potential impacts, we have nevertheless reviewed the five papers referenced by DCM. Our analyses, set forth in Appendix 1 (an analysis prepared by Dr. Sarah Courbis and Dr. Melissa Snover) and Appendix 2 (a detailed analysis of McCauley et al. (2017) that was previously sent to the National Marine Fisheries Service and BOEM), demonstrate that these five papers do not present any new or substantially different potential impacts.

The potential effects of the proposed seismic survey were disclosed and considered when DCM issued its consistency concurrence. Because no coastal use or resource will be affected substantially differently

than originally described, no supplemental consistency certification is needed or warranted. We respectfully request that BOEM proceed with the offshore seismic exploration permit process without further coastal management review.

Please contact Peter Seidel at Peter.Seidel@TGS.com (tel. 713-860-2163) if you have any questions or concerns regarding the matters discussed in this letter.

Sincerely,

Peter Seidel
Director, Marine Acquisition
TGS
10451 Clay Road
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cc: Joe Balash, DOI Assistant Secretary for Land and Minerals Management
Chris Oliver, NOAA Assistant Administrator for Fisheries
Kelly Hammerle, National Program Manager, BOEM

APPENDIX 1

The following evaluates each study cited by the North Carolina Division of Coastal Management (DCM) in its December 21, 2017 letter requesting a supplemental consistency certification with respect to proposed seismic surveys, and related authorizations, in the Mid- and South-Atlantic. This evaluation specifically addresses each study cited by DCM to assess its contribution to our knowledge of the impacts of seismic surveys on fish and invertebrates, assessing the integrity of the research and placing the results in context with the state of our understanding of the impacts in 2015 and with the findings of previous studies.

DCM precedes its discussion of the results of Paxton et al. (2017) with a statement that behavioral studies demonstrate reduced catch rates lasting for several days after the termination of airgun use, and that this reduction is due to fish moving away from the fishing site, and either moving to deeper water or being killed. These conclusions cannot be drawn from Paxton et al. (2017) and the study does not offer new or different information about the potential impacts of seismic surveys. Hence, DCM offers no literature support for those statements. The DCM letter discusses the findings of Paxton et al. (2017) and, specifically, highlights the following points from the study:

- 78% decline in snapper grouper complex species abundance during evening hours at a reef habitat site off the central North Carolina Coast after seismic testing.

- During a period of time 3 days prior to the seismic survey, fish habitat use was highest during those same hours based on video data.

Paxton et al. (2017) assessed the abundance of fish via 10 second video recordings for three days prior to a seismic survey, and *in the evening of the day* seismic surveys took place. It is unclear if the data were recorded during or directly after the survey. They detected 78% fewer fish on the video recording, corroborating the observations of numerous previous studies that show a behavioral startle response to *in situ* seismic air guns (*e.g.*, Andersson 2011; Boeger et al. 2006; Blaxter et al. 2006; Chapman and Hawkins 1969; Dalen and Knutsen 1987; Hassel et al. 2004; McCauley et al. 2008; Miller and Cripps 2013; Sarà et al. 2007).

Additionally, there are no post-seismic survey data in Paxton et al. (2017) to infer that the response was long-lasting. It would also be impossible to infer, from the video images, if the fish left the area or were simply out of frame or hiding in the reef structure. There is no information about how fish would normally be distributed on the reef and the level of variability in abundance under control conditions. Hence, the study does not provide data that can be used to infer that fish are moving away from the site or that they are being killed. As stated above, there have been numerous previous studies indicating similar temporary behavioral responses to seismic sounds. The results of Paxton et al. (2017) do not provide additional information beyond what has been reported in the previous literature and there is no evidence to suggest long-term

reductions in fish abundance from seismic surveys.

Next, DCM suggests that Carroll et al. (2017)'s discussion regarding Atlantic salmon that were subjected to up to 10 simulated seismic airgun exposures resulting in sublethal effects of increased primary stress hormones is new information regarding the impacts of seismic surveys on fish. However, Carroll et al. (2017) is a review paper that does not offer any new research or evidence, but rather synthesizes the existing literature. The original source for the Atlantic salmon study is Sverdrup et al. (1994) and is not representative of new information since the 2015 consistency certification.

Regarding zooplankton, DCM cites that McCauley et al. (2017) found a 50% decrease in abundance and 58% decrease in taxa for zooplankton in tows following airgun exposure compared to control tows. The results of this study are inconsistent with a large body of research that generally finds limited spatial and temporal impacts to zooplankton by seismic airguns (Booman et al. 1996; Dalen and Knutsen 1987; Kostyuchenko 1971; McCauley et al. 2008; Payne 2004; Payne et al. 2009; Saetre and Ona 1996; Shelley 2011; Stanley et al. 2011). Additionally, there are concerns regarding the study design used by McCauley et al. (2017) and the ability to draw the conclusions that they report. This study was conducted over two days, with paired control and experimental plankton tows each day. The control plankton tows on the second day had decreased abundance by 91% compared to Day 1 accounting for all taxa combined, highlighting the inherently patchy nature of zooplankton density and distribution. Furthermore, Conductivity/Temperature/Depth casts indicated differences in salinity and tide height between the two days which would result in different species communities and densities between the two days. Despite this, McCauley et al. (2017) pooled the data between the two days in order to make statistical inferences. Given such small sample sizes and different background abundances and species composition, it is difficult to draw conclusions. The problems with McCauley et al. (2017)'s study design and the fact that they draw conclusions that appear to be inconsistent with a large body of research suggest that more work needs to be done to replicate their findings. In addition, a modeling study was conducted as a follow-up to the results of McCauley et al. (2017) to assess the impacts of their proposed findings on ocean ecosystem dynamics and zooplankton population dynamics (Richardson et al. 2017). The results of this follow-up study demonstrated that even if the effects on plankton abundance suggested by McCauley et al. (2017) did exist, they would not be detectable downstream of the survey areas, either spatially or temporally and even in areas of intense seismic surveys, because of extensive movements of water masses that carry and mix plankton and the rapid reproductive cycle of these organisms.

Finally, DCM notes two recent studies on bivalve mollusks and crustaceans. For bivalve mollusks, Day et al. (2017) suggest significant increases in scallop mortality along with behavioral changes and disruption of hemolymph chemistry. Fitzgibbon et al. (2017) found significant changes to hemolymph cell counts in spiny lobsters subjected to repeated airgun signals, with the effects lasting up to a year post-exposure. First, it should be pointed out that

these two studies are linked and the research was commissioned by the Fisheries Research and Development Corporation, an Australian fisheries agency (Day et al. 2016). The goal of the research was to establish thresholds of injury and mortality for lobsters and scallops via exposure to artificially high levels of sound generated from seismic surveys. However, no direct mortality was observed in either species despite the high levels of exposure. Day et al. (2016) specifically found that **"**[s]eismic surveys appear to be unlikely to result in immediate large scale mortality in the southern rock lobster fishery and, on their own, do not appear to result in any degree of mortality" and that "[e]arly stage lobster embryos showed no effect from air gun exposure, indicating that at this point in life history, they are resilient to exposure and subsequent recruitment should be unaffected."

For scallops, no direct mortality as a result of exposure to seismic surveys was observed. Day et al. (2017) infer that higher captive mortality rates in the longer duration exposure groups were due to exposure to seismic surveys; however, there were substantial differences in how the exposure and control groups were handled that may have influenced the observed mortality rates. Day et al. (2016) make the following comment regarding scallop mortality: "there was no statistically significant difference in mortality relative to natural baseline."

An examination of the hemolymph biochemistry parameters for lobsters in Fitzgibbon et al. (2017) reveal conflicting results. In many cases, while there were significant differences between exposure groups in terms of days, there were not significant differences between control and exposure groups within a time group. For example, for the ratio of sodium to potassium, for time 0 and 2 days, the exposure and control groups were not statistically significantly different. The 14- and 20-day groups were significantly different from the 0- and 2-day groups, as well as from each other, but within those timeframes, there was no significant difference between the exposure and control groups. This general pattern is repeated for many of the biochemistry markers where 'significant differences' were reported. So, while significant differences were found in the hemolymph biochemistry parameters themselves, there is not a discernible pattern that highlights impacts from seismic exposure. Only lobsters from experiment 2, which was conducted on egg-laden females were retained for 365 days post-exposure, so this is the only group for which one-year post-exposure results can be discussed. An examination of Figure 2 for this group reveals that hemocyte counts were generally lower for all time-frame exposure groups, up to the 120-day group, compared to the control groups, although the difference was only statistically significant for the 120-day exposure group. However, for the 365-day post-exposure group, the hemocyte counts were significantly *higher* in the exposure group than in all other groups and time frames. These conflicting results make it difficult to draw clear conclusions regarding the relationship between exposure to the unrealistically high levels of seismic survey sound in this study and hemocyte counts or hemolymph biochemistry parameters. Day et al. (2016) make the following statements regarding the results of the lobster studies:

"Seismic surveys appear to be unlikely to result in immediate large scale mortality in the southern rock lobster fishery and, on their own, do not appear to result in any degree of

mortality."

"Until the full scope of these changes and their ecological effects can be more thoroughly investigated, caution must be taken against extrapolating the results of this study to situations that were not within its scope."

Hence, it is difficult to draw any clear conclusions regarding the impacts of unrealistically high exposure to sound generated from seismic surveys to scallops and lobsters. No evidence of direct mortality is demonstrated and the results of biological and biochemical markers show inconsistent trends. These studies do not present substantially new or compelling information regarding the impacts of seismic surveys on bivalve mollusks and crustaceans.

In conclusion, the new publications cited by DCM do not represent substantially new information regarding the impacts of seismic surveys on fish, fisheries, or invertebrates, and the request for supplemental coordination is not supported by the science.

Prepared by:

Sarah Courbis, Ph.D., Ecology and Environment, Inc.
Melissa Snover, Ph.D.

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APPENDIX 2

November 17, 2017

VIA Email

Mr. Gary Goeke
Chief, Environmental Assessment Section
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Bureau of Ocean Energy Management
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Ms. Jolie Harrison
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Office of Protected Resources
National Marine Fisheries Service
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Re: Review of Recent Study Addressing Potential Effects of Seismic Surveys on Zooplankton

Dear Mr. Goeke and Ms. Harrison:

On behalf of the International Association of Geophysical Contractors and American Petroleum Institute, we provide this letter to address recently published research results suggesting that the compressed air sources used in offshore seismic surveys may adversely affect zooplankton at greater ranges than are documented in existing published studies.[1] McCauley et al. (2017)'s interpretation of limited data samples from the two-day study suggests that zooplankton may experience mortality and/or displacement at ranges exceeding 1000 meters, whereas past studies have typically found effects out to 10 meters or so.[2] We provide this letter

[1] *See* McCauley R.D., R.D. Day, K.M. Swadling, Q.P. Fitzgibbon, R.A. Watson, and J.M. Semmens. 2017. Widely used marine seismic survey air gun operations negatively impact zooplankton. Nature: Ecology & Evolution, 1(7):195. DOI: 10.1038/s41559-07-0195.

[2] See references at the end of this letter.

and the attachment to inform BOEM and NMFS's consideration of McCauley et al. (2017) in agency review documents addressing the potential environmental effects of seismic surveys, such as those currently being prepared for seismic activities in the Atlantic Ocean and the Gulf of Mexico. We request that BOEM and NMFS include this letter and the attachment in the relevant administrative records.

Because the McCauley et al. (2017) results were so inconsistent with previously documented effects, we sought and received independent expert reviews of the paper by leading plankton ecologists at well-respected scientific institutions. The written reviews are provided in the attachment to this letter. In short, the reviewers expressed the opinion that although the results of the study should be considered further, the data were not sufficient to support the conclusions offered by McCauley et al. (2017). The following summarizes the observations and criticisms of the independent reviewers.

1. The sample size was inadequate. McCauley et al. (2017) relies upon a control and experimental sample each day on two consecutive days. The fact that the zooplankton density on Day 2 was two orders of magnitude lower (or 1% of) than the densities on Day 1 illustrates the patchy nature of zooplankton distribution. This large disparity of sample sizes on Days 1 and 2 caused the authors to adopt ratio values for the statistical analysis instead of using the raw data. More than half of the samples had zero animals in the net tows, and the samples had to be omitted from the analysis. Additionally, the CTD (conductivity, temperature, depth) profiles on the two days indicated differences in salinity and tide height between the two sets of samples, associated with different species communities and different animal densities on the two days. Moreover, Day 1 and Day 2 results should not have been pooled.

2. Water column movement data were insufficient to support the contention of a "hole" in the plankton field. The reviewers found the single measurement of water column movement to be insufficient. Samples at multiple depths and multiple times should have been taken in order to account for effects of tidal differences and drag from the water-seabed interface in the shallow waters of the test environment. As a result, the reviewers found the laborious attempts to reconstruct the movement of the water mass sampled by the acoustics, and to infer a "hole" in the plankton, to be implausible and insufficient to substantiate claims of effects out to 1 km or more. In other words, the independent reviewers found the presumption of the water moving uniformly at one speed and direction at all depths to be incorrect and, therefore, the "corrected" positions of the acoustic samples were not accurate.

3. Towed net and acoustic survey data disagree regarding zooplankton class size. The independent reviews explain that the acoustic frequency used in the sonar sampling (120 kHz) could not detect the copepods or similar sized zooplankton that were found in the net tows. Conversely, larger adult krill, small fish larvae, and larger classes that were detected by the sonar were not found in the net tows. McCauley et al. (2017) suggested that these large species may not have been present in the water or were able to swim strongly enough to avoid the nets. However, if that were the case, then any larger species that were killed by the sound source (and

thus unable to swim away from the nets) would have been found in the nets. But no dead individuals of the large species detected by the sonar were found in the nets after sound exposure.

4. Did the acoustic "hole" indicate dead zooplankton or zooplankton that had swum to the bottom, just 10 meters away? The stronger swimming abilities of larger zooplankton species support the notion that those species were able to swim downward in response to the seismic sound, creating the acoustic appearance of having left but in fact having only exhibited a temporary minor behavioral avoidance response common in zooplankton as predator avoidance behavior. The reviewers noted the presence of a dense acoustic scattering layer in the "after exposure" figures in McCauley et al. (2017) and suggested that this might be the larger krill that were not observed in the upper water column.

5. Bottom sampling should have been conducted. The reviewers suggested that McCauley et al. (2017) should have collected bottom samples, which would have addressed the questions of whether the large zooplankton were present, whether they had been killed and sunk to the bottom, or whether they actively swam to the bottom.

6. The wrong size nets were used and were not towed correctly. The reviewers noted that the small mesh size and small opening of the bongo nets used in this study were inadequate for sampling the larger zooplankton imaged by the acoustics. The reviewers noted that the angled tow at inconsistent speeds may have led to different sample sizes collected by different tows, and mortality could have been induced at the cod end of the net due to "packing" of plankton in the larger sample sizes. One reviewer also noted that fine mesh nets like the ones used in the study can clog with phytoplankton and "reject" zooplankton through part of the tow due to the clog of phytoplankton preventing through-flow. The reviewers suggested that larger nets should have been used, that they should have been towed vertically, and that depth-dependent sampling (*e.g.*, with Nisken, Nansen, Van Dorn, Kimmerer, or similar bottles) should have been used in addition to or instead of nets.

7. There is statistical error in the net tow data. The reviewers questioned the use of each net in a single bongo net tow as a true replicate. The standard procedure would have been to select one of the two nets for quantitative analysis. Had McCauley et al. (2017) followed this standard approach, the statistical sample size would have been lowered from N=12 to N=6, which would have been inadequate to support the statistical analyses offered by the authors. In other words, all "statistically significant" effects noted by McCauley et al. (2017) for the net samples were likely not statistically significant and therefore would likely not have a negative population effect or significant trophic-level impact.[3]

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[3] Consistent with the observations of the independent reviewers, McCauley et al. (2017) notes that there were plausible alternative explanations for both the net samples and acoustic samples, such as the nets not being towed at an even speed and "back-flushing," nets not

(continued . . .)

We have shared these independent reviews with the authors of the McCauley et al. (2017) paper, and those authors have concurred with many of the shortcomings identified by the reviewers. Sponsors are planning follow-up research to further investigate the results reported in McCauley et al. (2017). We expect that those sponsors will collaborate with the McCauley et al. (2017) authors as they undertake that work.

In sum, it is clear that far too much weight has been given by some organizations to the results of McCauley et al. (2017), which purport to show patterns and trends that do not actually exist in the data. For the reasons identified in the independent peer reviews, as summarized above and provided in the attachment, the results presented by McCauley et al. (2017), respectfully, are of questionable scientific merit and, accordingly, must be subjected to more rigorous scientific study before being accepted as the "best available science" regarding the potential effects of seismic sound on zooplankton. Existing published studies demonstrating that any seismic effects on zooplankton occur only to tens of meters remain the best available science until the novel and seriously flawed preliminary study by McCauley et al. (2017) can be properly replicated.

Finally, we recommend that BOEM and NMFS also consider a recent modeling study conducted by the Australian Commonwealth Scientific and Industrial Research Organization ("CSIRO"), which modeled the effect proposed by McCauley et al. (2017) in the context of ocean ecosystem dynamics and zooplankton population dynamics.[4] The CSIRO report found that even if the full effect claimed by McCauley et al. (2017) did in fact exist, plankton abundance would not be adversely affected—even in areas of intensive seismic surveys—due to the extensive movements of water masses carrying plankton through survey areas and the rapid reproductive cycle and high reproductive potential characteristics of planktonic organisms.[5] In other words, the purported findings of McCauley et al. (2017) are of no ecological consequence, given the life history parameters of plankton.

(. . . continued)
capturing the species that would show up in the acoustic data, animal behavioral response to the acoustic passes that would create the appearance of animals having "disappeared," and, most importantly, natural fluctuations in the distribution and abundance of the zooplankton at the study site.

[4] Richardson A.J., R.J. Matear, and A. Lenton. 2017. Potential impacts on zooplankton of seismic surveys. CSIRO, Australia. 34 pp. https://publications.csiro.au/rpr/download?pid=csiro:EP175084&dsid=DS1.

[5] Planktonic species are considered highly "r" selected, with high rates of density dependent and density independent mortality, countered by high replacement capacity.

Thank you for considering this information. Should you have any questions, please do not hesitate to contact Nikki Martin (713.957.5068) or Andy Radford (202.682.8584).

Sincerely,

Nikki Martin
International Association of Geophysical Contractors
President

Andy Radford
American Petroleum Institute
Sr. Policy Advisor – Offshore

Attachment

cc: Mr. Chris Oliver, Assistant Administrator for Fisheries, NOAA
Ms. Kate MacGregor, Acting Assistant Secretary, Land and Minerals Management, DOI
Dr. Jill Lewandowski, Chief, Division of Environmental Assessment, BOEM

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ATTACHMENT

Reviewers 1 & 2

APPENDIX: Detailed review of McCauley Paper

This study was conducted in shallow water (34-36m) over two days during March 2015. Duplicate vertical bongo net tows (0.75 m dia, 200 µm mesh) were conducted from the seabed to the surface at three distances (0, 250, 800m) from the airgun deployment site. These produced n=12 samples per day. Zooplankton taxonomic composition and abundance were determined from analysis of the net samples. A neutral red stain was used on the first two cod ends from each site to assess the presence of dead copepods. The methodology followed Elliot and Tang (2009). A down-looking echosounder (Simrad EK60 120 kHz single-beam) was used to collect pre-airgun (~3h) and post-airgun (~1.5h) transects.

The study reported changes in the abundances of zooplankton prior to, and following, airgun deployments, on both days. They showed a similar taxonomic composition during control (pre-) tows on each day. Acoustic backscatter was higher on day 1 (pre-) than on day 2 (pre-). Fish abundances were similar on both days prior to airgun deployments. The pre-/post- comparisons suggested declines in 58% of zooplankton taxa after airgun exposure. This analysis was based on all ranges (pooled over 0 , 250, 800 m ranges). They did assess the range at which reductions were not significant (for copepods and cladoerans, which amounted to 86% of all taxa), and these were 973 – 1119 m. Vital staining indicated more dead animals of all taxa with 2 – 3 x more dead zooplankton present after airgun deployment compared to contrals at all ranges. Small copepod taxa (*Acartia tranteri*, *Oithona* spp.) dominated the dead category. There was a non-significant trend of decreasing ratios of dead/total copepods. All post-deployment euphausiids were reported to be dead.

The authors hypothesize that the impact of the airguns was to shake and thereby damage sensory hairs and tissues on zooplankton rendering them dead, or disabled and impaired in sensory ability. This would make them more vulnerable to predation and unable to maintain normal posture and orientation. The hole observed in the echogram was suggested to be a consequence of changes in the orientation of individuals towards a more random distribution relative to the echosounder.

There was no change in the abundance of fish targets pre- and post-deployment but more fish were swimming higher in the water column on day 2 prior to deployment. Juvenile fish sampled by the net were more abundant at 0 and 250 m range prior to deployment and more abundant post deployment at 800 m on day 1. No juvenile fish were collected on day 1 prior to, or after the deployment.

Wavelengths of sound used vs size of zooplankton

Sizes of animals are not provided; however, a 120 kHz echosounder would be able to detect a target with a minimum size of about 0.01 m (= 10 mm). Given that the majority of zooplankton in their samples were smaller than this size, the use of a higher frequency is likely warranted.

Gear used

The use of each net in a single bongo net tow as a true replicate is questionable. Typically one, or the other net is selected for quantitative analysis . Using both nets as replicates with the same power as from individual tows is suggestive of pseudoreplication. Consequently, their statistical power was really based on n=6 rather than n=12.

Why weren't adult euphausiids detected?

The absence of adult euphausiids (*Nyctiphanes australis*) in their samples can be explained by two potential factors: (1) only larvae were present at the time; or (2) adults were present but they avoided the bongo nets. The authors speculated that the absence of adults was due to their low (0.25m s^{-1}) tow speeds. It is possible that the population was dominated by juveniles at the time of sampling. Young et al. (1993) sampled *N. australis* off eastern Tasmania and found that the population was dominated by juveniles though the proportion of adults increased during the austral spring and autumn (March – May). McCauley et al. (2017) sampled off southern Tasmania during Autumn so there was temporal match, though not a spatial one. Rich and Hosie (1982) found adult *N. australis* (defined as >11 mm TL) present in the waters off south-eastern Tasmania during March, though the largest adults present at that time (16 mm) were smaller than during other months (up to 20 mm).

Avoidance of the bongo net is a potential explanation for the absence of adults in the samples. Ritz and Hosie (1982) found that an unencased, high-speed plankton net with 250 µm mesh, was effective at sampling all stages of *N. australis* (except the smallest) in waters off south-east Tasmania. However, if the airgun discharge resulted in mortality or sublethal incapacitation of adult euphausiids, then adults should have been present in the post-discharge plankton samples.

Which taxa were affected?

If airgun discharge resulted in mortality or incapacitation of zooplankton, then one would expect to have reduced avoidance of the net following deployment and a hypothesized consequence would be that abundances would be similar to, or higher in post-deployment samples relative to controls within either day. When the three most abundant groups of zooplankton are considered, this hypothesis is not supported except in one comparison.

Copepods (All Taxa)

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	1484	476	1240	643	1826	715
Day 2	185	167	120	92	44	235

This hypothesis was supported by only the day 2 samples at 800m range.

Cladocerans (All Taxa)

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	245	186	328	164	385	126
Day 2	42	12	20	11	11	41

This hypothesis was supported by only the day 2 samples at 800m range.

Euphausiids (All stages)

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	68	21	105	17	83	28
Day 2	15	5	14	0	3	22

This hypothesis was supported by only the day 2 samples at 800m range.

Airguns should not have had an impact on the sampled abundances of taxa that were not mobile or possessed limited mobility. Eggs and egg masses, appendicularia, and the dinoflagellate *Noctiluca scintilans* fall into this category. If similar water masses were sampled pre- and post-deployment, then the abundances should be similar in corresponding net tows.

Appendicularia

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	72	43	99	24	177	53
Day 2	19	7	16	6	5	27

This hypothesis is not supported by any comparisons.

Noctiluca scintilans

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	0	1	0	5	0	0
Day 2	1	0	0	0	0	0

This taxon was present in very low numbers.

Fish eggs and Egg Masses

	0 m Range		250 m Range		800 m Range	
	Pre-	Post-	Pre-	Post-	Pre-	Post-
Day 1	6	3	33	10	24	15
Day 2	9	4	8	3	8	17

This hypothesis is not supported by any comparisons.

These comparisons suggest the possibility that the differences in abundance measured at each range on each day were due to factors other than the airguns. If the airguns had a direct impact on the zooplankton assemblage, then the mobile taxa should have been as, or more susceptible to capture by the net after airgun discharge. The generally consistent lower abundances immediately following the discharge either indicate that a different water mass was sampled post deployment in which case patchiness would have been responsible for the lower post-deployment abundances, or the impacted animals were rapidly removed from the water column either by predation, sinking, or a combination of the two processes. The time interval between airgun discharge and the collection of plankton net samples is not provided in either the manuscript or the supplementary material so it is not possible to determine how far apart the events were. A drifter was used to estimate where the deployment site was relative to the plankton net tows; however, the assumption is that the water mass moved as a uniform vertical mass without shear and the drifter (which was drogued at 5m depth) tracked the water mass.

<u>Use of vital stains to evaluate mortality</u>

The methodology described by Elliot and Tang (2009) requires several safeguards to minimize collection and post-collection mortality. These include limiting the tow velocity to <1 m s^{-1}; restricting the tow distance based on a formula that includes the zooplankton abundance; and not rinsing down the net. McCauley et al (2017) kept their tows to 0.25 m s^{-1}. Their tow distances (estimated from Supplementary Table 6 by dividing volumes by πr^2 (0.4418 m^2) were: day 1 control = 55.2m ; day 1 active = 52.7m; day 2

control =54.3m; day 2 active = 43.7m. These numbers do not provide any information on each of the three range samples (0 m, 250 m, 800m) so it is not possible to estimate the tow distances corresponding to the 12 tows listed in Supplementary Table 1. Equation (1) from Elliot and Tang (2009) estimates the recommended tow distance (m) as 38200/in situ zooplankton concentration (n m^{-3}). The basis of this formula appears to be that the higher the abundances present, the shorter the tow distance in order to minimize mortality due to crowding in the cod end. Using this formula and the total zooplankton abundances provided in Suppl. Table 1 we get the following recommended tow distances.

Range	Day 1 Pre	Day 1 Post	Day 2 Pre	Day 2 Post
0 m	19.7	50.4	138.7	395.8
250 m	20.1	42.3	208.8	304.0
800 m	14.6	39.0	520.5	107.3

Based on these numbers, it appears that the tow distances were all within the recommended maxima except on Day 1 prior to the airgun discharges. Assuming that the pre-discharge samples collected on day 1 had resulted in elevated collection mortality due to excessive tow durations, the differences in mortality between pre- and post-sampling on day 1 are likely even more pronounced. No information on how the nets were rinsed is provided, nor is there any information on whether the nets were thoroughly rinsed between samples to purge dead copepods as is recommended in Elliot and Tang (2009).

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Reviewer 3

McCauley et al. 2017 - Review and recommendations for improvements.

Summary:

This paper presented a compelling argument that seismic airgun surveys directly impact zooplankton survival to a distance of at least 800 m. The study was not particularly well designed to address the effects of airgun surveys, but the authors made the best of the data they had available. The biggest strength of the dataset was the neutral red dye evidence of significant mortality following the airgun experiment. The biggest flaw was the incomplete assessment of water mass movements before and after the experiments, which complicated interpretation of the data. Their method used to locate the sonar pings which best represented water parcels sampled at different distances from airgun fire, adjusted in time and space for drift, was as well done as could be given the limited water velocity data collected, but could be dramatically improved. Additional issues with the methodology (e.g., a mismatch between zooplankton size ranges ensonified using 120 kHz sonar versus those captured using a vertical net tow protocol) and some choices made during data analysis muddle the results.

Specific issues:

Sonar: The "hole" that developed in the sonar backscattering is very good evidence that the airguns elicited a large response by the zooplankton, but it is not sufficient to show mortality. The main issue is that the question "where did the bodies go?" was not addressed, and indeed, a tight, intensified scattering layer seems to have developed deeper in the water column (Figure 4c,d,g) that the authors did not address. That deeper layer may have resulted from a vertical avoidance response (i.e., swimming down) that is a very common zooplankton response to predation threat. Note that the authors suggest that the "hole" could have been an artifact of the sonar interacting with the swimming angle of the zooplankton. During active vertical migrations, such an effect (an apparent disappearance of zooplankton scattering layers) is a well known artifact of acoustic sampling, but such a behavioral change doesn't seem sustainable over the period of time shown, and seems especially unlikely in combination with the appearance of the deeper Sv layer that developed. It seems much more likely that the zooplankton exhibited an escape response, swimming down where they then aggregated closer to the bottom. The shift from the near-surface scattering to the deep scattering probably appeared too quickly for it to be caused by sinking of dead individuals (unless they were all large), but is within the swimming speed of the larger fraction of these zooplankton, which swim strongly. It is notable that the authors focused their analyses only on the small layer of the water column where backscatter decreased, never analyzing integrated water column backscatter.

Zooplankton sampling: The methods to quantify the zooplankton were mis-matched in this study. The 200 um mesh vertical net tows will only capture small organisms that cannot avoid nets (especially when lifted slowly as per the Neutral Red Dye protocol), whereas the 120 kHz sonar will mostly backscatter off larger taxa (except when small taxa are very densely aggregated). That leads to a mis-match between conclusions that can be drawn from the sonar and those that can be drawn from the net tows. Too few net tows were conducted to provide convincing evidence of a change in abundances, especially since the flow meters didn't work well, so the volumes filtered were very questionable. Furthermore, within 1.5 hours, there should be very little change in whole-water-column abundances if direct mortality occurred, as the sinking bodies would still be sampled by the nets and acoustics – it would take a few hours for something copepod-size to settle out completely. In combination with fairly poor water-mass tracking, the abundance changes described were fairly weak evidence of zooplankton mortality.

Water mass advection: There is decent evidence that the airgun experiments were not conducted in very homogeneous water, making the before-versus-after comparisons difficult in the absence of very good water parcel tracking, and especially casting doubt on the Day 1 versus Day 2 comparison. First, the two CTD casts taken at approximately the same location (on Day 2) showed different salinity profiles, indicating the water moving past that location differed from before to after the survey. The sonar surveys showed quite a bit of biological pattern (not surprising). Furthermore, the control:exposed abundances (Table S1) showed an *increase* in many taxa at 1200 m (nominally the 800 m distance) on Day 2 after exposure relative to the average pre-exposure abundances – the authors argue those data are evidence that the airguns didn't affect zooplankton that far afield, but the data also demonstrate the biological patchiness that make time/space comparisons difficult in any non-homogeneous ocean.

The authors suggest that Day 1 and Day 2 can be compared because they sampled at about the same phase of an oscillating tide. However, they describe significant wind stress (12-18 kts on Day 2) and don't describe the tidally-averaged circulation of the region. There is no reason to think that the water mass present at that location on Day 1 was the same as on Day 2.

NCDENR
North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

June 16, 2015

TGS-NOPEC
c/o Gabriel Rolland
10451 Clay Road
Houston, TX 77043

SUBJECT: **CD15-014**– Consistency Concurrence to Conduct Marine Geophysical Surveys in the Atlantic Ocean off the North Carolina coast related to Oil and Gas Resource Development (DCM#20150021)

Dear Mr. Rolland:

On March 19, 2015 the Division of Coastal Management (DCM) received your consistency submission regarding the application submitted to the Bureau of Ocean Energy Management (BOEM) to conduct marine geophysical surveys in the Atlantic Ocean off the North Carolina coast related to oil and gas resource development. We have evaluated the proposed project for consistency with our State's coastal management program.

North Carolina's coastal zone management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, Chapter 7 of Title 15A of North Carolina's Administrative Code, and the land use plans of the coastal counties and municipalities that the proposed project may affect. It is the objective of the North Carolina Division of Coastal Management (DCM) to manage the State's coastal resources to ensure that proposed federal activities are compatible with safeguarding and perpetuating the biological, social, economic and aesthetic values of the State's coastal waters.

To better understand the possible concerns with your proposed activity, we placed a public notice in several newspapers throughout the North Carolina coastal region and solicited input from State agencies that have a regulatory or resource interest. We also held a public hearing in Morehead City, North Carolina on April 9, 2015. Three divisions of the North Carolina Department of Environment and Natural Resources provided comments, including the Division of Water Resources, the Division of Energy, Mineral and Land Resources, and the Division of

Marine Fisheries (DMF). In addition, several nongovernmental organizations, local governments, industry associations, and individuals submitted comments in response to our public notices. We also received numerous written and verbal public comments both in opposition and in support of proposed offshore seismic surveys. Copies of all referenced responses, comments, and concerns are available at the following link: http://portal.ncdenr.org/web/cm/offshore-surveys.

DCM reviewed the information you provided and find that the proposed project is consistent with the relevant enforceable polices of North Carolina's approved coastal management program, specifically 15A NCAC 07H and 15A NCAC 07M, when performed in accordance with the conditions outlined below.

Numerous comments were received concerning the potential impacts of seismic surveys on marine organisms and habitats, including those submitted by the DMF. Many of these concerns were magnified by the potential for cumulative impacts to fisheries, if as many as nine seismic surveys were to be independently conducted within the same geographic area over a relatively short time frame. Given the possibility that multiple surveys may be conducted offshore of North Carolina, we recognize that disturbances could impact local fish abundance by deterring foraging, refuge, and spawning activities, possibly affecting economically valuable commercial and recreational fisheries operations throughout the proposed survey area. Therefore, given uncertainty over the precise survey timing and transect locations, and the potential for overlapping surveys by multiple companies, as well as limited species-specific data and research regarding possible impacts of seismic surveys in the South Atlantic region, we strongly recommend the following:

- Where practical, relocate proposed survey transects to avoid South Atlantic Fishery Management Council-designated Habitat Areas of Particular Concern, and important foraging, spawning and refuge areas;

- Time surveys in a manner that avoids potential use conflicts with commercial fishing efforts, offshore fishing tournaments, major recreational fishing areas, and seasonally-focused fishing efforts (a list of the saltwater fishing tournaments planned off North Carolina's coast this fall is attached); and

- Follow the mitigation measures outlined in the Final Atlantic Geological and Geophysical (G&G) Activities Programmatic Environmental Impact Statement (PEIS) that BOEM established in 2014 for offshore oil and gas exploration.

To ensure adequate communication between TGS-NOPEC and the State, our agreement that the proposed project is consistent with North Carolina's certified coastal management program is contingent on your adherence to the following Condition:

1) We require a pre-survey meeting with representatives of the DMF and DCM so that precise survey transects and timing can be reviewed and discussed in advance to avoid, minimize, and mitigate any possible impacts or conflicts with the above-referenced resources.

This letter of concurrence is contingent upon TGS-NOPEC agreeing with the Condition listed above. Should you decide not to accept this condition, this letter effectively becomes a letter of objection, and a letter of non-agreement should be submitted to DCM. Pursuant to 15 CFR part 930, subpart H, and within 30 days from receipt of this letter, you may request that the Secretary of Commerce override this conditional concurrence. In order to grant an override request, the Secretary of Commerce must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to DCM and BOEM. The Secretary of Commerce may collect fees from you for administering and processing your request. A revised consistency determination may also be necessary if the proposed project is modified. This may take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46 or a new consistency determination pursuant to 15 CFR 930.36. Likewise, if further project assessments reveal environmental effects not previously considered, a supplemental consistency certification may be required. If you have any questions, please contact Daniel Govoni at 252-808-2808 x 233.

Thank you for your consideration of the North Carolina Coastal Management Program.

Sincerely,

Braxton Davis
Director, NC Division of Coastal Management