



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Dr. N.
St. Petersburg, FL 33702

F/SEO13:DMB

MAR 24 1997

Captain R. C. Wigger, USCG
Chief, Marine Safety Division
Seventh Coast Guard District
909 SE First Avenue
Miami, Florida 33131-3050

Dear Captain Wigger:

This responds to your letter, received March 19, 1997, regarding pre-authorization to Federal On-Scene Coordinators for the use of chemical dispersants as an oil-spill response measure in the waters of the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands. A Biological Assessment (BA) was submitted pursuant to Section 7 of the Endangered Species Act of 1973 (ESA). We have also reviewed the information contained in the Letters of Agreement (LOAs) with Puerto Rico and the U.S. Virgin Islands. We concur with the finding of the BA that the pre-authorization policy is unlikely to adversely affect endangered or threatened species under National Marine Fisheries Service (NMFS) purview or their critical habitat. We do, however, wish to make special stipulations related to the conduct of dispersant applications in the vicinity of listed species of sea turtles and whales.

The conditions of the LOAs do not pre-authorize dispersant applications in areas where sea turtles are most likely to occur. Large cetaceans and some species of sea turtle, however, are found in the deeper waters where dispersant application is pre-authorized. NMFS recognizes that little data is available on the effects of oil and dispersed oil on sea turtles and marine mammals, but also agrees that offshore dispersal of oil slicks can reduce adverse impacts of oil spills to these species and their habitats. NMFS is concerned, however, about the possibility of harm to listed species from short-term exposure to very high concentrations of dispersant -- from the toxic properties of the dispersant solvents as well as caustic or toxic properties of the dispersant chemical itself. Dispersant application should therefore not be conducted in close proximity to any individuals of listed species of whale or sea turtle. A horizontal distance of 100 yards for vessel-based dispersant application and 500 yards for aerial dispersant application should be maintained from any sighted individuals. The BA, on page 5, states that the LOAs would not allow dispersant spraying near listed species or other wildlife, but we could not find this reference in either LOA. Thus, we wished to clarify this point and identify distance guidelines for listed species under NMFS purview.

This concludes consultation responsibilities under Section 7 of the ESA. Consultation should be reinitiated, however, if new information reveals impacts of the identified activity that may affect listed species, a new species is listed, new critical habitat is designated, or the activity is



subsequently modified. In addition, when an On-Scene Coordinator exercises the authority to apply chemical dispersants, please forward us a copy of the post-incident briefing document prepared by the OSC. We will review the briefing document to determine whether reconsultation is necessary.

We appreciate the continued cooperation of the Coast Guard in protecting listed species and the marine environment. If you have any questions, please contact LTJG David Bernhart, Fishery Biologist, at 813/570-5312.

Sincerely yours,



Andrew J. Kemmerer
Regional Administrator

cc: F/PR3
File: 1514-22-h2-1997.