



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Caribbean Ecological Services

Field Office

P.O. Box 491

Boqueron, PR 00622

**DEC 18 2013**

In Reply Refer To:  
FWS/R4/CESFO/72 FC-013

Eric Summa  
Chief Environmental Branch  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

Re: Río Puerto Nuevo Flood Control,  
San Juan, Puerto Rico

Dear Mr. Summa:

Thank you for your letter dated November 19, 2013, and received in our office on November 22, 2013, requesting comments regarding the Río Puerto Nuevo Flood Control Project in San Juan, Puerto Rico. Our comments are provided under the Endangered Species Act (Act) of 1973, as amended (87 Stat. 884, as amended; 16 United States Code 1531 *et seq.*) and in accordance with the Fish and Wildlife Coordination Act (47 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*).

The purpose of the project is to protect lives and property from damages attributable to a 1% exceedance probability of flood along the Puerto Nuevo River and its tributaries. This level of protection is commonly called "100-year" flood protection. The whole project will provide 11.2 miles of channel improvements to the river and five major tributaries.

The U.S. Army Corps of Engineers is proposing a Post Authorization Change Report (PAC) for this project. The PAC is intended to document the increases in total project costs, resulting from more detailed field data, an engineering design modifications, modifications resulting from more detailed field data, and engineering design refinements. None of the design refinements have changed the overall project's footprint for the authorized project.

The Río Puerto Nuevo Flood Control lies within the range of the green (*Chelonia mydas*), and hawksbill (*Eretmochelys imbricata*) sea turtles, the Antillean manatee (*Trichechus manatus manatus*), brown pelican (*Pelecanus occidentalis*), and the yellow shouldered blackbird (*Agelaius xanthomus*).

Consultation with the Service under Section 7 of the Act was concluded in August 5, 1992 (see enclosure), for this project. At that time the Service concurred with the Corps determination of no significant impacts on the brown pelican and the yellow shouldered blackbird.

Mr. Summa

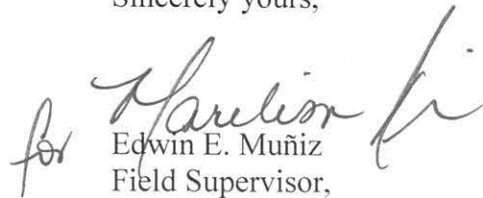
In this PAC Report the Corps is including the green and hawksbill sea turtles, and the Antillean manatee within the project area. In addition, although the Puerto Rican boa (*Epicrates inornatus*) has not been recorded in the project area, individuals have been located about 2 miles away of this site. However, the Corps has determined the Project is not likely to adversely affect all above mentioned species or their critical habitat.

Based on the information provided, the project will not significantly change as originally approved. The Corps has provided protective measures that have proven successful and will be established in contract specifications and implemented during construction. Therefore, the Service concurs with the Corp's determination that the proposed modification is not likely to adversely affect the species indicated above, and agrees with all recommended conservation measures provided in their communication from November 19, 2013. Nevertheless, if the project is modified or if information on impacts to listed species becomes available, our office should be contacted concerning the need for reinitiated of consultation under Section 7 of the Act.

The manatee conservation measures provided by the Corps (Attachment A letter dated November 19, 2013), states that manatee data will be submitted to the Service following project completion. As indicated in our communication from December 6, 2012 (see enclosure), we request copies of all manatee sighting logs for the project. This data will help the Service determine how manatees use this area for future reference. Other wildlife observation noted in the logs will also help to update our knowledge of wildlife use of the area now that the channel has been widened. We recommend that wildlife logs should be submitted on a quarterly basis to the Service with a final report at the end.

Thank you for the opportunity to comment on this project. If you have any question or require additional information, please contact José G. Martínez at 787-851-7297, extension 219. You may also visit our website <http://www.fws.gov/caribbean> for additional information on threatened and endangered species under jurisdiction and the programs to conserve them.

Sincerely yours,

  
Edwin E. Muñiz  
Field Supervisor,

jgm

Enclosures: US Fish and Wildlife letter (August 5, 1992)  
US Fish and Wildlife letter (December 6, 2012)

cc: DNER, San Juan  
EPA, San Juan  
Wilberto Cubero, COE, Jacksonville



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

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Mr. Sindulfo Castillo  
Chief Antilles Regulatory Section  
U.S. Army Corps of Engineers  
400 Fernández Juncos Avenue  
San Juan, Puerto Rico 00901-3299

Re: San Juan Harbor, Puerto Rico  
Dredged Material Disposal Site

Dear Mr. Castillo:

Thank you for your letter dated June 9, 2010 requesting comments regarding the above referenced project. Our comments are provided as technical assistance under the Endangered Species Act (87 Stat. 884, as amended; 16 United States Code 1531 et seq.) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.). Please refer to project identification number **FWS-72127-011** in any further correspondence.

The US Army Corps of Engineers (Corps) and the US Environmental Protection Agency (EPA) have submitted the final draft of the *Site Management and Monitoring Plan (SMMP) for the San Juan Harbor Puerto Rico Dredged Material Disposal Site (SJS)*. In March 1988, the SJS was designated as a Final Ocean Dredged Material Disposal Site to receive materials from the San Juan Harbor area and the final SMMP was adopted on January 5, 2000. The Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA 102 (c)(3)(F)) requires that the SMMP be reviewed and revised no less frequently than 10 years after adoption of the plan, and every 10 years thereafter.

The SJS has an area of approximately 1 square nautical mile located approximately 2.2 nautical miles north-northwest of the entrance to San Juan Harbor. The only source of material that is expected to be placed at the site during the projected period is dredged material resulting from maintenance of navigable depths in San Juan Harbor and dredged material resulting from construction and maintenance of the Río Puerto Nuevo Flood Control Project. There are no proposed limitations on the quantity of material that may be placed at the site.

We do not agree with Section 7.3 of the SMMP which specifies that the SJS does not encompass any known breeding, feeding, or nursery areas of marine mammal, sea turtles or birds. The San Juan Bay harbors suitable habitat for the endangered Antillean manatee (*Trichechus manatus manatus*). Please be aware that from August 16 to August 18, 2006, four males and one female adult Antillean manatees were found dead in the San



**Juan Bay area.** The cause of death for these animals was determined to be human related due to a large boat impact. Dead manatees showed signs of blunt trauma and large boat propeller scars. When a single female is associated to a group of males, they are forming a mating herd and the manatees are extremely active and thus visible. This event, although unfortunate, serves as evidence that manatees do use the San Juan Bay area for breeding behaviors. This accident may have been prevented by following idle speed zones within the San Juan Bay and/or by having an observer on board while transiting in that area.

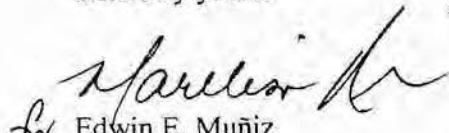
We concur with Section 9.3 of the SMMP which specifies that impacts to sensitive species (e.g. marine mammals, sea turtles, brown pelicans) will be avoided or minimized through the use of on board observers and that disposal would not be allowed to occur in the presence of such species. Dredging should also not be allowed to occur in the presence of sensitive species. Please review attached manatee conservation measures for in-water projects. The attached conservation measures should be implemented during the operation of the project to minimize possible adverse effects to manatees, sea turtles and the brown pelican.

If any marine mammal, sea turtle, brown pelican or other wildlife are injured or found dead at any time, please contact the nearest Department of Natural and Environmental Resources Law Enforcement Office (787-724-5700) or the Marine Mammal Rescue Program at 787-833-2025, 787-538-4684 or 787-645-5593.

Based on the above, we concur with the determination that the proposed activities are not likely to affect the Antillean manatee. Should additional information on listed or proposed species become available, this determination may be reconsidered.

Thank you for the opportunity to comment on this project. If you have any questions or require additional information, please contact Jan Zegarra at 787-851-7297 extension 220. You may also visit our website <http://www.fws.gov/caribbeann/ES> for additional information on threatened and endangered species under jurisdiction.

Sincerely yours,

  
Edwin E. Muñiz  
Field Supervisor  
Caribbean Field Office

jpz

cc  
EPA, San Juan  
EQB, San Juan

### **Technical Assistance to Evaluate Effects on Manatees**

The Service considers shallow coastal areas, bays, estuaries and mangrove lagoon ecosystems as important for the conservation of the Antillean manatee because these areas contain all the natural elements preferred by manatees: abundant sea grass relatively calm waters, sheltered spots, and freshwater sources, as well as a relatively low number of boats within the bay. Actions proposed for these areas should be carefully examined, to ensure that elements required by this species are not compromised.

To evaluate the potential effect of proposed action on manatees, we need the applicants to address the following issues:

1. Type and amount of watercraft associated to the project
2. Amount of boat facilities (e.g. ramps, piers, dry-stacks, buoys, among others)
3. Amount of habitat to be affected (e.g. acres of sea grasses)
4. Provisions / restrictions to be taken to prevent collisions with manatees (e.g. delineation of an entrance channel, marking buoys, navigation aids, among others).
5. Outreach efforts to be implemented concerning boat operation. One of the main components of a successful operation of facilities that implement mechanisms to safeguard threatened and endangered species is a comprehensive outreach program that clearly indicates to the public 1) the actions that the facility is undertaking to protect such species (including assurances on the implementation of protection measures), and 2) the activities that the public should take to minimize or prevent impacts to sensitive species and their habitats. Guidelines for safe operation of watercrafts should be included as part of the outreach/education component of the proposed project (example attached below).
6. Any other site-specific conservation measure applicable for the project.

### **Example of Conservation Measures for In-Water Projects (including dredging activities)**

The following manatee conservation measures are recommended:

1. The contractor instructs all personnel associated with construction of the facility of the presence of manatees and the need to avoid collisions with manatees.
2. All construction personnel will be advised that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Endangered Species Act of 1973 and the Marine Mammal Protection Act of 1972. The permittee and/or contractor will be held responsible for any manatee harmed, harassed, or killed as a result of construction of the project.

3. Siltation barriers will be made of material in which manatee cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exit from essential habitat.
4. All vessels associated with the project construction will operate at "no-wake/idle" speed at all times while in water where the draft of the vessel provides less than a 4-foot clearance from the bottom and that vessel will follow routes of deep water whenever possible.
5. If manatees are seen within 100 yards of the dredging area, all appropriate precautions shall be implemented to ensure protection of the manatees. These precautions shall include operating all equipment in such a manner that moving equipment does not come any closer than 50 meters of any manatee. Operation of any equipment closer than 50 meters to a manatee shall necessitate immediate shutdown of that equipment.
6. Any collision with and/or injury to a manatee shall be reported immediately to the Department of Natural and Environmental Resources law enforcement (787-724-5700) and the U.S. Fish and Wildlife Service, Caribbean Field Office (787-851-7297).
7. Temporary manatee awareness construction signs/buoys labeled "Manatee Habitat – Idle Speed In Construction Area" shall be installed and maintained in prominent locations within the construction area prior to initiation of construction. Temporary signs will be removed by the permitted upon completion of construction.
8. The contractor shall keep a log detailing sightings, collisions, or injury to manatees, which have occurred during the contract period. Following project completion, a report summarizing the above incidents and sightings will be submitted to the U.S. Fish and Wildlife Service, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622.
9. Permanent bilingual manatee awareness signs (6) shall be installed and maintained at docking and launching facilities within 1 year of issuance of the permit. The location of the "Caution Manatee Area" sign and "Information Display" sign will be noted on the attached permit drawings. The permanent "Caution Manatee Area" sign will be three feet by four feet, 125 gauge 61TS aluminum, covered with white, engineer grade, reflective sheeting; black painted lettering; black screened design; and orange, engineer grade, reflective grade border. Sign installation specifications and permanent awareness sign criteria are attached to this permit.
10. A notarized verification letter stating that permanent signs have been installed at designated locations shall be forwarded to the Corps of Engineers, Antilles Regulatory Section, as soon as they are installed. Signs and pilings remain the responsibility of the owner(s) and are to be maintained for the life of the life of the docking and launching facility in a manner acceptable to the Corps of Engineers.
11. A permanent bilingual "Information Display" (consisting of two signs, "Manatee Basic for Boaters" and Antillean Manatee Fact Sheet") will be installed prior to mooring occupancy at a prominent location to increase the awareness of boaters using the facility of boats to these animals. The numbers of information Displays required will depend on the docking facility design. One Information Display is required at each boat ramp or travel lift (if applicable). Information Display locations will be as shown on the attached drawings. Information Displays remain the responsibility of the owner(s) and are to be



3. PERMANENT INFORMATION SIGNS These should indicate the following:

GUÍA PARA LA PROTECCIÓN Y CONSERVACIÓN DEL MANATÍ  
(MANATEE PROTECTION AND CONSERVATION GUIDELINES)

1. Utilice gafas polarizadas mientras navega. Estas ayudan a detectar mejor al manatí, las áreas llanas y cualquier obstáculo en el mar. *(Use polarized sunglasses while navigating. These help to detect any manatee, shallow waters and any other obstacle in the water.)*
2. Si usted ve un manatí en la trayectoria de su embarcación, reduzca la velocidad a 5 mph y conduzca la embarcación fuera del paso del manatí o espere a que el manatí salga del área poniendo su embarcación en neutro. *(If you see a manatee within the path of your vessel, reduce the velocity to 5 mph and turn your vessel away from the manatee's path or wait until the manatee has moved from the area by putting your vessel in neutral.)*
3. Luego de asegurarse de que el manatí este fuera de la trayectoria de su embarcación, continúe navegando despacio (no más de 5 mph) hasta que su embarcación se encuentre a no menos de 50 pies (15 metros) del manatí. *(After you are certain that the manatee is well outside of the path of your vessel, resume navigation slowly (not more than 5 mph) until your vessel is not less than 50 feet (15 meters) away from the manatee.)*
4. Obedezca las zonas con límites de velocidad y reduzca la velocidad en aguas llanas menores a 10 pies de profundidad en particular cerca de la costa, en las desembocaduras de ríos, en praderas de hierbas marinas y manglares. *(Obey regulatory speed zones and reduce velocity in shallow waters less than 10 feet, particularly close to the coast, in river mouths, in sea grass beds and mangroves.)*
5. Si observa un manatí mientras usted esta en el agua, obsérvelo pasivamente, no lo persiga, acose o lo toque. *(If you observe a manatee while in the water, passively observe it, do not follow it, nor harass or touch.)*
6. No tire basura al agua. El manatí puede ingerirla o enredarse en ella, lo cual podría causarle heridas o la muerte. *(Do not throw trash in the water. Manatees may ingest or entangle on trash, which may injure or kill it.)*
7. Nunca alimente o le ofrezca agua a un manatí. Es ilegal y los malacostumbra a acercarse a lugares donde pueden ser lastimados. *(Never feed or give water to a manatee. It is illegal and will wrongly habituate them to approach areas where they can be injured.)*

Informe accidentes con un manatí inmediatamente. Si encuentra un bebé manatí solo, en peligro, herido o muerto, llame al Cuerpo de Vigilantes del Departamento de Recursos Naturales y ambientales al 787-724-5700 o al Programa de Rescate de Mamíferos Marinos al

787-833-2025, 787-538-4684 o 787-645-5593. *(Inform any accident with a manatee immediately. If you find a baby manatee alone, in danger, injured or dead, call the Department*

*of Natural and Environmental Resources Law Enforcement of at 787-724-5700 or the Marine Mammal Rescue Program at 787-833-2025, 787-538-4684 or 787-645-5593.)*

Herir a matar un manati puede conllevar multas de mas de \$50,000 y/o no menos de dos arias de carcel. ¡EVITESE ESE RIESGO!

*(Harming or killing a manatee could carry fines of more than \$50,000 and/or not less than two years in prison. AVOID THIS RISK!)*

**¡GRACIAS POR AYUDAR A SALVAR LOS MANATÍES! THANKS FOR HELPING SAVE THE MANATEES**



maintained for the life of the docking facility in a manner acceptable to the Corps of Engineers.

**Example of Manatee Conservation Measures for Coastal Projects (not dredging activities)**

The following manatee conservation measures are recommended:

1. All personnel associated with the project shall be instructed about the possible presence of manatees and the need to avoid collisions.
2. All on site personnel are responsible for observing water related activities for the presence of manatees. All in water operations including vessels must shut down if a manatee comes within 50 meters of the operation. Activities can resume once the manatee moves out of the 50 meters zone or after 30 minutes have passed without sighting a manatee. Manatees must not be herded or harassed into leaving the area.
3. All personnel will be advised that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Endangered Species Act of 1973 and the Marine Mammal Protection Act of 1972. The permit tee and/or contractor will be held responsible for any manatee harmed, harassed, or killed as a result of construction of the project.
4. Siltation or turbidity barriers shall be made of material in which manatee cannot become entangled. The barrier shall be properly secured, and regularly monitored to avoid manatee entrapment. Barriers must not impede manatee movement.
5. Any collision with and/or injury to a manatee shall be reported immediately to the Department of Natural and Environmental Resources law enforcement (787-724-5700) and the U.S. Fish and Wildlife Service, Caribbean Field Office (787-851-7297).
6. The contractor shall keep a log detailing sightings, collisions, or injury to manatees, which have occurred during the contract period. Following project completion, a report summarizing the above incidents and sightings will be submitted to the U.S. Fish and Wildlife Service, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622.
7. Temporary manatee awareness construction signs labeled "Manatee Habitat – Idle Speed in Project Area" shall be installed and maintained in prominent locations within the site prior to initiation of the project. Temporary signs will be removed by the permitted upon completion of construction.

**Example of guidelines for safe operation of watercraft within manatee areas**

**1. TEMPORARY AWARENESS SIGNS**

These should indicate the following:

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**CAUTION!**  
MANATEES IN THE AREA  
Maintain idle speed (5 mph) within construction site

**¡PRECAUCIÓN!**  
MANATÍES EN EL ÁREA  
Mantenga velocidad baja (5 mph) dentro del área de construcción

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**2. PERMANENT AWARENESS SIGNS**

These should indicate the following:

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**CAUTION!**  
MANATEES IN THE AREA  
Maintain idle speed (5 mph) within the area

**¡PRECAUCIÓN!**  
MANATÍES EN EL ÁREA  
Mantenga velocidad baja (5 mph) dentro del área

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UNITED STATES DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office

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St. Petersburg, Florida 33701-5505

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JUN 10 2014

Chief, Planning and Policy Division  
Environmental Branch  
Department of the Army  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

Ref.: Río Puerto Nuevo Flood Control Project, Post Authorization Change Report, San Juan,  
Puerto Rico

Dear Sir or Madam:

This letter responds to the November 19, 2013, letter from the U.S. Army Corps of Engineers (USACE) for the above-referenced project. The USACE is requesting concurrence with its project-effects determination for the remainder of flood control project construction and dredging in the area of the Puerto Nuevo River that is part of the Río Puerto Nuevo Flood Control Project. The USACE determined that the project may affect, but is not likely to adversely affect Endangered Species Act (ESA) listed corals and coral critical habitat; green, hawksbill, and leatherback sea turtles; and sperm, sei, blue, fin, and humpback whales. We requested additional information by emails dated November 26 and November 6, 2013, and received responses from the USACE with additional information by emails dated November 27 and December 9, 2013. Our findings on the project's potential effects are based on the project description in this response. Changes to the proposed action may negate our findings and may require reinitiating consultation.

We completed an ESA Section 7 consultation with the USACE and the U.S. Environmental Protection Agency (EPA) for the San Juan Offshore Dredged Material Disposal Site (San Juan ODMDS) Site Management and Monitoring Plan on December 6, 2010 (enclosed). As part of this consultation, the USACE and the EPA included NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* as a requirement for barges transiting to and from the ODMDS. EPA and USACE also included a requirement that, upon arrival at the ODMDS, the dredging inspector maintain a watch for listed marine mammals and sea turtles to ensure that no disposal activities take place while animals are present. The EPA has also completed surveys in the area of the ODMDS and the area of San Juan Harbor and the navigation channel and found that there was no benthic habitat in these areas, only loose sediments. Our December 2010 consultation for the San Juan ODMDS contained our conclusions related to potential project impacts to ESA-listed whales, sea turtles, corals, and coral critical habitat. Therefore, this consultation will not consider potential project impacts to ESA resources from the transit of barges to the ODMDS as these were addressed in our previous consultation and have not changed. This consultation will





consider only potential project impacts to ESA resources from the remaining flood control project construction and dredging in the area of the Puerto Nuevo River.

The project is located along the Puerto Nuevo River and five of its tributaries in San Juan, Puerto Rico (approximate position near river mouth 18.406692°N, 66.084369°W, North American Datum of 1983). The project as a whole will affect 11.2 miles of channel within the river and 5 major tributaries (Margarita, Josefina, Doña Ana, Buena Vista, and Guaracanal Creeks). The project was originally authorized in 1986 by the Water Resources Development Act. A General Design Memorandum was completed in 1991. An Environmental Assessment (EA) and a Finding of No Significant Impact were completed in 1992. A Section 7 ESA consultation for the flood control project was also completed with NMFS on March 26, 1992; however, there have been additional species listed and critical habitat designated that were not part of the original consultation.

The USACE is now producing a Post Authorization Change Report for the project due to the increase in total project costs associated with changes in real estate cost and design modifications and refinements, including seismic retrofits of modified bridges and adjustments associated with the San José and Miramar sewer systems. The overall project footprint has not changed, but the project has not been completed and the USACE is seeking authorization for additional funds to complete the project. The project is currently in construction and new excavations are still needed in the area of Margarita Creek, as well as maintenance dredging. All dredged material will be disposed of in the San Juan ODMDS via barge.

The USACE will include the following requirements for protection of ESA resources as part of the contracts issued for the completion of the flood control project. Note that these requirements are in addition to the required adherence with the conditions established by EPA and USACE for the disposal of dredge spoil in the San Juan ODMDS that were part of the December 2010 consultation, as noted above (see page 3.c in the November 29, 2013, USACE letter).

1. Compliance with NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* (enclosed) is required. As necessary, qualified observers will be present during in-water construction to avoid potential impacts to sea turtles and marine mammals.
2. Compliance with NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* (enclosed) is required.
3. To control the potential increase in total solids and sediment transport associated with construction activities, particularly dredging and excavation, the USACE will require that the contractor implement the following measures before the initiation of any work:
  - a. The installation of erosion and sediment control measures along the perimeter of all work areas to prevent the displacement of fill materials outside the work area based on standard construction best management practices.
  - b. Final grading of the land surface after all work completion and the stabilization of fill areas using sod, degradable mats, or a combination of materials to prevent erosion.



- c. The installation of turbidity curtains and monitoring of the area adjacent to dredge sites to ensure water quality standards and natural conditions are maintained during the construction phase.

ESA-listed species under our purview that may occur in the area near the mouth of the Puerto Nuevo River, which empties into San Juan Bay, include green (*Chelonia mydas*), loggerhead (*Caretta caretta*), and hawksbill (*Eretmochelys imbricata*) sea turtles. Hawksbill and green sea turtles are reported in various portions of San Juan Bay by the Puerto Rico Department of Natural and Environmental Resources, based on information provided as part of previous ESA Section 7 consultations for the project area. As noted previously, potential impacts to ESA-listed whales, sea turtles, corals, and coral critical habitat associated with the transport of dredged materials from San Juan Bay to the San Juan ODMDS were considered in the December 2010 ESA Section 7 completed for the ODMDS. Because the area where the remainder of the flood control project will take place does not contain any corals, coral critical habitat, waters deep enough for ESA-listed whale species to use, or nesting habitat for leatherback sea turtles, we will not consider these species further in this consultation.

We concur with USACE's determination that the proposed action may affect, but is not likely to adversely affect, hawksbill and green sea turtles. The USACE did not include loggerhead sea turtles in its determination, but these animals, although not common in Puerto Rico, may use portions of the San Juan Bay. Hawksbill and green sea turtles have been reported in various areas around San Juan Bay according to information in our project files that includes information from the Puerto Rico Department of Natural and Environmental Resources (DNER). No sea turtles have been reported in the Puerto Nuevo River, according to information from the USACE.

The remaining portions of the flood control project, including the dredging and excavation of the Margarita channel and levee construction, as well as maintenance dredging in other portions of the flood control project, require work in the river and its tributaries. There will also be transit of vessels to and from the work sites through portions of the San Juan Bay. Therefore, there is a potential for sea turtles to be struck by work vessels transiting to and from the project site. There is no refuge, forage, or nesting habitat in the area of Puerto Nuevo River although there are areas containing mangroves and seagrass beds in San Juan Bay. As noted above, green and hawksbill sea turtles have been sighted in the bay. The USACE will require that NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* be implemented during all vessel transit. The USACE will also require the use of qualified observers in the water as necessary based on the location of work and sightings of sea turtles in order to ensure that impacts to these animals from work vessels are avoided. Thus, we believe that the risk of vessel strikes will be discountable. Required compliance with NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* will provide additional protection by requiring work to stop if one of these species is seen within 50 feet of operating machinery.

Sediments could be re-suspended and transported to areas within the San Juan Bay containing seagrass beds and estuarine habitat during the construction of the remaining portion of the flood control project in the area of Margarita Creek, as well as during maintenance dredging associated with the completion of the flood control project. The nearest estuarine habitat, in the form of mangrove wetlands and mud flats, is the Martín Peña Channel, which joins the mouth of the



Puerto Nuevo River to empty into San Juan Bay. There have been several flora and fauna studies of this channel associated with USACE dredging and restoration projects, as well as flora and fauna studies of the area conducted by the San Juan Bay Estuary Program and none have sighted sea turtles in Martín Peña Channel. In addition, the sightings data from DNER from other projects in San Juan Bay noted above also did not contain any sightings in the area of the Martín Peña Channel. A report<sup>1</sup> prepared for the USACE as part of the mitigation planning for the past federal navigation project in San Juan Bay indicates that there are few areas in the bay where seagrasses occur, likely due to the highly turbid nature of deeper water areas within the bay associated with port activities. One of the few areas in San Juan Bay reported to contain seagrass beds is the shoal adjacent to the Puerto Nuevo Channel, approximately 2,300 meters from the mouth of the Puerto Nuevo River. Vessels transiting to and from the flood control project may use this channel as part of their navigation route. Therefore, it is likely that any sediment re-suspension and transport resulting from the proposed dredging would not be distinguishable from turbidity and suspended sediments already in the water column due to port activities.

The USACE will require the implementation of sediment and erosion control measures and stabilization of all fill materials on land to minimize the potential for transport of materials from land-based construction to the river and its tributaries and subsequently to San Juan Bay. The USACE will also require the installation and maintenance of in-water turbidity barriers to minimize the potential for any materials from land-based or in-water work to be transported to San Juan Bay. As noted above, there is no refuge or foraging habitat within the footprint of the dredging project and the USACE stated that no sea turtles have been sighted in the river or its tributaries during previous work conducted as part of the flood control project. Therefore, we believe that impacts to loggerhead, green, and hawksbill sea turtles from damage to refuge or foraging habitat will be insignificant.

This concludes the USACE's consultation responsibilities under Section 7 of the ESA for the proposed action. Be advised that a new consultation must be initiated 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 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.

Please be aware that NMFS published a 12-month finding and proposed listing rule for 7 species of Atlantic corals on December 7, 2012. We are proposing to list 5 of these species as endangered (*Montastraea annularis*, *M. faveolata*, *M. franksi*, *Dendrogyra cylindris*, and *Mycetophyllia ferox*) and 2 as threatened (*Agaricia lamarcki* and *Dichocoenia stokesii*) and change the listing of elkhorn and staghorn corals to endangered. Once a final listing determination has been published, if any adverse impacts to these corals occur as a result of changes to the flood control project, including the transport of dredge spoil to the San Juan ODMDS, it will be necessary to initiate a new consultation for the flood control project or the ODMDS.


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<sup>1</sup> Dial Cordy and Associates, Inc. 2003. San Juan Harbor Mitigation Baseline Survey and Conceptual Design. Prepared for the U.S. Army Corps of Engineers Jacksonville District. Dial Cordy and Associates, Inc., Jacksonville Beach, FL. 14 pp.

Additional relevant information is enclosed for your review. 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 regarding this consultation, please contact Dr. Lisamarie Carrubba, Consultation Biologist, at (787) 851-3700, or by email at Lisamarie.Carrubba@noaa.gov.

Sincerely,



 Roy E. Crabtree, Ph.D.  
Regional Administrator

- Enc.: 1. *Sea Turtle and Small Tooth Sawfish Construction Conditions*  
(Revised March 23, 2006)  
2. *Vessel Strike Avoidance Measures and Reporting for Mariners*  
(Revised February 7, 2008)  
3. Consultation Letter for the Site Management and Monitoring Plan for the San Juan Harbor Ocean Dredged Material Disposal Site (December 6, 2010)  
4. *PCTS Access and Additional Considerations for ESA Section 7 Consultations*  
(Revised June 11, 2013)

cc: USACE – Wilberto Cubero  
F/SER4 – José Rivera, Pace Wilber

File: 1514-22.F.9



## 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





## **Vessel Strike Avoidance Measures and Reporting for Mariners NOAA Fisheries Service, Southeast Region**

### **Background**

The National Marine Fisheries Service (NMFS) has determined that collisions with vessels can injure or kill protected species (e.g., endangered and threatened species, and marine mammals). The following standard measures should be implemented to reduce the risk associated with vessel strikes or disturbance of these protected species to discountable levels. NMFS should be contacted to identify any additional conservation and recovery issues of concern, and to assist in the development of measures that may be necessary.

### **Protected Species Identification Training**

Vessel crews should use an Atlantic and Gulf of Mexico reference guide that helps identify protected species that might be encountered in U.S. waters of the Atlantic Ocean, including the Caribbean Sea, and Gulf of Mexico. Additional training should be provided regarding information and resources available regarding federal laws and regulations for protected species, ship strike information, critical habitat, migratory routes and seasonal abundance, and recent sightings of protected species.

### **Vessel Strike Avoidance**

In order to avoid causing injury or death to marine mammals and sea turtles the following measures should be taken when consistent with safe navigation:

1. Vessel operators and crews shall maintain a vigilant watch for marine mammals and sea turtles to avoid striking sighted protected species.
2. When whales are sighted, maintain a distance of 100 yards or greater between the whale and the vessel.
3. When sea turtles or small cetaceans are sighted, attempt to maintain a distance of 50 yards or greater between the animal and the vessel whenever possible.
4. When small cetaceans are sighted while a vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until the cetacean has left the area.
5. Reduce vessel speed to 10 knots or less when mother/calf pairs, groups, or large assemblages of cetaceans are observed near an underway vessel, when safety permits. A single cetacean at the surface may indicate the presence of submerged animals in the vicinity; therefore, prudent precautionary measures should always be exercised. The vessel shall attempt to route around the animals, maintaining a minimum distance of 100 yards whenever possible.

6. Whales may surface in unpredictable locations or approach slowly moving vessels. When an animal is sighted in the vessel's path or in close proximity to a moving vessel and when safety permits, reduce speed and shift the engine to neutral. Do not engage the engines until the animals are clear of the area.

#### **Additional Requirements for the North Atlantic Right Whale**

1. If a sighted whale is believed to be a North Atlantic right whale, federal regulation requires a minimum distance of 500 yards be maintained from the animal (50 CFR 224.103 (c)).
2. Vessels entering North Atlantic right whale critical habitat are required to report into the Mandatory Ship Reporting System.
3. Mariners shall check with various communication media for general information regarding avoiding ship strikes and specific information regarding North Atlantic right whale sighting locations. These include NOAA weather radio, U.S. Coast Guard NAVTEX broadcasts, and Notices to Mariners. Commercial mariners calling on United States ports should view the most recent version of the NOAA/USCG produced training CD entitled "A Prudent Mariner's Guide to Right Whale Protection" (contact the NMFS Southeast Region, Protected Resources Division for more information regarding the CD).
4. Injured, dead, or entangled right whales should be immediately reported to the U.S. Coast Guard via VHF Channel 16.

#### **Injured or Dead Protected Species Reporting**

Vessel crews shall report sightings of any injured or dead protected species immediately, regardless of whether the injury or death is caused by your vessel.

Report marine mammals to the Southeast U.S. Stranding Hotline: 877-433-8299

Report sea turtles to the NMFS Southeast Regional Office: 727-824-5312

If the injury or death of a marine mammal was caused by a collision with your vessel, responsible parties shall remain available to assist the respective salvage and stranding network as needed. NMFS' Southeast Regional Office shall be immediately notified of the strike by email ([takereport.nmfs@noaa.gov](mailto:takereport.nmfs@noaa.gov)) using the attached vessel strike reporting form.

#### **For additional information, please contact the Protected Resources Division at:**

NOAA Fisheries Service  
Southeast Regional Office

263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701  
Tel: (727) 824-5312

Visit us on the web at <http://sero.nmfs.noaa.gov>





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southeast Regional Office  
263 13<sup>th</sup> Avenue South  
St. Petersburg, FL 33701-5505  
(727) 824-5312, FAX (727) 824-5309  
<http://sero.nmfs.noaa.gov>

F/SER31:LC

DEC 06 2010

Mr. Mark Reiss  
Division of Environmental Planning and Protection  
U.S. Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1866

Mr. Eric P. Summa  
Chief, Environmental Branch  
Planning Division  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, FL 32232-0019

RE: Site Monitoring and Management Plan (SMMP) for the San Juan Harbor Ocean Dredged Material Disposal Site (ODMDS)

Dear Messrs. Reiss and Summa:

This responds to your September 30, 2010, letter indicating that the referenced SMMP language has been modified to address our concerns related to potential impacts to listed whales, sea turtles, and corals that may occur along transit routes to the ODMDS. The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (COE) are responsible for the regulation and management of the ocean disposal of dredged materials. The EPA submitted details of the modifications to the language in the SMMP for the San Juan Harbor, Puerto Rico, ODMDS in response to concerns of the National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act (ESA).

NMFS received a letter dated June 9, 2010, from the COE requesting our concurrence with the COE's determination that the implementation of the SMMP, including the management and monitoring of dredged material disposal activities between the San Juan Harbor and the ODMDS, may affect, but is not likely to adversely affect, listed whales, sea turtles, corals, and ESA-designated coral critical habitat. By e-mail dated July 26, 2010, NMFS requested that the SMMP include conditions to protect listed species of marine mammals and sea turtles from the impacts of vessel transit between dredging sites in the San Juan Harbor and the ODMDS. During a call on September 29, 2010, EPA clarified the changes to the language in the SMMP regarding protection of listed whales and sea turtles, as well as the measures related to monitoring of barges that enable the rapid detection of leakage or loss of material in order to correct the situation and ensure that material is not deposited in areas containing listed corals or



their ESA-designated critical habitat. EPA also noted that the transit routes to the site are being mapped in order to determine whether areas of colonized hardbottoms exist between the harbor and the ODMDS. If colonized hardbottom areas are found, the SMMP will be modified to reflect the transit routes to be followed between the San Juan Harbor and the ODMDS in order to minimize the potential that equipment malfunctions or operational problems that result in the loss of dredged material from barges in transit result in damage to listed corals or their habitat. Based on the information provided by the EPA, including the information in your September 30, 2010, letter; the modifications to the language of the SMMP; and the stringent provisions in the SMMP regarding the reporting and detection of barge draft which enables a determination of whether and where vessels have lost material, the SMMP and the implementation of the plan include measures to avoid and minimize potential impacts to listed species. Thus, the EPA and the COE have determined that the proposed dock construction may affect, but is not likely to adversely affect, listed species under NMFS' jurisdiction. You are reminded that any changes to the proposed action may negate the findings of the present consultation and may require reinitiation of consultation with NMFS.

The ODMDS for the San Juan harbor is an approximately one square nautical mile (nm) area located approximately 2.2 nm north-northwest of the entrance to the San Juan Harbor, San Juan, Puerto Rico (approximate bounding coordinates 18.50278°N, 66.15861°W; 18.50278°N, 66.14139°W; 18.5194°N, 66.14139°W; 18.5194°N, 66.15861°W). The site was designated for disposal of dredged material from San Juan Bay, including the area of Puerto Nuevo. The COE and the EPA are responsible for the preparation of a SMMP for each ODMDS pursuant to the requirements of Section 506 of the Water Resources and Development Act. COE and EPA have drafted a SMMP for the San Juan Harbor ODMDS. According to the information included in your letter, the language of the SMMP has been modified to include measures to address NMFS' concerns related to potential adverse effects to listed species (detailed below) due to the operation of the ODMDS.

Listed species under the purview of NMFS that occur in the area include humpback (*Megaptera novaeangliae*), blue (*Balaenoptera musculus*), finback (*Balaenoptera physalus*), sei (*Balaenoptera borealis*), and sperm whales (*Physeter macrocephalus*); hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), and green sea turtles (*Chelonia mydas*); elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals; and ESA-designated critical habitat for listed corals. Listed whales transit through the project area during their winter migrations and listed sea turtles transit through the project area, as nesting beaches occur to the east and west of the San Juan Harbor along the coasts of Isla Verde and Toa Baja. Listed coral colonies are reported along the coast east of the harbor entrance from in front of El Morro fort toward Condado Lagoon. Areas meeting the designated coral critical habitat definition are located along portions of the north coast in the project area as well, but no areas meeting the coral critical habitat definition are within the footprint of the ODMDS. The essential feature of critical habitat for listed corals is substrate of suitable quality and availability, in water depths from the mean high water line to 30 m, to support successful larval settlement, recruitment, and reattachment of fragments. Substrate of suitable quality and availability means consolidated hardbottom or dead coral skeletons free from fleshy macroalgae and sediment cover.



NMFS has analyzed the routes of potential effects to listed whales, sea turtles, and listed corals and ESA-designated coral critical habitat from the proposed action. Based on our analysis and project review, we have determined that these potential effects include the following: impacts to listed whales and sea turtles due to collisions with vessels transiting from dredge sites in the San Juan Harbor to the ODMDS; impacts to listed whales and sea turtles resulting from exposure to contaminated material during disposal of dredge spoil in the ODMDS; impacts to sea turtle refuge and foraging habitat, listed corals, and designated coral critical habitat associated with spills of dredged materials from barges in transit to the ODMDS; and impacts to sea turtle refuge and foraging habitat, listed corals, and designated coral critical habitat associated with the accidental grounding of barges in transit to and from the ODMDS.

NMFS believes that the proposed action may affect but is not likely to adversely affect listed whales and sea turtles. Listed whales and sea turtles in the water could be affected by vessel transit to and from the ODMDS. However, EPA and COE have included NMFS Southeast Region Vessel Strike Avoidance Measures and Reporting for Mariners as a requirement for barges transiting to and from the ODMDS. EPA and COE have also included a requirement that, upon arrival at the ODMDS, the dredging inspector maintain a watch for listed marine mammals and sea turtles to ensure that no disposal activities take place while animals are present. Further, based on information from a consultation with the U.S. Coast Guard for their Marine Events Program in the U.S. Caribbean, and information from the U.S. Fish and Wildlife Service, the only reported collisions with marine mammals in this area occurred inside the San Juan Bay in the Puerto Nuevo area when a vessel collided with five manatees. We have no records of collisions with marine mammals or sea turtles associated with the operation of the ODMDS site. Therefore, NMFS believes that impacts to listed whales and sea turtles due to collisions with vessels during transit to and from the ODMDS will be discountable.

NMFS believes that the proposed action may affect but is not likely to adversely affect listed whales and sea turtles. Listed whales and sea turtles could be affected during the deposition of dredge spoil in the ODMDS if they are swimming through the area or due to the release of contaminated material in the water column. However, EPA evaluates materials to be dredged to determine whether the concentrations of contaminants in the material would pose a risk to the environment and, if so, requires that materials be disposed of in a landfill or other approved terrestrial disposal site rather than in the ODMDS. The SMMP also contains requirements for monitoring of benthic organisms to ensure that the disposal of materials does not result in a shift in the benthic community to pollutant-tolerant organisms. The EPA and COE will also require that vessels follow NMFS' vessel strike guidelines as noted above, so deposition of material would not be allowed while whales or sea turtles are transiting through the area. Monitoring data indicate that levels of cadmium, chromium, mercury, nickel, and lead from samples taken in the ODMDS do not exceed the maximum concentrations for acute toxicity to aquatic organisms, but that the high end of the range of concentrations for arsenic, copper, and zinc do sometimes exceed these concentrations. However, arsenic occurs naturally in the volcanic soils of Puerto Rico and copper was used as an anti-fouling agent for vessels for many years and the dredge materials are from an active port. Further, 10,875,574 cubic yards of material has been disposed of in the ODMDS to date and no monitoring undertaken as part of the SMMP or reports from

completed disposal activities indicate that the benthic habitat or water or sediment quality have been significantly altered in the area of the ODMDS, or that sea turtles or whales were present during disposal activities. Therefore, NMFS believes that impacts to listed whales and sea turtles related to exposure to contaminants in the dredge spoil during disposal in the ODMDS will be discountable.

Listed sea turtles could be affected by the loss of refuge and foraging habitat as a result of the leakage or loss of dredged materials from barges transiting to the ODMDS. Likewise, listed corals and their designated critical habitat could be impacted by the leakage or loss of dredged materials from barges transiting to the ODMDS. However, as noted in your letter, the ODMDS is located in waters that are an average of 965 feet deep. EPA found loose sediments covering the bottom in the area of the entrance to the San Juan Harbor and the navigation channel, which is used by barges exiting the harbor in transit to the ODMDS, during past surveys using side-scan sonar and a remotely operated vehicle with a camera in the area of the navigation channel. In addition, EPA requires that vessels follow a strict discharge protocol that includes a monitoring system and reporting to EPA to ensure that no material leaks from vessels while in transit and that materials are deposited only in the ODMDS. EPA is also planning more detailed mapping of potential transit routes between the San Juan Harbor and the ODMDS in November 2010. Should any hardbottom features be identified along transit routes that may provide habitat for listed corals or contain the essential features for coral designated critical habitat, EPA will modify the SMMP to include required transit routes that avoid these areas to the maximum extent practicable so that, should leakage occur, materials will settle on uncolonized bottom rather than hard bottom areas. Therefore, NMFS believes that impacts to sea turtle refuge and foraging habitat, listed corals, and ESA-designated coral critical habitat from leakage of dredged materials from vessels in transit to the ODMDS will be discountable.

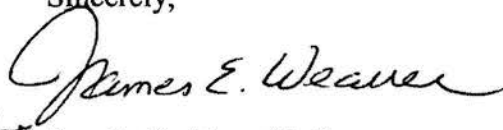
Listed sea turtles could be affected by the loss of refuge and foraging habitat as a result of the accidental grounding of vessels transiting to and from the ODMDS. Likewise, listed corals and their designated critical habitat could be impacted by the accidental grounding of vessels transiting to and from the ODMDS. However, the ODMDS is located in waters that are an average of 965 feet deep and there is a well-marked navigation channel at the entrance to the San Juan Harbor. EPA is planning more detailed mapping of potential transit routes between the San Juan Harbor and the ODMDS in November 2010 and will modify the SMMP to contain required transit routes should any hardbottom features be identified that may provide habitat for listed corals or contain the essential features for coral designated critical habitat. In addition, the ODMDS is located 2.2 nm offshore where there are no shallow-water features containing sea turtle or listed coral habitat. While there have been accidental groundings at the entrance to the San Juan Harbor, none of these groundings were barges associated with harbor dredging operations in transit to the ODMDS. Therefore, NMFS believes that impacts to sea turtle refuge and foraging habitat, listed corals, and ESA-designated coral critical habitat from the accidental grounding of vessels in transit to and from the ODMDS will be discountable.

This concludes the COE and EPA's consultation responsibilities under section 7 of the ESA for the San Juan Harbor ODMDS SMMP. Be advised that a new consultation must be initiated 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 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. Please be aware that NMFS is currently conducting a status review for seven species of corals, all of which are known to occur around Puerto Rico. We have enclosed additional information on NMFS' Public Consultation Tracking System to allow you to track the status of future ESA consultations.

Thank you for your efforts to ensure the conservation of protected species and their habitat. If you have any questions regarding our position on the proposed project or the Section 7 consultation process, please contact Dr. Lisamarie Carrubba at (787) 851-3700, or by e-mail at [lisamarie.carrubba@noaa.gov](mailto:lisamarie.carrubba@noaa.gov).

Sincerely,

  
for Roy E. Crabtree, Ph.D.  
Regional Administrator

Enclosure

File: 1514-22.F.9

Ref: I/SER/2010/02658

## **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](mailto:Eric.Hawk@noaa.gov). Requests for username and password should be directed to [PCTS.Usersupport@noaa.gov](mailto: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.

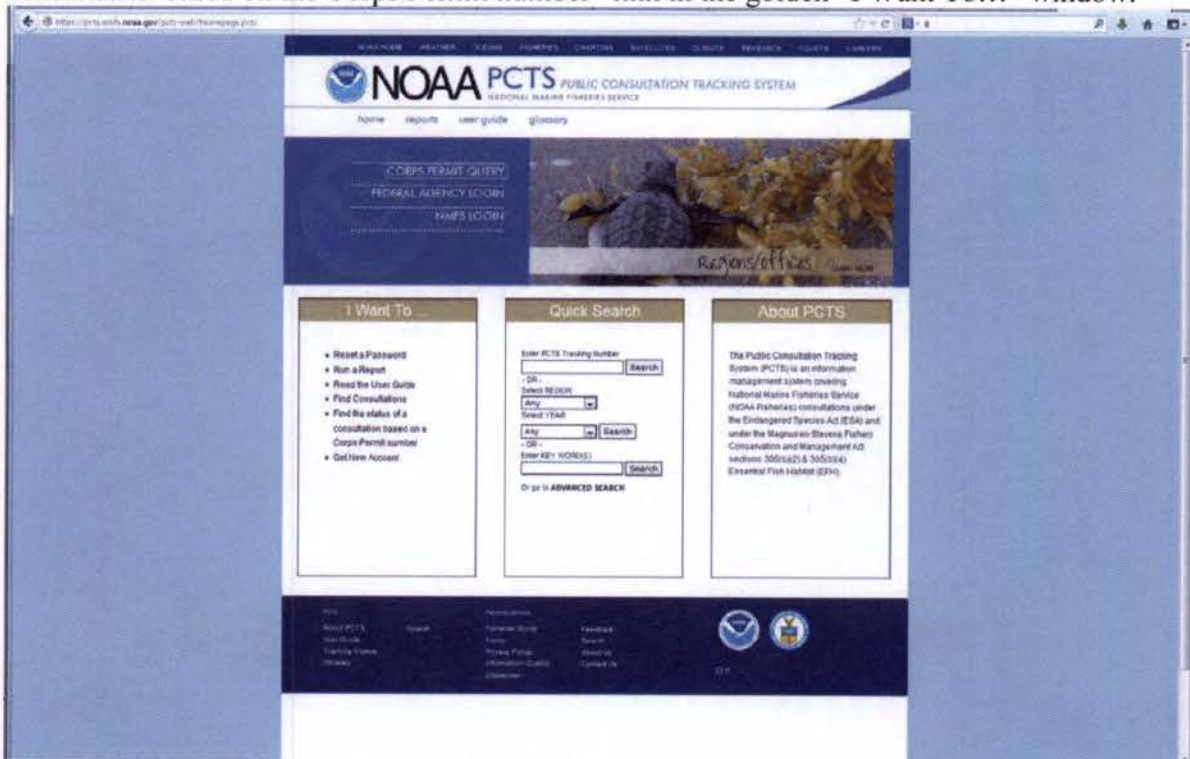
**Marine Mammal Protection Act (MMPA) Recommendations:** The ESA section 7 process does not authorize incidental takes of listed or non-listed marine mammals. If such takes may occur an incidental take authorization under MMPA section 101 (a)(5) is necessary. Please contact NMFS' Permits, Conservation,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



## PCTS Access and Additional Considerations for ESA Section 7 Consultations (Revised 6-11-2013)

Public Consultation Tracking System (PCTS) Guidance: PCTS is a Web-based query system at <https://pcts.nmfs.noaa.gov/> that allows all federal agencies (e.g., U.S. Army Corps of Engineers - USACE), project managers, permit applicants, consultants, and the general public to find the current status of NMFS's Endangered Species Act (ESA) and Essential Fish Habitat (EFH) consultations which are being conducted (or have been completed) pursuant to ESA Section 7 and the Magnuson-Stevens Fishery Conservation and Management Act's (MSA) Sections 305(b)2 and 305(b)(4). Basic information including access to documents is available to all.

The PCTS Home Page is shown below. For USACE-permitted projects, the easiest and quickest way to look up a project's status, or review completed ESA/EFH consultations, is to click on either the "Corps Permit Query" link (top left); or, below it, click the "Find the status of a consultation based on the Corps Permit number" link in the golden "I Want To..." window.

The screenshot shows the NOAA PCTS Public Consultation Tracking System homepage. The header includes the NOAA logo and the text "NOAA PCTS PUBLIC CONSULTATION TRACKING SYSTEM" and "NATIONAL MARINE FISHERIES SERVICE". Below the header is a navigation bar with links: home, reports, user guide, glossary. The main content area is divided into three columns. The left column, titled "I Want To...", contains links: Reset a Password, Run a Report, Read the User Guide, Find Consultations, Find the status of a consultation based on a Corps Permit number, and Get New Account. The middle column, titled "Quick Search", contains a search form with fields for "Enter PCTS Tracking Number", "Select REGION" (dropdown), "Any" (radio button), "Year" (text input), "Any" (radio button), "Search", and "Enter KEY WORD(S)" (text input). The right column, titled "About PCTS", contains a paragraph describing the system. The footer includes links for "About PCTS", "Contact Us", "Privacy Policy", "Disclaimer", and "Terms of Use".

Then, from the "Corps District Office" list pick the appropriate USACE district. In the "Corps Permit #" box, type in the 9-digit USACE permit number identifier, with no hyphens or letters. Simply enter the year and the permit number, joined together, using preceding zeros if necessary after the year to obtain the necessary 9-digit (no more, no less) number. For example, the USACE Jacksonville District's issued permit number SAJ-2013-0235 (LP-CMW) must be typed in as 201300235 for PCTS to run a proper search and provide complete and accurate results. For querying permit applications submitted for ESA/EFH consultation by other USACE districts, the procedure is the same. For example, an inquiry on Mobile District's permit MVN201301412 is entered as 201301412 after selecting the Mobile District from the "Corps District Office" list. PCTS questions should be directed to Eric Hawk at [Eric.Hawk@noaa.gov](mailto:Eric.Hawk@noaa.gov) or (727) 551-5773.

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.