




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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SEP 6 2016

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SER-2015-17050

MEMORANDUM FOR: F/HC3 – Leslie Craig

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

SUBJECT: Deepwater Horizon-Early Restoration Plan
Phase IV, Endangered Species Act Section 7 Consultations
for Sea Turtle Stranding and Salvage Network Project

This memorandum responds to your request for consultation with us, the National Marine Fisheries Service (NMFS), pursuant to Section 7 of the Endangered Species Act (ESA) for the following action.

Applicants	Project Type
NOAA Restoration Center (RC) and NMFS Office of Protected Resources (OPR)	Sea Turtle Stranding and Salvage Network (STSSN) Project

Consultation History

We received your letter requesting pre-consultation technical assistance on February 20, 2015. We requested additional information on February 23, 2015, March 2, 24, and 25, 2015, May 15 and 19, 2015, June 4, 9, 22, and 23, 2015, and August 3, 2015. We received your letter requesting consultation on August 14, 2015. We requested additional information on December 23, 2015. We received a final response on July 29, 2016, and initiated consultation that day.

Project Location

The proposed project is located in the Gulf of Mexico.

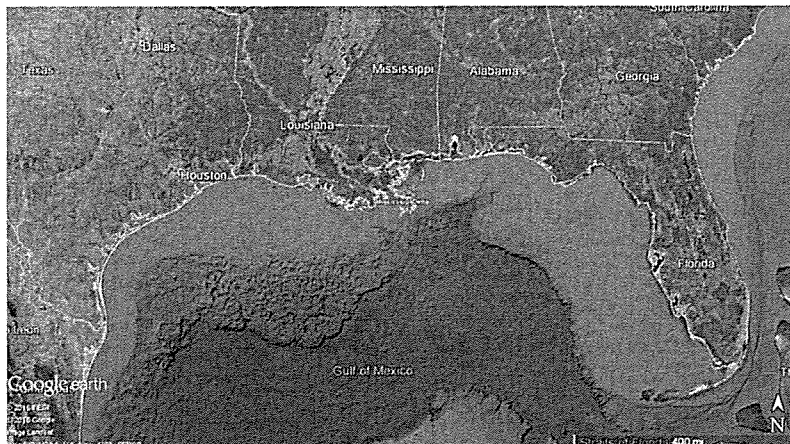


Figure 1 Gulf of Mexico

Project Description

The proposed project consists of 4 components. The first is Kemp's Ridley Sea Turtle Nest Detection and Enhancement. The second component is the Enhancement of the STSSN and Development of a Sea Turtle Emergency Response Program for Threatened and Endangered Sea Turtles. The third component is the Gulf of Mexico (GOM) Shrimp Trawl Bycatch Reduction. The fourth and final component is the Texas Enhanced Fisheries Bycatch Enforcement. This STSSN Project is one of a suite of projects proposed for implementation in Phase IV of the *Deepwater Horizon* Oil Spill Draft Early Restoration Plan. The NMFS RC, on behalf of the natural resource trustees (the Trustees) for the *Deepwater Horizon* oil spill, is serving as the lead federal agency for ESA Section 7 consultation for this project.

1. Kemp's Ridley Sea Turtle Nest Detection and Enhancement - The primary goal of this project component is to reduce Kemp's ridley sea turtle hatchling mortalities, through continued support to National Park Service, Texas Parks and Wildlife Department, U.S. Fish and Wildlife Service, and other partner Non-Governmental Organizations, for nest detection and protection activities over a 10-year period in Texas and Mexico. The project provides funding for additional staff, training, equipment, supplies, personnel expenses, fuel, vehicle purchases and maintenance as part of the current nest detection program in both Texas and Mexico. The project will also provide for the addition of two patrollers cabins and nesting corrals on the southern end of the Padre Island National Seashore. The detection of nests, relocation of eggs and release of hatchlings is a labor and equipment intensive process conducted in remote and harsh shoreline areas of the Texas coast. This portion of the proposed restoration project will maintain, improve and/or enhance current nest detection, collection and transport of, and protected care of Kemp's ridley sea turtles eggs and hatchlings in Texas. Funding will enable activities to be more comprehensive and effective, resulting in increased survival of turtles.

2. Enhancement of the STSSN and Development of a Sea Turtle Emergency Response Program - This project component would improve the infrastructure and response capabilities of the STSSN through the purchase of mobile sea turtle holding units, trailers, and vehicles. This equipment would be used throughout the GOM to provide benefits to sea turtles, through improved capacity to respond to, triage, rehabilitate, and release sea turtles during cold stun and other stranding events, but also through improved understanding of causes of strandings. This would allow for better future management of threats to sea turtles.

3. GOM Shrimp Trawl Bycatch Reduction - This project component would be implemented by NOAA and would enhance 2 existing NOAA programs, the Gear Monitoring Team (GMT) program, and the Observer Program (OP).

A. The GMT project component would provide funding to expand NOAA's GMT program within the GOM. The primary goal of the proposed expanded GMT is to provide a greater capacity for education and outreach to the shrimp fishing community to improve compliance with existing federal turtle excluder device (TED) regulations. This project component will add two new teams (each consisting of 2 staff), increasing the program to three teams total. The GMT will work closely with TED manufacturers and net shops to assist and ensure that TEDs are properly built and installed to the required standards. The GMT will also work with fishers and the community to improve their knowledge and understanding of how to effectively use and maintain TEDs. This will be achieved through offering workshops and courtesy dock-side and at-sea TED inspections.

B. The NOAA (OP) project component will provide funding to expand the capacity of NOAA's Southeast Shrimp Trawl Fisheries OP within the GOM. The project will add 300 observer sea days annually for a 10-year period. This additional coverage will focus on specific times and areas identified as priorities for monitoring sea turtle bycatch to better characterize and assess this bycatch. Observers aboard shrimp trawling vessels may handle, identify, photograph, measure, weigh, PIT tag, flipper tag, biopsy, and resuscitate sea turtles, and transport dead or injured turtles to shore to be transferred to NMFS approved STSSN personnel.

4. Texas Enhanced Fisheries Bycatch Enforcement - This project component would enhance Texas Parks and Wildlife Department enforcement activities for fisheries that incidentally catch sea turtles and operate in Texas State waters within the GOM for a 10-year period. These increased enforcement operations would focus on compliance with TED regulations during the beginning of the Gulf shrimp fishery season (approximately April 1 to May 15). Patrols would be targeted at the first 6 weeks of the commercial shrimping season that are generally the most active not only for the industry, but also for turtle interactions due to the beginning of the spring nesting season.

The ESA-listed species and critical habitat that may be affected by the proposed action are sperm whales, leatherback, Kemp's ridley, hawksbill, green¹, and loggerhead² sea turtles, and the loggerhead sea turtle² critical habitat.

Except for the activities proposed in components 1, 3(A), and 4 described above, the activities that NOAA RC will be funding through the proposed action were previously evaluated and authorized under existing Section 7 consultations. All aspects of project component 1 would be implemented above the water line, meaning that it is terrestrial and not in NMFS's jurisdiction. The ESA Section 7 consultation for this project component will be managed by the U.S. Fish and Wildlife Service. The activities described in project components 3(A) and 4 would enhance TED compliance generally and enhance enforcement of TED compliance in Texas. NMFS expects any effects to listed species from this increase in TED compliance and enforcement would be completely beneficial because it would reduce any adverse effects that are currently occurring by virtue of the continued operation of the Gulf shrimp fishery.

Activities funded through the proposed project component number 3(B) (Enhancement of the NOAA OP) will be conducted in a manner consistent with the requirements and authorizations provided in a previously issued scientific research permit (Permit No. 15552). This permit was issued pursuant to Section 10(a)(1)(A) of the ESA, authorizing NOAA OP personnel aboard commercial fishing vessels to handle, identify, photograph, measure, weigh, PIT tag, flipper tag, biopsy, and resuscitate sea turtles, and transport dead or injured turtles to shore to be transferred to NMFS approved STSSN personnel. Permit No. 15552 authorizes program participants to annually handle 94 green, 731 loggerhead, 76 hawksbill, 255 leatherback, 163 Kemp's ridley, and 120 olive ridley/hybrid sea turtles. This permit expired on July 26, 2016, but a request for renewal was made and in accordance with the regulations at 50 C.F.R. section 222.304, the

¹ The North Atlantic and South Atlantic distinct population segments (DPS) of green sea turtles.

² The Northwest Atlantic Ocean DPS of loggerhead sea turtles.

permitted activities may continue until a decision is made on the new application or the total number of unused takes authorized for the fifth year of the permit have been exhausted. On July 21, 2011, NMFS Protected Resources Division (Endangered Species Division) issued a Biological Opinion that analyzed the effects of the activities conducted under the NOAA OP authorized under scientific research permit No. 15552. The Biological Opinion concluded that issuance of Permit No. 15552 was not likely to jeopardize the continued existence of any listed sea turtles. The opinion also concluded that issuance of the permit would not affect any critical habitat that was designated at the time because the incidental capture and related impacts (including those to critical habitat) would be authorized by the section 7 biological opinions or section 10(a)(1)(B) permits for each fishery.

This project component would increase the number of observer sea days under the OP permit, but it would not change any of the existing activities or protocols, and observers would only be authorized to take turtles up to the amount authorized in Permit No. 15552 and the associated 2011 Biological Opinion. The Biological Opinion was issued before the listing of the green sea turtle DPSs. However, any take of these DPSs will be addressed in the permit renewal and any applicable section 7 consultation. As noted above, this project component must be implemented under the authority of the OP permit. Further, although loggerhead critical habitat was not analyzed in the 2011 Biological Opinion, there will be no effect to this habitat for the same reasons there will be no effect to the critical habitat analyzed in that opinion, as stated above.

The enhancements to the STSSN under component 2 of the proposed project were included in as part of the proposed action addressed in a July 29, 2016, Biological Opinion that analyzed the effects of activities conducted by the STSSN under the programmatic section permit codified at 50 CFR Part 221.301 and the take exemptions codified at 50 CFR Part 223.206(b). That Biological Opinion concluded that none of those activities are likely to jeopardize the threatened and endangered sea turtles. The Biological Opinion also concluded that the activities are not likely to adversely affect sperm whales or loggerhead critical habitat. All activities carried out under the proposed project will be conducted in a manner consistent with the requirements and authorizations provided in the 2016 Biological Opinion.

Conclusion

The potential project effects to listed species and critical habitats were either previously analyzed and authorized, under the consultation processes described above, or determined to be completely beneficial and therefore not likely to adversely affect listed species. This concludes your consultation responsibilities under the ESA for species and critical habitat 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.

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.