

## APPENDIX G-10:

### FINDING OF NO SIGNIFICANT IMPACT For the Pelagic Longline Bycatch Reduction Project

#### Overview and Background

The Department of the Interior (DOI), National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), and United States Department of Agriculture (USDA), (collectively “Federal Trustees”) have conducted an environmental assessment (EA) for the Pelagic Longline Bycatch Project (PLL Project). The project involves two integrated actions to reduce bycatch associated with the Gulf of Mexico (GOM) PLL fishery and restore pelagic fish biomass in the GOM that will be implemented by the National Oceanic and Atmospheric Administration (NOAA). The project is an early restoration project to be funded as part of the *Deepwater Horizon* natural resource damage assessment (NRDA) and restoration process in accordance with the “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.” This project is one of several projects to be implemented by the Trustees as identified in the Final Phase IV Early Restoration Plan and Environmental Assessments (Final Phase IV ERP/EA) to accelerate restoration, and represents an initial step toward the restoration of natural resources injured by the *Deepwater Horizon* oil spill (Spill).

Under the Oil Pollution Act of 1990, damages recovered from parties responsible for natural resource injuries are used to restore, replace, rehabilitate and/or acquire the equivalent of the injured natural resources and services they provide (33 U.S.C. 2706). When Federal Trustees are involved, these restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. Therefore, the Trustees prepared an environmental assessment (EA) to evaluate the potential environmental impacts associated with the PLL Project. This EA tiers from the Final Phase III Early Restoration Plan and Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS) prepared by the Trustees in 2014 and is prepared in accordance with NEPA, Council on Environmental Quality (CEQ) NEPA regulations, and all applicable agency NEPA regulations and guidance.

#### Summary of Proposed Action and Alternatives

CEQ and the regulations implementing NEPA require the decision-maker to consider the environmental effects of the proposed action and a reasonable range of alternatives, including the No Action Alternative, (40 CFR § 1502.14). For the PLL Project, the Final Phase IV ERP/EA objectively explored reasonable alternatives, including alternatives considered but eliminated from further analysis because they did not meet the stated purpose and need of the proposed action. The EA addresses the proposed action and a no-action alternative. The purpose of, and need for the proposed action is to begin to restore, replace, rehabilitate and/or acquire the equivalent of the pelagic fish losses caused by the Spill. The proposed action is being selected because it will result in more efficient recovery of pelagic fish losses compared to the No Action Alternative. The PLL Project consists of two project components: (1) a compensation-based voluntary annual 6-month (January through June) repose from PLL fishing in the

GOM, to coincide with bluefin tuna spawning season; and (2) a provision for participating fishermen of two alternative gear types, greenstick and/or buoy gear, to allow for the continued harvest of yellowfin tuna and swordfish during the repose period when PLL gear is not used.

Under the No Action Alternative, the Trustees would not receive funding to implement new and enhance existing programs. The No Action alternative would result in no restoration benefit being achieved at this time, and fishing with PLL, greenstick, and buoy gear in the GOM would be expected to continue at current levels.

During the Phase IV Early Restoration project development process, the Trustees considered two additional alternatives but concluded they were infeasible or less optimal. The first was a project component that provided for the exchange of PLL vessels for vessels specifically suited to the use of alternative gears. Under this alternative, vessel owners would have retained their current permits to allow for use of alternative gears and would have been able to utilize the new vessels for PLL fishing beyond the repose period in accordance with their project participation agreements. Through the Early Restoration project selection process, this alternative proved to be infeasible in the context of the Framework Agreement. The second additional alternative proposed implementing a vessel buy-out program for pelagic longline vessels. Such a buy-out program would reduce fishing mortality in the GOM PLL fishery by purchasing and permanently removing active PLL vessels and the associated limited access permits needed to fish PLL from willing sellers. Vessels would be removed from the U.S. Atlantic PLL fishery and scrapped, and the associated limited access permits would be terminated to prevent reentry to the U.S. Atlantic PLL fishery. This alternative was compared to criteria under the NRDA regulations including the feasibility, cost, benefits to other species, and likelihood of success. The alternative was not brought forward for Early Restoration because the Trustees considered it to be less optimal due to the potential for minor to moderate long-term adverse economic impacts to U.S. highly migratory species fisheries compared to the preferred alternative.

The Final EA and this Finding of No Significant Impact were prepared after considering input from the public during the public comment period for the Draft Phase IV ERP/ EA.

## Analysis Summary

The Federal Trustees evaluated potential environmental effects of the proposed action and analyzed the significance of this action based on NEPA, CEQ NEPA regulations, and all applicable agency NEPA regulations and guidance. CEQ regulations (40 CFR §1508.27) state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Each criterion discussed below is relevant to making a Finding of No Significant Impact and we considered each criterion individually, as well as in combination with the others. Analysis of the potential environmental consequences for the PLL Project determined that some resource categories will not be affected by project activities, and others could have minor to moderate adverse and/or minor to moderate beneficial impacts, as discussed below and in the Final Phase IV ERP/EA Chapter 14, sections 14.2.6 through 14.2.8.

- Impacts to the physical environment (geology and substrates, air quality/ greenhouse gas emissions and noise) were assessed in the Final Phase IV ERP/EA Chapter 14.2.6.1, and will be minor and short-term in nature. Expected small shifts in the number and behavior of vessels may result in very minor changes in noise and/or air quality and greenhouse gas emissions compared to current operations in the GOM PLL fishery. There is no expected impact from implementing the proposed action on water quality or hydrology.
- Impacts to the biological environment were assessed in the Final Phase IV ERP/EA Chapter 14.2.6.2. The preferred alternative will result in short- and long-term minor to moderate benefits for living marine and coastal resources as well as protected species. The reduction of PLL gear sets in the GOM would eliminate PLL bycatch of pelagic finfish as well as marine mammals, sea turtles, and seabirds from those vessels for six months of the year that will coincide with the bluefin tuna spawning season. The use of alternative greenstick and buoy gear types will reduce interactions with protected species, and can be monitored much more closely and frequently by fishermen, thus resulting in fewer dead discards. Living marine resources and protected species (marine mammals, sea turtles and seabirds) would remain in the population and continue to grow to maturity and/or contribute to the propagation of their respective species. Long-term benefits are anticipated because of the reduced injury and mortalities, and increased potential for recruitment and population sustainability for future generations of living marine resources and protected species (marine mammals and sea turtles).
- Impacts to human uses and socioeconomics were analyzed in the Final Phase IV ERP/EA Chapter 14.2.6.3, and would be minor to moderate in the short- and long-term. NOAA anticipates that the amount of compensation for vessels participating in the proposed PLL Project would be commensurate with the historical revenues of the individual vessels during the repose period, thus NOAA anticipates no effect on those respective vessel revenues. Under this alternative, selection of participants in the proposed PLL Project would be prioritized based on willingness to utilize provided alternative gears to harvest target species in the GOM. Through the use of alternative fishing gears during the repose, vessel captains and crews could continue to receive salaries; fish dealers may experience less of a disruption in fish supplies than might occur if no fishing occurred; fuel suppliers may continue to sell fuel to vessels participating in the PLL repose; and ice, bait, and equipment suppliers may not see as large of a change in sales as if no fishing occurred. There may be potential differences in fish quality harvested by these alternative gear types, which may affect ex-vessel catch values based on some comments NOAA received from dealers. Under the alternative gear portion of the PLL Project, any adverse economic effects are anticipated to be minor and short-term. Although selection of participants in the PLL Project would be prioritized based on willingness to participate in the alternative fishing gear portion of the project, some vessels participating in the project might not fish during the repose. If PLL some vessels do not fish with alternative gears during the repose, there may be minor and short-term indirect adverse effects with respect to catch and sale revenues for captains and crews, fish dealers, fuel suppliers, and shore-side ice, bait, and equipment suppliers. This could result in changes in activities in fishing communities during the repose time

periods. Because only a small portion of the fleet expected to participate in the project, socioeconomic resource effects are anticipated to be minor and short-term.

- The project is not expected to have any effects on wetlands and floodplains, pursuant to Executive Orders 11990 and 11988 because the project activities will not take place within any wetland or floodplain.
- Because the PLL Project has reasonably foreseeable effects on coastal uses or resources that are the subject of federally approved coastal zone management plans in each of the Gulf States, the Federal Trustees submitted a consistency determination for this project for review by the appropriate agencies in each state. Each agency concurred with that determination on behalf of its state. Additional consistency review may be required pursuant to Federal regulations (see 15 C.F.R. Part 930) prior to project implementation, including as part of required Federal and State permitting processes and authorizations in each state, as may be applicable.
- In relation to other restoration actions with individually insignificant impacts, the PLL Project is not anticipated to contribute to potential additive cumulative impacts in combination with other Phase IV projects, due to the nature of this proposed project and distinct geographic location. The proposed Sea Turtle Early Restoration Project (refer to the Final Phase IV ERP/EA Chapter 13) is closest in relationship to the proposed PLL Project since it intersects with GOM fisheries activities. Because these two projects will involve different fisheries, no adverse cumulative impacts are anticipated. Further, as both projects are intended to restore and protect marine resources, together they contribute to cumulative beneficial impacts to Trustee trust resources in the GOM environment (refer to the Final Phase IV ERP/EA Chapter 14.2.7.2).
- The PLL project's potential impacts are not controversial and the project is supported by the general public. It will benefit a variety of injured pelagic fish resources, and would have no impacts to unique areas such as historic or cultural resources, park land, prime farmlands, wetlands, or ecologically critical areas. It will also have no effects on the human environment that would be highly uncertain or involve unique or unknown risks.
- The proposed action is not expected to result in the introduction or spread of any non-indigenous species.
- The proposed action would comply with State and Federal fisheries and there is no expectation it would threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. It is not expected to establish a precedent for future actions with potential significant effects. The extent of success of the project will be monitored closely, and the approach and design may be applied, adopted, or modified for other future pelagic fish restoration projects.

Copies of the draft EA for this project were available to the public as provided in a Federal Register notice published on May 20, 2015. See *Deepwater Horizon* Oil Spill, Draft Phase IV Early Restoration Plan and Environmental Assessments, 80 FR 29019-29021 (May 20, 2015). Public comments on the Draft

Phase IV ERP/EA were taken during a 47-day public comment period extending from May 20, 2015 to July 6, 2015 (80 FR 35393, June 19, 2015). Public comments received during this period have been considered and addressed by the Trustees in the Final Phase IV ERP/EA (Chapter 15, Response to Comments). The Final Phase IV ERP/EA is hereby incorporated by reference.

## **Agency Coordination and Consultation Summary**

**Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):** NOAA reviewed the PLL Project for compliance with the MSFCMA, and completed an Essential Fish Habitat (EFH) consultation with NMFS SERO in August 2015. The project is not expected to have any effects on ocean, coastal, or EFH as defined under the MSFCMA, because the project activities and potential effects will not disturb, alter or otherwise affect any designated EFH, and NMFS SERO concurred that the project is not anticipated to adversely impact EFH identified in the Gulf of Mexico Fishery Management Council's 2005 Generic EFH Amendment or in NMFS Highly Migratory Species Fishery Management Plan.

**Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA):** To fulfill requirements and obligations under ESA and MMPA, NOAA and DOI completed a review of the PLL Project for compliance with Section 7 of the ESA of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.) and Section 101 of the MMPA of 1972, as amended (16 U.S.C. 1371(a)(5) et seq.). See Phase IV ERP/EA Chapter 14.2.8. It was determined that the project has been the subject of a number of prior consultations under the ESA and these analyses were determined to be sufficient, and no additional consultation is needed. The Trustees also coordinated with NMFS Protected Resources Division for MMPA compliance and determined take would be avoided for this project.

Impacts to cultural and historical resources protected under Section 106 of the National Historic Preservation Act (NHPA) were described in the Final Phase IV ERP/EA Chapter 14.2.6.3.2. The formal compliance review for this project including NHPA section 106 and Tribal consultations has been initiated and will be completed prior to project implementation.

If any further need arises to coordinate and consult with other regulatory authorities, including for example Clean Water Act Section 404 or the Rivers and Harbors Act, the additional coordination or consultation requirements will be addressed prior to project implementation. The status of federal regulatory permits/approvals will be maintained online (<http://www.gulfspillrestoration.noaa.gov/environmental-compliance/>) and updated as regulatory compliance information changes. The Federal Trustees' Finding of No Significant Impact for this project is issued subject to the completion of all outstanding compliance reviews under other Federal laws. If the proposed action changes or information is brought to light as a result of completing such reviews that is potentially relevant to the environmental evaluation supporting this Finding of No Significant Impact, that evaluation will be updated or supplemented as required by NEPA and a new determination made by the Federal Trustees under NEPA as to whether the proposed action is likely to significantly affect the quality of the human environment.

## Determination

In view of the information presented in this document and the environmental analysis contained in the supporting Final Phase IV ERP/EA for the PLL Project, the Federal Trustees have determined that the PLL Project will not significantly impact the quality of the human environment. Accordingly, preparation of an environmental impact statement for this action is not necessary.

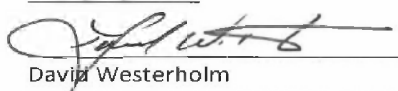
**FINDING OF NO SIGNIFICANT IMPACT  
For the Pelagic Longline Bycatch Reduction Project**


Date: 9/10/15

Signature: Cynthia K Dohner

Cynthia K. Dohner  
Authorized Official, U.S. Department of the Interior

**FINDING OF NO SIGNIFICANT IMPACT  
For the Pelagic Longline Bycatch Reduction Project**

Date: 9/8/2015  
Signature:   
David Westerholm  
Director, Office of Response and Restoration  
National Ocean Service, NOAA

Date: 9/4/2015  
Signature:   
Frederick C. Sutter III  
Director, Office of Habitat Conservation  
National Marine Fisheries Service, NOAA

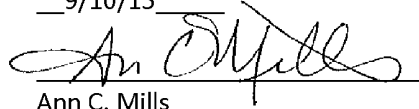


FINDING OF NO SIGNIFICANT IMPACT  
For the Pelagic Longline Bycatch Reduction Project

Date:

9/10/15

Signature:



Ann C. Mills

Deputy Under Secretary, USDA

**FINDING OF NO SIGNIFICANT IMPACT  
For the Pelagic Longline Bycatch Reduction Project**

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