



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ecological Services
1875 Century Blvd.
Atlanta, Georgia 30345

April 27, 2018

Captain Ricardo Alonso
Chief, Office of Marine Environmental Response Policy
Commandant (CG-MER)
U.S. Coast Guard
2703 Martin Luther King Jr Ave SE STOP 7516
Washington, DC 20593-0001

Subject: Biological Opinion – Deepwater Horizon Oil Spill Response
FWS Log #: 04E00000-2016-FE-0036

Dear Captain Alonso:

This letter transmits the enclosed biological opinion (BO) of the U.S. Fish and Wildlife Service (USFWS) for the Deepwater Horizon oil spill response (the Action), which the U.S. Coast Guard (USCG) coordinated between April 20, 2010, and May 5, 2015. This BO completes our answer to the USCG letter dated April 15, 2016, which provided the *Deepwater Horizon Post-Response Biological Assessment* (BA) and requested after-the-fact consultation for the Action. The BA supported USCG determinations that the Action adversely affected the following species and designated critical habitats.

<u>Species</u>	<u>Critical Habitat Affected?</u>
• loggerhead sea turtle, Northwest Atlantic Distinct Population Segment (DPS)	Not Applicable
• Kemp's ridley sea turtle	Not Applicable
• green sea turtle, North Atlantic DPS	Not Applicable
• leatherback sea turtle	Not Applicable
• Alabama beach mouse	Yes
• Choctawhatchee beach mouse	Yes
• Perdido Key beach mouse	Yes
• St. Andrew beach mouse	Yes
• piping plover	Yes

The BA also supported determinations that the Action did not adversely affect the Gulf sturgeon, Louisiana black bear, rufa red knot, and West Indian manatee, and did not adversely affect designated critical habitat for the Gulf sturgeon. To conclude the consultation informally with respect to these species and designated critical habitat, the USCG requested USFWS concurrence with these determinations, which the USFWS provided by letter dated May 18, 2016. Therefore, the enclosed BO does not address these resources.

The enclosed BO answers your request for formal consultation and concludes that the Action did not jeopardize the continued existence of the four beach mouse species listed above or the piping plover, and did not destroy or adversely modify their designated critical habitats. These findings fulfill the requirements applicable to the Action with respect to these resources under §7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended.

The USFWS shares consultation responsibilities for sea turtles with the National Marine Fisheries Service (NMFS). The enclosed BO considers the effects of the Action to sea turtles in the terrestrial context (beaches), and the NMFS BO will consider effects in the marine context. After reviewing the current status of the species, the environmental baseline for the Action Area, and the effects of the Action in the terrestrial environment, it is the USFWS biological opinion that the Action did not jeopardize the continued existence of the four sea turtle species listed above.

The Incidental Take Statement of the BO does not include reasonable and prudent measures to minimize anticipated take, terms and conditions, or monitoring and reporting requirements, because the Action is concluded. Emergency consultation procedures allow agencies to coordinate with the USFWS and NMFS to address endangered species concerns during an emergency response action, and after the emergency is under control, to initiate formal consultation, if listed species were adversely affected. The authority of a take statement to exempt actions from the prohibitions against taking listed animal species does not apply retroactively.

During the Deepwater Horizon oil spill response, the USCG coordinated closely with the USFWS and NMFS to obtain recommendations for avoiding and minimizing adverse effects of response activities to listed species and their critical habitats. The BO summarizes those recommendations and examines the effects of the response activities as implemented on listed species and their designated critical habitats. The BO also acknowledges how the USCG-led response to the spill reduced the impacts of oil exposure to several species (for instance loggerhead sea turtles) that would have occurred otherwise without the intervention of the spill-response actions.

We appreciate the good working relationship with, and assistance of, the USCG Interagency Coordination Division in the completion of this BO.

Because the Action is concluded, the regulations that govern reinitiating a consultation while the action agency retains control over its action do not apply. A complete administrative record of this consultation is on file in our office. If you have any questions about the BO, please contact me or Jerry Ziewitz, of my staff by phone at 850-877-6513, or by email at jerry_ziewitz@fws.gov.

Sincerely,



for Leopoldo Miranda
Assistant Regional Director, Ecological Services

Enclosure