



MEMORANDUM FOR: FILE

FROM: Christy Fellas, DWH Environmental Compliance Coordinator
NOAA Restoration Center, Southeast Region

DATE: August 1, 2017

SUBJECT: Projects Proposed in Texas Trustee Implementation Group Restoration Plan #1 and Environmental Assessment: No Further Action Needed for NMFS Species Protected under the MMPA

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Christy

There are more than 22 species of marine mammals in the Gulf of Mexico, including dolphins and whales. 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 my review of project materials (Summer 2017) in coordination with representatives from NOAA's Protected Resource Division (PRD) in the South East Regional Office (SERO), the NOAA Restoration Center determined that the land acquisition and engineering and design projects proposed for implementation in the Texas TIG Restoration Plan/Environmental Assessment will have no effect to MMPA protected species under the jurisdiction of National Marine Fisheries Service¹ because the projects are restricted to planning/design and land acquisition. These projects will not require further MMPA evaluation. Should any project be modified in a way that could adversely impact marine mammals, this determination will be reevaluated as appropriate.

Proposed Projects:

- Follets Island Habitat Acquisition
- Midcoast Habitat Acquisition
- Bahia Habitat Coastal Corridor Acquisition
- Laguna Atascosa Habitat Acquisition
- Oyster Restoration Engineering and Design
- Bird Island Cove Habitat Restoration Engineering and Design
- Essex Bayou Habitat Restoration Engineering and Design
- Dredge Material Planning for Wetland Restoration Engineering and Design

¹ This letter is not intended to determine effects to MMPA protected species under the jurisdiction of USFWS.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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In coordination with representatives from NOAA's Protected Resource Division (PRD) in the South East Regional Office (SERO), the NOAA Restoration Center determined that the remained of projects proposed for implementation in the Texas TIG Restoration Plan/Environmental Assessment do not require further evaluation under the MMPA because the projects were reviewed and additional measures to reduce potential harassment were incorporated into the project descriptions. Should any project be modified in a way that could adversely impact marine mammals, this determination will be reevaluated as appropriate. The projects are:

- McFaddin Beach and Dune Restoration / Upper TX Coast
- Bessie Heights Wetland Restoration
- Pierce Marsh Wetland Restoration through Beneficial Use of Dredged Material
- Indian Point Shoreline Erosion Protection
- Bahia Grande Hydrologic Main Channel