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To: [Orms, Mary](#); Matthew.Thompson@spacex.com
Cc: Kendal.Keyes@tpwd.texas.gov; [Reyes, Ernesto](#); [Spier, Mark E](#); [Winton, Bryan](#); [Clements, Pat](#); [Ardizzone, Chuck CA](#); [Gardiner, Dawn](#); [Jess, Robert RJ](#); Daniel.Murray@faa.gov; Howard.Searight@faa.gov; Lemuel.Thomas@faa.gov
Subject: [EXTERNAL] RE: SpaceX
Date: Wednesday, April 10, 2019 2:17:23 PM
Importance: High

Mary –

Thank you for this information and thank you for your comments on the WR. Much of this was covered in our discussion from last fall and a letter we sent you earlier.

We are pulling your WR comments and various emails into a table and will provide comment responses and previous documents and letters to help the understanding. We are working to get something to you early next week.

-Stacey

From: Orms, Mary <mary_orms@fws.gov>

Sent: Friday, April 05, 2019 2:54 PM

To: Zee, Stacey (FAA) <Stacey.Zee@faa.gov>; Matthew Thompson <Matthew.Thompson@spacex.com>

Cc: Kendal Keyes <Kendal.Keyes@tpwd.texas.gov>; Ernesto Reyes <ernesto_reyes@fws.gov>; Mark Spier <mark_spier@nps.gov>; Bryan Winton <bryan_winton@fws.gov>; Pat Clements <pat_clements@fws.gov>; Chuck Ardizzone <chuck_ardizzone@fws.gov>; Dawn Gardiner <dawn_gardiner@fws.gov>; Robert Jess <robert_jess@fws.gov>

Subject: SpaceX

Stacey,

As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

I received a drone video of the current site. I compared its location and size to the original project site we analyzed under the BO. What I noticed was that the location of the piping plover habitat impacts we assessed is not the same. It has moved further west into another area that was not presumed to have the same impacts because of the site configuration. Therefore, "take" of that habitat has not been assessed and the one we did is not longer valid. Therefore, the current vegetation monitoring plan that is being implemented is no longer valid because the area is not being impacted. The "take" issued will have to be reanalyzed and the vegetation monitoring plan revised. I have attached pictures that show the old and new location of the site and the areas analyzed and Figure 15 and 16 of the BO for you to compare.

The closures are another issue. We understand there is an agreement between The Texas General Land Office and Cameron County. It includes holidays that SpaceX

cannot have activities and authorizes Cameron County to issue the notices of closure. However, our consultation is with FAA. FAA authorized the activities under the waiver, and the BO is the agreement we have with FAA, therefore, measures as to how to conduct those closures should be undertaken as the FAA has agreed to under the BO. The Service has informed FAA several times that it is not in compliance, yet the closures continue in a manner unacceptable under the BO.

As added information sea turtles have started nesting south of the border, therefore we expect sea turtles to start nesting any day along our beaches, in particular Boca Chica. We know Sea Turtle Inc. and SpaceX have had discussions and hopefully if all goes well Sea Turtle Inc. will be able to arrive at the SpaceX station on Monday and begin their patrols on Tuesday.

We recommend a meeting or call to discuss the 1) piping plover issue, because, at this time FAA is not covered for impacts to the plover; 2) closures as FAA is out of compliance; 3) Reinitiation of the BO and/or how to handle all the changes in project purpose, location, design, operation and monitoring.

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