



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
 Southeast Regional Office
 263 13th Avenue South
 St. Petersburg, Florida 33701-5505
<http://sero.nmfs.noaa.gov>

SEP 26 2014 F/SER31:JBH

MEMORANDUM FOR: F/HC3 – Leslie Craig
 FROM: *for* F/SE – Roy E. Crabtree, Ph.D. *Miles M. Cronin*
 SUBJECT: Amendment to Deepwater Horizon-Early Restoration Plan Phase III, Endangered Species Act Section 7 Consultations for 4 Living Shoreline Projects and Mississippi's Popp's Ferry Causeway Park

	Applicant	NMFS Number	Location
1	Mississippi Department of Environmental Quality	SER-2014-12925	Hancock County, Mississippi
2	NOAA Restoration Center – Southeast Regional Office	SER-2014-12926	Baldwin County, Alabama
3	Florida Department of Environmental Protection	SER-2014-13016	Escambia County, Florida
4	Florida Department of Environmental Protection	SER-2014-13083	Franklin County, Florida
5	Mississippi Department of Environmental Quality	SER-2014-13026	Harrison County, Mississippi

This memorandum responds to the National Oceanic and Atmospheric Administration (NOAA) Restoration Center's (RC) April 21, 2014, request for amendments to the National Marine Fisheries Service (NMFS) Section 7 concurrence letters of April 11, 2014, and May 6, 2014, regarding the above-referenced projects. The project-effects determinations were based on information provided by the NOAA RC and NMFS's review of published literature. We concurred with your determinations that the proposed activities may affect, but are not likely to adversely affect, 3 sea turtle species (green, Kemp's ridley, and loggerhead) and Gulf sturgeon. Additionally, for the 4 living shoreline projects (SER-2014-12925, -12926, -13016, and -13083), we concurred with your determination that the proposed activities will not adversely affect designated Gulf sturgeon critical habitat in Units 8, 9, and 13.

You initially indicated Projects 1, 2, and 3 would be constructed within the May-October timeframe to avoid potential impacts to migrating Gulf sturgeon. However, the applicants currently face considerable uncertainty regarding project implementation timing and are unable to commit to conducting in-water activities during the period from May to October. We relied in part on the commitment to conduct in-water activities from May to October to support our conclusion that temporary exclusion from the sites will have an insignificant effect on Gulf sturgeon because Gulf sturgeon are generally found in freshwater rivers during this period. However, the primary basis for our conclusion of the effects analyses were the projects' small footprints, the short construction durations, and the fact that turbidity controls, if used, will only enclose a small portion of the project sites and will be removed after construction (as explained below, turbidity curtains will not be used for Projects 1, 2, and 5). Thus, we have determined



that the change in Projects 1, 2, and 3 do not alter our effects analysis, and any effects caused by the temporary exclusion from foraging or shelter habitat will be insignificant.

In our letters, we erroneously included the use of floating turbidity curtains in the descriptions of the proposed activities for Projects 1, 2, and 5. NOAA RC has provided information indicating that floating turbidity curtains will not be used for these 3 projects. It is our understanding that for the Swift Tract project in Alabama (SER-2014-12926), curtains are not required by the Alabama Department of Environmental Management if the water clarity is monitored and turbidity remains under 50 nephelometric turbidity units (NTU). For the Hancock County project in Mississippi (SER-2014-12925), Florence Watson of the Mississippi Department of Environmental Quality replied in an email to the applicant that, "Turbidity screens are required for activities that will be ongoing for a significant period of time. [The Hancock County project] is temporary in nature, has minimal construction activities in water, and the construction timeframe is very short. Also, the water quality standard establishes that turbidity shall not exceed 50 NTUs of the ambient turbidity outside a 750-foot mixing zone. This activity will likely occur well within this mixing zone and is not expected to disturb the water bottoms to an extent to exceed this standard." It is our understanding that this same reasoning applies to the Harrison County, Mississippi project (SER-2014-13026) as the projects are of similar scale. For these 3 projects, turbidity is expected to remain below 50 NTUs. In addition, the species have the ability to move away from the project sites and will likely avoid construction activities. Therefore, we conclude that any effects caused by this minor modification to the proposed actions will be insignificant.

Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat is designated that may be affected by the identified action. If you have any questions about this consultation, please contact Joyce Barkley-Hahn, Consultation Biologist, at (727) 551-5741, or by email at joyce.barkley-hahn@noaa.gov.