




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

MEMORANDUM FOR: File

FROM: Jamie Schubert, Marine Habitat Resource Specialist  
NOAA Restoration Center 

DATE: March 22, 2016

SUBJECT: DWH Early Restoration Phase IV: no further MMPA action  
needed from NMFS

There are more than 22 species of marine mammals in the Gulf of Mexico, including dolphins, whales, and the West Indian manatee. The Marine Mammal Protection Act (MMPA), as amended, prohibits the taking of marine mammals, where "take" is defined as "the act of hunting, killing, capture, and/or harassment of any marine mammal; or, the attempt at such" 16 U.S.C. § 1362(13). The Marine Mammal Protection Act does provide a mechanism (section 101(a)(5) (A-D)) for allowing, upon request, the "incidental", but not intentional, taking of small numbers of marine mammals by U.S citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region. Proposed projects were analyzed to evaluate the potential for any such non-fishery interactions with marine mammals.

Based on the Restoration Center's review of project materials (Spring 2015) in coordination with representatives from NOAA's Office of Protected Resources (OPR) in the Headquarters Office and the Protected Resources Division in the Southeast Regional Office, the NOAA Restoration Center determined that 2 of the 10 projects proposed for implementation in Phase IV of the DWH Early Restoration Plan fall outside of NMFS Marine Mammal Protection Act (MMPA) jurisdiction (occur above the mean high water line), as they do not contain suitable habitat for species protected under MMPA. The projects will not require further MMPA evaluation. The projects are:

- Osprey Restoration in Coastal Alabama
- Bon Secour National Wildlife Refuge Trail Enhancement Project, Alabama

Based on the Restoration Center's reviews of project materials (Spring 2015) in coordination with representatives from NOAA's OPR in the Headquarters Office and the Protected Resources Division in the Southeast Regional Office, the NOAA Restoration Center (RC) determined that 8



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National Marine Fisheries Service. The projects will not require further MMPA evaluation. The projects are:

- Seagrass Recovery Project at Gulf Islands National Seashore, Florida District
- Bike and Pedestrian Use Enhancements at Davis Bayou, Mississippi District, Gulf Islands National Seashore
- Point aux Pins Living Shoreline, Alabama
- Shell Belt and Coden Belt Roads Living Shoreline, Alabama
- Sea Turtle Early Restoration, Gulf-wide
- Pelagic Longline Bycatch Reduction Project, Gulf-wide
- Texas Rookery Islands Project, Texas
- Restoring Living Shorelines and Reefs in Mississippi Estuaries, Mississippi

