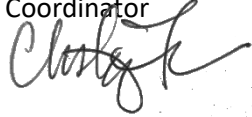




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MEMORANDUM FOR: FILE

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

DATE: March 28, 2023

SUBJECT: LA TIG Funding for Fisheries-Independent Monitoring Program:
Activities Covered by Existing ESA Compliance

Based on my review of the project materials (February 2023) describing the FIMP program, and in coordination with representatives from NOAA's Protected Resource Division in the Southeast Regional Office, the NOAA Restoration Center (RC) determined that the continuation of the FIMP program proposed for NRDA funding by the LA TIG has existing coverage from previous compliance efforts under the Endangered Species Act, under the jurisdiction of National Marine Fisheries Service (NMFS).

The Louisiana coastwide FIMP provides valuable data for the nearshore habitats and resources targeted for NRDA restoration, including coastal wetlands, oysters, nekton, and prey resources (e.g., shrimps, crab, fishes) for threatened and/or endangered species such as the gulf sturgeon, sea turtles, and marine mammals. The LA TIG can use the data provided by the coastwide FIMP to assess changes in the fish, shellfish and their associated habitats (physical habitat with accompanying environmental data) in the basins over time, allowing for assessment of the influence of the comprehensive, integrated portfolio of restoration projects at a coastwide or regional-scale within the Gulf of Mexico (GOM) and relative to other drivers and long-term trends in the basins.

The project would continue identical activities to those proposed in 2018 when NMFS completed an ESA consultation (attached). And research trawling has been authorized by NMFS (attached). Therefore, these proposed activities above fit within the existing ESA analysis completed in 2018 and do not require further ESA consultation at this time. If the project is modified in a way that may not be covered by existing analyses, it will be reevaluated as appropriate.



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
<https://www.fisheries.noaa.gov/region/southeast>

F/SER31:JTP

Mr. Peyton Cagle
Biologist DCL-B
Louisiana Department of Wildlife and Fisheries
P.O. Box 98000
Baton Rouge, Louisiana 70898

Dear Mr. Cagle:

This letter responds to your October 3, 2022, letter regarding an exemption from federal turtle excluder device (TED) regulations to conduct research trawling as part of the Louisiana Department of Wildlife and Fisheries (LDWF) Office of Fisheries fishery-independent sampling program. LDWF research vessels utilize trawls with headrope lengths of 6 to 42 feet, and have standardized tow times from 10 to 45 minutes. The following vessels may participate in LDWF research-trawling activities:

CSA	Property Tag #	Registration	Vessel Type	Length	Engine Type	Engine Size (HP)
1	97461-0005325	LA2479PU	Maycraft Cabin Cruiser	25	Outboard	Twin 150
1	97461-0005330	LA2468PU	Aluma Aluminum Hull	23	Outboard	250
1	97461-0005618	LA2720PU	Lifeyme Aluminum Hull	27	Outboard	Twin 250
1	97461-0005619	LA2718PU	Lifeyme Aluminum Hull	23	Outboard	250
1	974-27-9060	LA1699PU	Twin Vee Fiberglass Catamaran	26	Outboard	Twin 150
1	97463-002378	LA2429PU	Parker Cabin Cruiser	28	Outboard	Twin 250
1	97461-0005332	LA2467PU	Lifeyme Aluminum Hull	23	Outboard	250
1	97461-0005662	LA2770PU	Twin Vee Fiberglass Catamaran	29	Outboard	Twin 250



1	97461-004307	LA1284PU	Parker Fiberglass Cabin Cruiser	25	Outboard	Twin 200
1	97461-005194	LA2186PU	Reno Fiberglass Skiff	26	Outboard	250
1	97461-005882	LA2965PU	Reno Fiberglass Skiff	26	Outboard	300
3	97461-0005331	LA2466PU	Aluma Aluminum Hull	23	Outboard	250
3	97463-002534	LA2795PU	Lifeyme Aluminum Hull	24	Outboard	300
3	97461-0005617	LA2714PU	Reno Fiberglass Skiff	26	Outboard	250
3	97461-0005634	LA2805PU	Boston Whaler Cabin Cruiser	27	Outboard	Twin 250
3	97461-005203	LA2226PU	Aluma Aluminum Hull	23	Outboard	250
3	500138790	LA3114PU	US Workboats Aluminum Cat Hull	28	Outboard	Twin 250
5	97461-0005582	LA2664PU	Lifeyme Aluminum Hull	23	Outboard	250
5	97427-10873	LA2416PU	Carolina Skiff Fiberglass Skiff	25	Outboard	200
5	97461-004843	LA1379PU	Gravois Aluminum Cabin Cruiser	26	Outboard	Twin 200
5	97461-004915	LA1466PU	Parker Fiberglass Cabin Cruiser	25	Outboard	Twin 250
5	97461-004966	LA1544PU	Pathmaker Aluminum Hull	23	Outboard	200

LDWF research trawl tow times do not exceed 45 minutes. The use of a TED may exclude certain fish species and bias the collected data.

Under federal regulations protecting endangered and threatened species of sea turtles, any shrimp trawler in the southeastern United States must have an approved TED in any net rigged for fishing. Since the aforementioned research vessels are considered as shrimp trawlers under the regulatory definition at 50 CFR 222.102, they are subject to federal TED regulations under 50 CFR Part 223. Federal TED regulations, however, provide limited exemptions for improving shrimp retention efficiency of existing approved TEDs, developing additional TEDs, or conducting fishery research, with a written authorization from the Southeast Regional Administrator. Potential adverse effects of these limited authorizations were analyzed by the National Marine Fisheries Service (NMFS) in the April 26, 2021, biological opinion entitled, *Reinitiation of Endangered Species Act Section 7 Consultation on the Implementation of the Sea Turtle Conservation Regulations under the ESA and the Authorization of the Southeast U.S. Shrimp Fisheries in Federal Waters under the Magnuson-Stevens Fishery Management and Conservation Act*. The biological opinion considered, among other things, the effects of routine issuance of the Southeast Region's authorization letters to allow research or testing that would otherwise be subject to the TED requirements. The incidental take statement included in the aforementioned biological opinion authorizes any incidental take associated with said authorized research.

Based on this information and under 50 CFR 223.207(e)(2), I am authorizing you to conduct the described fishery research with trawls equipped without TEDs, subject to the following nondiscretionary conditions. The vessel captains will be responsible for the conduct of all trawling under this authorization. A copy of this letter and its enclosure (the *Sea Turtle Handling and Resuscitation Guidelines*) must be kept onboard the vessels when activities are being conducted under this authorization. This authorization is valid through December 31, 2027.

The following conditions must also be observed:

1. Use of mechanical advantage trawl-retrieval systems is authorized.
2. Because no TED will be installed in the trawl net, you must limit tow times, defined as the time the trawls enter the water until they are retrieved from the water, to no more than 15 minutes.
3. If a sea turtle is caught, it must be handled, and resuscitation measures must be implemented according to the enclosed procedures.
4. If a sea turtle is killed as a result of this activity, the activity must cease (e.g., subsequent fishing may only use TEDs as specified in 50 CFR 223.207) and the mortality must be reported to the Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Region (727-824-5312; FAX: 727-824-5309; ADDRESS: 263 13th Avenue South, St. Petersburg, Florida 33701), within 24 hours after returning to port.
5. A written report summarizing your findings must be sent to the address listed in Condition 4 no more than 30 days after the expiration of this permit.

Please call Ms. Jashira Torres, Natural Resources Specialist, at the number listed above, if you have any questions about this authorization.

Sincerely,

Andrew J. Strelcheck
Regional Administrator

Enclosure

File: 1514-17

cc: F/PR3
F/SEC
F/EN3

SEA TURTLE HANDLING AND RESUSCITATION GUIDELINES

Any sea turtles taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

A) Sea turtles that are actively moving or determined to be dead (as described in paragraph (B)(4) below) must be released over the stern of the boat. In addition, they must be released only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

B) Resuscitation must be attempted on sea turtles that are comatose or inactive by:

- 1) Placing the turtle on its bottom shell (plastron) so that the turtle is right side up and elevating its hindquarters at least 6 inches (15.2 cm) for a period of 4 to 24 hours. The amount of elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Periodically, rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternate to the other side. Gently touch the eye and pinch the tail (reflex test) periodically to see if there is a response.
- 2) Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water. A water-soaked towel placed over the head, carapace, and flippers is the most effective method in keeping a turtle moist.
- 3) Sea turtles that revive and become active must be released over the stern of the boat only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Sea turtles that fail to respond to the reflex test or fail to move within 4 hours (up to 24, if possible) must be returned to the water in the same manner as that for actively moving turtles.
- 4) A turtle is determined to be dead if the muscles are stiff (rigor mortis) and/or the flesh has begun to rot; otherwise, the turtle is determined to be comatose or inactive and resuscitation attempts are necessary.

Any sea turtle so taken must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

These requirements are excerpted from 50 CFR 223.206(d)(1). Failure to follow these procedures is therefore a punishable offense under the Endangered Species Act.



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>

F/SER31: RH
SER-2018-19438

JUL 20 2018

Rachel W. Sweeney
Program Manager, Deepwater Horizon Restoration Program
NOAA Restoration Center
263 13th Avenue South
St. Petersburg, Florida 33701

Ref.: NOAA Restoration Center (DWH NRDA) – Louisiana Trustee Implementation Group
Coastwide Fisheries-Independent Monitoring Program (FIMP) Enhancement –
EXPEDITED TRACK

Dear Sir or Madam:

This letter responds to your July 17, 2018, request pursuant to Section 7 of the Endangered Species Act (ESA) for consultation with the National Marine Fisheries Service (NMFS) on the subject action.

We reviewed the action agency's consultation request document and related materials. Based on our knowledge, expertise, and the action agency's materials, we concur with the action agency's conclusions that the proposed action is not likely to adversely affect the NMFS ESA-listed species and/or designated critical habitat. This concludes your consultation responsibilities under the ESA for species and/or designated critical habitat under NMFS's purview. Reinitiation of consultation is required and shall be requested by the action agency or by NMFS where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (a) take occurs; (b) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in this consultation; (c) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not previously considered in this consultation; or (d) if a new species is listed or critical habitat designated that may be affected by the action.

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 on this consultation, please contact Robert Hoffman, Consultation Biologist, at (727) 824-5312 or by email at robert.hoffman@noaa.gov.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator

File: 1514-22.c





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

July 16, 2018

David Bernhart
Assistant Regional Administrator for Protected Resources
NOAA Fisheries Service, Southeast Regional Office
263 13th Avenue South
Saint Petersburg, Florida 33701

Re: Request for section 7 Endangered Species Act Informal Consultation for Project Proposed for Funding under the Deepwater Horizon Oil Spill Natural Resource Damage Assessment in the Louisiana Trustee Implementation Group

Dear David,

The National Oceanic and Atmospheric Administration (NOAA) Restoration Center requests informal consultation under section 7 of the Endangered Species Act (ESA) for the project listed below that may affect ESA-listed species.

The NOAA Restoration Center, is the Lead Federal Agency, and is requesting consultation on behalf of the Louisiana Trustee Implementation Group (LA TIG). Enclosed please find the project scope and details for the enhanced coastwide fish and shellfish monitoring program conducted by the Louisiana Department of Wildlife and Fisheries (LDWF) and to be funded by the LA TIG.

This proposed action is a continuation of a component of the Louisiana coastwide fisheries-independent monitoring program (FIMP) conducted by the LDWF and is also consistent with the robust fish and shellfish sampling design developed for the System Wide Assessment and Monitoring Program (SWAMP) to identify significant changes in nekton community composition and oyster biomass within the coastal basins and at a coastwide (i.e., regional) scale that may result from large-scale and/or cumulative coastal restoration and protection projects, environmental disturbances, changing climate, and other major drivers that impact the system (Hijuelos and Hemmerling 2015, 2016). will support several pilot projects that will collect necessary data for better quantification of fish and shellfish (collectively referred to as "fish" through proposal) relative abundances and densities, species composition and community/food web interactions, and habitat use within the coastal basins. The pilot projects will complement the current LDWF FIMP framework for better enumeration and a quantitative comparison among the monitoring gears that sample the fish life stages within the coastal wetlands, shallow shorelines, and more fresh water areas of the estuaries. The coastwide FIMP provides valuable data for the nearshore habitats and resources targeted for NRDA restoration, including coastal wetlands, oysters, nekton, and prey resources (e.g., shrimps, crab, fishes) for threatened and/or endangered species such as the gulf sturgeon, sea turtles, and marine mammals. The LA TIG can use the data provided by the coastwide FIMP to assess changes in the fish, shellfish and their associated habitats (physical habitat with accompanying environmental data) in the basins over time, allowing for assessment of the influence of

the comprehensive, integrated portfolio of restoration projects at a coastwide or regional-scale within the Gulf of Mexico and relative to other drivers and long-term trends in the basins.

A portion of the proposed action will require the use of trawl gear; trawl gear is known to take ESA listed species. However, LDWF has a National Marine Fisheries Service (NMFS) five year authorization, dated 11/9/2017 and issued under 50 CFR 223.207 (e)(2) to conduct fisheries research with trawls equipped without turtle excluder devices (TEDs). Potential adverse effects to listed species of these limited authorizations was analyzed by NMFS in the April 18, 2014, biological opinion concerning shrimp trawling in the Southeastern United States as regulated under the ESA Sea Turtle Conservation Regulations and as managed under the Magnuson-Stevens Fishery Conservation and Management Act. The biological opinion considered, among other things, the effects of routine issuance of the Southeast Region's authorization letters that allow research or testing that would otherwise be subject to the TED requirements. The Incidental Take Statement of the aforementioned biological opinion authorizes any incidental take associated with said authorized research.

A portion of the proposed action will require the use of center bag seine nets along the shoreline and shallow marsh edge within the Louisiana coastal basins. The use of this gear is not likely to adversely affect listed species because these relatively short, low catch efficiency nets (50 feet) are set within 100 feet of the shoreline or marsh edge and pulled slowly by field biologists walking shoreward. Since they are pulled by hand it is quite likely that any sea turtle in the vicinity of the net could be identified and avoided. It is extremely unlikely that a listed species would be captured in seine net sampling during the implementation of the proposed action, given the sampling locations, gear size, deployment speed, and efficiency. In addition, the nets will not be deployed if a listed or protected species is seen in the sampling area unless and until the animal(s) is(are) seen to leave the area, or it is deemed that there has been adequate time for such departure to have occurred. Based on the history of no captures in this gear and the reasons just described, we believe the chances of adverse effects to listed species are discountable.

A portion of the proposed action will require the use of electrofishing along the shoreline and shallow marsh edge within the coastal basins. It is extremely unlikely that a listed species would be captured in electrofishing samples during the implementation of the proposed action, given the sampling locations near shore and marshes), shallow depths, and the small effective range of the equipment. The use of this gear is not likely to adversely affect listed species because of the relatively short gear activation times (90 second tracks), small effective sampling range, and close proximity to shallow shoreline and marsh edge. In addition, the equipment will not be activated if a listed or protected species is seen in the sampling area unless and until the animal(s) is(are) seen to leave the area, or it is deemed that there has been adequate time for such departure to have occurred. Shallow water and the use of a 50m sampling buffer between the equipment and observed protected species in the deployment protocol further increases the likelihood of interactions. Based on the history of no captures and the reasons just described, we believe the chances of adverse effects to listed species are discountable.

A portion of the proposed action will require the use of a drop sampler along the shoreline and shallow marsh edge within the coastal basins. The use of this gear is not likely to adversely affect listed species because of the small size of the sampling area (1 m²), and close proximity to shoreline and marsh edge. The likelihood of a listed species being captured in drop samples during the implementation of the proposed action, given the gear design and deployment method is discountable. In addition, the equipment will not be deployed if a listed species is seen in the sampling area unless and until the



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animal(s) is(are) seen to leave the area, or it is deemed that there has been adequate time for such departure to have occurred.

A portion of the proposed action will require the use of a square meter quadrat to estimate the density of alive and dead oysters at various life history stages. The 1 m² PVC quadrat frame is deployed by divers and will have no effect on listed or protected species.

A portion of the proposed action will require the use of an oyster dredge to sample oysters, fouling organisms, and other sessile organisms, including the oyster drill and hooked mussel. The use of this gear is not likely to adversely affect listed species because of the small overall size of the gear, small opening, slow tow speeds, and short tow duration. In addition, the equipment will not be deployed if a listed species is seen in the sampling area unless and until the animal(s) is(are) seen to leave the area, or it is deemed that there has been adequate time for such departure to have occurred. Based on the history of no captures and the reasons just described, we believe the chances of adverse effects to listed species are discountable.

A portion of the proposed action will require the use of gill and trammel nets, and has the potential to affect non-targeted species, including ESA-listed species if captured incidentally. It is extremely unlikely a listed species would be captured in gill or trammel net sampling during the implementation of the proposed action, given the sampling locations, gear type, short soak times, gill net monitors and constant tending. If a sea turtle, Gulf sturgeon, or dolphin is spotted in the sampling area, per written project sampling protocol, the gill net will not be set until the animal(s) is seen to leave the area or it is deemed there has been adequate time for such departure to have occurred. If the net is soaking and a listed species is seen, the net will immediately be removed and not be re-deployed until the animal(s) leave the area. The use of this collection gear is not likely to adversely affect listed species in the sampling area. Based on the reasons just described, we believe the chances of adverse effects to listed species are discountable.

Designated Gulf sturgeon critical habitat in the sampling area of the proposed action is described as follows:

Unit 8: Lake Pontchartrain, Lake St. Catherine, The Rigolets, Little Lake, Lake Borgne, and Mississippi Sound in Jefferson, Orleans, St. Tammany, and St. Bernard Parish, Louisiana, Hancock, Jackson, and Harrison Counties in Mississippi, and in Mobile County, Alabama.

Unit 8 encompasses Lake Pontchartrain east of the Lake Pontchartrain Causeway, all of Little Lake, The Rigolets, Lake St. Catherine, Lake Borgne, including Heron Bay, and the Mississippi Sound. Critical habitat follows the shorelines around the perimeters of each included lake. The Mississippi Sound includes adjacent open bays including Pascagoula Bay, Point aux Chenes Bay, Grand Bay, Sandy Bay, and barrier island passes, including Ship Island Pass, Dog Keys Pass, Horn Island Pass, and Petit Bois Pass. The northern boundary of the Mississippi Sound is the shorelines of the mainland between Heron Bay Point, Mississippi and Point aux Pins, Alabama. Critical habitat excludes St. Louis Bay, north of the railroad bridge across its mouth; Biloxi Bay, north of the U.S. Highway 90 bridge; and Back Bay of Biloxi. The southern boundary follows along the broken shoreline of Lake Borgne created by low swampy islands from Malheureux Point to Isle au Pitre. From the northeast point of Isle au Pitre, the boundary continues

in a straight north-northeast line to the point 1 nautical mile (nm) (1.9 kilometers (km)) seaward of the western most extremity of Cat Island (30°13'N, 89°10'W). The southern boundary continues 1 nm (1.9 km) offshore of the barrier islands and offshore of the 72 COLREGS lines at barrier island passes (defined at 33 CFR 80.815 (c), (d) and (e)) to the eastern boundary. Between Cat Island and Ship Island there is no 72 COLREGS line. We therefore, have defined that section of the southern boundary as 1 nm (1.9 km) offshore of a straight line drawn from the southern tip of Cat Island to the western tip of Ship Island. The eastern boundary is the line of longitude 88°18.8'W from its intersection with the shore (Point aux Pins) to its intersection with the southern boundary. The lateral extent of Unit 8 is the mean (average) high water (MHW) line on each shoreline of the included water bodies or the entrance to rivers, bayous, and creeks. (ii) Major shipping channels in this unit, as identified on standard navigation charts and marked by buoys, are excluded under section 4(b)(2) of the Act.

Gulf sturgeon critical habitat consists of the following primary constituent elements (PCEs):

The PCEs essential for the conservation of Gulf sturgeon are those habitat components that support feeding, resting, and sheltering, reproduction, migration, and physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements include:

- abundant prey items within riverine habitats for larval and juvenile life stages, and within estuarine and marine habitats and substrates for juvenile, subadult, and adult life stages;
- riverine spawning sites with substrates suitable for egg deposition and development, such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone or hard clay;
- riverine aggregation areas, also referred to as resting, holding, and staging areas, used by adult, subadult, and/or juveniles, generally, but not always, located in holes below normal riverbed depths, believed necessary for minimizing energy expenditures during fresh water residency and possibly for osmoregulatory functions;
- a flow regime (*i.e.*, the magnitude, frequency, duration, seasonality, and rate-of-change of fresh water discharge over time) necessary for normal behavior, growth, and survival of all life stages in the riverine environment, including migration, breeding site selection, courtship, egg fertilization, resting, and staging; and
- a flow regime necessary for maintaining spawning sites in suitable condition for egg attachment, eggs sheltering, resting, and larvae staging;
- water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;
- sediment quality, including texture and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;
- and safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (*e.g.* a river unobstructed by any permanent structure, or a dammed river that still allows for passage).



The sampling in the proposed action will not adversely affect the PCEs for designated Gulf Sturgeon critical habitat. The only PCE that maybe affected by the proposed action is the abundant prey PCE. Only the fish and shellfish sampling (with trawls and oyster dredges) may affect this PCE; however, due to the small scale of the sampling we believe any effects to this PCE will be insignificant. The proposed sampling will have no effect on the remaining PCEs that are related to spawning and aggregation areas, flow regimes, water and sediment quality, or availability of functional migratory pathways.

Designated GoM loggerhead sea turtle critical habitat is described as follows:

LOGG-S-2—Gulf of Mexico Sargassum. This unit contains *Sargassum* habitat only. The northern and western boundaries of the unit follow the 10 m depth contour starting at the mouth of South Pass of the Mississippi River proceeding west and south to the outer boundary of the U.S. EEZ. The southern boundary of the unit is the U.S. EEZ from the 10 m depth contour off of Texas to the Gulf of Mexico-Atlantic border (83° W. long.). The eastern boundary follows the 10 m depth contour from the mouth of South Pass of the Mississippi River at 28.97° N. lat., 89.15° W. long., in a straight line to the northernmost boundary of the Loop Current (28° N. lat., 89° W. long.) and along the eastern edge of the Loop Current roughly following the velocity of 0.101-0.20 m/second as depicted by Love *et al.* (2013) using the Gulf of Mexico summer mean sea surface currents from 1993-2011, to the Gulf of Mexico-Atlantic border (24.58° N. lat., 83° W. long.).

The PCEs that support this habitat are the following:

- (i) Convergence zones, surface-water downwelling areas, the margins of major boundary currents (Gulf Stream), and other locations where there are concentrated components of the *Sargassum* community in water temperatures suitable for the optimal growth of *Sargassum* and inhabitation of loggerheads;
- (ii) *Sargassum* in concentrations that support adequate prey abundance and cover;
- (iii) 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
- (iv) 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 only sampling gear proposed for use in loggerhead critical habitat is the otter trawl. Trawling will not affect PCEs I, iii, and iv. Trawling may effect PCE ii; however, trawl sampling will not take place if *Sargassum* is observed in the selected sampling area. Therefore, any effects of the proposed action on loggerhead designated critical habitat will be insignificant.

The sampling proposed is not likely to affect ESA-listed species or their critical habitats as outline below (Table 1).

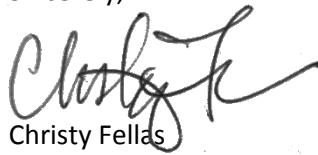
Table 1: Species and critical habitats in the action area

Species	ESA Listing Status	Effect Determination
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Green sea turtle ¹	T	NLAA
Kemp's ridley sea turtle	E	NLAA
Leatherback sea turtle	E	NLAA
Loggerhead sea turtle ²	T	NLAA
Hawksbill sea turtle	E	NLAA
Gulf sturgeon	T	NLAA
Critical Habitat	Status	Effect Determination
Gulf sturgeon CH	Designated	NLAA
Loggerhead sea turtle CH	Designated	NLAA

For further questions about the projects, please contact Christy Fellas in the NOAA Restoration Center, Southeast Region at 727-551-5714 or christina.fellas@noaa.gov. Thank you for your assistance.

Sincerely,



Christy Fellas
Environmental Compliance Coordinator
Deepwater Horizon Restoration Program

¹ North Atlantic and South Atlantic DPS

² Northwest Atlantic Ocean DPS