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APR 02 2012

Mr. Chris Doley
NOAA Restoration Center
1315 East West Highway, SSMC 3
Silver Spring, MD 20910-3282

Re: Deepwater Horizon Oil Spill Draft Phase 1 Early Restoration Plan

Dear Mr. Doley:

This responds to the NOAA Restoration Center's (RC) letter dated January 19, 2012, requesting section 7 consultation pursuant to the Endangered Species Act (ESA) for the eight projects comprising the Deepwater Horizon Oil Spill Draft Phase 1 Early Restoration Plan (DERP). The NOAA RC, a lead federal agency, is requesting consultation on behalf of the natural resource trustees for the Deepwater Horizon oil spill. The suite of eight projects proposed as part of the Phase 1 DERP are located in Louisiana, Mississippi, Alabama, and Florida. The National Marine Fisheries Service (NMFS) requested additional project information from the NOAA RC via e-mail on February 3, 2012. Partial responses and clarifications were provided by the NOAA RC via telephone and e-mail on February 5, 7, and 16, and March 21, 2012. You requested concurrence from NMFS with your determinations that the projects may affect, but are not likely to adversely affect, Gulf sturgeon, smalltooth sawfish, and five species (loggerhead, Kemp's ridley, green, leatherback, and hawksbill) of sea turtles, and designated Gulf sturgeon critical habitat in Units 8 and 9. NMFS' determinations regarding the effects of the proposed action are based on the description of the action in this informal consultation. Any changes to the proposed action may negate the findings of the present consultation and may require reinitiation of consultation with NMFS.

Phase 1 DERP

Under the Oil Pollution Act, the federal government and affected state governments act as trustees on behalf of the public. The trustees are charged with recovering damages from the responsible parties to restore the public's natural resources that have sustained injuries. The Phase 1 DERP contains the initial plan for the first of a series of restoration actions that will be undertaken by the trustees for the Deepwater Horizon oil spill to compensate the public for the natural resource injuries caused by the spill. NOAA shares trusteeship with the other natural resource trustees over all of the resources that will benefit from these restoration actions. While the Phase 1 DERP includes a suite of eight projects, each project is independent from the others. The Phase 1 DERP will be finalized after consideration of public comment and may include some or all of these proposed projects, described below.

Alabama Dune Restoration Cooperative Project
This project will restore 55 acres of dune habitat by installing sand fencing and planting native dune vegetation in Orange Beach and Gulf Shores, Alabama, at 30.23088°N, 87.92973°W (WGS84). No new access roads or staging areas would be built as part of this project. Vehicles would use existing roads and parking areas. The NOAA RC determined that this project will have no effect on listed species or designated critical habitat under NMFS jurisdiction. NMFS also does not believe there will be any direct or indirect effects to our listed species or designated critical habitat, as all activities will occur solely in upland areas.

Florida (Pensacola Beach) Dune Restoration Project
Native dune vegetation will be planted on the primary dune on Pensacola Beach in Escambia County, Florida, at 30.33350°N, 87.12319°W (WGS84). No new access roads or staging areas would be built as part of this project. Vehicles would use existing roads and parking areas. The NOAA RC determined that this project will have no effect on listed species or designated critical habitat under NMFS jurisdiction. NMFS also does not believe there will be any direct or indirect effects to listed species or designated critical habitat, as all activities will occur solely in upland areas.

Lake Hermitage Marsh Restoration Project
The Lake Hermitage Marsh Creation Project is located within the Barataria Hydrologic Basin in Plaquemines Parish, Louisiana, to the west of the community of Pointe a la Hache, and northwest of the community of Magnolia at 29.551064°N, 89.838944°W (WGS84). The Lake Hermitage Marsh Creation Project proposed as part of the Phase 1 DERP involves the creation of marsh within the project footprint of the larger Lake Hermitage Marsh Creation Project developed for, and funded through, the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) Program. The primary goals of the Lake Hermitage Marsh Creation base CWPPRA Project are: (1) to restore the eastern Lake Hermitage shoreline to reduce erosion and prevent breaching into the interior marsh, and (2) to re-create marsh in the open water areas south and southeast of Lake Hermitage. The marsh creation project proposed as part of the Phase 1 early restoration plan will substitute approximately 104 acres of created brackish marsh for approximately 5-6 acres (7,300 linear feet) of earthen terraces that would otherwise have been constructed within the CWPPRA project boundary. Marsh areas will be constructed entirely within the base project's boundary. Sediment will be hydraulically dredged from a borrow area in the Mississippi River approximately 70 miles upriver from the Gulf of Mexico, and pumped via pipeline to create new marsh in the project area. Over time, natural dewatering and compaction of dredged sediments are expected to result in elevations within the intertidal range that are conducive to the establishment of emergent marsh. The 104-acre fill area will be planted with native marsh vegetation to accelerate benefits to be realized from this project. The NOAA RC determined this project is not likely to adversely affect sea turtles or Gulf sturgeon. The project is not located in designated critical habitat.

NMFS does not believe there will be any effects to the five federally-listed species of sea turtle (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered[1] green; and the threatened loggerhead) or Gulf sturgeon under NMFS' purview due to the location of the dredging and marsh restoration activities. All activities associated with the Lake Hermitage

[1] Green turtles are listed as threatened, except for breeding populations in Florida and the Pacific coast of Mexico, which are listed as endangered.

Restoration project are outside the known range of Gulf sturgeon. Sea turtles are not likely to be at the dredge site in the Mississippi River, which is 70 miles from the Gulf of Mexico. Additionally, sea turtles are not likely to be at the marsh restoration site. A PRD biologist has inspected the location in the past, and due to the shallow water depths in the area and the numerous natural channels and manmade canals through broken brackish marsh that sea turtle species would have to navigate to reach the restoration site, they are not likely to be at the site.

Louisiana Oyster Cultch Project
The Louisiana Oyster Cultch Project involves (1) the placement of oyster cultch onto approximately 850 acres of public oyster seed grounds throughout coastal Louisiana, and (2) construction of an oyster hatchery facility that will produce supplemental larvae and seed. The project consists of placing oyster cultch material on public oyster seed grounds to produce seed- and sack-sized oysters to compensate the public for impacts to oyster areas exposed to oil, dispersant, and response activities. Cultch placement will occur in 3-Mile Bay (30.053072°N, 89.3543°W; WGS84), Drum Bay (29.89039°N, 89.27063°W; WGS84), Lake Fortuna (29.65473°N, 89.49281°W; WGS84), South Black Bay (29.50166°N, 89.54757°W; WGS84), Hackberry Bay (29.39931°N, 90.04211°W; WGS84), and Sister Lake (29.14852°N, 90.94029°W; WGS84). Cultch material consists of limestone rock, crushed concrete, oyster shell, and other similar material that, when placed in oyster spawning areas, provides a substrate on which free swimming oyster larvae can attach and grow into oysters. Cultch material will be examined prior to placement to ensure it is clean and free of toxins. The cultch materials will be placed on site using barges and high pressure water jets at a planting density of 200 cubic yards of cultch per acre, although adjustments to this planting density may be made depending upon water bottom characteristics at the time of project implementation. Cultch sites will be completely submerged, comprise less than 10 percent of the water column depth, and will not be visible from the water surface. All cultch material will be placed within existing reef sites which currently have oysters or other hard bottom material. Cultch placement at each site will likely require less than two weeks to complete. The second portion of the project involves constructing hatchery improvements to help facilitate and expedite success of the cultch placement. The Louisiana Department of Wildlife and Fisheries (LDWF) will contract to construct a new building adjacent to the existing Sea Grant oyster hatchery on Grand Isle, Louisiana. Hatchery operations will include broodstock maintenance, algal cultivation, larvae production, and a nursery system. Broodstock (adult oysters used in oyster breeding) will continue to be located at the LDWF Research Lab, and are native species collected in Louisiana waters. The NOAA RC determined this project is not likely to adversely affect sea turtles or Gulf sturgeon. The project is not located in designated critical habitat.

Federally-listed species under NMFS' purview that occur in the project area and that may be affected by the proposed project include five species of sea turtles (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered green; and the threatened loggerhead), and the threatened Gulf sturgeon. NMFS has identified the following potential effects to sea turtles and Gulf sturgeon and concluded that they are not likely to be adversely affected by the proposed action. Sea turtles and Gulf sturgeon could be struck by cultch material as it is being placed on the cultch sites. Due to the species' mobility, this is discountable, as sea turtles and Gulf sturgeon will likely avoid the area during project activities. Sea turtles may be affected by being temporarily unable to use the site for foraging habitat due to potential avoidance of construction activities and related noise, but these effects will be temporary and insignificant,

given the project's small footprint at each site, the short construction time, and the ubiquitous presence of the species' preferred prey (e.g., sponges, algae, crabs, jellyfish, and mollusks) in the surrounding area. Effects to Gulf sturgeon and green sea turtles from avoiding the site are discountable, as they are not likely to use the cultch placement sites for foraging. The substrate in these areas, pre- and post-project, is hard bottom. Gulf sturgeon are suction feeders, and extract prey from soft, sandy waterbottoms. Based on this information, we believe all effects of this project on sea turtles and Gulf sturgeon will be discountable or insignificant.

Mississippi Oyster Cultch Restoration Project
The state of Mississippi has approximately 12,000 acres of total cultch areas, including about 9,000 acres of oyster cultch area which can be harvested in the Mississippi Sound, and about 3,000 acres of cultch areas closed to harvest. This project will restore and enhance approximately 1,430 acres of oyster cultch areas in the marine waters of the Mississippi Sound in Hancock and Harrison counties (30.27194°N, 89.21977°W; WGS84). The project consists of placing oyster cultch material on public oyster seed grounds in the footprint of existing oyster cultch areas to produce seed- and sack-sized oysters to compensate the public for impacts to oyster areas exposed to oil, dispersant, and response activities. Cultch material will consist of clean limestone rock, crushed concrete, oyster shell, or similar material that will provide substrate for free floating oyster larvae to attach and grow. Cultch material will adhere to the State of Mississippi's regulations on preparation of material to ensure that it is free of contaminants. The cultch materials will be deployed on site using a water cannon to push the material from a barge and will typically be deployed at a rate of 100 cubic yards of cultch per acre, with adjustments for site conditions. Cultch placement will occur in Spring 2012, Fall 2012, and Spring 2013, and each deployment will take approximately two weeks. The NOAA RC determined this project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat. The project is located in designated Gulf sturgeon critical habitat Unit 8.

Federally-listed species under NMFS' purview that occur in the project area and that may be affected by the proposed project include five species of sea turtles (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered green; and the threatened loggerhead), and the threatened Gulf sturgeon. The proposed project is located within the Mississippi Sound portion of designated Gulf sturgeon critical habitat Unit 8.

NMFS has identified the following potential effects to sea turtles and Gulf sturgeon and concluded that they are not likely to be adversely affected by this project. Sea turtles and Gulf sturgeon could be struck by cultch material as it is being placed on the cultch sites. Due to the species' mobility, this is discountable, as sea turtles and Gulf sturgeon will likely avoid the area during project activities. Sea turtles may be affected by being temporarily unable to use the site for foraging habitat due to potential avoidance of construction activities and related noise, but these effects will be temporary and insignificant, given the project's short construction time and the ubiquitous presence of the species' preferred prey (e.g., sponges, algae, crabs, jellyfish, and mollusks) in the surrounding area. Effects to Gulf sturgeon from avoiding the site are discountable, as they are not likely to use the cultch placement sites for foraging. The substrate in these areas, pre- and post-project, is hard bottom. Gulf sturgeon are suction feeders, and extract prey from soft, sandy waterbottoms. Based on this information, we believe all effects of this project on sea turtles and Gulf sturgeon will be discountable or insignificant.

The proposed project is located within the Mississippi Sound portion of designated Gulf sturgeon critical habitat Unit 8. The physical and biological features (i.e., essential features) essential for the conservation of Gulf sturgeon present in Unit 8 include: abundant prey items; water quality and sediment quality 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. NMFS believes that the prey, water quality, and sediment quality essential features may be affected by the action. The placement of cultch material that is clean and free of toxins will not alter water or sediment quality in Unit 8. The existing substrate in the project area is hard bottom. Gulf sturgeon forage over soft, sandy waterbottoms, as this type of habitat supports their benthic prey items and is conducive to their suction feeding method of foraging. The addition of cultch material onto existing hardbottom will not alter prey availability or sediment quality in Unit 8. Therefore, the effects of cultch placement on Gulf sturgeon prey availability, water quality, and sediment quality in designated critical habitat Unit 8 are discountable. NMFS concurs with the NOAA RC's determination that the project is not likely to adversely affect Gulf sturgeon critical habitat in Unit 8.

Mississippi Artificial Reef Habitat Project

The Mississippi Artificial Reef Habitat project includes the deployment of artificial reefs in bays and nearshore Mississippi Sound waters in and off of Hancock, Harrison, and Jackson Counties, Mississippi, between 30.26950°N, 89.37233°W and 30.28063°N, 88.36478°W (WGS84), to provide hardbottom habitat for foraging and shelter to benefit larvae and sessile epifauna and infauna and to increase the biomass of marine organisms. Currently, there are 67 existing artificial reef areas (Figure 1), consisting of crushed concrete and limestone, that are each approximately 3 acres in size. Approximately 100 acres of crushed limestone will be added within the 201-acre footprint of the existing artificial reef areas. The limestone material will adhere to the State of Mississippi's regulations on preparation of material to ensure that it is free of contaminants. A barge and a backhoe will be used to deploy the crushed limestone onto the existing reefs, which will likely occur in the spring and/or fall and is expected to take less than two weeks to complete. The University of Southern Mississippi Gulf Coast Research Laboratory will conduct biological monitoring of the nearshore reefs to evaluate successful enhancement of marine organism biomass. The NOAA RC determined this project is not likely to adversely affect sea turtles, Gulf sturgeon, or Gulf sturgeon critical habitat. The project is located in designated Gulf sturgeon critical habitat Unit 8.

Federally-listed species under NMFS' purview that occur in the project area and that may be affected by the proposed project include five species of sea turtles (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered green; and the threatened loggerhead), and the threatened Gulf sturgeon. The proposed project is located within the Mississippi Sound portion of designated Gulf sturgeon critical habitat Unit 8. NMFS believes that the prey abundance, water quality, and sediment quality essential features may be affected by the project.

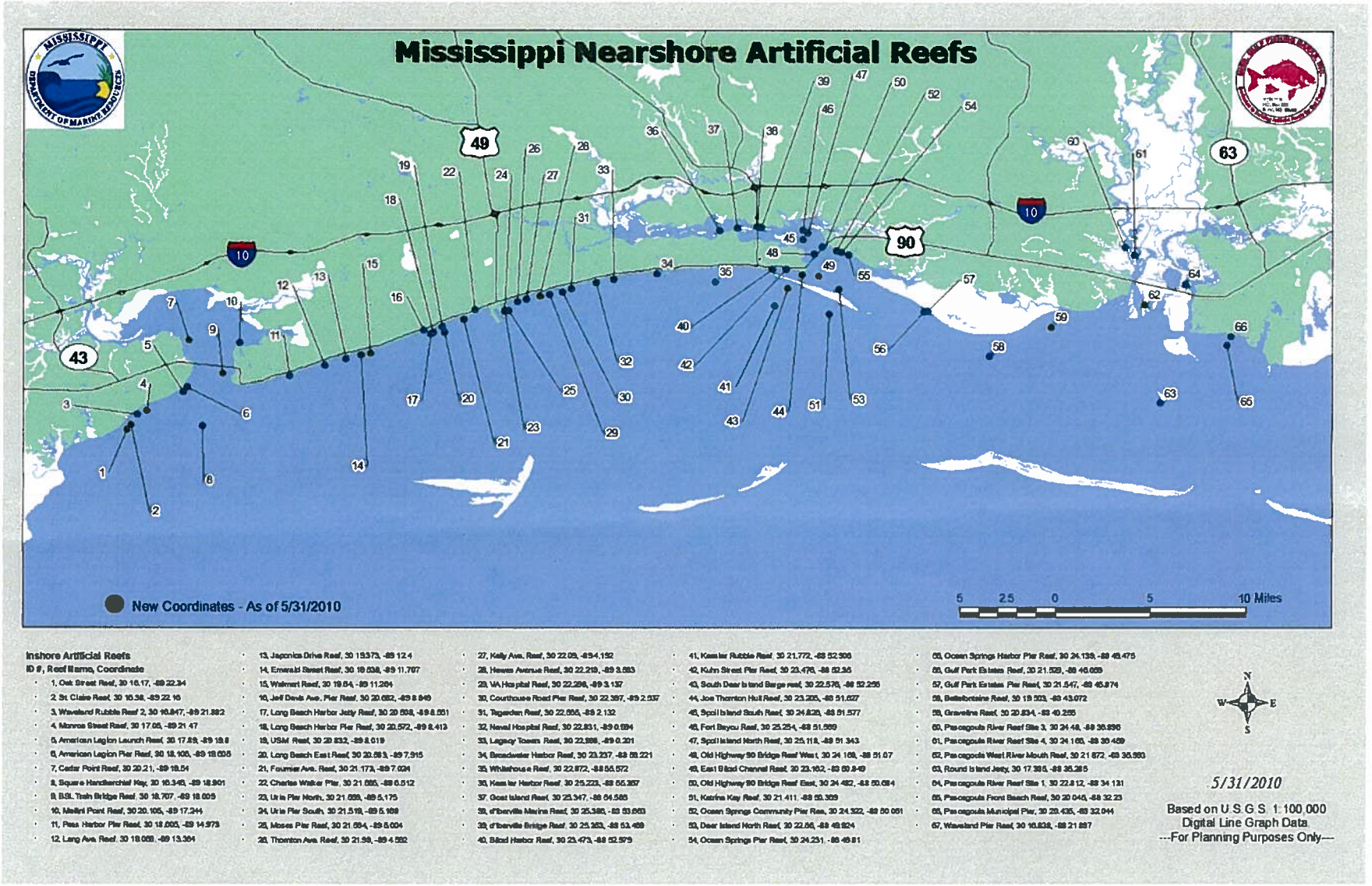

Figure 1: Map depicting locations of Mississippi nearshore artificial reefs. From www.dmr.state.ms.us.

NMFS has identified the following potential effects to sea turtles and Gulf sturgeon and concluded that they are not likely to be adversely affected by this project. Sea turtles and Gulf sturgeon could be struck by reef material as it is being placed on the reef sites. Due to the species' mobility, this is discountable, as sea turtles and Gulf sturgeon will likely avoid the area during project activities. Sea turtles may be affected by being temporarily unable to use the site for foraging habitat due to potential avoidance of construction activities and related noise, but these effects will be temporary and insignificant, given the project's short construction time and the ubiquitous presence of their preferred prey (e.g., sponges, algae, crabs, jellyfish, and mollusks) in the surrounding area. Effects to Gulf sturgeon from avoiding the site are discountable, as they are not likely to use the artificial reef sites for foraging. The substrate in these areas, pre- and post-project, is hard bottom. Gulf sturgeon are suction feeders, and extract prey from soft, sandy waterbottoms.

Artificial reefs are generally intended to enhance fishery habitat. The proposed artificial reef enhancement project is intended to increase the biomass of marine organisms. However, artificial reef sites also provide enhanced opportunities for recreational fishing. Recreational fishing activities off the coast of Mississippi are known to be capable of injuring and killing sea turtles and Gulf sturgeon through incidental hooking and entanglement in fishing gear. Most of these interactions are associated with fishing piers, though interactions are also possible anywhere recreational fishing occurs. The proposed project will not increase the number of reef sites currently available, as it only involves adding material within the footprint of existing artificial reefs. Based on this information, we do not expect the proposed enhancement of existing artificial reefs to induce new fishing effort, nor do we expect the proposed project to increase the risk of harmful interactions between recreational fishers and listed species. Therefore, NMFS has determined that the effects on listed species from fishing activities on enhanced artificial reefs are discountable. Based on this information, we believe all effects of this project on sea turtles and Gulf sturgeon will be discountable or insignificant.

NMFS concurs with the NOAA RC's determination that the project is not likely to adversely affect Gulf sturgeon critical habitat in Unit 8, the Mississippi Sound unit. The placement of reef material that is clean and free of toxins will not alter water or sediment quality in Unit 8. The existing substrate in the project area is hard bottom. Gulf sturgeon forage over soft, sandy waterbottoms, as this type of habitat supports their benthic prey items and is conducive to their suction feeding method of foraging. The addition of reef material onto existing hardbottom reefs will not alter prey availability or sediment quality in Unit 8. Therefore, the effects of the placement of additional artificial reef materials on existing artificial reef sites on Gulf sturgeon prey availability, water quality, and sediment quality in designated critical habitat Unit 8 are discountable.

Marsh Island (Portersville Bay) Restoration Project

The Marsh Island (Portersville Bay) Restoration Project involves the creation of salt marsh along Marsh Island, a state-owned island in the Portersville Bay portion of Mississippi Sound in south Mobile County, Alabama, at 30.320653°N, 88.222964°W (WGS84). This project will add 50 acres of salt marsh to the existing 24 acres of Marsh Island through the construction of a permeable segmented breakwater, the placement of sediments, and the planting of native marsh vegetation. Additionally, this project will protect the existing salt marshes of Marsh Island, which have been experiencing significant losses due to chronic erosion. To implement these goals, the project will include: (1) installation of approximately 5,700 linear feet of permeable

segmented breakwater consisting of riprap, wave attenuation devices, or similar material; (2) placement of approximately 245,000 cubic yards of dredged materials to create 50 acres of marsh by filling open-water areas with dredged material; and (3) the planting of approximately 312,500 native vegetation plugs. Additionally, through the natural dewatering and compaction of dredged sediments and the use of a marsh buggy, approximately 5,000 linear feet of tidal creeks will be created, connecting existing tidal creeks to the newly created marsh and to Mississippi Sound. Barges, small tugs, and other machinery will be used onsite. Based on submerged aquatic vegetation (SAV) surveys conducted in 2002, 2008 and 2009 by the Alabama Department of Conservation and Natural Resources, there is no SAV in the project area. However, an SAV survey will be conducted during the design, engineering and permitting phase of the project. Dredged material will likely come from an upland disposal site and be transported by barge to the restoration site. However, the 245,000 cubic yards of material may be obtained from borrow sites adjacent to the restoration site using a cutterhead dredge. The estimated duration of inwater activities is 6 months. The NOAA RC determined this project is not likely to adversely affect sea turtles or Gulf sturgeon. The project is not located in designated critical habitat.

Federally-listed species under NMFS' purview that occur in the project area and that may be affected by the proposed project include five species of sea turtles (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered green; and the threatened loggerhead), and the threatened Gulf sturgeon. NMFS has identified the following potential effects to sea turtles and Gulf sturgeon and concluded that they are not likely to be adversely affected by the proposed action. Sea turtles and Gulf sturgeon could be injured during cutterhead dredging. However, NMFS has received no reports of Gulf sturgeon being taken in non-hopper-type dredges. Since 1991, NMFS has received only two reports of sea turtle interactions with hydraulic/cutterhead dredges (one loggerhead killed in Florida and several juvenile green sea turtles killed in Texas, though the green turtles were strongly affected by a severe cold event, which we believe made them lethargic), and these were limited to much larger dredges. Due to the infrequency of these incidents, NMFS believes that the likelihood of sea turtles and Gulf sturgeon being taken by the dredge during the proposed activity is discountable. Sea turtles and Gulf sturgeon could be struck by vessels, equipment, or fill material as it is being placed on the restoration site. Due to the species' mobility, this is discountable, as sea turtles and Gulf sturgeon will likely avoid the area during project activities. Sea turtles and Gulf sturgeon may be affected by being temporarily unable to use the site for foraging habitat due to potential avoidance of construction activities and related noise, but these effects will be temporary and insignificant, given the ubiquitous presence of their preferred prey (e.g., sponges, SAV, algae, crabs, jellyfish, mollusks, and benthic invertebrates) in the surrounding areas. Based on this information, we believe all effects of this project on sea turtles and Gulf sturgeon will be discountable or insignificant.

Florida Boat Ramp Enhancement and Construction Project

The Florida Public Boat Ramp Enhancement and Construction Project will provide boaters enhanced access to public waterways within Pensacola Bay, Perdido Bay, and offshore areas. This project will entail repairing the existing Navy Point Park public boat ramp, located in a developed residential area in Pensacola Bay, and constructing the new Mahogany Mill public boat ramp that will be located in a commercial and industrial area in Pensacola Bay. The project also includes repairing and modifying the existing Galvez Landing public boat ramp in a

residential area in Perdido Bay and constructing the new Perdido public boat ramp in a less developed area in Perdido Bay. Construction of the new public boat ramps, Mahogany Mill and Perdido, and the enhancement and repair at the existing Galvez Landing and Navy Point boat ramps are expected to reduce boat traffic congestion at other ramps in the area. Each project is described in more detail below.

Navy Point Public Boat Ramp: Three access piers at the existing public boat ramp, located on West Sunset Avenue in Pensacola, Escambia County, Florida (30.380911°N, 87.282069°W; WGS84), will be replaced. Pilings will be jetted in from a small barge and the replacement piers will be constructed in the same footprint of the original piers. The pier dimensions are: (1) a 618.6-square-foot central pier consisting of two 6- x 57-foot access piers and a 6- x 30.5-foot terminal pier; (2) a 613.8-square-foot eastern pier with a 6- x 60.7-foot access pier and a 16- x 30-foot terminal platform; and (3) a 636.6-square-foot western pier with a 6- x 61.5-foot access pier and a 16- x 30-foot terminal platform. A mechanical dredge will be used to maintenance dredge 260 cubic yards of sediment from the boat ramp access channel to its authorized depth of -5 feet mean low water. The duration of construction will be 2 to 4 weeks. The project will not increase vessel capacity at the site.

Mahogany Mill Public Boat Ramp: A new 53-foot-wide three-lane boat ramp extending 40 feet waterward will be constructed at the site, located on Mahogany Mill Road in Pensacola, Escambia County, Florida (30.399792°N, 87.247144°W; WGS84). A barge-mounted hydraulic dredge will be used to remove 469 cubic yards of material to create access to the ramp. Three access piers with the following dimensions will also be constructed at the site: (1) a 918-square-foot northernmost pier consisting of a 6- x 70-foot access pier, an 8- x 10-foot platform, and a 5- x 140-foot terminal pier; (2) a 53.32-square-foot 3- x 60-foot central pier; and (3) a 430.08-square-foot southernmost pier with a 6- x 70-foot access pier, an 8- x 10-foot platform, and a 9- x 25-foot terminal pier. The duration of construction will be 6-9 months, with 2 months of in-water construction. Estimated vessel capacity at the site post-construction, based on parking for vehicles and trailers, is 13 large boats, 28 medium boats, 8 small boats, and 12 canoes/kayaks.

Galvez Landing Public Boat Ramp: Three access piers at the existing public boat ramp, located on Galvez Road in Pensacola, Escambia County, Florida (30.313697°N, 87.442008°W; WGS84), will be replaced and extended. A small barge will be used to jet pilings and construct the piers. The pier dimensions are: (1) a 3.7- x 40-foot central pier; (2) a 6- x 32-foot eastern access pier with an 8- x 94-foot terminal platform; and (3) a 6- x 32-foot western access pier with an 8- x 75-foot terminal platform. No dredging is required. The duration of construction will be 4 to 6 weeks. The project will not increase vessel capacity at the site.

Perdido Public Boat Ramp: The new public boat ramp will be constructed at 11860 Mobile Highway in Pensacola, Escambia County, Florida (30.523000°N, 87.444600°W; WGS84). The ramp will be approximately 30 x 60 feet, and approximately 120 linear feet of waterfront boardwalk will be constructed. Construction methods have not yet been finalized, but will likely include similar methods utilized for the other boat ramp projects, including small barges for jetting pilings, barge mounted equipment, and mechanical or hydraulic dredges. The facility will have parking for 43 vehicles with boat trailers and an additional 81 non-trailer parking spaces.

Sediments at all four proposed public boat ramp locations are primarily unvegetated sand.

Visitor information kiosks will be installed at each of the facilities to provide environmental education to boaters regarding water quality and sustainable practices for utilization of marine/estuarine/coastal resources in Florida. Short- and long-term maintenance of boat ramps involves keeping the area clean of debris, emptying trash, repairing of onsite facilities, and similar tasks. Long-term maintenance will be completed by Escambia County. The first fifteen years of operation and maintenance costs are included in the total cost of the project. The NOAA RC determined this project is not likely to adversely affect sea turtles, Gulf sturgeon, smalltooth sawfish, or Gulf sturgeon critical habitat. The Navy Point project is located in designated Gulf sturgeon critical habitat Unit 9. The remaining boat ramp projects are not located in designated critical habitat.

Federally-listed species under NMFS' purview that occur in the project area and that may be affected by the proposed project include five species of sea turtles (the endangered leatherback, Kemp's ridley, and hawksbill; the threatened/endangered green; and the threatened loggerhead), the endangered smalltooth sawfish, and the threatened Gulf sturgeon. The Navy Point public boat ramp project is located within designated Gulf sturgeon critical habitat Unit 9. NMFS believes that the prey, water quality, and sediment quality essential features may be affected by the action.

NMFS has identified the following potential effects to sea turtles, smalltooth sawfish, and Gulf sturgeon and concluded that they are not likely to be adversely affected by the proposed project. Smalltooth sawfish are not likely to be encountered at any of the project sites. Their current distribution has contracted to peninsular Florida and, within that area, they can only be found with regularity off the extreme southern portion of the state. Therefore, any effects to smalltooth sawfish from the proposed projects are discountable. Sea turtles and Gulf sturgeon could be injured during mechanical and hydraulic dredging. However, NMFS has received no reports of Gulf sturgeon being taken in non-hopper-type dredges. Since 1991, NMFS has received only two reports of sea turtle interactions with hydraulic dredges (one loggerhead killed in Florida and several juvenile green sea turtles killed in Texas, though the green turtles were strongly affected by a severe cold event, which we believe made them lethargic), and these were limited to much larger dredges. Due to the infrequency of these incidents, NMFS believes that the likelihood of sea turtles and Gulf sturgeon being taken by the dredge during the proposed activity is discountable. Sea turtles and Gulf sturgeon could be struck by vessels, equipment, or materials during construction. Due to the species' mobility, this is discountable, as sea turtles and Gulf sturgeon will likely avoid the area during project activities. Sea turtles and Gulf sturgeon may be affected by being temporarily unable to use the site for foraging habitat due to potential avoidance of construction activities and related noise, but these effects will be insignificant, given the ubiquitous presence of their preferred prey (e.g., sponges, SAV, algae, crabs, jellyfish, mollusks, and benthic invertebrates) in the surrounding areas.

Sea turtles may be affected by vessel strikes from the increased number of vessels in the waters within and offshore of Escambia County. Vessel capacity will not be increased at the existing Navy Point and Galvez Landing public boat ramps, but an additional 92 vessels can be launched from the new Mahogany Mill (49 vessels) and Perdido (43 vessels) public boat ramps. The stated purpose of the projects is to relieve traffic and congestion at other boat ramps in the area.

A NMFS analysis[2] determined that vessel strikes resulting from vessel traffic associated with typical docks and/or marina projects in Florida that introduce less than 300 new vessels to an area have insignificant and/or discountable effects on sea turtles, based on the number of vessels registered within Florida counties, plus the fact that the new ramp may relocate existing vessels from other ramps (as stated in the project purpose). Therefore, we believe that the increase in vessel strike risk to sea turtles resulting from these projects is discountable. Based on this information, we believe all effects of the proposed action on sea turtles and Gulf sturgeon will be discountable or insignificant.

NMFS concurs with the NOAA RC's determination that the Navy Point public boat ramp project is not likely to adversely affect Gulf sturgeon critical habitat in Unit 9, Pensacola Bay. The construction of the three access piers will occur in the same footprint and will be to the same dimensions as the existing piers. Therefore, no additional bottom substrate will be affected and changes in prey availability and sediment quality are discountable. Water and sediment quality may be affected by turbidity during construction and dredging; however, any increases in turbidity are expected to be localized, temporary, and insignificant. The texture and quality of the sediments and its ability to support prey items are expected to be the same pre- and post-project. Prey items within the channel being dredged are expected to quickly re-colonize the disturbed sediments[3]; therefore, the temporary disturbance to prey items in the channel is insignificant. The effects of replacing the access piers and dredging the access channel on Gulf sturgeon prey availability, water quality, and sediment quality in designated critical habitat Unit 9 are discountable or insignificant.

This concludes your consultation responsibilities under the ESA for the Deepwater Horizon Oil Spill Phase 1 DERP for species and critical habitat under NMFS' purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or 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.

[2] Barnette, M. 2009. Threats and Effects Analysis for Protected Resources on Vessel Traffic Associated with Dock and Marina Construction. January 12, 2009.

[3] Duffy, E. J. and M.E. Hay. 2000. Strong impacts of grazing amphipods on the organization of a benthic community. Ecological Monographs: 70(2): 237-263.

We have enclosed additional information on other statutory requirements that may apply to this action, and on NMFS' Public Consultation Tracking System to allow you to track the status of ESA consultations. If you have any questions, please contact Kelly Shotts, ecologist, at (727) 551-5603 or by e-mail at Kelly.Shotts@noaa.gov. Thank you for your continued cooperation in the conservation of listed species.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosure

File: 1514-22.c
Ref: I/SER/2012/00889

PCTS Access and Additional Considerations for ESA Section 7 Consultations
(Revised 7-15-2009)

Public Consultation Tracking System (PCTS) Guidance: PCTS is an online query system at **https://pcts.nmfs.noaa.gov/** that allows federal agencies and U.S. Army Corps of Engineers' (COE) permit applicants and their consultants to ascertain the status of NMFS' Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultations, conducted pursuant to ESA section 7, and Magnuson-Stevens Fishery Conservation and Management Act's (MSA) sections 305(b)2 and 305(b)(4), respectively. Federal agencies are required to enter an agency-specific username and password to query the Federal Agency Site. The COE "Permit Site" (no password needed) allows COE permit applicants and consultants to check on the current status of Clean Water Act section 404 permit actions for which NMFS has conducted, or is in the process of conducting, an ESA or EFH consultation with the COE.

For COE-permitted projects, click on "Enter Corps Permit Site." From the "Choose Agency Subdivision (Required)" list, pick the appropriate COE district. At "Enter Agency Permit Number" type in the COE district identifier, hyphen, year, hyphen, number. The COE is in the processing of converting its permit application database to PCTS-compatible "ORM." An example permit number is: SAJ-2005-000001234-IPS-1. For the Jacksonville District, which has already converted to ORM, permit application numbers should be entered as SAJ (hyphen), followed by 4-digit year (hyphen), followed by permit application numeric identifier with no preceding zeros. For example: SAJ-2005-123; SAJ-2005-1234; SAJ-2005-12345.

For inquiries regarding applications processed by COE districts that have not yet made the conversion to ORM (e.g., Mobile District), enter the 9-digit numeric identifier, or convert the existing COE-assigned application number to 9 numeric digits by deleting all letters, hyphens, and commas; converting the year to 4-digit format (e.g., -04 to 2004); and adding additional zeros in front of the numeric identifier to make a total of 9 numeric digits. For example: AL05-982-F converts to 200500982; MS05-04401-A converts to 200504401. PCTS questions should be directed to Eric Hawk at Eric.Hawk@noaa.gov. Requests for username and password should be directed to PCTS.Usersupport@noaa.gov.

EFH Recommendations: In addition to its protected species/critical habitat consultation requirements with NMFS' Protected Resources Division pursuant to section 7 of the ESA, prior to proceeding with the proposed action the action agency must also consult with NMFS' Habitat Conservation Division (HCD) pursuant to the MSA requirements for EFH consultation (16 U.S.C. 1855 (b)(2) and 50 CFR 600.905-.930, subpart K). The action agency should also ensure that the applicant understands the ESA and EFH processes; that ESA and EFH consultations are separate, distinct, and guided by different statutes, goals, and time lines for responding to the action agency; and that the action agency will (and the applicant may) receive separate consultation correspondence on NMFS letterhead from HCD regarding their concerns and/or finalizing EFH consultation.

Marine Mammal Protection Act (MMPA) Recommendations: The ESA section 7 process does not authorize incidental takes of listed or non-listed marine mammals. If such takes may occur an incidental take authorization under MMPA section 101 (a)(5) is necessary. Please contact NMFS' Permits, Conservation, and Education Division at (301) 713-2322 for more information regarding MMPA permitting procedures.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.

b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.

c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.

d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.

e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.

f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.

g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006