



UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
283 13th Avenue South
St. Petersburg, Florida 33701-5505
<http://sero.nmfs.noaa.gov>

OCT 17 2014

F/SER31:NA

MEMORANDUM FOR: F/HC3 – Leslie Craig

FROM: *for* F/SE – Roy E. Crabtree, Ph.D.

Miles M Croom

SUBJECT: Amendment to Deepwater Horizon-Early Restoration Plan Phase III, Endangered Species Act Section 7 Consultations for 3 Batched Artificial Reef Projects in Texas State Waters

	Project/Applicant Name	Location	USACE Permit Number	NMFS Tracking Number
1	Corpus Christi Artificial Reef (MU-775)	Outer Continental Shelf of the Gulf of Mexico, Nueces County 27.6464°N, 97.0074°W (North American Datum of 1983 [NAD 83])	SWG-2010-01407	SER-2014-12910
2	Freeport Artificial Reef (BA-336)	Outer Continental Shelf of the Gulf of Mexico, Brazoria County 28.793009°N, 95.347796°W (NAD 83)	SWG-2010-00264	SER-2014-12916
3	Matagorda Artificial Reef (BA-439)	Outer Continental Shelf of the Gulf of Mexico, Matagorda County 28.516972°N, 95.781252°W (NAD 83)	SWG-2009-01139	SER-2014-12920

This memorandum responds to the National Oceanic and Atmospheric Administration (NOAA) Restoration Center's (RC) September 22, 2014, request for amendments to the National Marine Fisheries Service (NMFS) Section 7 batched-response concurrence letter of March 27, 2014, regarding the 3 above-referenced projects. NMFS's 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, leatherback, Kemp's ridley, hawksbill, loggerhead, or green sea turtles. Additionally, we determined that the proposed projects' activities were not in the proposed loggerhead sea turtle critical habitat (78 FR 43005, July 18, 2013). However, the final rule designating loggerhead critical habitat included two additional areas of *Sargassum* habitat; Critical Habitat Units LOGG-S-01 and LOGG-S-02 (79 FR 39855, July 10, 2014). These projects are located in LOGG-S-02. This document amends the March 27, 2014, concurrence letter to include determinations on the effects of the proposed actions on the loggerhead *Sargassum* habitat.

You determined that these projects are not likely to adversely affect loggerhead critical habitat. NMFS's determinations regarding the effects of the revised proposed actions are based on the description of the actions in this informal consultation. Any changes to the proposed actions may negate the findings of the present consultation and may require reinitiation of consultation with NMFS.

NMFS believes any adverse effects from the project activities to the primary constituent elements (PCEs) of *Sargassum* habitat will be insignificant. The 4 PCEs of *Sargassum* habitat are:

1. Convergence zones, surface-water downwelling areas where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitation of loggerheads
2. *Sargassum* in concentrations that support adequate prey abundance and cover
3. Available prey and other material associated with *Sargassum* habitat including, but not limited to, plants and cyanobacteria, and animals native to the *Sargassum* community such as hydroids and copepods
4. Sufficient water depth and proximity to available currents to ensure offshore transport (out of the surf zone), and foraging and cover requirements by *Sargassum* for post-hatchling loggerheads (i.e., > 10 m depth)

None of the project actions would affect the location of convergence zones, surface-water downwelling areas, or other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for optimal growth of *Sargassum* and inhabitation of loggerheads. The project actions would not adversely affect the availability of prey for hatchling loggerhead sea turtles or other material associated with *Sargassum* habitat. They will not affect the water depth or proximity to currents necessary for offshore transport, foraging, and cover. Deployment vessels (i.e., barges) generally avoid *Sargassum* mats when possible to minimize engine fouling, overheating, and damage. While the vessels associated with these projects may transit through *Sargassum* habitats, those vessel tracks are not anticipated to scatter *Sargassum* mats to the point of appreciably affecting the functionality of the PCEs. We conclude that any effects of proposed actions on the newly designated loggerhead critical habitat will be insignificant.

As noted in the March 27, 2014, concurrence letter, these projects are part of the Deepwater Horizon Oil Spill Draft Phase III Early Restoration Plan. One other early restoration project (a Texas ship artificial project) that has already undergone a Section 7 consultation is located in loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*). NMFS has considered the effects of these projects on loggerhead critical habitat in conjunction with the effects associated with the Texas ship artificial reef project. We conclude there are no additive effects of the overall projects that rise above the level of effects considered for each of the individual projects because the only potential impact of these artificial reefs projects on loggerhead critical habitat is the transit of vessels through *Sargassum* habitats and the potential effects to *Sargassum* mats are localized and not expected to appreciably affect the functionality of the PCEs.

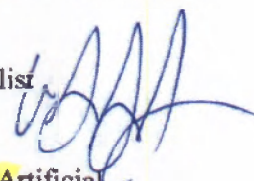
Finally, we conclude that the 3 projects are not likely to adversely affect loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*). Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently 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 Nicolas Alvarado, Consultation Biologist, at (727) 209-5955, or by email at Nicolas.Alvarado@noaa.gov.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

September 22, 2014

MEMORANDUM FOR: David M. Bernhart, Assistant Regional Administrator for
Protected Resources Division (PRD)

FROM: Jamie Schubert, Marine Habitat Resource Specialist
Restoration Center 

SUBJECT: **Deepwater Horizon Early Restoration Phase III: Artificial**
Reef Projects in Texas State Waters – Corpus Christi
Artificial Reef (PCTS#12910), Freeport Artificial Reef
(PCTS#12916)), and Matagorda Artificial Reef
(PCTS#12920) Projects: Loggerhead Sea Turtle Critical
Habitat

The 3 artificial reef projects in Texas are part of a suite of projects proposed for implementation in Phase III of the *Deepwater Horizon* Early Restoration.

The NOAA Restoration Center is the action agency for implementation of the 3 artificial reef projects. In January 2014, the NOAA Restoration Center initiated a consultation with PRD SERO for these projects. On March 27, 2014, PRD SERO issued a letter of concurrence, concluding that the project is Not Likely to Adversely Affect five species of sea turtles.

The NOAA Restoration Center is aware that loggerhead sea turtle critical habitat has been designated since the spring 2014 determinations. The designation of *Sargassum* critical habitat helps conserve loggerhead sea turtles by protecting essential forage, cover and transport habitat for post-hatchlings and early juveniles. The 4 essential features of *Sargassum* habitat are:

1. Convergence zones, surface-water downwelling areas where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitation of loggerheads;
2. *Sargassum* in concentrations that support adequate prey abundance and cover;
3. Available prey and other material associated with *Sargassum* habitat including, but not limited to, plants and cyanobacteria, and animals native to the *Sargassum* community such as hydroids and copepods and;



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4. Sufficient water depth and proximity to available currents to ensure offshore transport (out of the surf zone), and foraging and cover requirements by *Sargassum* for post-hatchling loggerheads (i.e., >10 m depth).

The 3 artificial reef projects lie in loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*). The NOAA Restoration Center believes any adverse effects from the project activities to the primary constituent elements (PCE) of *Sargassum* habitat will be insignificant and are not likely to adversely affect loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*). None of the project actions would affect the location of convergence zones, surface-water downwelling areas, or other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for optimal growth of *Sargassum* and inhabitation of loggerheads. The project actions would not adversely affect the availability of prey for hatchling loggerhead sea turtles or other material associated with *Sargassum* habitat. They will not affect the water depth or proximity to currents necessary for offshore transport, foraging and cover. While the vessels associated with this project may transit through *Sargassum* habitats, those vessel tracks are not anticipated to scatter *Sargassum* mats to the point of affecting the functionality of the PCEs. Therefore, any adverse effects to the PCEs of Loggerhead Sea Turtle *Sargassum* Critical Habitat will be insignificant.

The NOAA Restoration Center determines that the proposed activities May Affect but are Not Likely to Adversely Affect Loggerhead Sea Turtle Critical habitat. The Restoration Center seeks PRD SERO's concurrence with the Restoration Center's findings.

