United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/R4/DH NRDAR

AUG 13 2015

Memorandum

To: Field Supervisors, Ecological Services Field Offices in Panama City, Jacksonville, and Vero Beach, Florida; Daphne, Alabama; Jackson, Mississippi; Lafayette, Louisiana; and Corpus Christi, Texas

From: Deputy *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager Debra L McCall

Subject: Proposed Pelagic Longline Bycatch Reduction Project

As you are no doubt aware, on or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced an explosion, leading to a fire and its subsequent sinking in the Gulf of Mexico (the Gulf). These events resulted in the discharge of millions of barrels of oil into the Gulf over a period of 87 days. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil. These events are hereafter collectively referred to as the Oil Spill.

The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, is a designated natural resource trustee agency authorized by the Oil Pollution Act of 1990 (OPA) and other applicable federal laws to assess and assert a natural resource damages claim for this Oil Spill. The National Oceanic and Atmospheric Administration (NOAA) is only one of several Trustees so authorized. Consistent with their federal and state authorities, the Trustees are investigating the resource injuries and losses that occurred as a result of the Oil Spill and have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured natural resources to make the public whole for injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, National Oceanic and Atmospheric Administration (NOAA), and the Trustees for the five Gulf states affected by the Oil Spill entered into an agreement with BP, a responsible party for the Oil Spill, under which BP agreed to provide $1 billion for early restoration projects in the Gulf to address injuries to natural resources caused by the Oil Spill. The subject project is being evaluated by the Trustees as a potential early restoration project. The early restoration project has been proposed in a draft early restoration plan that was released for public comment and review May 20, 2015. If the Trustees select the project after publication of the plan and consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by the NOAA.

As with other early restoration projects, we reviewed the proposed Pelagic Longline Bycatch Reduction Project for compliance with Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). We determined the proposed project has been the subject of a number of consultations or permitting actions under the ESA under NOAA NMFS jurisdiction. We have summarized these analyses in the attached ESA Biological Evaluation Form for *Deepwater Horizon* Oil Spill Restoration (BE) and determined no consultation with U.S. Fish and Wildlife Service is needed, and no additional consultation with National Marine Fisheries Service for the proposed project is necessary.

Within the BE forms, we have also reviewed the proposed project for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703–712), respectively. These BE forms will also be submitted to NMFS in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

We are providing you with these Biological Evaluation Forms for your information and no concurrence is necessary. If you have questions or concerns regarding this documentation, please contact Ashley Mills, Fish and Wildlife Biologist, at 812-756-2712 or ashley_mills@fws.gov.

Attachments (2)

December 2014

Endangered Species Act Biological Evaluation Form
Deepwater Horizon Oil Spill Restoration
Fish and Wildlife Service & National Marine Fisheries Service

This form will be used to provide information for the initiation of informal Section 7 consultations under the Endangered Species Act, if required or to document a No Effect determination. In addition, information provided in this form may be used to inform other regulatory compliance processes such as Essential Fish Habitat (EFH), Marine Mammal Protection Act (MMPA), Section 106 of the National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Bald and Golden Eagle Protection Act (BGEPA). Further information may be required beyond what is captured in this form. Note: if you need additional space for writing, please attach pages as needed.

A. Project Identification

Lead Agency

U.S. Fish and Wildlife Service/National Marine Fisheries Service

Agency Contact Person	*Phone*	*Email*
Ashley Mills and Laurel Jennings	812-756-2712 and 206-526-4601	Ashley_Buchanan@fws.gov and Laurel.Jennings@noaa.gov

I. *Applicant Agency or Business Name*

NOAA

II. *Applicant Contact Person*	III. *Phone*	*Email*
Mel Landry	(225) 778-7380	mel.landry@noaa.gov

IV. *Project Name and ID# (Official name of project and ID number assigned by action agency)*

Pelagic Longline Bycatch Reduction Project

V. *Project Type*

Other

VI. *NMFS Office (Choose appropriate office based on project location)*

NMFS Southeast Regional Office

VII. *FWS Office (Choose appropriate office based on project location)*

Not Applicable

B. Project Location

I. Physical Address of Project Site (If applicable)

N/A

II. *State & County/Parish of Project Site*

Gulf of Mexico Exclusive Economic Zone (EEZ)

III. *Latitude & Longitude for Project Site (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: http://transition.fcc.gov/mb/audio/bickel/DDDMMSS-decimal.html])*

N/A

IV. Township, range and section of the project area

N/A

C. Description of Action Area

1. Attach a separate map delineating where the action will occur. 2. Describe ALL areas that may be affected directly or indirectly by the Federal action and not merely the immediate project site involved in the action, or just where species or critical habitat may be present. Provide a description of the existing environmental conditions and characteristics (e.g., topography, vegetation type, soil type, substrate type, water quality, water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). 3. If habitat for species is present in the action area, provide a general description of the current state of the habitat. 4. Identify any management or other activities already occurring in the area. 5. Detailed map of the area of potential effect for ground disturbing activities if it is different from the project area

The Gulf of Mexico is a large basin. Its greatest east-west and north-south extents are approximately 1,100 and 800 miles, respectively, with a surface area of approximately 600,000 square miles, and containing approximately 584,000 cubic miles of water. The basin is bordered by Cuba, Mexico, and the United States (U.S.), and consists of an intertidal zone, continental shelf, continental slope, and abyssal plain. The U.S. portion of the Gulf extends from the southern tip of Texas eastward to the Florida Keys, following the coastline of five states: Texas, Louisiana, Mississippi, Alabama, and Florida. This northern portion of the Gulf of Mexico is dominated by inputs from the Mississippi River Basin (MRB), which drains 41% of the contiguous U.S. and contributes 90% of the freshwater entering the Gulf. These inflows provide the nutrients and hydrological conditions that make the northern Gulf of Mexico one of the most unique natural areas in the world.

The offshore marine environment consists of portions of the Gulf of Mexico that are more than 600 feet deep including the outer shelf, continental slope, and abyssal plain. These environments are further removed from the coast and thus less influenced by freshwater inputs. The outer shelf is a transition area between deepwater currents over the continental slope (steep slope from the continental shelf to the ocean floor) and the abyssal plain (the ocean floor offshore). Waters in the open, pelagic Gulf, along the outer continental shelf and further offshore are generally clear with low nutrient concentrations and deep light penetration.

Please see Figure 1 in the form Supplement (attached) for the project location (Gulf of Mexico EEZ).

a. *Waterbody*

(If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If the location is in a river or estuary, please approximate the navigable distance from the project location to the marine environment.)

Gulf of Mexico EEZ - See description above.

b. *Existing Structures*

(If applicable. Describe the current and historical structures found in the project area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.

Not applicable due to the project being a marine environment.

c. *Seagrasses & Other Marine Vegetation*

(If applicable. Describe seagrasses found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the seagrasses in the project area.)

Seagrasses are found in the general project area (Gulf of Mexico), but none of the gear types, pelagic longline, greenstick, or buoy gear, touch the substrate, so there is no interaction with seagrass species.
Sargassum natans and Sargassum fluitans are two species of Sargassum that are plentiful in the pelagic environment of the Gulf of Mexico, and are found in vast mats floating on the surface. These algae species exist in the areas where pelagic longline fishing occurs, and where the alternative greenstick and buoy gear fishing also occurs.

d. *Mangroves*

(If applicable. Describe the mangroves found in project area. Indicate the species found (red, black, white), the species area of coverage in square footage and linear footage along project shoreline. Attach a separate map showing the location of the mangroves in the project area.)

Not applicable as fishing is not done along the coastline, so none of the gear types, pelagic longline, greenstick, or buoy gear, would interact with mangroves.

e. *Corals*

(If applicable. Describe the corals found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the project area.)

Corals are found in the general project area (Gulf of Mexico), but none of the gear types, pelagic longline, greenstick, or buoy gear, touch the substrate, so there is no interaction on the coral species.

f. *Uplands*

(If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Not applicable due to project activities only being in the marine environment.

D. Project Description

I. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

There is no construction associated with this project as it is a resource-based restoration project. January-June of each year will be the 6-month pelagic longline fishing reposed period, where implementation of participation and observation of compliance with project standards will be in effect. The alternative gear types, greenstick and buoy gear, will be provided to fishers participating in the project to use during the repose period and during the remainder of the project if desired. Continued

II. *Describe the Proposed Action: 1. What is the purpose and need of the proposed action? 2. How do you plan to accomplish it? Describe in detail the construction equipment and methods** needed; permanent vs. temporary impacts; duration of temporary impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained. 3. Attach a separate map showing project footprint, avoidance areas, construction accesses, staging/laydown areas.* ***If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, or artificial reefs, list the method here, but complete the next section(s) in detail.***

Continued from Section D.I. above: The duration of the proposed PLL Project is dependent upon the number of fishermen volunteering to participate each year, but is expected to be in place from 5 to 10 years. The first year would target establishing contracts and/or other arrangements necessary to support implementation. In the following years, fishers would participate in the voluntary PLL repose and implement use of the alternative gears.

See fishing gear diagrams in attached Supplement: Figure 2 - PLL gear, Figure 3 - Greenstick gear, and Figure 4 - Buoy gear.

Note: This project involves already authorized alternative gears by NMFS permitted vessels. The vessels operate under existing biological opinions for applicable Highly Migratory Species (HMS) fisheries and the recent reinitiation on the HMS fishery. For further analysis based on the findings in these documents in the relation to this PLL project, see section F.

Overview
The proposed PLL project would consist of the following: a voluntary annual 6 month PLL fishing repose in the Gulf of Mexico; provision of two alternative fishing gear types to PLL fishermen. These actions are covered under the ESA via existing permits and consultations. We have included a brief summary below to facilitate understanding of the permits and consultations already in place and no additional consultation for this proposed project is necessary.

Purpose & Need
The proposed project's purpose is to begin to replace pelagic fish biomass like that lost due to the Deepwater Horizon Spill by constructing a bycatch reduction project. The action would support resource sustainability and fisheries management while minimizing socioeconomic impacts on the target fisheries. The proposed project is needed to reduce fish mortality from bycatch and regulatory discards in the GOM PLL fishery.

Operations and Maintenance of PLL Project
Participation in the repose and alternative gear project components will be accomplished through compensation-based voluntary participation by willing vessel owners. Contractual agreements with vessel owners would set forth participation requirements and compensation details. Alternative gear provisioning and installation would be funded through the project as well as training and support during initial gear setup/tuning.
Data collected through PLL project monitoring activities will inform a gear improvement component which will be designed to increase alternative gear catch efficiency in the Gulf of Mexico. The results of the gear improvement component will be relayed to PLL project participants via technological exchange presented as additional training.
Utilization or expansion of existing NMFS resources and programs (i.e. NMFS Vessel Monitoring System Program) will provide PLL Project managers with the ability to remotely monitor project participants to support enforcement of compliance with contracts/agreements.

Project Components
The proposed Pelagic Longline Bycatch Reduction Project (PLL Project) aims to reduce bycatch associated with the GOM PLL fishery and includes two integrated actions. The first action is a compensation-based voluntary annual 6-month repose from PLL fishing in the GOM, to coincide with bluefin tuna spawning season. During the repose period, participating fishermen could continue to fish for yellowfin tuna and swordfish using the alternative fishing gear types described below.

The second action comprising the proposed PLL Project is the provisioning of two alternative gear types to PLL fishermen participating in the repose period: greenstick gear (see Figure 3) or buoy gear (see Figure 4). During the PLL repose period, fishers would be allowed to use the alternative gears to harvest targeted species. Greenstick gear is trolled to target yellowfin tuna. Buoy gear is set to target swordfish. These two fishing gear types have been widely discussed for their potential effectiveness in reducing the dead discards associated with directed fisheries for yellowfin tuna and swordfish in the Gulf of Mexico. Both types are in use in other regions of the U.S. Atlantic Highly Migratory Species (HMS) fishery, but are used much less by fishermen in the GOM. The alternative gears to be used (greenstick and buoy gear) are currently authorized for use by vessels permitted in the pelagic longline fishery and no new gear authorizations are necessary. Both have been the topic of recent gear-efficiency and bycatch experiments using observers on commercial fishing vessels. The goal of providing alternative gears for use during a PLL repose period is to reduce adverse financial impact to fishers and help maintain local economies during the PLL repose periods. As part of the project, technical extension services (research, outreach, and training on the use of the alternative gear types) will be provided to participants to educate users and tune alternative gear to maximize effectiveness.

III. *Specific In-Water Construction Methods (Provide a detailed account of construction methods. It is important to include step-by-step descriptions of how demolition or removal of structures is conducted and if any debris will be moved and how. Describe how construction will be implemented, what type and size of materials will be used and if machines will be used, manual labor, or both. Indicated if work will be done from upland, barge, or both.)*

a. *Overwater Structures (Place your answers to the following questions in the box below.)*

i. *Is the proposed use of this structure for a docking facility or an observation platform?*
ii. *If no, is this a fishing pier? Public or Private? How many people are expected to fish per day? How do you plan to address hook and line captures?*
iii. *Use of "Dock Construction Guidelines"? http://sero.nmfs.noaa.gov/pr/endangered%20species/Section%207/DockGuidelines.pdf*
iv. *Type of decking: Grated – 43% open space; Wooden planks or composite planks – proposed spacing?*
v. *Height above Mean High Water (MHW) elevation?*
vi. *Directional orientation of main axis of dock?*
vii. *Overwater area (sqft)?*
viii. *Use of "Sea Turtle and Smalltooth Sawfish Construction Conditions, March 2006"? http://sero.nmfs.noaa.gov/pr/endangered%20species/Sea%20Turtle%20and%20Smalltooth%20Sawfish%20Construction%20Conditions%203-23-06.pdf*

This section is not applicable because there is no in-water construction work associated with this project.

b. *Pilings & Sheetpiles (What type of material is the piling or sheetpiles? What size and how many will be used? Method used to install: impact hammer, vibratory hammer, jetting, etc.?)*

N/A

c. *Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)*

N/A

d. *Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)*

N/A

e. *Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the project area.)*

N/A

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft^2) to be dredged, volume of material (yd^3) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)).*

N/A

g. *Blasting (Projects that use blasting might not qualify as "minor projects," and a Biological Assessment (BA) may need to be prepared for the project. Arrange a technical consultation meeting with NMFS Protected Resources Division to determine if a BA is necessary. Please include explosive weights and blasting plan.)*

N/A

h. *Artificial Reefs (Provide a detailed account of the artificial reef site selection and reef establishment decisions (i.e., management and siting considerations, stakeholder considerations, environmental considerations), deployment schedule, materials used, deployment methods, as well as final depth profile and overhead clearance for vessel traffic. For additional information and detailed guidance on artificial reefs, please refer to the artificial reef program websites for the particular state the project will occur in.*

N/A

E. Species & Critical Habitat

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area.
2. Attach a separate map identifying species/critical habitat locations within the action area.

For information on species and critical habitat under FWS jurisdiction, visit http://www.fws.gov/endangered/species/.
Under NMFS jurisdiction,
visit: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/gulf_of_mexico.pdf.

SPECIES and/or CRITICAL HABITAT (CH)	STATUS	CH UNIT
Blue whale - Balaenoptera musculus	Endangered	
Finback whale - Balaenoptera physalus	Endangered	
Humpback whale - Megaptera novaeangliae	Endangered	
Sei whale - Balaenoptera borealis	Endangered	
Sperm Whale - Physeter macrocephalus	Endangered	
Gulf sturgeon - Acipenser oxyrinchus desotoi (marine)	Threatened	
Smalltooth sawfish - Pristis pectinata (marine)	Endangered	
West Indian Manatee - Trichechus manatus (marine)	Endangered	
Leatherback Sea Turtle - Dermochelys coriacea (marine)	Endangered	
Loggerhead Sea Turtle - Caretta caretta (marine)	Threatened	Northwest Atlantic DPS
Kemps Ridley Turtle - Lepidochelys kempi (marine)	Endangered	
Green Turtle - Chelonia mydas. Breeding population in Florida is endang	Proposed Threatened	
Hawksbill Turtle - Eretmochelys imbricata (marine)	Endangered	
Lobed star coral - Orbicella annularis; Mountainous star coral - Orbicella f	Threatened	
Elkhorn coral - Acropora palmata; Staghorn coral - Acropora cervicornis	Threatened	
	Select One	

F. Effects of the Proposed Project

I. *Explain the potential beneficial and adverse effects to each species listed above (Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects. If species are present (or potentially present) and will not be adversely affected describe your rationale. If species are unlikely to be present in the general area or action area, explain why. This justification provides documentation for your administrative record, avoids the need for additional correspondence regarding the species, and helps expedite review.)*

The effects of the proposed project have been fully analyzed in a series of permits or consultations, below is a summary:

The Trustees anticipate that project would result in moderate short-term and long-term benefits to the protected species subject to bycatch under normal PLL fishing practices. Moderate short-term benefits are anticipated for marine mammals and sea turtles, particularly leatherbacks, because protected species would remain in the population and continue to grow to maturity and/or contribute to the propagation of their respective species. Moderate long-term benefits are anticipated for sea turtles and marine mammals because of the future generations of protected species and population growth that could occur as a result of increased survival of protected species that had occurred in the short-term. Minor short-term and long-term benefits are anticipated for seabirds due to the elimination of already low interactions with PLL fishing gear in the GOM (only 5 observed interactions from 2006-2013) during the repose.

Further description of how this project will effect species is below:

Reducing fishing effort has been a widely accepted tool in managing fisheries to rebuild and sustain fish stocks. In the U.S. Atlantic PLL fishery, similar efforts were implemented in 1999 through regulations establishing limited access permitting. Reduction in bycatch is also a widely used tool for the protection and restoration of non-target species. National Oceanic and Atmospheric Administration (NOAA) and other research has shown that the alternative gears proposed for use are more discriminate than PLL gear in regards to the species targeted and have been shown to have low post-release mortality of bycatch and regulatory discards. The PLL Project encompasses a repose period that will reduce PLL effort, resulting in fewer PLL hook sets. In doing so, the repose period will completely eliminate dead discarded bycatch from participating PLL vessels that would have otherwise been caught. Additionally, PLL fishing effects on marine mammals, sea turtles, and seabirds that otherwise would've occurred will not occur as a result of implementation of this project, resulting in beneficial effects to the various species.

A variety of dolphins and whales have interactions every year with PLL fishing gear in the GOM. The main species with interactions in the GOM (dead, alive, or seriously injured) are Risso's dolphin, Bottlenose dolphin, and the Pantropical spotted dolphin. The only ESA-listed marine mammal occurring in the GOM that has interactions with PLL gear is the sperm whale, where there was only 1.6 estimated interactions from 2006-2013 (Garrison et al. 2009). Sea turtles can ingest the hooks of PLL fishing gear, get entangled in the lines, or get hooked on parts of their bodies including their fins. Of all five sea turtle species that occur in the GOM, Leatherbacks have the highest number of interactions in the GOM PLL fishery followed by loggerheads. There are no interactions with corals as PLL gear as it is a floating gear and does not impact the substrate. Seabird interactions occur in the GOM PLL fishery, but at relatively low levels and mainly occur when PLL gear is being set and birds attempt to pull bait off of the hooks.

II. *Explain the potential beneficial and adverse effects to critical habitat listed above (Describe what, when, and how the critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects (e.g. acres of habitat, miles of habitat). Describe your rationale if designated or proposed critical habitats are present and will not be adversely affected.*

There is critical habitat for the Northwest Atlantic DPS of Loggerhead sea turtle, floating sargassum critical habitat, present in the PLL Project area. This critical habitat is located in the western GOM (see Figure 5 in the form Supplement attached).

There are no anticipated significant impacts of the alternative fishing gears because the fishing line of the gears is set, trolled, and retrieved through the water column in a way that does not impact water quality nor capture large amounts of Sargassum sp. Any Sargassum that is inadvertently snagged on the fishing gear is quickly removed from the fishing gear upon retrieval and returned to the water in a way that allows the algae to survive. Implementation of the PLL Project will also potentially reduce vessel traffic in the GOM EEZ (depending on how many vessels use alternative gears during the 6-month repose), and is not expected to adversely impact the floating sargassum habitat.

G. Actions to Reduce Adverse Effects

I. *Explain the actions to reduce adverse effects to each species listed above (For each species for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)*

The actions undertaken in the PLL Project, the PLL gear fishing repose and the provisioning of alternative gears, will both reduce adverse effects due to PLL gear. Actions to reduce Adverse Effects are outlined in the permits, the 2008 informal consultation, and the 2001 Biological Opinion entitled "Reinitiation of Consultations on the Atlantic Highly Migratory Species Fishery Management Plan and its Associated Fisheries", respectively. Animals that may interact with alternative gears may be avoided or can be tended to quickly, so there is much less likelihood of any interaction, let alone one that results in serious injury or death. The fishing gears are used in pelagic habitat in the GOM where marine mammals, sea turtles, and seabirds occur, so there is still a minimal possibility of interactions; however, such interactions may be minimized or avoided because the gears are tended and any adverse effects minimized.

II. *Explain the actions to reduce adverse effects to critical habitat listed above (For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)*

PLL project activities could occur in critical habitat for loggerhead sea turtles. There are no planned activities to reduce adverse impacts as the overall reduction in PLL fishing effort is estimated to reduce vessel traffic and therefore any potential impact to loggerhead sargassum critical habitat.

Section H (below):
The activities proposed in this federal funded action utilize existing and valid permitted activities that are continuing, the operation of greenstick and buoy gear. Therefore Section H has been left blank since the PLL Project is not requesting any effect determination.

H. Effect Determination Requested

From the sections above, there should be enough detailed information to provide clear and obvious support for your determinations in the section below. If the rationale for the determination is not clear, additional information must be added to one of the sections. Identify if gulf sturgeon are in saltwater, estuarine, or in freshwater in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. gulf sturgeon CH - saltwater). Identify if sea turtles are in water or on land in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. Loggerhead sea turtle CH - terrestrial).

SPECIES and/or CRITICAL HABITAT	DETERMINATION (see definitions below)
No new determinations are made and no new concurrences are requested	Select Most Appropriate
via this BE form as all effects have been addressed via current and valid	Select Most Appropriate
permits and consultations.	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
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	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact, while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Services concur in writing with the Action Agency's determination of "is not likely to adversely affect" listed species or critical habitat, the section 7 consultation process is completed.

LAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable or insignificant. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation and will require additional information.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

I. Bald Eagles

Are bald eagles present in the action area? ☑ NO ☐ YES

If YES, the following conservation measures should be implemented:

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (e.g., walking, camping, clean-up, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (e.g., driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If these measures cannot be implemented, then you must contact the Service's Migratory Bird Permit Office.
Texas – (505) 248-7882 or by email: **permitsR2MB@fws.gov**
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: **permitsR4MB@fws.gov**

J. Migratory Birds

Identify the species anticipated in the project area and behaviors (breeding, roosting, foraging) anticipated during project implementation. You may list similar species on a single line and categorize by type (e.g., Wading birds - great blue heron, snowy egret, reddish egret). Use additional tables on the next page if needed.

I.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS
Laughing Gull Parasitic Jaeger Pelican Brown	Foraging Foraging Foraging	All seabird species: Potential reduction in interactions as reducing use of pelagic longline gear and replacing with greenstick or buoy gear.

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
Laughing Gull Parasitic Jaeger Pelican Brown	Both greenstick and buoy gear are continuously tended gear so there are no expected interactions (and no noted interactions existing) with either greenstick or buoy gear. There were only a total of 5 interactions in the GOM PLL fishery from 2006-2013, so it is expected that fishing with the alternative gears will result in extremely minimal potential interactions.

Migratory Birds

Continuation page if needed.

II.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

III.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

Pre-existing NEPA Documents

Yes ☑ No ☐

Does this project have any pre-existing, site specific NEPA analysis? If YES, then provide final NEPA analysis, if not final then provide draft. If tiered from a programmatic EIS or EA, then provide the programmatic document or a link below.

1. 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan - Authorizes buoy gear. The ecological effects analysis of this

NMFS ESA §7 Consultation

We request that all ESA §7 consultation requests/packages be submitted electronically to: **Laurel.Jennings@noaa.gov**. Questions about consultation status may be directed to the same email address or by phone, 206-526-4601 or 206-794-4761 (cell).

FWS ESA § 7 Consultation

We request that all consultation requests/packages to FWS be submitted electronically to: **Ashley_Buchanan@fws.gov**. You will be notified when we receive your Biological Evaluation. Upon receipt, we will conduct a preliminary review and provide any comments and feedback, including any requests for modifications or additional information. If modifications or additional information is necessary, we will work with you until the Biological Evaluation form is considered complete. Once complete, we will send your Biological Evaluation to the appropriate Field Office to conduct consultation. If you have questions about consultation status, please contact Ashley Mills by phone 812-756-2712 or email Ashley_Buchanan@fws.gov.

Name of Person Completing this Form:	Laura Keeling
Name of Project Lead:	Mel Landry
Date Form Completed:	05/11/2015

Endangered Species Act Biological Evaluation Form – Deepwater Horizon Oil Spill Restoration Fish and Wildlife Service & National Marine Fisheries Service

NOAA's Pelagic Longline Bycatch Reduction Project - Supplement

Figure 1. Proposed Pelagic Longline Bycatch Reduction Project location is the U.S. Exclusive Economic Zone (EEZ) in the Gulf of Mexico indicated by the shaded area

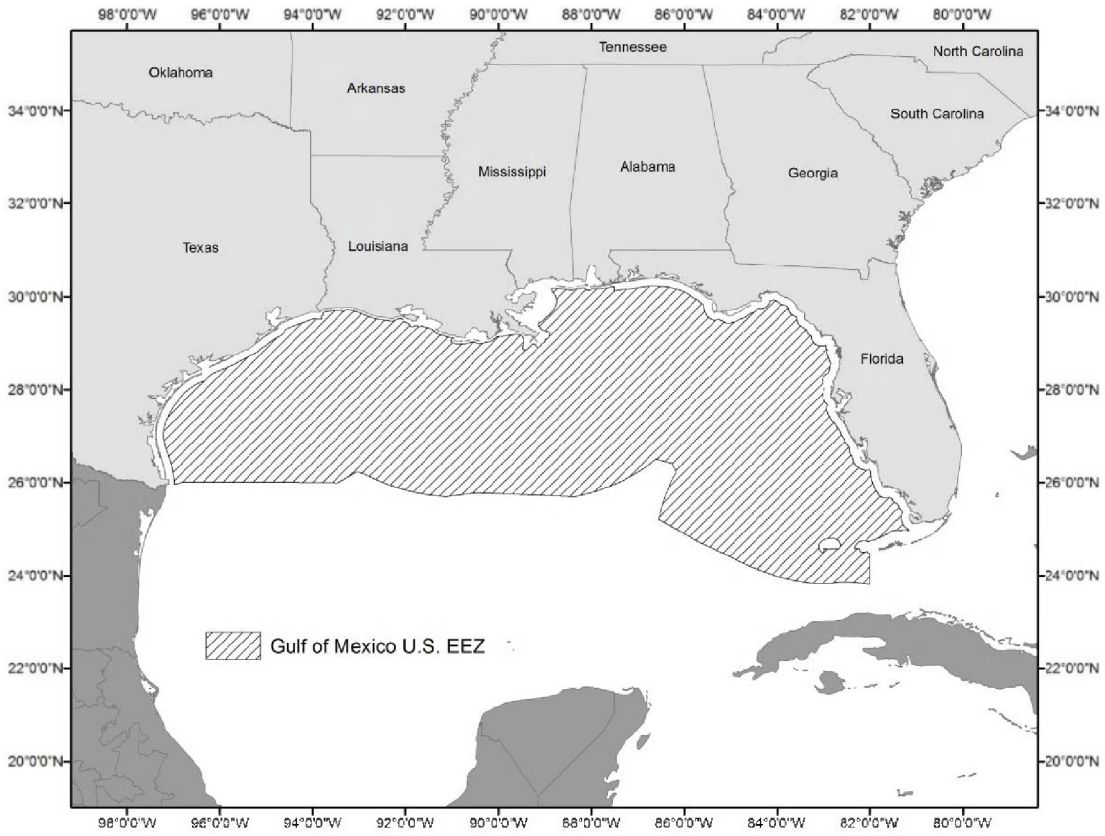
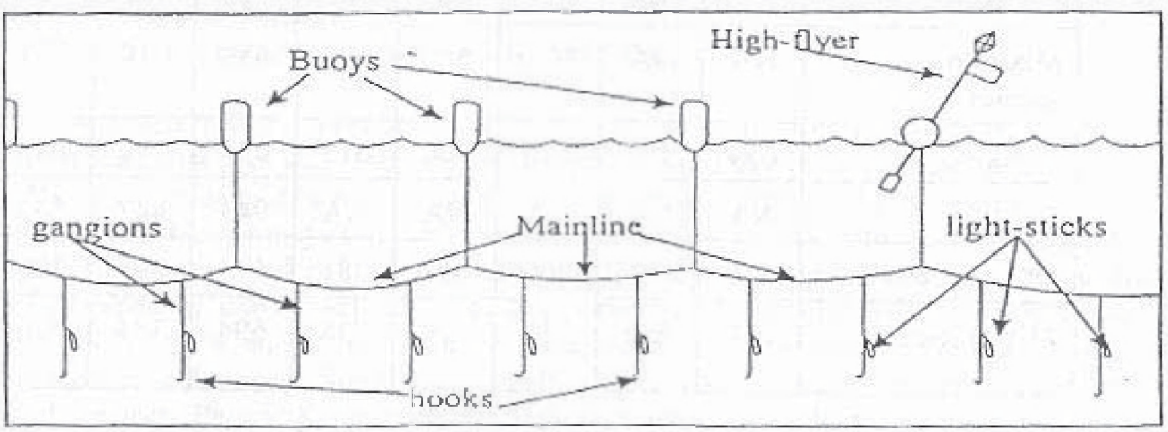
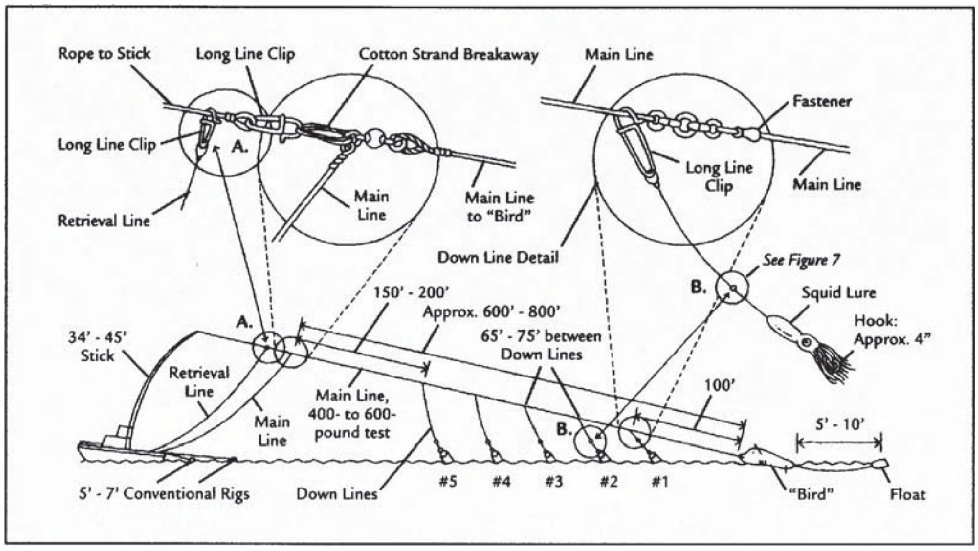


Figure 2. Typical U.S. Pelagic Longline Gear



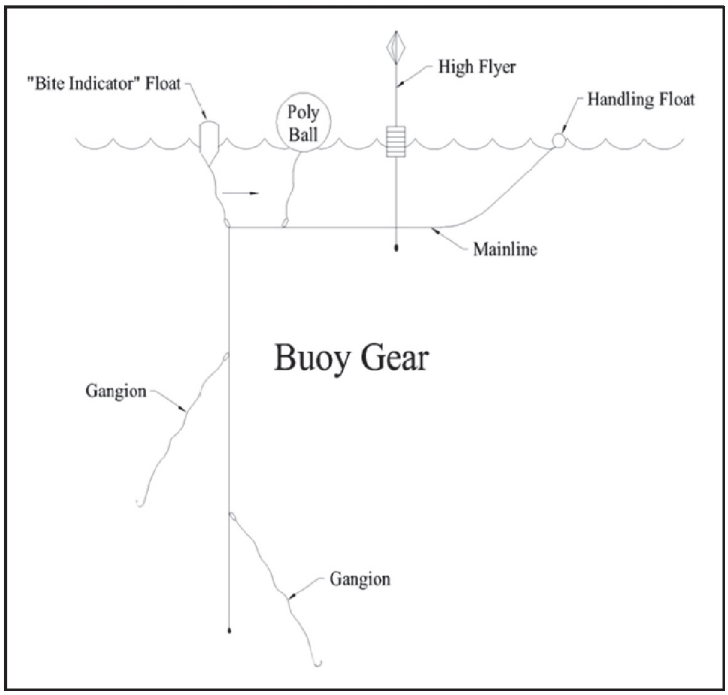
Source: As referenced in the NMFS/NOAA. SAFE Report for Atlantic Highly Migratory Species 2011 (http://www.nmfs.noaa.gov/sfa/hms/documents/safe_reports/2011/2011_safe_report.html)

Figure 1. Greenstick Fishing Rig



Source: Wescott, W. 1996. The Wanchese greenstick tuna rig. North Carolina Sea Grant. UNC-SG-96-04.

Figure 2. A Diagram of a Buoy Gear with Four Floatation Devices Attached



Source: Courtesy of Dave Meyer, reproduced from the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan.

Figure 5. Loggerhead Critical Habitat Map:
http://www.nmfs.noaa.gov/pr/species/turtles/images/loggerhead_critical_habitat_map.jpg