

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

JUL 1 5 2016

F/SER31:NA

MEMORANDUM FOR:

F/HC3 – Leslie Craig

FROM:

F/SE – Roy E. Crabtree, Ph.D.

RGW

SUBJECT:

Deepwater Horizon-Early Restoration Plan Phase IV, Endangered Species Act Section 7 Consultations for 3 living shoreline projects in Alabama coastal waters in the Gulf of Mexico

Project	Applicants	SER Number	Project Name/Type
1	National Marine Fisheries Service (NMFS) Restoration Center's (RC) and Alabama (AL) Department of Conservation and Natural Resources (DCNR)	SER-2015-16817	Point aux Pins/Living Shoreline
2	NMFS RC and AL DCNR	SER-2015-16818	Shell Belt Road/Living Shoreline
3	NMFS RC and AL DCNR	SER-2015-16819	Coden Belt Road/Living Shoreline

This memorandum responds to the NMFS RC May 27, 2015, memorandum and supporting materials for the 3 living shoreline projects in Alabama coastal waters in the Gulf of Mexico, requesting concurrence under Section 7 of the Endangered Species Act (ESA) with the project-effects determinations associated with this project. On June 8, 2015, we decided to batch these projects into a single consultation based on the similarity of the proposed activities. You determined that the proposed activities may affect, but are not likely to adversely affect 5 sea turtle species (green, hawksbill, Kemp's ridley, leatherback, and loggerhead), and Gulf sturgeon.

NMFS requested additional information from the applicant/natural resources trustee, Alabama Department of Conservation and Natural Resources (ALDCNR), via email on May 12, 2015, July 30, 2015, and February 2, 2016. We received the responses on August 13, 2015, and February 3, 2016. We requested clarification on March 10, 2016, for the discrepancies of the latitude and longitude coordinates originally submitted compared to the responses from the requests for additional information and submitted Google Earth Keyhole Markup Language files. We initiated consultation on March 10, 2016. NMFS's determinations regarding the effects of the proposed action are based on the description of the action in this informal consultation. Any changes to the proposed action may negate the findings of the present consultation and may require reinitiation of consultation with NMFS.



Project Location

Project	Latitude/Longitude	Water body
Number	(North American Datum 1983)	
1	30.387429°N, 88.293410°W to	Portersville Bay, Mississippi
1	30.379160°N, 88.302462°W	Sound, Mobile County, Alabama
2	30.381991°N, 88.258922°W to	Portersville Bay, Mississippi
	30.378325°N, 88.246633°W	Sound, Mobile County, Alabama
2	30.376174°N, 88.240497°W to	Portersville Bay, Mississippi
3	30.370944°N, 88.224656°W	Sound, Mobile County, Alabama

There is no submerged aquatic vegetation (SAV) at the Shell Belt Road and Coden Belt Road sites, but if encountered, it will be avoided. The Point aux Pins site does have SAV, but breakwater segments will be located seaward of the grass beds. The sediment at the project sites consists of mucky-sandy-clay-loam Axis series sediments, which comprises of deep, very poorly drained, moderately permeable soils that formed in thick loamy marine sediment.

Construction crews will follow NMFS's Sea Turtle and Smalltooth Sawfish Construction Conditions, dated March 23, 2006; Measures for Reducing Entrapment Risk to Protected Species, revised May 22, 2012; and U.S. Fish and Wildlife Service's Standard Manatee Conditions for In-Water Work, dated 2011. Each project is described in detail below (all project location datum are North American Datum 1983).



Figure 1. Image of 3 approximate sites for the Alabama living shorelines projects

Project Description

The ALDCNR proposes to build and deploy Wave Attenuation Units (WAUs) through a competitive bid process that will incorporate artificial breakwater materials to stabilize shorelines via living shoreline techniques. The commercial marine contractor with the winning bid will place WAUs, consisting of pre-fabricated modules (Figure 2), at depths of 2-3 ft (or 0.6-0.9 meters [m]) below mean lower low water (MLLW). For Projects 1, the ALDCNR proposes to place WAUs using a small track hoe located on a shallow draft barge. The track hoe will pick up and deploy the WAU as specified in the construction drawings and specifications. For Project 2 and 3, the construction of the breakwaters may take place from the right-of-way, staging the breakwater units along the road and placing them with a wide-tracked long-arm track hoe (or marsh buggy) located along the shoreline just seaward of the seawall. One or more work barges with a backhoe will be positioned along the seaward side of the breakwaters, and the material barge will be positioned seaward of the work barge. Alternatively, the project may be constructed using shallow draft barges and tugs to transport the breakwater units. A small track hoe or other similar equipment, located on a barge would then be used to place the breakwater units in the appropriate configuration as specified in the construction drawings and specifications. The exact number of barges and tugs used and the exact method of construction will be determined by the construction contractor. Track hoes and other equipment will not be allowed to operate on water bottoms nor will operations be allowed in any seagrass beds.

The ALDCNR designs specify the breakwaters to have a +0.5 to +1.0 foot (ft) MLLW target crest elevation and 10 ft (3.0 m) crest widths, based on desired wave reduction, and will be designed with a height that falls within the mean high and low water lines (intertidal). The specific breakwater elevations and technique designs will be selected to maximize shoreline protection. Permanent navigation signs will be installed in accordance with standard hazard to navigation signage requirements, and will consist of 2 small reflective signs each placed on a single small pile along each breakwater segment. The piles for these signs will be hand-driven, and the only maintenance activities associated with this project will be the replacement of this signage. In-water construction activities (i.e., placement of breakwater segments parallel to the shoreline) will likely take place during the spring and summer months. Placement of WAUs will take place at high tide and during daylight hours to the maximum extent possible. WAUs placement will not exceed 3 months.



Figure 2. Wave Attenuation Unit (WAU) example provided by Alabama Department of Conservation and Natural Resources (2016)



Figure 3. Image of Point-aux-Pins living shorelines (Alabama Department of Conservation and Natural Resources, 2016)

 The Point aux Pins Living Shoreline project is located in Portersville Bay portion of Mississippi Sound, Mobile County, Alabama. Action area coordinates (NE-SW) are 30.387429°N, 88.293410°W to 30.379160°N, 88.302462°W (Figures 1 and 3). These breakwaters will consist of at least 11 segments of 2 rows, parallel and adjacent, approximately 200 ft (61 m) in length with an approximate gap of 20 ft (6.1 m) between segments of WAUs that range in base size from 4-10 ft (1.2-3.0 m). The number of WAUs that make up the breakwaters will depend on the size of WAU. The breakwater at Point Aux Pins will be approximately 0.46-0.84 miles long (737.6-1,352.7 m), have a cumulative base width ranging from approximately 8-20 ft (2.4-6.1 m), and include openings throughout to allow for tidal flow and desired wave reduction (Figure 2). The breakwater footprint will have a range of approximately 0.82-1.02 acres (3,318.4-4,127.8 square meters [m²]).



Figure 4. Image of Shell Belt Road living shorelines (Alabama Department of Conservation and Natural Resources, 2016)

2. The Shell Belt Road Living Shoreline project is located in Portersville Bay portion of Mississippi Sound, Mobile County, Alabama. Action area coordinates (NW-SE) are 30.381991°N, 88.258922°W to 30.378325°N, 88.246633°W (Figures 1 and 4). These breakwaters will consist of 20 segments of 2 rows, parallel and adjacent, approximately 200 ft in length (61 m) and will have an approximate gap of 20 ft (6.1 m) between segments of WAU that range in base size from 4-10 ft (1.2-3.0 m). The number of WAUs that make up the breakwaters will depend on the size of WAU. The breakwater at Shell Belt Road will be approximately 0.83 miles long (1,341 m), have a cumulative base width ranging from approximately 8-20 ft (2.4-6.1 m), and include openings throughout to allow for tidal flow and desired wave reduction (Figure 2). The breakwater footprint will have a range of approximately 0.81-2.02 acres (3,278.0-8,174.6 m²).



Figure 5. Image of Coden Belt Road living shorelines (Alabama Department of Conservation and Natural Resources, 2016)

3. The Coden Belt Road Living Shoreline project is located in Portersville Bay portion of Mississippi Sound, Mobile County, Alabama. Action area coordinates (NW-SE) are 30.376174°N, 88.240497°W to 30.370944°N, 88.224656°W (Figures 1 and 5). These breakwaters will consist of 29 segments of 2 rows, parallel and adjacent, approximately 200 ft (61 m) in length with an approximate gap of 20 ft (6.1 m) between segments of WAU that range in base size from 4-10 ft (1.2-3.0 m). The number of WAUs that make up the breakwaters will depend on the size of WAU. The breakwater at Shell Belt Road will be approximately 1.21 miles long (6,380 ft; 1,944.6 m), have a cumulative base width ranging from approximately 8-20 ft (2.4-6.1 m), and include openings throughout to allow for tidal flow and desired wave reduction (Figure 2). The breakwater footprint will have a range of approximately 1.17-2.93 acres (4,734.8-11,857.3 m²).

Effects Determinations for Species the Action Agency or NMFS Believes May Be Affected by the Proposed Action

Species	ESA Listing Status	Action Agency Effect Determination	NMFS Effect Determination					
Sea	Furtles							
Green (North and South Atlantic distinct population segment [DPS])	Т	NLAA	NLAA					
Kemp's ridley	Е	NLAA	NLAA					
Leatherback	E	NLAA	NLAA					
Loggerhead (Northwest Atlantic Ocean DPS)	Т	NLAA	NLAA					
Hawksbill	Е	NLAA	NLAA					
Fish								
Gulf sturgeon (Atlantic sturgeon, Gulf subspecies)	Т	NLAA	NLAA					
E = endangered; T = threatened; NLAA = may	affect, not li	kely to adversely af	fect					

Critical Habitat

The project is not located in designated critical habitat, and there are no potential routes of effect to any designated critical habitat.

Analysis of Potential Routes of Effects to Species

NMFS has identified the following potential effects to sea turtles and Gulf sturgeon from the deployment of these WAUs at the different project locations in Portersville Bay portion of the Mississippi Sound and concluded that these species are not likely to be adversely affected.

- 1. Sea turtles and Gulf sturgeon may be injured if struck with the bucket from a bargemounted backhoe. But we believe this effect is discountable because these species are likely to move away from the construction area. The applicant's implementation of NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* will further reduce the risk by requiring all construction workers watch for listed species. Operation of any mechanical construction equipment will cease immediately if a sea turtle or Gulf sturgeon is seen within a 50-ft radius of the equipment. Activities will not resume until the listed species has departed the project area of its own volition.
- Sea turtles and Gulf sturgeon may be struck by the barge(s) or the deployment of the WAUs. Due to the species' mobility, the risk of injury will be discountable. The controlled rate of descent of the WAUs, slow transit speed of the towed barge (5 knots or less) to and from the sites and compliance with the Sea Turtle and Smalltooth Sawfish Construction Conditions will further reduce the risk.

- 3. Sea turtles may be temporarily unable to use the sites for forage or refuge habitat due to potential avoidance of deployment activities, but this effect will be insignificant. The WAU drop sites consist of mucky-sandy-clay-loam Axis series sediments and are unlikely to attract sea turtles because they lack physical features, such as hardbottom and seagrass beds, which could be used for foraging or shelter. The Point aux Pins site does have SAV, but that site is located in brackish, relatively turbid waters, where sea turtles are rarely known to forage. Further, more favorable habitat types are very common throughout the Gulf of Mexico and the impacts will be localized and temporary (approximately 3 months.)
- 4. Gulf sturgeon foraging could be adversely affected by sand displacement and increased turbidity but this effect will be insignificant. The increases in turbidity and the alterations in benthic topography will be temporary, highly localized, and short-lived since the anticipated project in-water work is not to exceed 3 months. Mobile Bay is outside of Gulf sturgeon critical habitat and is not a gateway to known current Gulf sturgeon spawning rives, therefore construction timing is not as crucial. Moreover, Gulf sturgeon are opportunistic feeders that forage over large distances and thus will be able to locate prey in areas unaffected by this action and in available sandy areas adjacent to those impacted by this project.

NMFS has also considered the effects of this project in conjunction with the effects associated with the Phase I and Phase III projects that involve construction activities and that have previously undergone Section 7 consultations.¹ NMFS concludes there are no additive effects of the overall projects that rise above the level of effects considered for each of the individual projects. The potential impacts to listed species from construction activities are limited in time and place, and they cease to exist once the projects are complete.

Conclusion

Because all potential project effects to listed species were found to be discountable, insignificant, or beneficial, we conclude that the proposed action is not likely to adversely affect listed species under NMFS's purview. This concludes your consultation responsibilities under the ESA for species under NMFS's purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or if 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 designated that may be affected by the identified action. NMFS's findings on the project's potential effects are based on the project description in this response. Any changes to the proposed action may negate the findings of this consultation and may require reinitiation of consultation with NMFS.

¹ All of the early restoration projects that have previously undergone Section 7 consultations are described below in *"Background: Deepwater Horizon Oil Spill Early Restoration"*

We've enclosed additional relevant information for your review. We look forward to further cooperation with you on other projects to ensure the conservation of our threatened and endangered marine species and designated critical habitat. If you have any questions about this consultation, please contact Nicolás Alvarado, Consultation Biologist, at (727) 209-5955, or by email at Nicolas.Alvarado@noaa.gov.

Attachments:

- 1. Sea Turtle and Smalltooth Sawfish Construction Conditions (Revised March 23, 2006)
- 2. Measures for Reducing Entrapment Risk to Protected Species (Revised May 22, 2012)
- 3. Standard Manatee Conditions for In-Water Work (Dated 2011).
- 4. PCTS Access and Additional Considerations for ESA Section 7 Consultations (Revised March 10, 2015)

File: 1514-22C.

Background: Deepwater Horizon Oil Spill Early Restoration

Under the Oil Pollution Act, designated agencies of the federal government and affected state governments act as trustees on behalf of the public. The Trustees are charged with recovering damages from the responsible parties to restore the public's natural resources that sustained injuries. NOAA shares trusteeship with the other natural resource trustees over all of the resources that will benefit from these restoration actions. The Trustees developed the Early Restoration selection process to be responsive to the purpose and need for conducting Early Restoration. Early Restoration project selection is a process requiring several steps: (1) project solicitation, (2) project screening, (3) negotiation with BP, and (4) public review and comment.

The Trustees released a Phase I Early Restoration Plan (ERP) in April 2012, a Phase II ERP in December 2012, a draft Phase III ERP on May 6, 2013, and a final Phase III Plan on June 26, 2014. On February 17, 2015, the Trustees released a Phase IV ERP. These plans contain a series of restoration actions that may be selected independently by the Trustees. NMFS PRD has previously completed consultations on the Phase I ERP projects and 39 of the projects included in the Phase III ERP.² To date, NMFS PRD completed 1 consultation on 21 individual projects included in Phase IV.

The Phase I ERP consists of 8 projects that address an array of injuries and are located throughout the Gulf of Mexico (GOM) (see Appendix 1). Specifically, Phase I includes 2 oyster projects (1 in Louisiana and 1 in Mississippi), 2 marsh projects (1 in Louisiana and 1 in Alabama), a nearshore artificial reef project in Mississippi, and 2 dune projects and a boat ramp enhancement project in Florida. Consultation on the Phase I projects was completed on April 2. 2012. NMFS PRD determined that 1 of the marsh projects and both dune projects would have no effect on listed species and that the other projects are not likely to adversely affect listed species or designated critical habitat under NMFS PRD's purview. NMFS PRD evaluated potential impacts on listed species (5 species of sea turtles, Gulf sturgeon, and smalltooth sawfish) from placement of material, site exclusion, and dredging. It determined that these effects will be discountable or insignificant because of the species' mobility and ability to find suitable habitat for foraging in the surrounding areas. NMFS PRD also evaluated potential impacts to sea turtles and Gulf sturgeon from fishing activities associated with the artificial reef project. It determined that the effects are discountable because the enhancement of the existing artificial reefs is not expected to induce new fishing effort or increase the risk of harmful interactions between recreational fishers and listed species. The boat ramp project will enhance 2 existing boat ramps and create 2 new public boat ramps that will allow the launch of an additional 92 vessels. The purpose of these projects is to relieve traffic and congestion at other boat ramps in the area. NMFS PRD determined that any increase in vessel strike risk to sea turtles is discountable because the new boat ramps are likely to be used by people who currently have vessels. A previous NMFS PRD analysis concluded that a typical dock or marina project in Florida that introduces fewer than 300 new vessels to an area will have an insignificant or discountable effect on sea turtles.³

² None of the Phase II ERP projects involved in-water work and, therefore, NMFS PRD did not receive a request for Section 7 consultation.

³ Barnette, M. Threats and Effects Analysis for Protected Resources on Vessel Traffic Associated with Dock and Marina Construction. NMFS SERO PRD Memorandum. April 18, 2013.

Three of the Phase I projects (1 boat ramp, 1 oyster project, and the nearshore artificial reef project) are located in Gulf sturgeon critical habitat. The boat ramp is located in Unit 9, while the oyster and artificial reef projects are located in Unit 8. NMFS PRD determined that the boat ramp project is not likely to adversely affect Gulf sturgeon critical habitat in Unit 9 because the construction will occur in the same footprint and will be the same dimensions as the existing boat ramp. Any increases in suspended sediments in the water column (i.e., turbidity) are expected to be localized, temporary, and insignificant, and the texture and quality of the sediments and its ability to support prey items are expected to be the same pre- and post-project. NMFS PRD similarly concluded that the oyster project and artificial reef project will not adversely affect Gulf sturgeon critical habitat in Unit 8 because the placement of clean, toxin-free material will not alter the water or sediment quality. Also, the addition of this material to existing hard bottom will not alter prey availability.

NMFS PRD completed 20 consultations on 35 individual projects out of a total of 39 projects⁴ included in Phase III (see Appendix 2). These projects are:

- 4 artificial reef projects (3 in Texas and 1 in Florida)
- 2 oyster projects (1 in Florida and 1 in Alabama)
- 4 living shoreline projects (1 in Alabama, 1 in Mississippi, and 2 in Florida)
- 10 Florida boat ramp/dock projects
- 1 Florida scallop-enhancement project
- 1 Florida beach-enhancement project
- 1 Louisiana-North Breton Island restoration project
- 1 Mississippi fishing pier project
- 2 Florida observation/canoe launch dock projects
- 1 Florida erosion-control project
- 1 Florida small fishing pier project
- 1 Florida oyster reef and salt marsh-enhancement project
- 1 Florida fish hatchery project
- 1 Florida-St. George Island bulkhead improvements project
- 1 Texas ship artificial reef
- 1 Florida Mexico Beach marina project
- 1 Florida Gulf Island National Seashore ferry service project
- 1 Louisiana outer coast restoration-Chenier Ronquille barrier island project

As with the Phase I projects, NMFS PRD evaluated potential impacts on listed species (5 species of sea turtles and Gulf sturgeon) from placement of material, site exclusion, and dredging, and determined that these effects will be discountable or insignificant because of the species' mobility and ability to find suitable habitat for foraging in the surrounding areas. NMFS PRD also evaluated the impacts of noise created from construction, where applicable, and determined that the risk of short- or long-term exposure to harmful noise is discountable, and any sound heard by the ESA-listed species will have insignificant health effects. NMFS PRD determined

⁴ Five additional restoration projects were included on September 12, 2014.

that the potential impacts to sea turtles and Gulf sturgeon from fishing activities associated with the 4 artificial reef projects are discountable because the enhancement of the existing artificial reefs is not expected to produce new fishing effort. NMFS PRD also determined that the risk of vessel strike impacts to turtles from future use of the artificial reef sites is discountable because use of the site will generally coincide with fair weather patterns and calm sea states that will allow boaters to detect and avoid any sea turtles in their path. Subsequently, in the consultation on the Texas ship artificial reef, NMFS PRD recognized that the effects of recreational fishing for reef fish and reef fish vessels on sea turtles were analyzed in NMFS's GOM Reef Fish Fishery Biological Opinion dated September 30, 2011. NMFS PRD concluded that because the artificial reef would not result in any net increase in fishing activities and would not result in any measurable change in the Gulf-wide distribution of fishing effort or the distribution of turtles, the Texas ship artificial reef project would not result in any fishing or vessel impacts beyond those described in the 2011 Biological Opinion.

There were 16 of the Phase III projects located in Gulf sturgeon critical habitat:

- 3 living shoreline projects
- 1 Florida artificial reef project
- 1 Florida fish hatchery
- 3 Florida boat ramp projects
- 1 Florida beach-enhancement project
- 2 Florida oyster reef projects
- 1 scallop-enhancement project
- 1 erosion-control project
- 2 observation/canoe launch docks
- 1 Florida St. George Island bulkhead improvements project

The living shoreline projects are located in Units 8, 9, and 13. The Florida fish hatchery is located in Unit 9. The boat ramp projects are located in Units 9 and 13. The beach enhancement project is located in Unit 11. The oyster projects are located in Units 9 and 13. The scallop enhancement project is located in Units 9, 10, 12, and 13. The erosion control project is located in Unit 12, the observation/canoe launch dock projects are in Units 10 and 12, and the St. George Island bulkhead improvements project is located in Unit 13.

NMFS PRD determined that the scallop-enhancement project and Florida fish hatchery project will have no effect on Gulf sturgeon critical habitat and that the other projects are not likely to adversely affect the essential features of Gulf sturgeon critical habitat (water quality, sediment quality, prey abundance, and safe and unobstructed migratory pathways). The oyster reef projects will place clean, non-toxic material over existing hard bottom, which will make any impacts to water quality, sediment quality, or prey abundance discountable. The beach-enhancement project will improve sediment quality and effects to prey abundance, water quality and migratory pathways will be insignificant because the work will take place in shallower water than normal foraging depths. Any increased turbidity will be temporary and within natural background levels and sand placement in the shallow waters along the beach will not interfere with migration. The Florida artificial reef project will have no effect on the sediment quality.

The effects to water quality and prey abundance will be insignificant because turbidity will be temporary and within natural background levels and will not reduce prey availability overall in the areas surrounding the modules. Any impacts to migratory pathways will be discountable because the reef structures are in open water and spaced out sufficiently for Gulf sturgeon to move. The installation of the 8-inch-diameter seawater intake pipe for the fish hatchery project will have no effect on sediment quality. The effects to water quality and prey abundance will be insignificant because the turbidity will be temporary, within natural background levels, and will not reduce prey availability in the areas surrounding the pipe.

Similarly, the boat ramp and dock projects will have no effect on sediment quality. The effects to water quality and prey abundance will be insignificant because turbidity will be temporary and within natural background levels and will not reduce prey availability overall in the areas surrounding the ramps or docks. The erosion-control structure project will have no effects on sediment quality as the composition of the dredge materials to be placed behind the groins are expected to be similar or identical to what is currently present. The effects to water quality and prey abundance will be insignificant because turbidity will be temporary and within natural background levels and will not reduce prey availability overall in the areas surrounding the modules. The living shoreline projects may temporarily increase turbidity and displace some prey species, but we expect these impacts to be insignificant. With respect to prey abundance, the living shoreline projects are expected to have long-term beneficial impacts by increasing prey abundance in adjacent areas. The St. George Island bulkhead improvements project may affect water and sediment quality from construction activities, but effects will be short-lived and localized. Similarly, any impacts to prey abundance will be localized but are not expected to reduce overall prey abundance in the project area or critical habitat unit.

Only 4 projects of the Phase III projects (3 Texas artificial reefs and 1 ship artificial reef project) are located in loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*). NMFS PRD determined that 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 inhabitance of loggerheads. None of the 4 artificial reef project actions would adversely affect the availability of prey for hatchling loggerhead sea turtles or other material associated with *Sargassum* habitat. Neither will they affect the water depth or proximity to currents necessary for offshore transport, foraging, and cover. 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 primary constituent elements (PCEs). Therefore, any effects to the PCEs of *Sargassum* habitat will be insignificant.

NMFS PRD evaluated potential impacts from Phase IV Pelagic Longline (PLL) Bycatch Reduction project on ESA-listed species (5 species of sea turtles and marine mammals) and determined that these effects from the proposed action will be completely beneficial. The PLL Bycatch Reduction project promotes both the cessation of PLL fishing and the use of greenstick gear and buoy gear in a fishery that currently allows the use of this gear as authorized by the HMS FMP. Reducing PLL fishing and increasing the use of the authorized greenstick gear and buoy gear will reduce the extent of the adverse effects to ESA-listed sea turtles and marine mammals that are anticipated from the continued harvest of PLL species With respect to ESA- listed corals, NMFS PRD had previously determined that both green-stick and buoy gear do not come into contact with the ocean floor or any benthic habitats; thus, they are anticipated to have no effect on listed corals. With regard to scalloped hammerhead sharks, the distribution and range of the threatened Central and Southwest Atlantic DPS of scalloped hammerhead shark does not overlap the PLL Bycatch Reduction Project area in the GOM. Therefore, the proposed action will not affect the Central and Southwest Atlantic DPS of the scalloped hammerhead shark.

The only project of Phase IV located in loggerhead critical habitat LOGG-S-02-Gulf of Mexico (*Sargassum*) is the PLL Bycatch Reduction project. NMFS PRD determined that none of the project activities 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 inhabitance of loggerheads. The project activities would not 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. To the extent these vessels may impact the *Sargassum* habitat, the voluntary repose period in PLL fishing each year would reduce the impact, resulting in effects that are completely beneficial, and the increase in use greenstick gear and buoy gear on these vessels would have no effect on the habitat.

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Reference	PCTS Tracking Number	Project	Description	NMFS PRD Determinations
P1-1	SER-2012-889	Louisiana Lake Hermitage Marsh Creation – NRDA Early Restoration Project	Project proposed involves the creation of marsh within the project footprint of the larger Lake Hermitage Marsh Creation Project. The primary goals of the project are the following: (1) to restore the eastern Lake Hermitage shoreline to reduce erosion and prevent breaching into the interior marsh, and (2) to re-create marsh in the open water areas south and southeast of Lake Hermitage. The marsh creation project will substitute approximately 104 acres of created brackish marsh for approximately 5-6 acres (7,300 linear feet [ft]) of earthen terraces.	The project is not likely to adversely affect sea turrles or Gulf sturgeon. The project is not located in designated critical habitat. All activities associated with the Lake Hermitage Restoration project are outside the known range of Gulf sturgeon. Sea turtles are not likely to be at the dredge site in the Mississippi River, which is 70 miles from the Gulf of Mexico. Additionally, sea turtles are not likely to be at the marsh restoration site.
P1-2	SER-2012-889	Louisiana Oyster Cultch Project	Project involves (1) the placement of oyster cultch onto approximately 850 acres of public oyster seed grounds throughout coastal Louisiana, and (2) construction of an oyster hatchery facility that will produce supplemental larvae and seed. The project consists of placing oyster cultch material on public oyster seed grounds to produce seed- and sack-sized oysters to compensate the public for impacts to oyster areas exposed to oil, dispersant, and response activities.	The project is not likely to adversely affect sea turtles or Gulf sturgeon. The project is not located in designated critical habitat.
P1-3	SER-2012-889	Mississippi Oyster Cultch Restoration	Project consists of placing oyster cultch material on public oyster seed grounds in the footprint of existing oyster cultch areas to produce seed- and sack-sized oysters to compensate the public for impacts to oyster areas exposed to oil, dispersant, and response activities.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat.
P1-4	SER-2012-889	Mississippi Artificial Reef Habitat	Project includes the deployment of artificial reefs in bays and nearshore Mississippi Sound waters in and off of Hancock, Harrison, and Jackson Counties, Mississippi.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat.
P1-5	SER-2012-889	Mississippi Marsh Island (Portersville Bay) Marsh Creation	Project involves the addition 50 acres of salt marsh to the existing 24 acres along Marsh Island in the Portersville Bay portion of Mississippi Sound in south Mobile County, Alabama. This entails the construction of a permeable segmented breakwater, the placement of sediments, and the planting of native marsh vegetation.	The project is not likely to adversely affect sea turtles or Gulf sturgeon. The project is not located in designated critical habitat.

Appendix 1. Phase I Early Restoration Plan Projects with Corresponding Public Consultation Tracking System (PCTS)

PI-8	PI-7	PI-6	Reference
SER-2012-889	SER-2012-889	SER-2012-889	PCTS Tracking Number
Florida (Pensacola Beach) Dune Restoration	Florida Boat Ramp Enhancement and Construction Project	Alabama Dune Restoration Cooperative Project	Project
Native dune vegetation will be planted on the primary dune on Pensacola Beach in Escambia County, Florida.	Project will entail repairing the existing Navy Point Park public boat ramp, located in a developed residential area in Pensacola Bay, and constructing the new Mahogany Mill public boat ramp that will be located in a commercial and industrial area in Pensacola Bay.	Project will restore 55 acres of dune habitat by installing sand fencing and planting native dune vegetation in Orange Beach and Gulf Shores, Alabama.	Description
This project will have no effect on listed species or designated critical habitat under NMFS PRD's jurisdiction. NMFS PRD does not believe there will be any direct or indirect effects to listed species or designated critical habitat, as all activities will occur solely in upland areas.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, smalltooth sawfish, or Gulf sturgeon critical habitat. The Navy Point project is not likely to adversely affect Gulf sturgeon critical habitat in Unit 9, Pensacola Bay. The remaining boat ramp projects are not located in designated critical habitat.	The project will have no effect on listed species or designated critical habitat under NMFS PRD's jurisdiction. NMFS PRD does not believe there will be any direct or indirect effects to our listed species or designated critical habitat, as all activities will occur solely in upland areas.	NMFS PRD Determinations

Tracking System (PCTS)	NMFS PRD Determinations	e projects are not likely to adversely it ESA-listed species (leatherback,	ip's ridley, hawksbill, loggerhead, or n sea turtles) or loggerhead sea turtle al habitat (LOGG-S-02-Gulf of	ico [Sargassum]).	project is not likely to adversely st ESA-listed species (leatherback, p's ridley, hawksbill, loggerhead, or 1 sea turtles, or Gulf sturgeon).	project is not likely to adversely it ESA-listed species (Kemp's ridley, erhead, or green sea turtles, or Gulf geon) or designated Gulf sturgeon ial habitat. Leatherback and csbill sea turtles were withdrawn the ESA consultation process.	project is not likely to adversely it ESA-listed species (Kemp's ridley, erhead, or green sea turtles, or Gulf (con). Leatherback and hawksbill sea is were withdrawn from the ESA ultation process.	Amazon (co v Are
Plan Projects with Corresponding Public Consultation	Description	The applicant will propose 3 projects to install artificial reefs in Texas coastal waters. They are not affe	located within designated Guif sturgeon critical habitat but are located in loggerhead sea turtle critical gree habitat (LOGG-S-02-Gulf of Mexico [<i>Sargassum</i>]).	Me	The applicant proposes to restore and enhance 319Theacres of oyster reefs within historic footprint of oysteraffeacres in Mobile Bay. It is not located within anyKendesignated critical habitat.gree	The applicant proposes to reduce shoreline erosion and restore oyster and marsh habitat by (1) use of breakwater materials to reduce shoreline erosion, (2) creation of 46 acres of salt marsh, and (3) enhancement of 46 acres of oyster reef habitat that have historically supported oysters. It is located within designated Gulf sturgeon critical habitat Unit 8 from but not within loggerhead sea turtle critical habitat.	The applicant proposes to reduce shoreline erosionTheby creating breakwaters (8,500 ft) from naturalaffeimaterials (15,800 tons of riprap and 2,200 cubic yardslogg[yd³] of bagged oyster shell) covering 2.9 acres ofsturgfine-grained sediment. It is not located within anyturtldesignated critical habitats.cons	
Early Restoration	Project	Texas, Artificial Reefs, Corpus	Texas, Artificial Reefs, Freeport	Texas, Artificial Reefs, Matagorda	Alabama, Oyster Cultch	Florida, Hancock County Living Shorelines	Florida, Swift Tract Living Shorelines	
x 2. Phase III	PCTS Tracking Number	SER-2014- 12910	SER-2014- 12916	SER-2014- 12920	SER-2014- 12924	SER-2014- 12925	SER-2014- 12926	
Appendix	Reference	P3-1	P3-2	P3-3	P3-4	P3-5	P3-6	





NMFS PRD Determinations		 These projects are not likely to adversely affect ESA-listed species (Kemp's ridley, loggerhead, or green sea turtles, or Gulf sturgeon). Leatherback and hawksbill sea turtles were withdrawn. 	r These projects are not likely to adversely affect ESA-listed species (leatherback, Kemp's ridley, hawksbill, loggerhead, or is green sea turtles, or Gulf sturgeon) or Gulf sturgeon-designated critical habitat. d	 The project is not likely to adversely affect ESA-listed species (leatherback, Kemp's ridley, hawksbill, loggerhead, or green sea turtles, smalltooth sawfish, or Gulf sturgeon) and there will be no effect on Gulf sturgeon-designated critical habitat. 	These projects are not likely to adversely affect ESA-listed species (leatherback, Kemp's ridley, hawksbill, loggerhead, or green sea turtles) and are not likely to in adversely affect Gulf sturgeon critical habitat Unit 11.
Description	turtle critical habitat.	The applicant proposes to install 4 fishing piers and overlook pier, covering approximately $5,000 \text{ ft}^2$ of open water with vibratory hammering. It is not located within any designated critical habitat.	The applicant proposes to restore and enhance oyster populations in Pensacola and Apalachicola Bays in Florida (total placement of 42,000 yd^3 of cultch material over 210 acres of previous oyster reefs). It located within designated Gulf sturgeon critical habitat Units 9 and 13. It is not located in loggerhea sea turtle critical habitat.	The applicant proposes to restore and enhance scallo production by the placement of scallop spat into Florida coastal waters. It is located within designate Gulf sturgeon critical habitat Units 9, 10, 12, and 13. It is not located in loggerhead sea turtle critical habitat.	The applicant proposes to build and deploy artificial reefs offshore in Florida coastal waters in 5 Florida counties: Escambia, Santa Rosa, Okaloosa, Walton, and Bay counties. The project spans 123 miles (107 nautical miles or 198 km) along the coast of Florida the nearshore as well as the offshore zone. Although some project sites are located within Gulf sturgeon critical habitat Unit 11, there are no sites in loggerhead sea turtle critical habitat.
Project		Mississippi, Popp's Ferry Causeway Park	Florida, Oysters Cultch	Florida, Scallop Enhancement	Florida, Artificial Reefs
PCTS Tracking Number		SER-2014- 13026	SER-2014- 13079	SER-2014- 13080	SER-2014- 13081
Reference		P3-11	P3-12	P3-13	P3-14

-2014- Mari 077 Enhz	Cent	P3-16 SER-2014- Lago	P3-16 SER-2014- Flori 13124 Boat P3-17 SER-2014- Flori P3-17 13131 Park	P3-16 SER-2014- Flori 13124 Boat P3-17 SER-2014- Flori P3-17 13131 Park P3-18 SER-2014- Flori 13127 Park	P3-16SER-2014- 13124Cent Elori BoatP3-17SER-2014- 13131Flori ParkP3-18SER-2014- 13127Flori ParkP3-19SER-2014- 13135Flori ParkP3-19SER-2014- 13135Flori Park	P3-16 SER-2014- 13124 Cent Elago P3-17 SER-2014- 13131 Flori Park P3-17 SER-2014- 13127 Flori Park P3-18 SER-2014- 13127 Flori Park P3-19 SER-2014- 13135 Flori Park P3-19 SER-2014- 13135 Flori Park P3-19 SER-2014- 13135 Flori Park P3-20 SER-2014- 13119 Flori Pioal
³ lorida, Gulf Coast Sal Varine Fisheries enl Hatchery/ aqu	Center Fig	Senter FIG Parida, Big Th Jagoon State Park rar Boat Ramp wa	Senter FIG Porida, Big Th agoon State Park rar Boat Ramp wa Porida, Gulf Th Breeze, Wayside rar Park Boat Ramp wa	Senter Fio Senter Fio State Park Far Soat Ramp Wayside Fiorida, Gulf Th Breeze, Wayside Far Sark Boat Ramp Water Sounty Waterfront H	CenterFIGPlorida, BigThJagoon State ParkrarJorida, GulfThPreeze, WaysiderarPark Boat RampwaPark Boat RampwaPark Improvements13Porida,ThPorida,13Porida,ThPark Improvements13Park Improvements13Park Improvement ofrarParks and BoatThParks and BoatwaParks And BoatPark	CenterFIGPlorida, BigThJoart RampThJoart RampThPlorida, GulfThPark Boat RampThPark Boat RampThPark Boat RampThPark Improvements13Plorida,ThPark Improvements13Plorida,ThPlorida,ThPark Improvement ofrarParks and Boat13Plorida,ThParks and BoatrarParks and BoatrarParek ParkThPorida, Port St.ThPorida, Port St.ThPorida, RampwaPorovementsrar
The applicant proposes to construct and operate a saltwater sportfish hatchery on a 10-acre vacant lot to enhance recreational fishing opportunities through aquaculture in Pensacola Bay, Escambia County, Florida.		The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 13.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 13. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 9. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters located in Gulf sturgeon critical habitat Unit 13. The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.
to affect F h Kemp'	habitat Ur	advorsory habitat Ur The proje al affect sea nit 9. sturgeon c	al affect se it 9. sturgeon al affect se it 9. sturgeon The proj al affect se it 9. sturgeon	al affect se nit 9. sturgeor nit 9. sturgeor al affect se nit 9. sturgeor nit 9. sturgeor nit 9. sturgeor nit 9. sturgeor nit 9. sturgeor nit sturgeor	al affect s nit 9. sturgeo nit 9. sturgeo nit 9. sturgeo nit 9. sturgeo nit 9. sturgeo al affect s al affect s al affect s al affect s	al affect s nit 9. sturgeo nit 9. sturgeo nit 9. sturgeo nit 9. sturgeo al affect s nit sturgeo al affect s al affect s al affect s

NMFS PRD Determinations	The project is not likely to adversely affect sea turtles or Gulf sturgeon.	The project is not likely to adversely affect sea turtles or Gulf sturgeon.	The project is not likely to adversely affect sea turtles or Gulf sturgeon.	The project is not likely to adversely affect sea turtles or Gulf sturgeon.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat Unit 12.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat Unit 10.	The project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat Unit 12.
Description	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.	The applicant proposes to renovate existing boat ramps and/or adjacent boat docks in Florida coastal waters.	The applicant proposes the construction of a new parking area, a picnic table, an observation dock, and steps from the shoreline into the water allowing access to the bay.	The applicant will construct new infrastructure to increase the public's opportunities to safely access coastal resources, including the beach and waters of Santa Rosa Sound. The project includes design and construction of 2 new beach-access boardwalks from the existing pavilion/parking lots to the Santa Rosa Sound and a new dock for launching canoes/kayaks.	The applicant will enhance and increase the public's enjoyment of the natural resources by stabilizing ongoing erosion and re-establishing Norriego Point using erosion control structures (groins) and placement of dredged sand fill.
Project	Florida, Panama City, St. Andrews Marina Boat Ramp	Florida, Parker Earl Gilbert Boat Ramp	Florida, Wakulla County, Marshes Sand Park Improvements	Florida, City of St. Marks, Boat Ramp	Florida, Bayside Ranchettes Park Improvements	Florida, Navarre Beach Park Coastal Access and Dune Restoration	Florida, Norriego Point Restoration
PCTS Tracking Number	SER-2014- 13277	SER-2014- 13272	SER-2014- 13085	SER-2014- 13278	SER-2014- 13270	SER-2014- 13275	SER-2014- 13086
Reference	P3-22	P3-23	P3-24	P3-25	P3-26	P3-27	P3-28

NMFS PRD Determinations	The project is not likely to adversely affect sea turtles, smalltooth sawfish, and Gulf sturgeon.
Description	The applicant proposes to construct a 1,700-linear-ft steel sheet-pile retaining wall approximately 2 ft in front of the existing wooden retaining wall. The proposed volume of fill between the wall and the shore will be 440.7 yd ³ . The project also includes replacing 18 existing finger piers along the northern side and creating 8 new finger piers along the western side, and creating 8 new finger piers will be 16 ft long by 3 ft wide, with a terminal pile to be installed along the western edge of the canal, for a total of 56 boat slips. The finger piers will be 16 ft long by 3 ft wide, with a terminal pile to be installed approximately 17 ft from the terminal pier. No seagrasses or mangroves were documented at the project site. Construction will be used for pier placement and dock construction. Piles will be installed primarily by low-pressure jet; however, a drop hammer may be used to finish installing the piles when necessary.
Project	Florida, City of Mexico Beach Marina, Bay County
PCTS Tracking Number	SER-2014- 13144
Reference	

P3-35	РЗ-34	Reference
SER-2014- 15033	SER-2014- 15032	PCTS Tracking Number
Louisiana, Chenier Ronquille Barrier Island Restoration Project	Florida, Gulf Island National Seashore Ferry Project	Project
The project purpose is to restore the integrity of the Chenier Ronquille barrier island by creating 309 acres of marsh and 189 acres of dune and beach. Approximately 11.1 x10 ⁶ yd ³ of material may be dredged (a minimum of 2.9 x10 ⁶ yd ³ will be dredged) from 4 borrow sites (S-I, S-2, D-1, and Quatre Bayou), consisting of 832 acres of unvegetated borrow site in the Gulf of Mexico southwest of Chenier Ronquille. The borrow sites will be dredged from the current depth of approximately -8 to -30 ft (North American Vertical Datum 1988) to a maximum of -37 ft. Dredged sediments will be pumped to the marsh via a dredge pipeline.	The National Park Service completed a permanent pier in the Fort Pickens Area of the GINS to accommodate a pedestrian ferry service to Fort Pickens from the mainland. The 2 ferryboats that will provide the service will travel a 3-stop loop, in opposite directions, 3 times a day. Ferry traffic will follow a designated navigational route. NPS anticipates that the 2 ferries combined will run 6 round-trips per day during a 15-week peak season, depending on weather conditions and demand. Ferry service will operate 6 days a week, Tuesday through Sunday, during daylight hours only. The passenger ferry vessels will be approximately 65 ft long, hold up to 150 passengers, and cruise at a maximum 12-20 knots.	Description
These projects are not likely to adversely affect ESA-listed species (leatherback, Kemp's ridley, loggerhead, or green sea turtles).	The project is not likely to adversely affect sea turtles, smalltooth sawfish, Gulf sturgeon, and Gulf sturgeon critical habitat Unit 9.	NMFS PRD Determinations

tation Tracking System (PCTS)	NMFS PRD Determinations	This project has no effect on marine mammals, and is not likely to adversely affect ESA-listed species (leatherback, Kemp's ridley, loggerhead, or green sea turtles, or Gulf sturgeon), nor likely to adversely affect the Sargassum loggerhead critical habitat.
Plan Projects with Corresponding Public Consult	Description	The project's purpose is to reduce Pelagic Longline fishing bycatch and compensate fishers to not fish with PLL gear. A compensation-based, voluntary, 6- month temporary repose period in PLL fishing, having a duration between 5-10 years, will prevent bycatch of ESA-listed species from PLL gear. The repose period would be from January to June of each year. The project would promote the use of buoy gear and green-stick gear, which is more discriminate than PLL gear in regards to the species targeted, and has been shown to have low post-release mortality of bycatch, and regulatory discards. The PLL Bycatch Reduction Project repose period will reduce PLL effort, resulting in fewer PLL hook sets. In doing so, the repose period will eliminate dead discarded bycatch from participating PLL vessels that would have otherwise been caught.
Early Restoration	Project	Pelagic Longline Bycatch Reduction Project
x 3. Phase IV	PCTS Tracking Number	SER-2015- 16919
Appendi	Reference	P4-1

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SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.

b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.

c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.

d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.

e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.

f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.

g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006



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 (727) 824-5312; FAX (727) 824-5309 http://sero.nmfs.noaa.gov

Measures for Reducing Entrapment Risk to Protected Species

Bottlenose dolphins, sea turtles, and Gulf sturgeon (protected species) are known to inhabit coastal waters of the northern Gulf of Mexico. Bottlenose dolphins are protected under the Marine Mammal Protection Act (MMPA) and sea turtles and Gulf sturgeon are protected under the Endangered Species Act (ESA). Because of the potential for these protected species to become entrapped within coastal waters of construction sites along the northern Gulf coast, projects that enclose shallow open water areas for wetland creation or nourishment will use the following measures to minimize the potential for entrapment:

- 1. **Pre-construction planning.** During project design, the Federal Action Agency or project proponents must incorporate at least one escape route into the proposed retention structure(s) to allow any protected species to exit the area(s) to be enclosed. Escape routes must lead directly to open water outside the construction site and must have a minimum width of 100 feet. Escape routes should also have a depth as deep as the deepest natural entrance into the enclosure site and must remain open until a thorough survey of the area, conducted immediately prior to complete enclosure, determines no Protected Species are present within the confines of the structure (see item 5 below for details).
- **2. Pre-construction compliance meeting.** Prior to construction, the Federal Action Agency, project proponents, the contracting officer representative, and construction personnel should conduct a site visit and meeting to develop a project-specific approach to implementing these preventative measures.
- **3. Responsible parties.** The Federal Action Agency will instruct all personnel associated with the project of the potential presence of protected species in the area and the need to prevent entrapment of these animals. All construction personnel will be advised that there are civil and criminal penalties for harming, harassing, or killing protected species. Construction personnel will be held responsible for any protected species harassed or killed as a result of construction activities. All costs associated with monitoring and final clearance surveys are the responsibility of project proponents and must be incorporated in the construction plan.
- **4. Monitoring during retention structure construction.** It is the responsibility of construction personnel to monitor the area for protected species during dike or levee construction. If protected species are regularly sighted over a 2 or 3 day period within the enclosure area during retention structure assembly, construction personnel must notify the Federal Action Agency. It is the responsibility of the Federal Action Agency



to then coordinate with the National Marine Fisheries Service (NMFS) Marine Mammal Health and Stranding Response team (1-877-WHALE HELP [1-877-942-5343]) or the appropriate State Coordinator for the Sea Turtle Stranding and Salvage Network (see http://www.sefsc.noaa.gov/species/turtles/stranding_coordinators.htm) to determine what further actions may be required. Construction personnel may not attempt to scare, herd, disturb, or harass the protected species to encourage them to leave the area.

- 5. Pre-closure final clearance. Prior to completing any retention structure by closing the escape route, the Federal Action Agency will insure that the area to be enclosed is observed for protected species. Surveys must be conducted by experienced marine observers during daylight hours beginning the day prior to closure and continuing during closure. This is best accomplished by small vessel or aerial surveys with 2-3 experienced marine observers per vehicle (vessel/helicopter) scanning for protected species. Large areas (e.g. >300 acres) will likely require the use of more than one vessel or aerial survey to insure full coverage of the area. These surveys will occur in a Beaufort sea state (BSS) of 3 feet or less, as protected species are difficult to sight in choppy water. Escape routes may not be closed until the final clearance determines the absence of protected species within the enclosure sight.
- 6. Post closure sightings. If protected species become entrapped in an enclosed area, the Federal Action Agency and NMFS must be immediately notified. If observers note entrapped animals are visually disturbed, stressed, or their health is compromised then the Action Agency may require any pumping activity to cease and the breaching of retention structures so that the animals can either leave on their own or be moved under the direction of NMFS.
 - a. In coordination with the local stranding networks and other experts, NMFS will conduct an initial assessment to determine the number of animals, their size, age (in the case of dolphins), body condition, behavior, habitat, environmental parameters, prey availability and overall risk.
 - b. If the animal(s) is/are not in imminent danger they will need to be monitored by the Stranding Network for any significant changes in the above variables.
 - c. Construction personnel may not attempt to scare, herd, disturb, or harass the protected species to encourage them to leave the area. Coordination by the Federal Action Agency with the NMFS SER Stranding Coordinator may result in authorization for these actions.
 - d. NMFS may intervene (catch and release and/or rehabilitate) if the protected species are in a situation that is life threatening and evidence suggests the animal is unlikely to survive in its immediate surroundings.
 - e. Surveys will be conducted throughout the area at least twice or more in calm surface conditions (BSS 3 feet or less), with experienced marine observers, to determine whether protected species are no longer present in the area.

Revised: May 22, 2012

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK 2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at ImperiledSpecies@myFWC.com.
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½ " by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm. Questions

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert: 1-888-404-FWCC(3922)

cell *FWC or #FWC

PCTS Access and Additional Considerations for ESA Section 7 Consultations (Revised 03-10-2015)

<u>Public Consultation Tracking System (PCTS) Guidance</u>: PCTS is a Web-based query system at **https://pcts.nmfs.noaa.gov/** that allows all federal agencies (e.g., U.S. Army Corps of Engineers - USACE), project managers, permit applicants, consultants, and the general public to find the current status of NMFS's Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultations which are being conducted (or have been completed) pursuant to ESA Section 7 and the Magnuson-Stevens Fishery Conservation and Management Act's (MSA) Sections 305(b)2 and 305(b)(4). Basic information including access to documents is available to all.

The PCTS Home Page is shown below. For USACE-permitted projects, the easiest and quickest way to look up a project's status, or review completed ESA/EFH consultations, is to click on either the "Corps Permit Query" link (top left); or, below it, click the "Find the status of a consultation based on the Corps Permit number" link in the golden "I Want To…" window.



Then, from the "Corps District Office" list pick the appropriate USACE district. In the "Corps Permit #" box, type in the 9-digit USACE permit number identifier, with no hyphens or letters. Simply enter the year and the permit number, joined together, using preceding zeros if necessary after the year to obtain the necessary 9-digit (no more, no less) number. For example, the USACE Jacksonville District's issued permit number SAJ-2013-0235 (LP-CMW) must be typed in as 201300235 for PCTS to run a proper search and provide complete and accurate results. For querying permit applications submitted for ESA/EFH consultation by other USACE districts, the procedure is the same. For example, an inquiry on Mobile District's permit MVN201301412 is entered as 201301412 after selecting the Mobile District from the "Corps District Office" list. PCTS questions should be directed to Kelly Shotts at Kelly.Shotts@noaa.gov or (727) 551-5603.

<u>EFH Recommendations</u>: In addition to its protected species/critical habitat consultation requirements with NMFS' Protected Resources Division pursuant to Section 7 of the ESA, prior to proceeding with the proposed action the action agency must also consult with NMFS' Habitat Conservation Division (HCD) pursuant to the MSA requirements for EFH consultation (16 U.S.C. 1855 (b)(2) and 50 CFR 600.905-.930, subpart K). The action agency should also ensure that the applicant understands the ESA and EFH processes; that ESA and EFH consultations are separate, distinct, and guided by different statutes, goals, and time lines for responding to the action agency; and that the action agency will (and the applicant may) receive separate consultation correspondence on NMFS letterhead from HCD regarding their concerns and/or finalizing EFH consultation.

<u>Marine Mammal Protection Act (MMPA) Recommendations</u>: The ESA Section 7 process does not authorize incidental takes of listed or non-listed marine mammals. If such takes may occur an incidental take authorization under MMPA Section 101 (a)(5) is necessary. Please contact NMFS' Permits, Conservation, and Education Division at (301) 713-2322 for more information regarding MMPA permitting procedures.