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F/SER31:SG
SERO-2023-00237

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Ref.: SWG-2022-00709, Texas Parks and Wildlife Department, Queen Isabella Artificial Reef,
Port Isabel, Hidalgo County, Texas

Dear Amanda Barker,

The enclosed Biological Opinion responds to your request for consultation with us, the National Marine Fisheries Service (NMFS), pursuant to Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.) for the above referenced action. The Opinion has been given the NMFS tracking number SERO-2023-00237. Please use the NMFS tracking number in all future correspondence related to this action.

The Opinion considers the effects of the U.S. Army Corps of Engineers' (USACE) proposal to authorize the construction of an offshore artificial reef (to be known as the Queen Isabella Reef) by the Texas Parks and Wildlife Department (the applicant)] within the waters of the Gulf of Mexico off the coast of Hidalgo County, Texas, on the following listed species: green sea turtle (North Atlantic and South Atlantic Distinct Population Segment [DPS]), hawksbill sea turtle, Kemp's ridley sea turtle, leatherback sea turtle, loggerhead sea turtle (Northwest Atlantic DPS), and giant manta ray. The Opinion is based on information provided by the USACE, the applicant, the Sea Turtle Stranding Network dataset, and the published literature cited within. NMFS concludes that the proposed action will have no effect on green sea turtle (South Atlantic DPS). NMFS concludes that the proposed action is not likely to adversely affect giant manta ray. NMFS concludes that the proposed action is likely to adversely affect, but is not likely to jeopardize the continued existence of, green sea turtle (North Atlantic DPS, hawksbill sea turtle, Kemp's ridley sea turtle, leatherback sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS).

NMFS is providing an Incidental Take Statement with this Opinion. The Incidental Take Statement describes Reasonable and Prudent Measures that NMFS considers necessary or appropriate to minimize the impact of incidental take associated with this action. The Incidental



Take Statement also specifies Terms and Conditions, including monitoring and reporting requirements with which the USACE and applicant must comply, to carry out the Reasonable and Prudent Measures.

We look forward to further cooperation with you on other projects to ensure the conservation of our threatened and endangered marine species and critical habitat. If you have any questions regarding this consultation, please contact Sarah Garvin, Consultation Biologist, by phone at (727) 342-0249, or by email at sarah.garvin@noaa.gov.

Sincerely,

Andrew J. Strelcheck
Regional Administrator

Enclosure:
NMFS Biological Opinion SERO-2023-00237
cc: Amanda.M.Barker@usace.army.mil
nmfs.ser.esa.consultations@noaa.gov
File: 1514-22.f.8

**Endangered Species Act - Section 7 Consultation
Biological Opinion**

Action Agency: United States Army Corps of Engineers, Galveston District

Permit number: SWG-2022-00709

Applicant: Texas Parks and Wildlife Department

Activity: Artificial Reef Deployments over 2 Years

Location: Gulf of Mexico, Hidalgo County, Texas

Consulting Agency: National Oceanic and Atmospheric Administration, National
Marine Fisheries Service, Southeast Regional Office,
Protected Resources Division, St. Petersburg, Florida

NMFS Tracking Number: SERO-2023-00237

Approved by:

Andrew J. Strelcheck, Regional Administrator
NMFS, Southeast Regional Office
St. Petersburg, Florida

Date Issued:

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ACRONYMS, ABBREVIATIONS, AND UNITS OF MEASURE

ac	acre(s)
BIRNM	Buck Island Reef National Monument
°C	degrees Celsius
CCL	Curved Carapace Length
CFR	Code of Federal Regulations
cm	centimeter(s)
CPUE	Catch per Unit Effort
DDT	Dichlorodiphenyltrichloroethane
DNA	Deoxyribonucleic Acid
DPS	Distinct Population Segment
DTRU	Dry Tortugas Recovery Unit
DWH	Deepwater Horizon
ECO	Environmental Consultation Organizer
EPA	Environmental Protection Agency
ESA	Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 et seq.)
°F	degrees Fahrenheit
FP	Fibropapillomatosis
ft	foot/feet
FR	Federal Register
FWC	Florida Fish and Wildlife Conservation Commission
FWRI	Florida Fish and Wildlife Research Institute
g	gram(s)
GCRU	Greater Caribbean Recovery Unit
GDNR	Georgia Department of Natural Resources
GLO	
GPS	
GSMFC	Gulf States Marine Fisheries Commission
in	inch(es)
ITS	Incidental Take Statement
kg	kilogram(s)
km	kilometer(s)
lbs	pounds
m	meter(s)
mm	millimeter(s)
MLW	Mean Low Water
MMPA	Marine Mammal Protection Act
NAD 83	North American Datum of 1983
NCWRC	North Carolina Wildlife Resources Commission
NGMRU	Northern Gulf of Mexico Recovery Unit
Nm	nautical miles
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRU	Northern Recovery Unit
OAR	Organization for Artificial Reefs
Opinion	Biological Opinion, Conference Biological Opinion, or Draft Biological Opinion

oz	ounce(s)
PCB	Polychlorinated Biphenyls
PDC	Project Design Criteria
PFC	Perflourinated Chemicals
PRFU	Peninsular Florida Recovery Unit
SAV	Submerged Aquatic Vegetation
SCDNR	South Carolina Department of Natural Resources
SEFSC	Southeast Fishery Science Center
SERO PRD	NMFS Southeast Regional Office, Protected Resources Division
SCL	Straight Carapace Length
STSSN	Sea Turtle Stranding and Salvage Network
T&C	Terms and Conditions
TEWG	Turtle Expert Working Group
TWP	
U.S.	United States of America
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
yr	year

1 INTRODUCTION

1.1 Overview

Section 7(a)(2) of the ESA, requires that each federal agency ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. Section 7(a)(2) requires federal agencies to consult with the appropriate Secretary in carrying out these responsibilities. The NMFS and the USFWS share responsibilities for administering the ESA. Consultations on most ESA-listed marine species and their critical habitat are conducted between the federal action agency and NMFS (hereafter, may also be referred to as we, us, or our).

Consultation is required when a federal action agency determines that a proposed action “may affect” ESA-listed species or critical habitat and can be conducted informally or formally. Informal consultation is concluded after NMFS issues a Letter of Concurrence that concludes that the action is “not likely to adversely affect” ESA-listed species or critical habitat. Formal consultation is concluded after we issue a Biological Opinion (hereafter, referred to as an/the Opinion) that identifies whether a proposed action is “likely to jeopardize the continued existence of an ESA-listed species” or “destroy or adversely modify critical habitat,” in which case Reasonable and Prudent Alternatives to the action as proposed must be identified to avoid these outcomes. An Opinion often states the amount or extent of anticipated incidental take of ESA-listed species that may occur, develops Reasonable and Prudent Measures necessary or appropriate to minimize such impact of incidental take on the species, and lists the Terms and Conditions to implement those measures. An Opinion may also develop Conservation Recommendations that help benefit ESA-listed species.

This document represents NMFS’s Opinion based on our review of potential effects of the USACE’s proposal to authorize the construction of an offshore artificial reef (to be known as the Queen Isabella Reef) by the Texas Parks and Wildlife Department (the applicant), within the waters of the Gulf of Mexico off the coast of Hidalgo County, Texas, on the following listed species: green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp’s ridley sea turtle, leatherback sea turtle, loggerhead sea turtle (Northwest Atlantic DPS), and giant manta ray. Our Opinion is based on information provided by the USACE, the applicant, STSSN, and the published literature cited within.

Updates to the regulations governing interagency consultation (50 CFR part 402) were effective on May 6, 2024 (89 Fed. Reg. 24268). We are applying the updated regulations to this consultation. The 2024 regulatory changes, like those from 2019, were intended to improve and clarify the consultation process, and, with one exception from 2024 (offsetting reasonable and prudent measures), were not intended to result in changes to the Services’ existing practice in implementing section 7(a)(2) of the Act. 89 Fed. Reg. at 24268; 84 Fed. Reg. at 45015. We have considered the prior rules and affirm that the substantive analysis and conclusions articulated in this biological opinion and incidental take statement would not have been any different under the 2019 regulations or pre-2019 regulations.

1.2 Consultation History

The following is the consultation history for the NMFS ECO tracking number SERO-2023-00237, Queen Isabella Artificial Reef.

On March 8, 2023, we received a request for expedited informal consultation under Section 7 of the ESA from the USACE permit to authorize offshore artificial reef deployment by the Texas Parks and Wildlife Department (the applicant) in Port Isabel, Hidalgo County Texas.

After reviewing the data, NMFS concluded that the high-relief and low-relief artificial reef materials that are proposed to be deployed for the project required formal consultation.

On November 11, 2023, and January 8, 2024, we requested additional information related to the high-relief reef materials proposed for the project.

On February 26, 2024, we received responses from the USACE to our requests for additional information, and we initiated formal consultation at that time.

On May 1, 2024, we requested additional information during our internal quality control review process. We received a final response on June 4, 2024.

2 PROPOSED ACTION

2.1 Project Details

2.1.1 Project Description

The USACE proposes to authorize the construction of a new 320-ac artificial reef deployment area, to be known as the Queen Isabella Reef, by Texas Parks and Wildlife Department in the Gulf of Mexico, 8.9 nm off the coast of Port Isabel, Hidalgo County, Texas. The applicant will conduct up to 3 deployments of high-relief and low-relief materials of opportunity over a period of up to 2 years.

For the first proposed deployment of material, the applicant proposes to use concrete material from a demolished bridge. Deployment of the material will result in 1 irregularly-shaped pile of material, with a height of up to 27 ft off the sea floor, and a minimum vertical clearance of 50 ft between the top of the structure and the water surface. All components weighing less than 500 lbs will be securely capped underneath larger, heavier components. The area of substrate that will be covered by the pile of material will measure approximately 1,200-ft-by 1,200-ft within the 320-ac designated placement area (Figure 1). The material will be placed on barges at the demolished bridge site or at the material storage location, then towed to the new reef deployment area. The deployment vessels will use a dynamic positioning system and will not be anchored during deployment. Careful placement techniques will be employed so that smaller components are stabilized by the larger materials above them. This will maintain the overall stability and effectiveness of the reef structure.

Although additional source material has not been identified at this time, the applicant plans to utilize other suitable materials of opportunity (greater than 7 ft in height) for deployment in the new artificial reef area over the 2-year authorization period, including concrete rail ties, concrete rubble, and culverts.

Any future deployments for the authorization period will follow the same methods as the initial deployment of concrete material, and implement the same mitigation measures and best management practices (Sections 2.1.2 and 2.1.3 below). Any materials proposed for deployment after the 2-yr permit authorization period will require permit reverification and additional NMFS coordination.

Upon completion, the site will be incorporated into the Texas Parks and Wildlife Artificial Reef Program and will be maintained and monitored in accordance with the program and the Texas Artificial Reef Plan.

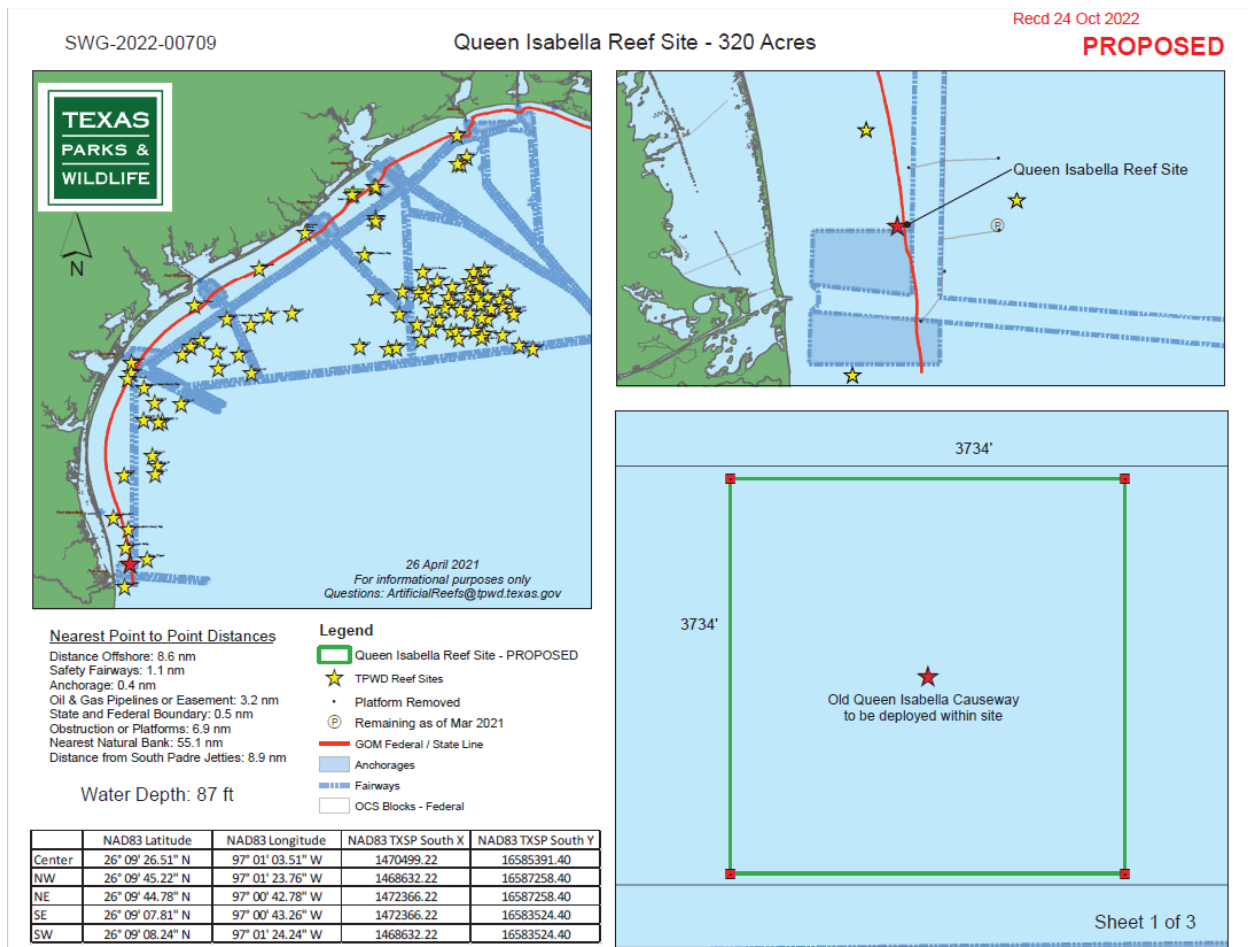


Figure 1. Queen Isabella Reef Designated Placement Area within Texas Parks and Wildlife Reef Program (Image from USACE)

2.1.2 Mitigation Measures

- All work activities will be conducted during daylight hours.

- The applicant will implement the NMFS SERO's "*Protected Species Construction Conditions*" (https://media.fisheries.noaa.gov/2021-06/Protected_Species_Construction_Conditions_1.pdf)
- The applicant will implement NOAA's "*Vessel Strike Avoidance Measures*" (<https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-andguidance>).
- Two geographic anomalies were found within the action area that are likely geographic features associated with past human activities. These areas will be avoided when materials are deployed. Contractors will be provided the exact coordinates, and a buffer zone of 50 m will be added to ensure no material is placed near them.
- Materials proposed for use in artificial reef construction shall follow the applicable recommendations and guidelines provided in the following guidance documents.
 - TPWD's *Texas Public Reef Building Program Standard Operating Procedures and Guidelines* (2012) and *Texas Artificial Reef Plan* (1990);
 - Gulf Atlantic States Marine Fisheries Commission's *Guidelines for Marine Artificial Reef Materials* (2004);
 - EPA and Maritime Administration's *National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs* (2006); and,
 - NOAA's *National Artificial Reef Plan* (2007).
- Protrusions from the causeway material will be removed prior to placement at the proposed reef site (e.g., rebar cut flush with concrete) to minimize entanglement issues to the greatest extent possible.
- All material will be tested and confirmed to be free of hazardous materials including asphalt, petroleum, other hydrocarbons and toxic residues, plastics, Styrofoam, and other loose free-floating material, or other deleterious substances
- Mid-water fish aggregating devices will not be used.
- Siting of any vessel, aircraft, or large and high-relief material (e.g., bridge spans) may not occur within 1,500 ft of any documented coral colonies, coral reef, or coral hardbottom habitat. Any vessel used in the deployment of an artificial reef may not anchor or moor within 1,500 ft of any documented coral colonies or on or near coral hardbottom. Regardless of size, artificial reef material cannot be placed directly on coral or hardbottom habitat.
- Deployment activities will not commence until the project supervisor reports that no sea turtles, marine mammals, or other ESA-listed species have been sighted within 150 ft of the active deployment site.
- Deployment activities will cease immediately if sea turtles, marine mammals, or other ESA-listed species are sighted within 300 ft of the active deployment site.
- Deployment activities will not resume until the project supervisor reports that no sea turtles, marine mammals, or other ESA-listed species have been sighted for at least 20 minutes.
- The permittee shall maintain a deployment buffer of at least 200 ft from any other submerged aquatic resources, including seagrasses, macroalgae, sponges, and oysters, when placed in areas of sand. If materials are off-loaded from a barge or placed in areas that may generate turbidity (e.g., areas with fines or muck), a 500 ft buffer is required.
- Explosives will not be used to deploy artificial reef materials.
- Construction activities will be monitored and managed to minimize interference, disturbance, and damage to fish and wildlife.
- Species that require specific attention or measures for their protection will be discussed with the contractor prior to beginning of construction operations. Protection of fish and wildlife

resources will be in accordance with all GLO, TPWD, and contractor-furnished permits. The contractor will have personnel on-site who are trained to identify and continuously observe the work area for endangered species.

- Vessels will follow routes of deep water when possible.
- If a sea turtle or giant manta ray has been observed or reported in the area, all vessels associated with the project will operate at “Idle Speed/No Wake” at all times while in the immediate area.
- All components weighing less than 500 lbs will be securely capped underneath larger, heavier components.
- The construction vendor will monitor work to ensure materials are placed in the proper location and do not exceed the target vertical clearance of 50 ft.
- During materials deployments, monitoring will be done with an on-board depth finder and GPS, or in conjunction with a separate survey vessel. Three interim surveys will be conducted throughout the construction phase to monitor the status.
- Any injury to any ESA-listed species occurring during construction of the project shall be reported by the applicant immediately to the Corps and NMFS SERO PRD at 1-727-824-5312 or via the NMFS SERO Endangered Species Take Report Form (<https://forms.gle/85fP2da4Ds9jEL829>). This form shall be completed for each individual known reported capture, entanglement, stranding, or other take incident during construction. Information provided via this form shall include the title, the issuance date, and NMFS Tracking Number for the Biological Opinion; the species name; the date and time of the incident; the general location and activity resulting in capture; condition of the species (i.e., alive, dead, sent to rehabilitation); size of the individual, behavior, identifying features (i.e., presence of tags, scars, or distinguishing marks), and any photos that may have been taken. The following entities will also need to be informed of any interaction during construction, as appropriate, and may ask for additional information:
- All interactions with any marine mammal will also be reported to 1-877-WHALE HELP (1-877-942-5343).
- All interactions with giant manta ray will also be reported to the NMFS at 727-824-5312 or by E-mail at: manta.ray@noaa.gov.
- All interactions with sea turtles will also be reported to the appropriate State Sea Turtle Stranding Coordinator.

2.1.3 Best Practices

- A post-construction multibeam survey will be conducted to ensure materials were placed according to project plans.

2.2 Action Area

The action area is defined by regulation as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action (50 CFR 402.02). For the purposes of this federal action, the action area includes both the 320-ac (3734 ft by 3743 ft) area (Figure 1, above) in which artificial reef materials will be placed (Table 1, below), and the vessel navigation routes between the shore to the deployment area. The proposed new reef deployment area is located in the Gulf of Mexico, 8.9 nm off the coast Port Isabel, Hidalgo County, Texas.

Table 1. Approximate Coordinates of the Queen Isabella Reef in Degrees (NAD 83)

	Point	Latitude	Longitude
1	Northeast Corner	26.162561	-97.023265
2	Southeast Corner	26.162440	-97.011883
3	Southwest Corner	26.152168	-97.012017
4	Northwest Corner	26.152289	-97.023399

The sea floor within the proposed deployment area is barren and composed primarily of unconsolidated sediments. Water depth within the deployment area ranges between 85 and 89 ft, and visibility conditions are low throughout the action area. Search, Inc. conducted a remote-sensing survey of the proposed reef site in July 2022, and no special aquatic sites were identified. Two buried Ancient Submerged Landform Features were found in the proposed deployment area, and these features will be avoided when materials are deployed. The features consist of preserved fluvial or lacustrine systems associated with intact margins and bank deposits. In southern Texas, these features are associated with intact cultural deposits, including archeological sites and potential burial locations. These are not transient features but rather deeply entrenched benthic features that are not likely to move. In addition, no hurricanes have impacted this area in the past two years, ensuring the stability of the surveyed conditions.

3 EFFECTS DETERMINATIONS

Please note the following abbreviations are only used in **Table 1** and **Table 2** and are not, therefore, included in the list of acronyms: E = endangered; T = threatened; P = Proposed; LAA = likely to adversely affect; NLAA = may affect, not likely to adversely affect; NE = no effect.

3.1 Effects Determinations for ESA-Listed Species

3.1.1 Agency Effects Determinations

We have assessed the ESA-listed species that may be present in the action area and our determination of the project's potential effects is shown in Table 2 below.

Table 2. ESA-listed Species in the Action Area and Effect Determinations

Species (DPS)	ESA Listing Status	Listing Rule/Date	Most Recent Recovery Plan (or Outline) Date	USACE Effect Determination	NMFS Effect Determination
Sea Turtles					
Green sea turtle (North Atlantic DPS)	T	81 FR 20057/ April 6, 2016	October 1991	<u>NLAA</u>	<u>LAA</u>
Green sea turtle (South Atlantic DPS)	T	81 FR 20057/ April 6, 2016	October 1991	<u>NLAA</u>	<u>NE</u>

Species (DPS)	ESA Listing Status	Listing Rule/Date	Most Recent Recovery Plan (or Outline) Date	USACE Effect Determination	NMFS Effect Determination
Hawksbill sea turtle	E	35 FR 8491/ June 2, 1970	December 1993	<u>NLAA</u>	<u>LAA</u>
Kemp's ridley sea turtle	E	35 FR 18319/ December 2, 1970	September 2011	<u>NLAA</u>	<u>LAA</u>
Leatherback sea turtle	E	35 FR 8491/ June 2, 1970	April 1992	<u>NLAA</u>	<u>NE</u>
Loggerhead sea turtle (Northwest Atlantic DPS)	T	76 FR 58868/ September 22, 2011	December 2008	<u>NLAA</u>	<u>LAA</u>
Fishes					
Giant manta ray	T	83 FR 2916/ January 22, 2018	2019 (Outline)	<u>NLAA</u>	<u>NLAA</u>

We believe the proposed action will have No Effect on the South Atlantic DPS of green sea turtle and leatherback sea turtle. Limited information previously indicated that benthic juveniles from both the North Atlantic and South Atlantic DPSs may be found in waters off the mainland United States. However, additional research has determined that juveniles from the South Atlantic DPS are not likely to occur in these waters, including the action area for this project.

Although leatherback sea turtles are represented in the data in Table 7, the preferred habitats of this species makes it unlikely that this species will be present in the action area. Leatherback sea turtles prefer open deep-water habitat where they forage primarily on jellyfish. There was 1 recent (years 2014-2024) leatherback sea turtle strandings reported (STSSN Data) Zone 21 (see Table 7), which includes the action area. However, due to leatherback sea turtles' preferred habitat and diet, it is extremely unlikely that entanglement from high-relief artificial reef structures deployed for this project will occur, and the proposed action is not likely to adversely affect them.

3.1.2 Effects Analysis for ESA-Listed Species Not Likely to be Adversely Affected by the Proposed Action

We have determined that the following potential routes of effect under the proposed actions being considered in this Opinion are not likely to adversely affect giant manta ray. The following discussion summarizes our rationale for this determination.

Habitat Exclusion

Giant manta ray species might be adversely affected by their inability to access the project areas for foraging, refuge, and/or nursery habitat, due to their avoidance of reef deployment activities,

and related noise. We have determined that these effects will be insignificant. The project area is located in open water and giant manta rays are highly mobile. There is ample room for the species to maneuver away from deployment activities and related noise. Further, substrate within the reef deployment area is sandy with no SAV present. Giant manta rays may forage in the area, but the size of the area from which animals will be excluded is relatively small in comparison to the available sandy habitat nearby. In addition, any disturbances to ESA-listed species would be intermittent, and construction will be limited to daylight hours only. Species will be able to move around the project sites once deployment is complete and at night.

Material Deployment

Giant manta ray could be physically injured if struck by reef deployment equipment, support vessels, or materials. We believe this is extremely unlikely to occur for the following reasons. Giant manta ray are highly mobile, and able to avoid slow-moving equipment. Further, the permit conditions require that all work will occur during daylight hours only and all construction workers will observe in-water activities for the presence of these species.

Operation of any mechanical construction equipment shall cease immediately if a protected species is seen within 150 ft of operations. Activities may not resume until the protected species has departed the project area of its own volition or at least 20 minutes have passed since the animal was last seen. Further, construction will be limited to daylight hours so construction workers would be more likely to see listed species, if present, and avoid interactions with them.

Effects Related to Entrapment in and Entanglement with Low-Relief and High-Relief Artificial Reef Material and Fishing Gear

Giant manta ray may be physically injured or killed if they become entangled in abandoned fishing gear or other debris that may accumulate on both low-relief and high-relief artificial reefs. We believe these species are extremely unlikely to become entangled or entrapped in low relief artificial reef material and that giant manta ray are extremely unlikely to become entangled or entrapped in high-relief artificial materials. As discussed further in Section 6, we believe entanglement in high-relief artificial reef materials may adversely affect ESA-listed sea turtles.

Low-relief and/or solid concrete material, rock rubble, and individual artificial reef modules present less complicated vertical relief that is not as likely to accumulate monofilament as larger, higher-relief materials, as documented in Barnette (2017). The available information presented in Barnette (2017) indicates that gear and animal entanglement on low-relief material is extremely unlikely with the implementation of mitigation measures listed above in Section 2.1.2. The mitigation measures for protrusions require that all reef material have all steel reinforcement rods, rebar, and other protrusions cut off and level with the surface of the concrete to minimize the snagging of fishing gear. Furthermore, as described above, the mitigation measures for Protected Species Sightings requires that deployment activities will not commence until the project supervisor reports that no protected species have been sighted within 150 ft of the active deployment site for at least 20 minutes and to cease all deployment activities immediately if any protected species are sighted within 150 ft of the active deployment site. Deployment activities will not recommence until the project supervisor reports that no protected species have been sighted for at least 20 minutes. The best available information presented in Barnette (2017)

indicates that gear and animal entanglement and sea turtle entrapment on low-relief material is extremely unlikely to occur under these conditions.

With respect to high-relief artificial reef materials, we do not anticipate that giant manta ray will experience entrapment. We anticipate that ESA-listed sea turtles are likely to experience entanglement events (see Section 6). We have no information documenting any artificial reef entanglement event involving giant manta ray because it is extremely unlikely that these species will utilize artificial reefs as habitat. Giant manta ray do not typically feed or rest on/near artificial reef structures due to their life history patterns, thus decreasing any potential for interactions with accumulated monofilament. Decreasing the risk of entanglement further is the requirement that the applicant remove structures, such as ladders, rails, booms, and antennae from deployed materials. If steel-reinforced concrete is to be deployed, the USACE will require that protruding reinforcement rods be cut off evenly with the surface of the concrete. These measures are expected to result fewer protrusions upon which potential entanglement hazards may be caught. Therefore, we believe that entanglement on high-relief artificial reef structures is extremely unlikely to occur for giant manta ray.

Giant manta ray could also be injured or killed as a result of hooking or other interactions incidental to fishing activities in the vicinity of the proposed actions; however, the proposed actions are extremely unlikely to increase the risk of incidental capture. While it is possible that the new reefs will increase fishing effort locally, which might increase the rates of interaction with listed species at the specific geographic location, there is no evidence that establishment of artificial reefs increases the numbers of fishers or boats participating in a given fishery overall. The relocation of fishing effort to new artificial reefs potentially reduces fishing pressure and potentially the number of interactions with listed species at other locations. Therefore, additional artificial reef placement could lessen the concentration of fishers by providing more locations at which to fish, which has the potential to reduce the likelihood of a giant manta ray being hooked.

3.1.3 ESA-Listed Species Likely to be Adversely Affected by the Proposed Action

We have determined that are likely to be adversely affected by the proposed action and thus requires further analysis. We provide greater detail on the potential effects to these species from the proposed action in the Effects of the Action (Section 6.1) and whether those effects, when considered in the context of the Status of the Species (Section 4.1), the Environmental Baseline (Section 5), and the Cumulative Effects (Section 7), are likely to likely to jeopardize the continued existence of these ESA-listed species in the wild.

4 STATUS OF ESA-LISTED SPECIES CONSIDERED FOR FURTHER ANALYSIS

4.1 Overview of Status of Sea Turtles

There are 5 species of sea turtles (green, hawksbill, Kemp's ridley, leatherback, and loggerhead) that travel widely throughout the South Atlantic, Gulf of Mexico and the Caribbean. These species are highly migratory and therefore could occur within the action area. Section 4.1.1 will address the general threats that confront all sea turtle species. The remainder of Section 4.1

(Sections 4.1.2-4.1.5) will address information on the distribution, life history, population structure, abundance, population trends, and unique threats to each species of sea turtle.

4.1.1 General Threats Faced by All Sea Turtle Species

Sea turtles face numerous natural and man-made threats that shape their status and affect their ability to recover. Many of the threats are either the same or similar in nature for all listed sea turtle species. The threats identified in this section are discussed in a general sense for all sea turtles. Threat information specific to a particular species are then discussed in the corresponding Status of the Species sections where appropriate.

Fisheries

Incidental bycatch in commercial fisheries is identified as a major contributor to past declines, and threat to future recovery, for all of the sea turtle species (NMFS and USFWS 1991; NMFS and USFWS 1992; NMFS and USFWS 1993; NMFS and USFWS 2008; NMFS et al. 2011). Domestic fisheries often capture, injure, and kill sea turtles at various life stages. Sea turtles in the pelagic environment are exposed to U.S. Atlantic pelagic longline fisheries. Sea turtles in the benthic environment in waters off the coastal United States are exposed to a suite of other fisheries in federal and state waters. These fishing methods include trawls, gillnets, purse seines, hook-and-line gear (including bottom longlines and vertical lines [e.g., bandit gear, handlines, and rod-reel]), pound nets, and trap fisheries. Refer to the Environmental Baseline section of this opinion for more specific information regarding federal and state managed fisheries affecting sea turtles within the action area). The Southeast U.S. shrimp fisheries have historically been the largest fishery threat to benthic sea turtles in the southeastern United States, and continue to interact with and kill large numbers of sea turtles each year.

In addition to domestic fisheries, sea turtles are subject to direct as well as incidental capture in numerous foreign fisheries, further impeding the ability of sea turtles to survive and recover on a global scale. For example, pelagic stage sea turtles, especially loggerheads and leatherbacks, circumnavigating the Atlantic are susceptible to international longline fisheries including the Azorean, Spanish, and various other fleets (Aguilar et al. 1994; Bolten et al. 1994). Bottom longlines and gillnet fishing is known to occur in many foreign waters, including (but not limited to) the northwest Atlantic, western Mediterranean, South America, West Africa, Central America, and the Caribbean. Shrimp trawl fisheries are also occurring off the shores of numerous foreign countries and pose a significant threat to sea turtles similar to the impacts seen in U.S. waters. Many unreported takes or incomplete records by foreign fleets make it difficult to characterize the total impact that international fishing pressure is having on listed sea turtles. Nevertheless, international fisheries represent a continuing threat to sea turtle survival and recovery throughout their respective ranges.

Non-Fishery In-Water Activities

There are also many non-fishery impacts affecting the status of sea turtle species, both in the ocean and on land. In nearshore waters of the United States, the construction and maintenance of federal navigation channels has been identified as a source of sea turtle mortality. Hopper dredges, which are frequently used in ocean bar channels and sometimes in harbor channels and offshore borrow areas, move relatively rapidly and can entrain and kill sea turtles (NMFS 1997). Sea turtles entering coastal or inshore areas have also been affected by entrainment in the

cooling-water systems of electrical generating plants. Other nearshore threats include harassment and/or injury resulting from private and commercial vessel operations, military detonations and training exercises, in-water construction activities, and scientific research activities.

Coastal Development and Erosion Control

Coastal development can deter or interfere with nesting, affect nesting success, and degrade nesting habitats for sea turtles. Structural impacts to nesting habitat include the construction of buildings and pilings, beach armoring and renourishment, and sand extraction (Bouchard et al. 1998; Lutcavage et al. 1997). These factors may decrease the amount of nesting area available to females and change the natural behaviors of both adults and hatchlings, directly or indirectly, through loss of beach habitat or changing thermal profiles and increasing erosion, respectively (Ackerman 1997; Witherington et al. 2003; Witherington et al. 2007). In addition, coastal development is usually accompanied by artificial lighting which can alter the behavior of nesting adults (Witherington 1992) and is often fatal to emerging hatchlings that are drawn away from the water (Witherington and Bjorndal 1991). In-water erosion control structures such as breakwaters, groins, and jetties can impact nesting females and hatchlings as they approach and leave the surf zone or head out to sea by creating physical blockage, concentrating predators, creating longshore currents, and disrupting of wave patterns.

Environmental Contamination

Multiple municipal, industrial, and household sources, as well as atmospheric transport, introduce various pollutants such as pesticides, hydrocarbons, organochlorides (e.g., dichlorodiphenyltrichloroethane [DDT], polychlorinated biphenyls [PCB], and perfluorinated chemicals [PFC]), and others that may cause adverse health effects to sea turtles (Garrett 2004; Grant and Ross 2002; Hartwell 2004; Iwata et al. 1993). Acute exposure to hydrocarbons from petroleum products released into the environment via oil spills and other discharges may directly injure individuals through skin contact with oils (Geraci 1990), inhalation at the water's surface and ingesting compounds while feeding (Matkin and Saulitis 1997). Hydrocarbons also have the potential to impact prey populations, and therefore may affect listed species indirectly by reducing food availability in the action area.

The April 20, 2010, explosion of the Deepwater Horizon oil rig affected sea turtles in the Gulf of Mexico. An assessment has been completed on the injury to Gulf of Mexico marine life, including sea turtles, resulting from the spill (DWH Trustees 2015). Following the spill, juvenile Kemp's ridley, green, and loggerhead sea turtles were found in Sargassum algae mats in the convergence zones, where currents meet and oil collected. Sea turtles found in these areas were often coated in oil and/or had ingested oil. The spill resulted in the direct mortality of many sea turtles and may have had sublethal effects or caused environmental damage that will impact other sea turtles into the future. Information on the spill impacts to individual sea turtle species is presented in the Status of the Species sections for each species.

Marine debris is a continuing problem for sea turtles. Sea turtles living in the pelagic environment commonly eat or become entangled in marine debris (e.g., tar balls, plastic bags/pellets, balloons, and lost, abandoned or discarded fishing gear) as they feed along oceanographic fronts where debris and their natural food items converge. Marine debris can cause significant habitat destruction from derelict vessels, further exacerbated by tropical storms

moving debris and scouring and destroying corals and seagrass beds, for instance. Sea turtles that spend significant portions of their lives in the pelagic environment (i.e., juvenile loggerheads, and juvenile green turtles) are especially susceptible to threats from entanglement in marine debris when they return to coastal waters to breed and nest.

Climate Change

There is a large and growing body of literature on past, present, and future impacts of global climate change, exacerbated and accelerated by human activities. Some of the likely effects commonly mentioned are sea level rise, increased frequency of severe weather events, and change in air and water temperatures. NOAA's climate information portal provides basic background information on these and other measured or anticipated effects (see

<http://www.climate.gov>).

Climate change impacts on sea turtles currently cannot be predicted with any degree of certainty; however, significant impacts to the hatchling sex ratios of sea turtles may result (NMFS and USFWS 2007a). In sea turtles, sex is determined by the ambient sand temperature (during the middle third of incubation) with female offspring produced at higher temperatures and males at lower temperatures within a thermal tolerance range of 25°-35°C (Ackerman 1997). Increases in global temperature could potentially skew future sex ratios toward higher numbers of females (NMFS and USFWS 2007a).

The effects from increased temperatures may be intensified on developed nesting beaches where shoreline armoring and construction have denuded vegetation. Erosion control structures could potentially result in the permanent loss of nesting beach habitat or deter nesting females (NRC 1990). These impacts will be exacerbated by sea level rise. If females nest on the seaward side of the erosion control structures, nests may be exposed to repeated tidal overwash (NMFS and USFWS 2007b). Sea level rise from global climate change is also a potential problem for areas with low-lying beaches where sand depth is a limiting factor, as the sea may inundate nesting sites and decrease available nesting habitat (Baker et al. 2006; Daniels et al. 1993; Fish et al. 2005). The loss of habitat as a result of climate change could be accelerated due to a combination of other environmental and oceanographic changes such as an increase in the frequency of storms and/or changes in prevailing currents, both of which could lead to increased beach loss via erosion (Antonelis et al. 2006; Baker et al. 2006).

Other changes in the marine ecosystem caused by global climate change (e.g., ocean acidification, salinity, oceanic currents, dissolved oxygen levels, nutrient distribution, etc.) could influence the distribution and abundance of lower trophic levels (e.g., phytoplankton, zooplankton, submerged aquatic vegetation, crustaceans, mollusks, forage fish, etc.) which could ultimately affect the primary foraging areas of sea turtles.

Other Threats

Predation by various land predators is a threat to developing nests and emerging hatchlings. The major natural predators of sea turtle nests are mammals, including raccoons, dogs, pigs, skunks, and badgers. Emergent hatchlings are preyed upon by these mammals as well as ghost crabs, laughing gulls, and the exotic South American fire ant (*Solenopsis invicta*). In addition to natural

predation, direct harvest of eggs and adults from beaches in foreign countries continues to be a problem for various sea turtle species throughout their ranges (NMFS and USFWS 2008).

Diseases, toxic blooms from algae and other microorganisms, and cold stunning events are additional sources of mortality that can range from local and limited to wide-scale and impacting hundreds or thousands of animals.

4.1.2 Green Sea Turtle – North Atlantic DPS

The green sea turtle was originally listed as threatened under the ESA on July 28, 1978, except for the Florida and Pacific coast of Mexico breeding populations, which were listed as endangered. On April 6, 2016, the original listing was replaced with the listing of 11 distinct population segments (DPSs) (81 FR 20057 2016) (Figure 2). The Mediterranean, Central West Pacific, and Central South Pacific DPSs were listed as endangered. The North Atlantic, South Atlantic, Southwest Indian, North Indian, East Indian-West Pacific, Southwest Pacific, Central North Pacific, and East Pacific DPSs were listed as threatened. Only individuals from the South Atlantic DPS and North Atlantic DPS may occur in waters under the purview of the NMFS SE Region, with South Atlantic DPS individuals only expected to occur in the U.S. Caribbean.

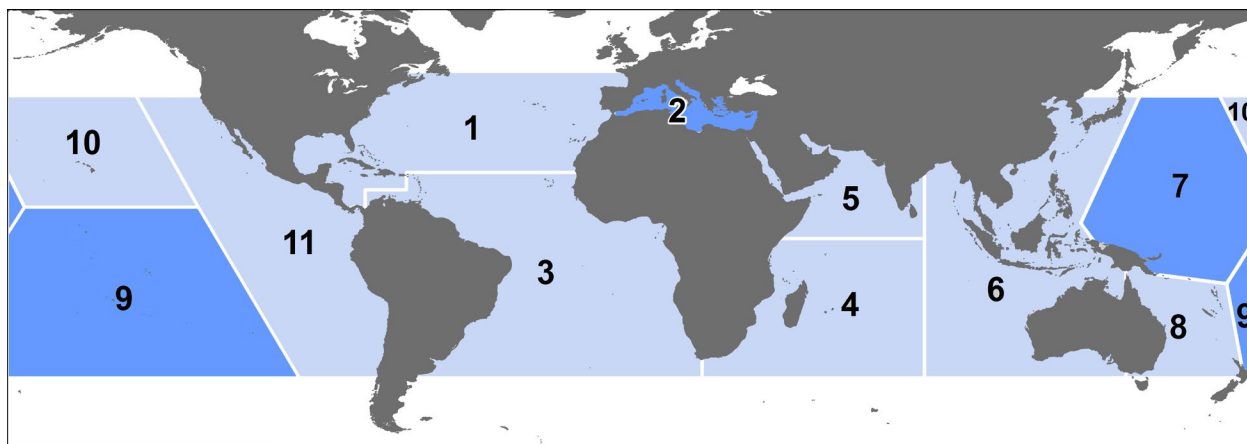


Figure 2. Threatened (light) and endangered (dark) green turtle DPSs: 1. North Atlantic, 2. Mediterranean, 3. South Atlantic, 4. Southwest Indian, 5. North Indian, 6. East Indian-West Pacific, 7. Central West Pacific, 8. Southwest Pacific, 9. Central South Pacific, 10. Central North Pacific, and 11. East Pacific.

Species Description and Distribution

The green sea turtle is the largest of the hardshell marine turtles, growing to a weight of 350 lb (159 kg) with a straight carapace length of greater than 3.3 ft (1 m). Green sea turtles have a smooth carapace with 4 pairs of lateral (or costal) scutes and a single pair of elongated prefrontal scales between the eyes. They typically have a black dorsal surface and a white ventral surface, although the carapace of green sea turtles in the Atlantic Ocean has been known to change in color from solid black to a variety of shades of grey, green, or brown and black in starburst or irregular patterns (Lagueux 2001).

With the exception of post-hatchlings, green sea turtles live in nearshore tropical and subtropical waters where they generally feed on marine algae and seagrasses. They have specific foraging

grounds and may make large migrations between these forage sites and natal beaches for nesting (Hays et al. 2001). Green sea turtles nest on sandy beaches of mainland shores, barrier islands, coral islands, and volcanic islands in more than 80 countries worldwide (Hirth 1997). The two largest nesting populations are found at Tortuguero, on the Caribbean coast of Costa Rica (part of the North Atlantic DPS), and Raine Island, on the Pacific coast of Australia along the Great Barrier Reef.

Differences in mitochondrial DNA properties of green sea turtles from different nesting regions indicate there are genetic subpopulations (Bowen et al. 1992; FitzSimmons et al. 2006). Despite the genetic differences, sea turtles from separate nesting origins are commonly found mixed together on foraging grounds throughout the species' range. Limited early information indicated that within U.S. waters benthic juveniles from both the North Atlantic and South Atlantic DPSs may be found on foraging grounds. Two small-scale studies provided an insight into the possible degree of mixing on the foraging grounds. An analysis of cold-stunned green turtles in St. Joseph Bay, Florida (northern Gulf of Mexico) found approximately 4% of individuals came from nesting stocks in the South Atlantic DPS (specifically Suriname, Aves Island, Brazil, Ascension Island, and Guinea Bissau) (Foley et al. 2007). On the Atlantic coast of Florida, a study on the foraging grounds off Hutchinson Island found that approximately 5% of the turtles sampled came from the Aves Island/Suriname nesting assemblage, which is part of the South Atlantic DPS (Bass and Witzell 2000). Available information on green turtle migratory behavior indicates that long distance dispersal is only seen for juvenile turtles. This suggests that larger adult-sized turtles return to forage within the region of their natal rookeries, thereby limiting the potential for gene flow across larger scales (Monzón-Argüello et al. 2010). However, with additional research it has been determined that South Atlantic juveniles are not likely to be occurring in U.S. mainland coastal waters in anything more than negligible numbers. Jensen et al. (2013) indicated that the earlier studies might represent a statistical artifact as they lack sufficient precision, with error intervals that span zero. More recent studies with better rookery baseline representation found negligible (<1%) contributions from the South Atlantic DPS among Texas and Florida GoM juvenile green turtle assemblages (Shamblin et al. 2016, 2018). Finally, an as-yet published genetic analysis of samples from various coastal areas in the Gulf of Mexico and Atlantic has now solidified the conclusion that South Atlantic juveniles represent at best a negligible number of individuals in mainland United States waters (Peter Dutton, SWFSC, pers. comm. April 2022). Therefore, we will not consider South Atlantic DPS individuals when conducting consultations for projects in the waters off the mainland United States.

The North Atlantic DPS boundary is illustrated in Figure 1. Four regions support nesting concentrations of particular interest in the North Atlantic DPS: Costa Rica (Tortuguero), Mexico (Campeche, Yucatan, and Quintana Roo), U.S. (Florida), and Cuba. By far the most important nesting concentration for green turtles in this DPS is Tortuguero, Costa Rica. Nesting also occurs in the Bahamas, Belize, Cayman Islands, Dominican Republic, Haiti, Honduras, Jamaica, Nicaragua, Panama, Puerto Rico, Turks and Caicos Islands, and North Carolina, South Carolina, Georgia, and Texas, U.S.A. In the eastern North Atlantic, nesting has been reported in Mauritania (Fretey 2001).

The complete nesting range of North Atlantic DPS green sea turtles within the southeastern United States includes sandy beaches between Texas and North Carolina, as well as Puerto Rico

(Dow et al. 2007; NMFS and USFWS 1991). The vast majority of green sea turtle nesting within the southeastern United States occurs in Florida (Johnson and Ehrhart 1994; Meylan et al. 1995). Principal U.S. nesting areas for green sea turtles are in eastern Florida, predominantly Brevard south through Broward counties.

In U.S. Atlantic and Gulf of Mexico waters, green sea turtles are distributed throughout inshore and nearshore waters from Texas to Massachusetts. Principal benthic foraging areas in the southeastern United States include Aransas Bay, Matagorda Bay, Laguna Madre, and the Gulf inlets of Texas (Doughty 1984; Hildebrand 1982; Shaver 1994), the Gulf of Mexico off Florida from Yankeetown to Tarpon Springs (Caldwell and Carr 1957), Florida Bay and the Florida Keys (Schroeder and Foley 1995), the Indian River Lagoon system in Florida (Ehrhart 1983), and the Atlantic Ocean off Florida from Brevard through Broward Counties (Guseman and Ehrhart 1992; Wershoven and Wershoven 1992). The summer developmental habitat for green sea turtles also encompasses estuarine and coastal waters from North Carolina to as far north as Long Island Sound (Musick and Limpus 1997). Additional important foraging areas in the western Atlantic include the Culebra archipelago and other Puerto Rico coastal waters, the south coast of Cuba, the Mosquito Coast of Nicaragua, the Caribbean coast of Panama, scattered areas along Colombia and Brazil (Hirth 1971), and the northwestern coast of the Yucatán Peninsula.

Life History Information

Green sea turtles reproduce sexually, and mating occurs in the waters off nesting beaches and along migratory routes. Mature females return to their natal beaches (i.e., the same beaches where they were born) to lay eggs (Balazs 1982; Frazer and Ehrhart 1985) every 2-4 years while males are known to reproduce every year (Balazs 1983). In the southeastern United States, females generally nest between June and September, and peak nesting occurs in June and July (Witherington and Ehrhart 1989b). During the nesting season, females nest at approximately 2-week intervals, laying an average of 3-4 clutches (Johnson and Ehrhart 1996). Clutch size often varies among subpopulations, but mean clutch size is approximately 110-115 eggs. In Florida, green sea turtle nests contain an average of 136 eggs (Witherington and Ehrhart 1989b). Eggs incubate for approximately 2 months before hatching. Hatchling green sea turtles are approximately 2 in (5 cm) in length and weigh approximately 0.9 ounces (25 grams). Survivorship at any particular nesting site is greatly influenced by the level of man-made stressors, with the more pristine and less disturbed nesting sites (e.g., along the Great Barrier Reef in Australia) showing higher survivorship values than nesting sites known to be highly disturbed (e.g., Nicaragua) (Campell and Lagueux 2005; Chaloupka and Limpus 2005).

After emerging from the nest, hatchlings swim to offshore areas and go through a post-hatchling pelagic stage where they are believed to live for several years. During this life stage, green sea turtles feed close to the surface on a variety of marine algae and other life associated with drift lines and debris. This early oceanic phase remains one of the most poorly understood aspects of green sea turtle life history (NMFS and USFWS 2007). Green sea turtles exhibit particularly slow growth rates of about 0.4-2 in (1-5 cm) per year (Green 1993), which may be attributed to their largely herbivorous, low-net energy diet (Bjorndal 1982). At approximately 8-10 in (20-25 cm) carapace length, juveniles leave the pelagic environment and enter nearshore developmental habitats such as protected lagoons and open coastal areas rich in sea grass and marine algae. Growth studies using skeletochronology indicate that green sea turtles in the western Atlantic

shift from the oceanic phase to nearshore developmental habitats after approximately 5-6 years (Bresette et al. 2006; Zug and Glor 1998). Within the developmental habitats, juveniles begin the switch to a more herbivorous diet, and by adulthood feed almost exclusively on seagrasses and algae (Rebel 1974), although some populations are known to also feed heavily on invertebrates (Carballo et al. 2002). Green sea turtles mature slowly, requiring 20-50 years to reach sexual maturity (Chaloupka and Musick 1997; Hirth 1997).

While in coastal habitats, green sea turtles exhibit site fidelity to specific foraging and nesting grounds, and it is clear they are capable of “homing in” on these sites if displaced (McMichael et al. 2003). Reproductive migrations of Florida green sea turtles have been identified through flipper tagging and satellite telemetry. Based on these studies, the majority of adult female Florida green sea turtles are believed to reside in nearshore foraging areas throughout the Florida Keys and in the waters southwest of Cape Sable, and some post-nesting turtles also reside in Bahamian waters as well (NMFS and USFWS 2007).

Status and Population Dynamics

Accurate population estimates for marine turtles do not exist because of the difficulty in sampling turtles over their geographic ranges and within their marine environments. Nonetheless, researchers have used nesting data to study trends in reproducing sea turtles over time. A summary of nesting trends and nester abundance is provided in the most recent status review for the species (Seminoff et al. 2015), with information for each of the DPSs.

The North Atlantic DPS is the largest of the 11 green turtle DPSs, with an estimated nester abundance of over 167,000 adult females from 73 nesting sites. Overall, this DPS is also the most data rich. Eight of the sites have high levels of abundance (i.e., <1000 nesters), located in Costa Rica, Cuba, Mexico, and Florida.

Quintana Roo, Mexico, accounts for approximately 11% of nesting for the DPS (Seminoff et al. 2015). In the early 1980s, approximately 875 nests/year were deposited, but by 2000 this increased to over 1,500 nests/year (NMFS and USFWS 2007d). By 2012, more than 26,000 nests were counted in Quintana Roo (J. Zurita, CIQROO, unpublished data, 2013, in Seminoff et al. 2015).

Tortuguero, Costa Rica is by far the predominant nesting site, accounting for an estimated 79% of nesting for the DPS (Seminoff et al. 2015). Nesting at Tortuguero appears to have been increasing since the 1970's, when monitoring began. For instance, from 1971-1975 there were approximately 41,250 average annual emergences documented and this number increased to an average of 72,200 emergences from 1992-1996 (Bjorndal et al. 1999). Troëng and Rankin (2005) collected nest counts from 1999-2003 and also reported increasing trends in the population consistent with the earlier studies, with nest count data suggesting 17,402-37,290 nesting females per year (NMFS and USFWS 2007). Modeling by Chaloupka et al. (2008) using data sets of 25 years or more resulted in an estimate of the Tortuguero, Costa Rica population's growing at 4.9% annually. However, a recent long-term study spanning over 50 years of nesting at Tortuguero found that while nest numbers increased steadily over 37 years from 1971-2008, the rate of increase slowed gradually from 2000-2008. After 2008 the nesting trend has been

downwards, with current nesting levels having reverted to that of the mid 1990's and the overall long-term trend has now become negative (Restrepo, et al. 2023).

In the continental United States, green sea turtle nesting occurs along the Atlantic coast, primarily along the central and southeast coast of Florida (Meylan et al. 1994; Weishampel et al. 2003). Occasional nesting has also been documented along the Gulf Coast of Florida (Meylan et al. 1995). Green sea turtle nesting is documented annually on beaches of North Carolina, South Carolina, and Georgia, though nesting is found in low quantities (up to tens of nests) (nesting databases maintained on www.seaturtle.org).

Florida accounts for approximately 5% of nesting for this DPS (Seminoff et al. 2015). Modeling by Chaloupka et al. (2008) using data sets of 25 years or more resulted in an estimate of the Florida nesting stock at the Archie Carr National Wildlife Refuge growing at an annual rate of 13.9% at that time. Increases have been even more rapid in recent years. In Florida, index beaches were established to standardize data collection methods and effort on key nesting beaches. Since establishment of the index beaches in 1989, the pattern of green sea turtle nesting has generally shown biennial peaks in abundance with a positive trend during the 10 years of regular monitoring (Figure X). According to data collected from Florida's index nesting beach survey from 1989-2021, green sea turtle nest counts across Florida have increased dramatically, from a low of 267 in the early 1990s to a high of 40,911 in 2019. Two consecutive years of nesting declines in 2008 and 2009 caused some concern, but this was followed by increases in 2010 and 2011. The pattern departed from the low lows and high peaks in 2020 and 2021 as well, when 2020 nesting only dropped by half from the 2019 high, while 2021 nesting only increased by a small amount over the 2020 nesting, with another increase in 2022 still well below the 2019 high (Figure 3). While nesting in Florida has shown dramatic increases over the past decade, individuals from the Tortuguero, the Florida, and the other Caribbean and Gulf of Mexico populations in the North Atlantic DPS intermix and share developmental habitat. Therefore, threats that have affected the Tortuguero population as described previously, may ultimately influence the other population trajectories, including Florida. Given the large size of the Tortuguero nesting population, which is currently in decline, its status and trend largely drives the status of North Atlantic DPS.

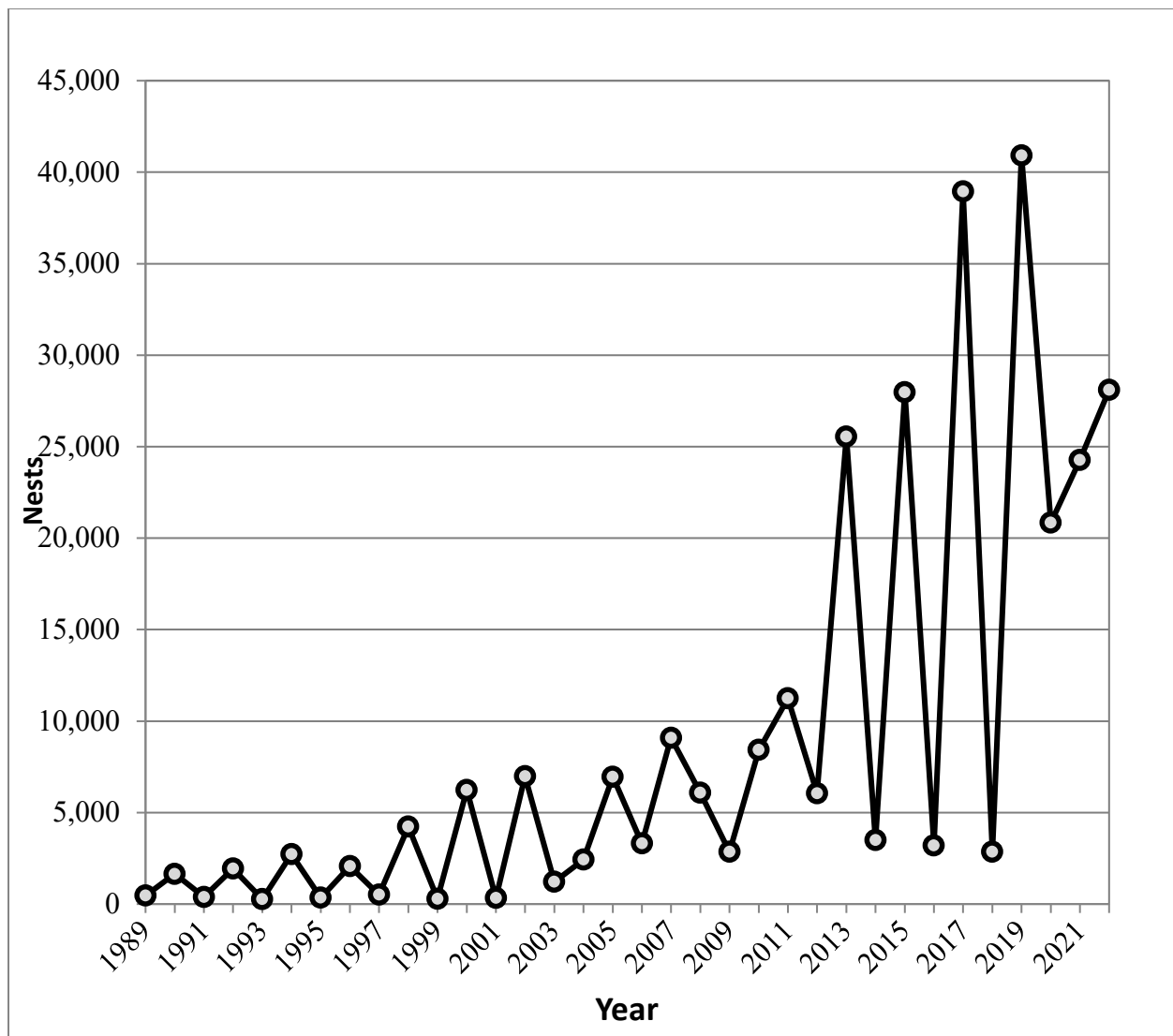


Figure 3. Green sea turtle nesting at Florida index beaches since 1989.

Similar to the nesting trend found in Florida, in-water studies in Florida have also recorded increases in green turtle captures at the Indian River Lagoon site, with a 661 percent increase over 24 years (Ehrhart et al. 2007), and the St Lucie Power Plant site, with a significant increase in the annual rate of capture of immature green turtles (SCL<90 cm) from 1977 to 2002 or 26 years (3,557 green turtles total; M. Bressette, Inwater Research Group, unpubl. data; (Witherington et al. 2006).

Threats

The principal cause of past declines and extirpations of green sea turtle assemblages has been the overexploitation of the species for food and other products. Although intentional take of green sea turtles and their eggs is not extensive within the southeastern United States, green sea turtles that nest and forage in the region may spend large portions of their life history outside the region and outside U.S. jurisdiction, where exploitation is still a threat. Green sea turtles also face many of the same threats as other sea turtle species, including destruction of nesting habitat from storm

events, oceanic events such as cold-stunning, pollution (e.g., plastics, petroleum products, petrochemicals), ecosystem alterations (e.g., nesting beach development, beach nourishment and shoreline stabilization, vegetation changes), poaching, global climate change, fisheries interactions, natural predation, and disease. A discussion on general sea turtle threats can be found in Section 4.1.1.

In addition to general threats, green sea turtles are susceptible to natural mortality from Fibropapillomatosis (FP) disease. FP results in the growth of tumors on soft external tissues (flippers, neck, tail, etc.), the carapace, the eyes, the mouth, and internal organs (gastrointestinal tract, heart, lungs, etc.) of turtles (Aguirre et al. 2002; Herbst 1994; Jacobson et al. 1989). These tumors range in size from 0.04 in (0.1 cm) to greater than 11.81 in (30 cm) in diameter and may affect swimming, vision, feeding, and organ function (Aguirre et al. 2002; Herbst 1994; Jacobson et al. 1989). Presently, scientists are unsure of the exact mechanism causing this disease, though it is believed to be related to both an infectious agent, such as a virus (Herbst et al. 1995), and environmental conditions (e.g., habitat degradation, pollution, low wave energy, and shallow water (Foley et al. 2005). FP is cosmopolitan, but it has been found to affect large numbers of animals in specific areas, including Hawaii and Florida (Herbst 1994; Jacobson 1990; Jacobson et al. 1991).

Cold-stunning is another natural threat to green sea turtles. Although it is not considered a major source of mortality in most cases, as temperatures fall below 46.4°-50°F (8°-10°C) turtles may lose their ability to swim and dive, often floating to the surface. The rate of cooling that precipitates cold-stunning appears to be the primary threat, rather than the water temperature itself (Milton and Lutz 2003). Sea turtles that overwinter in inshore waters are most susceptible to cold-stunning because temperature changes are most rapid in shallow water (Witherington and Ehrhart 1989a). During January 2010, an unusually large cold-stunning event in the southeastern United States resulted in around 4,600 sea turtles, mostly greens, found cold-stunned, and hundreds found dead or dying. A large cold-stunning event occurred in the western Gulf of Mexico in February 2011, resulting in approximately 1,650 green sea turtles found cold-stunned in Texas. Of these, approximately 620 were found dead or died after stranding, while approximately 1,030 turtles were rehabilitated and released. During this same time frame, approximately 340 green sea turtles were found cold-stunned in Mexico, though approximately 300 of those were subsequently rehabilitated and released.

Whereas oil spill impacts are discussed generally for all species in Section 4.1.1, specific impacts of the DWH spill on green sea turtles are considered here. Impacts to green sea turtles occurred to offshore small juveniles only. A total of 154,000 small juvenile greens (36.6% of the total small juvenile sea turtle exposures to oil from the spill) were estimated to have been exposed to oil. A large number of small juveniles were removed from the population, as 57,300 small juveniles greens are estimated to have died as a result of the exposure. A total of 4 nests (580 eggs) were also translocated during response efforts, with 455 hatchlings released (the fate of which is unknown) (DWH Trustees 2015). Additional unquantified effects may have included inhalation of volatile compounds, disruption of foraging or migratory movements due to surface or subsurface oil, ingestion of prey species contaminated with oil and dispersants, and loss of foraging resources, which could lead to compromised growth and reproductive potential. There is no information currently available to determine the extent of those impacts, if they occurred.

While green turtles regularly use the northern Gulf of Mexico, they have a widespread distribution throughout the entire Gulf of Mexico, Caribbean, and Atlantic, and the proportion of the population using the northern Gulf of Mexico at any given time is relatively low. Although it is known that adverse impacts occurred and numbers of animals in the Gulf of Mexico were reduced as a result of the Deepwater Horizon oil spill of 2010 (DWH), the relative proportion of the population that is expected to have been exposed to and directly impacted by the DWH event, as well as the impacts being primarily to smaller juveniles (lower reproductive value than adults and large juveniles), reduces the impact to the overall population. It is unclear what impact these losses may have caused on a population level, but it is not expected to have had a large impact on the population trajectory moving forward. However, recovery of green turtle numbers equivalent to what was lost in the northern Gulf of Mexico as a result of the spill will likely take decades of sustained efforts to reduce the existing threats and enhance survivorship of multiple life stages (DWH Trustees 2015).

4.1.3 Hawksbill Sea Turtle

The hawksbill sea turtle was listed as endangered throughout its entire range on June 2, 1970 (35 FR 8491), under the Endangered Species Conservation Act of 1969, a precursor to the ESA. Critical habitat was designated on June 2, 1998, in coastal waters surrounding Mona and Monito Islands in Puerto Rico (63 FR 46693).

Species Description and Distribution

Hawksbill sea turtles are small- to medium-sized (99-150 lb on average [45-68 kg]) although females nesting in the Caribbean are known to weigh up to 176 lb (80 kg) (Pritchard et al. 1983). The carapace is usually serrated and has a “tortoise-shell” coloring, ranging from dark to golden brown, with streaks of orange, red, and/or black. The plastron of a hawksbill turtle is typically yellow. The head is elongated and tapers to a point, with a beak-like mouth that gives the species its name. The shape of the mouth allows the hawksbill turtle to reach into holes and crevices of coral reefs to find sponges, their primary adult food source, and other invertebrates. The shells of hatchlings are 1.7 in (42 mm) long, are mostly brown, and are somewhat heart-shaped (Eckert 1995; Hillis and Mackay 1989; van Dam and Sarti 1989).

Hawksbill sea turtles have a circumtropical distribution and usually occur between latitudes 30°N and 30°S in the Atlantic, Pacific, and Indian Oceans. In the western Atlantic, hawksbills are widely distributed throughout the Caribbean Sea, off the coasts of Florida and Texas in the continental United States, in the Greater and Lesser Antilles, and along the mainland of Central America south to Brazil (Amos 1989; Groombridge and Luxmoore 1989; Lund 1985; Meylan and Donnelly 1999; NMFS and USFWS 1998; Plotkin and Amos 1990; Plotkin and Amos 1988). They are highly migratory and use a wide range of habitats during their lifetimes (Musick and Limpus 1997; Plotkin 2003). Adult hawksbill sea turtles are capable of migrating long distances between nesting beaches and foraging areas. For instance, a female hawksbill sea turtle tagged at Buck Island Reef National Monument (BIRNM) in St. Croix was later identified 1,160 miles (1,866 km) away in the Miskito Cays in Nicaragua (Spotila 2004).

Hawksbill sea turtles nest on sandy beaches throughout the tropics and subtropics. Nesting occurs in at least 70 countries, although much of it now only occurs at low densities compared to that of other sea turtle species (NMFS and USFWS 2007b). Meylan and Donnelly (1999) believe that the widely dispersed nesting areas and low nest densities is likely a result of overexploitation of previously large colonies that have since been depleted over time. The most significant nesting within the United States occurs in Puerto Rico and the U.S. Virgin Islands, specifically on Mona Island and BIRNM, respectively. Although nesting within the continental United States is typically rare, it can occur along the southeast coast of Florida and the Florida Keys. The largest hawksbill nesting population in the western Atlantic occurs in the Yucatán Peninsula of Mexico, where several thousand nests are recorded annually in the states of Campeche, Yucatán, and Quintana Roo (Garduño-Andrade et al. 1999; Spotila 2004). In the U.S. Pacific, hawksbills nest on main island beaches in Hawaii, primarily along the east coast of the island. Hawksbill nesting has also been documented in American Samoa and Guam. More information on nesting in other ocean basins may be found in the 5-year status review for the species (NMFS and USFWS 2007).

Mitochondrial DNA studies show that reproductive populations are effectively isolated over ecological time scales (Bass et al. 1996). Substantial efforts have been made to determine the nesting population origins of hawksbill sea turtles assembled in foraging grounds, and genetic research has shown that hawksbills of multiple nesting origins commonly mix in foraging areas (Bowen and Witzell 1996). Since hawksbill sea turtles nest primarily on the beaches where they were born, if a nesting population is decimated, it might not be replenished by sea turtles from other nesting rookeries (Bass et al. 1996).

Life History Information

Hawksbill sea turtles exhibit slow growth rates although they are known to vary within and among populations from a low of 0.4-1.2 in (1-3 cm) per year, measured in the Indo-Pacific (Chaloupka and Limpus 1997; Mortimer et al. 2003; Mortimer et al. 2002; Whiting 2000), to a high of 2 in (5 cm) or more per year, measured at some sites in the Caribbean (Diez and Van Dam 2002; León and Diez 1999). Differences in growth rates are likely due to differences in diet and/or density of sea turtles at foraging sites and overall time spent foraging (Bjorndal and Bolten 2002; Chaloupka et al. 2004). Consistent with slow growth, age to maturity for the species is also long, taking between 20 and 40 years, depending on the region (Chaloupka and Musick 1997; Limpus and Miller 2000). Hawksbills in the western Atlantic are known to mature faster (i.e., 20 or more years) than sea turtles found in the Indo-Pacific (i.e., 30-40 years) (Boulton 1983; Boulton Jr. 1994; Diez and Van Dam 2002; Limpus and Miller 2000). Males are typically mature when their length reaches 27 in (69 cm), while females are typically mature at 30 in (75 cm) (Eckert et al. 1992; Limpus 1992).

Female hawksbills return to the beaches where they were born (natal beaches) every 2-3 years to nest (Van Dam et al. 1991; Witzell 1983) and generally lay 3-5 nests per season (Richardson et al. 1999). Compared with other sea turtles, the number of eggs per nest (clutch) for hawksbills can be quite high. The largest clutches recorded for any sea turtle belong to hawksbills (approximately 250 eggs per nest) (Hirth and Latif 1980), though nests in the U.S. Caribbean and Florida more typically contain approximately 140 eggs (USFWS hawksbill fact sheet, <https://www.fws.gov/species/carey-eretmochelys-imbricata>). Eggs incubate for approximately 60

days before hatching (USFWS hawksbill fact sheet). Hatchling hawksbill sea turtles typically measure 1-2 in (2.5-5 cm) in length and weigh approximately 0.5 oz (15 g).

Hawksbills may undertake developmental migrations (migrations as immatures) and reproductive migrations that involve travel over many tens to thousands of miles (Meylan 1999a). Post-hatchlings (oceanic stage juveniles) are believed to live in the open ocean, taking shelter in floating algal mats and drift lines of flotsam and jetsam in the Atlantic and Pacific oceans (Musick and Limpus 1997) before returning to more coastal foraging grounds. In the Caribbean, hawksbills are known to almost exclusively feed on sponges (Meylan 1988; Van Dam and Diez 1997), although at times they have been seen foraging on other food items, notably corallimorphs and zooanthids (León and Diez 2000; Mayor et al. 1998; Van Dam and Diez 1997).

Reproductive females undertake periodic (usually non-annual) migrations to their natal beaches to nest and exhibit a high degree of fidelity to their nest sites. Movements of reproductive males are less certain, but are presumed to involve migrations to nesting beaches or to courtship stations along the migratory corridor. Hawksbills show a high fidelity to their foraging areas as well (Van Dam and Diez 1998). Foraging sites are typically areas associated with coral reefs, although hawksbills are also found around rocky outcrops and high energy shoals which are optimum sites for sponge growth. They can also inhabit seagrass pastures in mangrove-fringed bays and estuaries, particularly along the eastern shore of continents where coral reefs are absent (Bjorndal 1997; Van Dam and Diez 1998).

Status and Population Dynamics

There are currently no reliable estimates of population abundance and trends for non-nesting hawksbills at the time of this consultation; therefore, nesting beach data is currently the primary information source for evaluating trends in global abundance. Most hawksbill populations around the globe are either declining, depleted, and/or remnants of larger aggregations (NMFS and USFWS 2007). The largest nesting population of hawksbills occurs in Australia where approximately 2,000 hawksbills nest off the northwest coast and about 6,000-8,000 nest off the Great Barrier Reef each year (Spotila 2004). Additionally, about 2,000 hawksbills nest each year in Indonesia and 1,000 nest in the Republic of Seychelles (Spotila 2004). In the United States, hawksbills typically laid about 500-1,000 nests on Mona Island, Puerto Rico in the past (Diez and Van Dam 2007), but the numbers appear to be increasing, as the Puerto Rico Department of Natural and Environmental Resources counted nearly 1,600 nests in 2010 (PRDNER nesting data). Another 56-150 nests are typically laid on Buck Island off St. Croix (Meylan 1999b; Mortimer and Donnelly 2008). Nesting also occurs to a lesser extent on beaches on Culebra Island and Vieques Island in Puerto Rico, the mainland of Puerto Rico, and additional beaches on St. Croix, St. John, and St. Thomas, U.S. Virgin Islands.

Mortimer and Donnelly (2008) reviewed nesting data for 83 nesting concentrations organized among 10 different ocean regions (i.e., Insular Caribbean, Western Caribbean Mainland, Southwestern Atlantic Ocean, Eastern Atlantic Ocean, Southwestern Indian Ocean, Northwestern Indian Ocean, Central Indian Ocean, Eastern Indian Ocean, Western Pacific Ocean, Central Pacific Ocean, and Eastern Pacific Ocean). They determined historic trends (i.e., 20-100 years ago) for 58 of the 83 sites, and also determined recent abundance trends (i.e., within the past 20

years) for 42 of the 83 sites. Among the 58 sites where historic trends could be determined, all showed a declining trend during the long-term period. Among the 42 sites where recent (past 20 years) trend data were available, 10 appeared to be increasing, 3 appeared to be stable, and 29 appeared to be decreasing. With respect to regional trends, nesting populations in the Atlantic (especially in the Insular Caribbean and Western Caribbean Mainland) are generally doing better than those in the Indo-Pacific regions. For instance, 9 of the 10 sites that showed recent increases are located in the Caribbean. Buck Island and St. Croix's East End beaches support 2 remnant populations of between 17-30 nesting females per season (Hillis and Mackay 1989; Mackay 2006). While the proportion of hawksbills nesting on Buck Island represents a small proportion of the total hawksbill nesting occurring in the greater Caribbean region, Mortimer and Donnelly (2008) report an increasing trend in nesting at that site based on data collected from 2001-2006. The conservation measures implemented when BIRNM was expanded in 2001 most likely explains this increase.

Nesting concentrations in the Pacific Ocean appear to be performing the worst of all regions despite the fact that the region currently supports more nesting hawksbills than either the Atlantic or Indian Oceans (Mortimer and Donnelly 2008). While still critically low in numbers, sightings of hawksbills in the eastern Pacific appear to have been increasing since 2007, though some of that increase may be attributable to better observations (Gaos et al. 2010). More information about site-specific trends can be found in the most recent 5-year status review for the species (NMFS and USFWS 2007).

Threats

Hawksbills are currently subjected to the same suite of threats on both nesting beaches and in the marine environment that affect other sea turtles (e.g., interaction with federal and state fisheries, coastal construction, oil spills, climate change affecting sex ratios) as discussed in Section 4.1.1. There are also specific threats that are of special emphasis, or are unique, for hawksbill sea turtles discussed in further detail below.

While oil spill impacts are discussed generally for all species in Section 4.1.1, specific impacts of the DWH spill on hawksbill turtles have been estimated. Hawksbills made up 2.2% (8,850) of small juvenile sea turtle (of those that could be identified to species) exposures to oil in offshore areas, with an estimate of 615 to 3,090 individuals dying as a result of the direct exposure (DWH Trustees 2015). No quantification of large benthic juveniles or adults was made. Additional unquantified effects may have included inhalation of volatile compounds, disruption of foraging or migratory movements due to surface or subsurface oil, ingestion of prey species contaminated with oil and/or dispersants, and loss of foraging resources which could lead to compromised growth and/or reproductive potential. There is no information currently available to determine the extent of those impacts, if they occurred. Although adverse impacts occurred to hawksbills, the relative proportion of the population that is expected to have been exposed to and directly impacted by the DWH event is relatively low, and thus a population-level impact is not believed to have occurred due to the widespread distribution and nesting location outside of the Gulf of Mexico for this species.

The historical decline of the species is primarily attributed to centuries of exploitation for the beautifully patterned shell, which made it a highly attractive species to target (Parsons 1972).

The fact that reproductive females exhibit a high fidelity for nest sites and the tendency of hawksbills to nest at regular intervals within a season made them an easy target for capture on nesting beaches. The shells from hundreds of thousands of sea turtles in the western Caribbean region were imported into the United Kingdom and France during the nineteenth and early twentieth centuries (Parsons 1972). Additionally, hundreds of thousands of sea turtles contributed to the region's trade with Japan prior to 1993 when a zero quota was imposed (Milliken and Tokunaga 1987), as cited in Brautigam and Eckert (2006).

The continuing demand for the hawksbills' shells as well as other products derived from the species (e.g., leather, oil, perfume, and cosmetics) represents an ongoing threat to its recovery. The British Virgin Islands, Cayman Islands, Cuba, Haiti, and the Turks and Caicos Islands (United Kingdom) all permit some form of legal take of hawksbill sea turtles. In the northern Caribbean, hawksbills continue to be harvested for their shells, which are often carved into hair clips, combs, jewelry, and other trinkets (Márquez M. 1990; Stapleton and Stapleton 2006). Additionally, hawksbills are harvested for their eggs and meat, while whole, stuffed sea turtles are sold as curios in the tourist trade. Hawksbill sea turtle products are openly available in the Dominican Republic and Jamaica, despite a prohibition on harvesting hawksbills and their eggs (Fleming 2001). Up to 500 hawksbills per year from 2 harvest sites within Cuba were legally captured each year until 2008 when the Cuban government placed a voluntary moratorium on the seaturtle fishery (Carillo et al. 1999; Mortimer and Donnelly 2008). While current nesting trends are unknown, the number of nesting females is suspected to be declining in some areas (Carillo et al. 1999; Moncada et al. 1999). International trade in the shell of this species is prohibited between countries that have signed the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), but illegal trade still occurs and remains an ongoing threat to hawksbill survival and recovery throughout its range.

Due to their preference to feed on sponges associated with coral reefs, hawksbill sea turtles are particularly sensitive to losses of coral reef communities. Coral reefs are vulnerable to destruction and degradation caused by human activities (e.g., nutrient pollution, sedimentation, contaminant spills, vessel groundings and anchoring, recreational uses) and are also highly sensitive to the effects of climate change (e.g., higher incidences of disease and coral bleaching) (Crabbe 2008; Wilkinson 2004). Because continued loss of coral reef communities (especially in the greater Caribbean region) is expected to impact hawksbill foraging, it represents a major threat to the recovery of the species.

4.1.4 Kemp's Ridley Sea Turtle

The Kemp's ridley sea turtle was listed as endangered on December 2, 1970, under the Endangered Species Conservation Act of 1969, a precursor to the ESA. Internationally, the Kemp's ridley is considered the most endangered sea turtle (Groombridge 1982; TEWG 2000; Zwinenberg 1977).

Species Description and Distribution

The Kemp's ridley sea turtle is the smallest of all sea turtles. Adults generally weigh less than 100 lb (45 kg) and have a carapace length of around 2.1 ft (65 cm). Adult Kemp's ridley shells are almost as wide as they are long. Coloration changes significantly during development from

the grey-black dorsum and plastron of hatchlings, a grey-black dorsum with a yellowish-white plastron as post-pelagic juveniles, and then to the lighter grey-olive carapace and cream-white or yellowish plastron of adults. There are 2 pairs of prefrontal scales on the head, 5 vertebral scutes, usually 5 pairs of costal scutes, and generally 12 pairs of marginal scutes on the carapace. In each bridge adjoining the plastron to the carapace, there are 4 scutes, each of which is perforated by a pore.

Kemp's ridley habitat largely consists of sandy and muddy areas in shallow, nearshore waters less than 120 ft (37 m) deep, although they can also be found in deeper offshore waters. These areas support the primary prey species of the Kemp's ridley sea turtle, which consist of swimming crabs, but may also include fish, jellyfish, and an array of mollusks.

The primary range of Kemp's ridley sea turtles is within the Gulf of Mexico basin, though they also occur in coastal and offshore waters of the U.S. Atlantic Ocean. Juvenile Kemp's ridley sea turtles, possibly carried by oceanic currents, have been recorded as far north as Nova Scotia. Historic records indicate a nesting range from Mustang Island, Texas, in the north to Veracruz, Mexico, in the south. Kemp's ridley sea turtles have recently been nesting along the Atlantic Coast of the United States, with nests recorded from beaches in Florida, Georgia, and the Carolinas. In 2012, the first Kemp's ridley sea turtle nest was recorded in Virginia. The Kemp's ridley nesting population had been exponentially increasing prior to the recent low nesting years, which may indicate that the population had been experiencing a similar increase. Additional nesting data in the coming years will be required to determine what the recent nesting decline means for the population trajectory.

Life History Information

Kemp's ridley sea turtles share a general life history pattern similar to other sea turtles. Females lay their eggs on coastal beaches where the eggs incubate in sandy nests. After 45-58 days of embryonic development, the hatchlings emerge and swim offshore into deeper, ocean water where they feed and grow until returning at a larger size. Hatchlings generally range from 1.65-1.89 in (42-48 mm) straight carapace length (SCL), 1.26-1.73 in (32-44 mm) in width, and 0.3-0.4 lb (15-20 g) in weight. Their return to nearshore coastal habitats typically occurs around 2 years of age (Ogren 1989), although the time spent in the oceanic zone may vary from 1-4 years or perhaps more (TEWG 2000). Juvenile Kemp's ridley sea turtles use these nearshore coastal habitats from April through November, but they move towards more suitable overwintering habitat in deeper offshore waters (or more southern waters along the Atlantic coast) as water temperature drops.

The average rates of growth may vary by location, but generally fall within $2.2\text{-}2.9 \pm 2.4$ in per year ($5.5\text{-}7.5 \pm 6.2$ cm/year) (Schmid and Barichivich 2006; Schmid and Woodhead 2000). Age to sexual maturity ranges greatly from 5-16 years, though NMFS et al. (2011) determined the best estimate of age to maturity for Kemp's ridley sea turtles was 12 years. It is unlikely that most adults grow very much after maturity. While some sea turtles nest annually, the weighted mean remigration rate for Kemp's ridley sea turtles is approximately 2 years. Nesting generally occurs from April to July. Females lay approximately 2.5 nests per season with each nest containing approximately 100 eggs (Márquez M. 1994).

Population Dynamics

Of the 7 species of sea turtles in the world, the Kemp's ridley has declined to the lowest population level. Most of the population of adult females nest on the beaches of Rancho Nuevo, Mexico (Pritchard 1969). When nesting aggregations at Rancho Nuevo were discovered in 1947, adult female populations were estimated to be in excess of 40,000 individuals (Hildebrand 1963). By the mid-1980s, however, nesting numbers from Rancho Nuevo and adjacent Mexican beaches were below 1,000, with a low of 702 nests in 1985. Yet, nesting steadily increased through the 1990s, and then accelerated during the first decade of the twenty-first century (Figure 4), which indicated the species was recovering.

It is worth noting that when the Bi-National Kemp's Ridley Sea Turtle Population Restoration Project was initiated in 1978, only Rancho Nuevo nests were recorded. In 1988, nesting data from southern beaches at Playa Dos and Barra del Tordo were added. In 1989, data from the northern beaches of Barra Ostionales and Tepehuajes were added, and most recently in 1996, data from La Pesca and Altamira beaches were recorded. Currently, nesting at Rancho Nuevo accounts for just over 81% of all recorded Kemp's ridley nests in Mexico. Following a significant, unexplained 1-year decline in 2010, Kemp's ridley nests in Mexico increased to 21,797 in 2012 (Gladys Porter Zoo 2013). From 2013 through 2014, there was a second significant decline, as only 16,385 and 11,279 nests were recorded, respectively. More recent data, however, indicated an increase in nesting. In 2015 there were 14,006 recorded nests, and in 2016 overall numbers increased to 18,354 recorded nests (Gladys Porter Zoo 2016). There was a record high nesting season in 2017, with 24,570 nests recorded (J. Pena, pers. comm., August 31, 2017). Nesting for 2018 declined to 17,945, with another steep drop to 11,090 nests in 2019 (Gladys Porter Zoo data, 2019), but rebounded in 2020 (18,068 nests), 2021 (17,671 nests), and 2022 (17,418) (CONANP data, 2022). At this time, it is unclear whether the increases and declines in nesting seen over the past decade-and-a-half represents a population oscillating around an equilibrium point, if the recent three years (2020-2022) of relatively steady nesting indicates that equilibrium point, or if nesting will decline or increase in the future. So at this point we can only conclude that the population has dramatically rebounded from the lows seen in the 80's and 90's, but we cannot ascertain a current population trend or trajectory at this time.

A small nesting population is also emerging in the United States, primarily in Texas, rising from 6 nests in 1996 to 42 in 2004, to a record high of 353 nests in 2017 (National Park Service data). It is worth noting that nesting in Texas has somewhat paralleled the trends observed in Mexico, characterized by a significant decline in 2010, followed by a second decline in 2013-2014, but with a rebound in 2015, the record nesting in 2017, and then a drop back down to 190 nests in 2019, rebounding to 262 nests in 2020, back to 195 nests in 2021, and then rebounding to 284 nests in 2022 (National Park Service data).

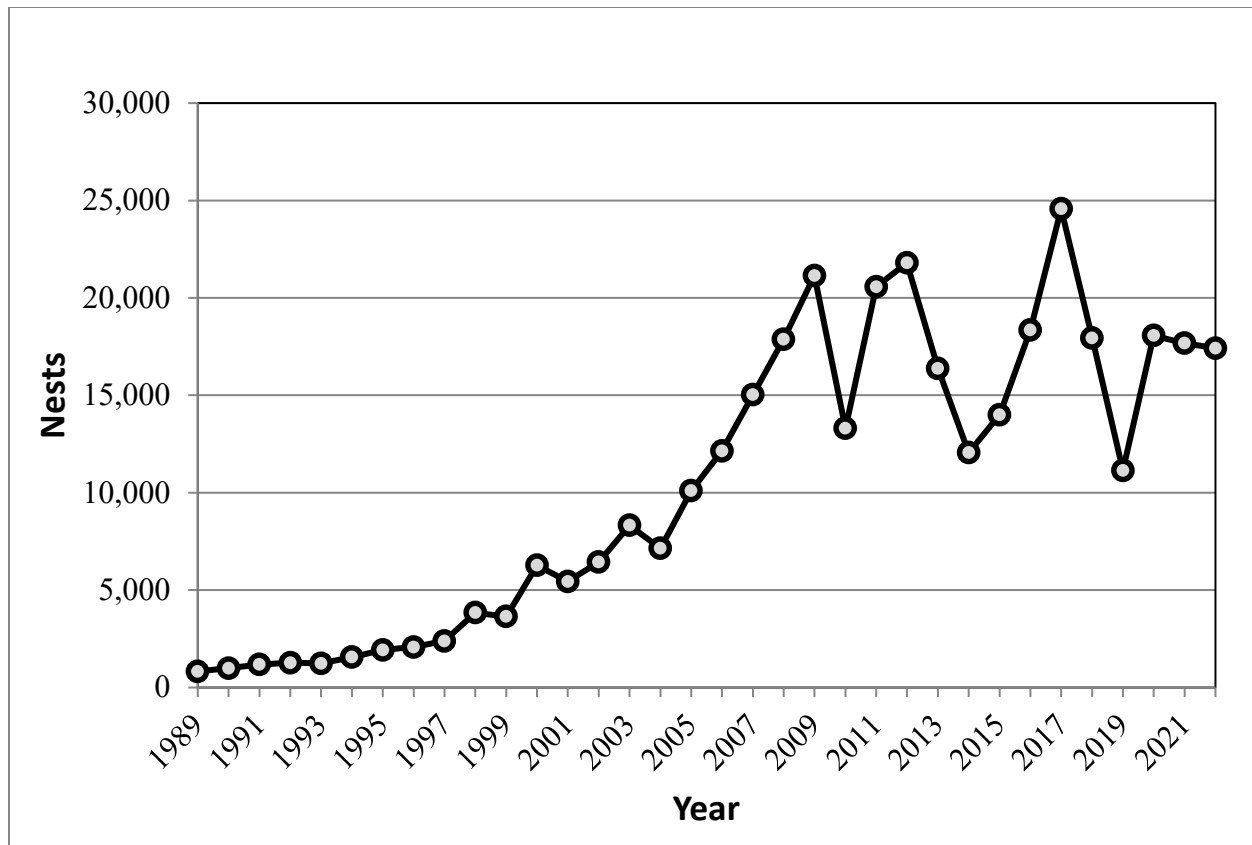


Figure 4. Kemp's ridley nest totals from Mexican beaches (Gladys Porter Zoo nesting database 2019 and CONANP data 2020-2022, 2021).

Through modelling, Heppell et al. (2005) predicted the population is expected to increase at least 12-16% per year and could reach at least 10,000 females nesting on Mexico beaches by 2015. NMFS et al. (2011) produced an updated model that predicted the population to increase 19% per year and to attain at least 10,000 females nesting on Mexico beaches by 2011. Approximately 25,000 nests would be needed for an estimate of 10,000 nesters on the beach, based on an average 2.5 nests/nesting female. While counts did not reach 25,000 nests by 2015, it is clear that the population has increased over the long term. The increases in Kemp's ridley sea turtle nesting are likely due to a combination of management measures including elimination of direct harvest, nest protection, the use of TEDs, reduced trawling effort in Mexico and the United States, and possibly other changes in vital rates (TEWG 1998; TEWG 2000). While these results are encouraging, the species' limited range as well as low global abundance makes it particularly vulnerable to new sources of mortality as well as demographic and environmental randomness, all factors which are often difficult to predict with any certainty. Additionally, the significant nesting declines observed in 2010 and 2013-2014 potentially indicate a serious population-level impact, and the ongoing recovery trajectory is unclear.

Threats

Kemp's ridley sea turtles face many of the same threats as other sea turtle species, including destruction of nesting habitat from storm events, oceanic events such as cold-stunning, pollution (plastics, petroleum products, petrochemicals, etc.), ecosystem alterations (nesting beach development, beach nourishment and shoreline stabilization, vegetation changes, etc.), poaching,

global climate change, fisheries interactions, natural predation, and disease. A discussion on general sea turtle threats can be found in Section 4.1.1; the remainder of this section will expand on a few of the aforementioned threats and how they may specifically impact Kemp's ridley sea turtles.

As Kemp's ridley sea turtles continue to recover and nesting arribadas (massive, synchronized nesting events) are increasingly established, bacterial and fungal pathogens in nests are also likely to increase. Bacterial and fungal pathogen impacts have been well documented in the large arribadas of the olive ridley at Nancite in Costa Rica (Mo 1988). In some years, and on some sections of the beach, the hatching success can be as low as 5% (Mo 1988). As the Kemp's ridley nest density at Rancho Nuevo and adjacent beaches continues to increase, appropriate monitoring of emergence success will be necessary to determine if there are any density-dependent effects.

Starting in 2010, we documented (via the STSSN data, <https://www.fisheries.noaa.gov/national/marine-life-distress/sea-turtle-stranding-and-salvage-network>) elevated sea turtle strandings in the Northern Gulf of Mexico, particularly throughout the Mississippi Sound area. For example, in the first 3 weeks of June 2010, over 120 sea turtle strandings were reported from Mississippi and Alabama waters, none of which exhibited any signs of external oiling to indicate effects associated with the DWH oil spill event. A total of 644 sea turtle strandings were reported in 2010 from Louisiana, Mississippi, and Alabama waters, 561 (87%) of which were Kemp's ridley sea turtles. During March through May of 2011, 267 sea turtle strandings were reported from Mississippi and Alabama waters alone. A total of 525 sea turtle strandings were reported in 2011 from Louisiana, Mississippi, and Alabama waters, with the majority (455) having occurred from March through July, 390 (86%) of which were Kemp's ridley sea turtles. During 2012, a total of 384 sea turtles were reported from Louisiana, Mississippi, and Alabama waters. Of these reported strandings, 343 (89%) were Kemp's ridley sea turtles. During 2014, a total of 285 sea turtles were reported from Louisiana, Mississippi, and Alabama waters, though the data is incomplete. Of these reported strandings, 229 (80%) were Kemp's ridley sea turtles. These stranding numbers are significantly greater than reported in past years; Louisiana, Mississippi, and Alabama waters reported 42 and 73 sea turtle strandings for 2008 and 2009, respectively. In subsequent years stranding levels during the March-May time period have been elevated but have not reached the high levels seen in the early 2010's. It should be noted that stranding coverage has increased considerably due to the DWH oil spill event.

Nonetheless, considering that strandings typically represent only a small fraction of actual mortality, these stranding events potentially represent a serious impact to the recovery and survival of the local sea turtle populations. While a definitive cause for these strandings has not been identified, necropsy results indicate a significant number of stranded turtles from these events likely perished due to forced submergence, which is commonly associated with fishery interactions (B. Stacy, NMFS, pers. comm. to M. Barnette, NMFS PRD, March 2012). Yet, available information indicates fishery effort was extremely limited during the stranding events. The fact that 80% or more of all Louisiana, Mississippi, and Alabama stranded sea turtles in the past 5 years were Kemp's ridleys is notable; however, this could simply be a function of the species' preference for shallow, inshore waters coupled with increased population abundance, as reflected in recent Kemp's ridley nesting increases.

In response to these strandings, and due to speculation that fishery interactions may be the cause, fishery observer effort was shifted to evaluate the inshore skimmer trawl fisheries beginning in 2012. During May-July of that year, observers reported 24 sea turtle interactions in the skimmer trawl fisheries. All but a single sea turtle were identified as Kemp's ridleys (1 sea turtle was an unidentified hardshell turtle). Encountered sea turtles were all very small juvenile specimens, ranging from 7.6-19.0 in (19.4-48.3 cm) CCL. Subsequent years of observation noted additional captures in the skimmer trawl fisheries, including some mortalities. The small average size of encountered Kemp's ridleys introduces a potential conservation issue, as over 50% of these reported sea turtles could potentially pass through the maximum 4-in bar spacing of TEDs currently required in the shrimp fisheries. Due to this issue, a proposed 2012 rule to require 4-in bar spacing TEDs in the skimmer trawl fisheries (77 FR 27411) was not implemented. Following additional gear testing, however, we proposed a new rule in 2016 (81 FR 91097) to require TEDs with 3-in bar spacing for all vessels using skimmer trawls, pusher-head trawls, or wing nets. Ultimately, we published a final rule on December 20, 2019 (84 FR 70048), that requires all skimmer trawl vessels 40 feet and greater in length to use TEDs designed to exclude small sea turtles in their nets effective April 1, 2021. Given the nesting trends and habitat utilization of Kemp's ridley sea turtles, it is likely that fishery interactions in the Northern Gulf of Mexico may continue to be an issue of concern for the species, and one that may potentially slow the rate of recovery for Kemp's ridley sea turtles.

While oil spill impacts are discussed generally for all species in Section 4.1.1, specific impacts of the DWH oil spill event on Kemp's ridley sea turtles are considered here. Kemp's ridleys experienced the greatest negative impact stemming from the DWH oil spill event of any sea turtle species. Impacts to Kemp's ridley sea turtles occurred to offshore small juveniles, as well as large juveniles and adults. Loss of hatchling production resulting from injury to adult turtles was also estimated for this species. Injuries to adult turtles of other species, such as loggerheads, certainly would have resulted in unrealized nests and hatchlings to those species as well. Yet, the calculation of unrealized nests and hatchlings was limited to Kemp's ridleys for several reasons. All Kemp's ridleys in the Gulf belong to the same population (NMFS et al. 2011), so total population abundance could be calculated based on numbers of hatchlings because all individuals that enter the population could reasonably be expected to inhabit the northern Gulf of Mexico throughout their lives (DWH Trustees 2016).

A total of 217,000 small juvenile Kemp's ridleys (51.5% of the total small juvenile sea turtle exposures to oil from the spill) were estimated to have been exposed to oil. That means approximately half of all small juvenile Kemp's ridleys from the total population estimate of 430,000 oceanic small juveniles were exposed to oil. Furthermore, a large number of small juveniles were removed from the population, as up to 90,300 small juveniles Kemp's ridleys are estimated to have died as a direct result of the exposure. Therefore, as much as 20% of the small oceanic juveniles of this species were killed during that year. Impacts to large juveniles (>3 years old) and adults were also high. An estimated 21,990 such individuals were exposed to oil (about 22% of the total estimated population for those age classes); of those, 3,110 mortalities were estimated (or 3% of the population for those age classes). The loss of near-reproductive and reproductive-stage females would have contributed to some extent to the decline in total nesting abundance observed between 2011 and 2014. The estimated number of unrealized Kemp's ridley

nests is between 1,300 and 2,000, which translates to between approximately 65,000 and 95,000 unrealized hatchlings (DWH Trustees 2016). This is a minimum estimate, however, because the sublethal effects of the DWH oil spill event on turtles, their prey, and their habitats might have delayed or reduced reproduction in subsequent years, which may have contributed substantially to additional nesting deficits observed following the DWH oil spill event. These sublethal effects could have slowed growth and maturation rates, increased remigration intervals, and decreased clutch frequency (number of nests per female per nesting season). The nature of the DWH oil spill event effect on reduced Kemp's ridley nesting abundance and associated hatchling production after 2010 requires further evaluation. It is clear that the DWH oil spill event resulted in large losses to the Kemp's ridley population across various age classes, and likely had an important population-level effect on the species. Still, we do not have a clear understanding of those impacts on the population trajectory for the species into the future.

4.1.5 Loggerhead Sea Turtle – Northwest Atlantic DPS

The loggerhead sea turtle was listed as a threatened species throughout its global range on July 28, 1978. NMFS and USFWS published a final rule which designated 9 DPSs for loggerhead sea turtles (76 FR 58868, September 22, 2011, and effective October 24, 2011). This rule listed the following DPSs: (1) Northwest Atlantic Ocean (threatened), (2) Northeast Atlantic Ocean (endangered), (3) South Atlantic Ocean (threatened), (4) Mediterranean Sea (endangered), (5) North Pacific Ocean (endangered), (6) South Pacific Ocean (endangered), (7) North Indian Ocean (endangered), (8) Southeast Indo-Pacific Ocean (endangered), and (9) Southwest Indian Ocean (threatened). The Northwest Atlantic DPS is the only one that occurs within the action area, and therefore it is the only one considered in this Opinion.

Species Description and Distribution

Loggerheads are large sea turtles. Adults in the southeast United States average about 3 ft (92 cm) long, measured as a SCL, and weigh approximately 255 lb (116 kg) (Ehrhart and Yoder 1978). Adult and subadult loggerhead sea turtles typically have a light yellow plastron and a reddish brown carapace covered by non-overlapping scutes that meet along seam lines. They typically have 11 or 12 pairs of marginal scutes, 5 pairs of costals, 5 vertebrals, and a nuchal (precentral) scute that is in contact with the first pair of costal scutes (Dodd Jr. 1988).

The loggerhead sea turtle inhabits continental shelf and estuarine environments throughout the temperate and tropical regions of the Atlantic, Pacific, and Indian Oceans (Dodd Jr. 1988). Habitat uses within these areas vary by life stage. Juveniles are omnivorous and forage on crabs, mollusks, jellyfish, and vegetation at or near the surface (Dodd Jr. 1988). Subadult and adult loggerheads are primarily found in coastal waters and eat benthic invertebrates such as mollusks and decapod crustaceans in hard bottom habitats.

The majority of loggerhead nesting occurs at the western rims of the Atlantic and Indian Oceans concentrated in the north and south temperate zones and subtropics (NRC 1990). For the Northwest Atlantic DPS, most nesting occurs along the coast of the United States, from southern Virginia to Alabama. Additional nesting beaches for this DPS are found along the northern and western Gulf of Mexico, eastern Yucatán Peninsula, at Cay Sal Bank in the eastern Bahamas (Addison 1997; Addison and Morford 1996), off the southwestern coast of Cuba (Gavilan 2001),

and along the coasts of Central America, Colombia, Venezuela, and the eastern Caribbean Islands.

Non-nesting, adult female loggerheads are reported throughout the U.S. Atlantic, Gulf of Mexico, and Caribbean Sea. Little is known about the distribution of adult males who are seasonally abundant near nesting beaches. Aerial surveys suggest that loggerheads as a whole are distributed in U.S. waters as follows: 54% off the southeast U.S. coast, 29% off the northeast U.S. coast, 12% in the eastern Gulf of Mexico, and 5% in the western Gulf of Mexico (TEWG 1998).

Within the Northwest Atlantic DPS, most loggerhead sea turtles nest from North Carolina to Florida and along the Gulf Coast of Florida. Previous Section 7 analyses have recognized at least 5 western Atlantic subpopulations, divided geographically as follows: (1) a Northern nesting subpopulation, occurring from North Carolina to northeast Florida at about 29°N; (2) a South Florida nesting subpopulation, occurring from 29°N on the east coast of the state to Sarasota on the west coast; (3) a Florida Panhandle nesting subpopulation, occurring at Eglin Air Force Base and the beaches near Panama City, Florida; (4) a Yucatán nesting subpopulation, occurring on the eastern Yucatán Peninsula, Mexico (Márquez M. 1990; TEWG 2000); and (5) a Dry Tortugas nesting subpopulation, occurring in the islands of the Dry Tortugas, near Key West, Florida (NMFS 2001).

The recovery plan for the Northwest Atlantic population of loggerhead sea turtles concluded that there is no genetic distinction between loggerheads nesting on adjacent beaches along the Florida Peninsula. It also concluded that specific boundaries for subpopulations could not be designated based on genetic differences alone. Thus, the recovery plan uses a combination of geographic distribution of nesting densities, geographic separation, and geopolitical boundaries, in addition to genetic differences, to identify recovery units. The recovery units are as follows: (1) the Northern Recovery Unit (Florida/Georgia border north through southern Virginia), (2) the Peninsular Florida Recovery Unit (Florida/Georgia border through Pinellas County, Florida), (3) the Dry Tortugas Recovery Unit (islands located west of Key West, Florida), (4) the Northern Gulf of Mexico Recovery Unit (Franklin County, Florida, through Texas), and (5) the Greater Caribbean Recovery Unit (Mexico through French Guiana, the Bahamas, Lesser Antilles, and Greater Antilles) (NMFS and USFWS 2008). The recovery plan concluded that all recovery units are essential to the recovery of the species. Although the recovery plan was written prior to the listing of the Northwest Atlantic DPS, the recovery units for what was then termed the Northwest Atlantic population apply to the Northwest Atlantic DPS.

Life History Information

The Northwest Atlantic Loggerhead Recovery Team defined the following 8 life stages for the loggerhead life cycle, which include the ecosystems those stages generally use: (1) egg (terrestrial zone), (2) hatchling stage (terrestrial zone), (3) hatchling swim frenzy and transitional stage (neritic zone- nearshore marine environment from the surface to the sea floor where water depths do not exceed 200 meters), (4) juvenile stage (oceanic zone), (5) juvenile stage (neritic zone), (6) adult stage (oceanic zone), (7) adult stage (neritic zone), and (8) nesting female (terrestrial zone) (NMFS and USFWS 2008). Loggerheads are long-lived animals. They reach sexual maturity between 20-38 years of age, although age of maturity varies widely among

populations (Frazer and Ehrhart 1985; NMFS 2001). The annual mating season occurs from late March to early June, and female turtles lay eggs throughout the summer months. Females deposit an average of 4.1 nests within a nesting season (Murphy and Hopkins 1984), but an individual female only nests every 3.7 years on average (Tucker 2010). Each nest contains an average of 100-126 eggs (Dodd Jr. 1988) which incubate for 42-75 days before hatching (NMFS and USFWS 2008). Loggerhead hatchlings are 1.5-2 in long and weigh about 0.7 oz (20 g).

As post-hatchlings, loggerheads hatched on U.S. beaches enter the “oceanic juvenile” life stage, migrating offshore and becoming associated with Sargassum habitats, driftlines, and other convergence zones (Carr 1986; Conant et al. 2009; Witherington 2002). Oceanic juveniles grow at rates of 1-2 in (2.9-5.4 cm) per year (Bjorndal et al. 2003; Snover 2002) over a period as long as 7-12 years (Bolten et al. 1998) before moving to more coastal habitats. Studies have suggested that not all loggerhead sea turtles follow the model of circumnavigating the North Atlantic Gyre as pelagic juveniles, followed by permanent settlement into benthic environments (Bolten and Witherington 2003; Laurent et al. 1998). These studies suggest some turtles may either remain in the oceanic habitat in the North Atlantic longer than hypothesized, or they move back and forth between oceanic and coastal habitats interchangeably (Witzell 2002). Stranding records indicate that when immature loggerheads reach 15-24 in (40-60 cm) SCL, they begin to reside in coastal inshore waters of the continental shelf throughout the U.S. Atlantic and Gulf of Mexico (Witzell 2002).

After departing the oceanic zone, neritic juvenile loggerheads in the Northwest Atlantic inhabit continental shelf waters from Cape Cod Bay, Massachusetts, south through Florida, the Bahamas, Cuba, and the Gulf of Mexico. Estuarine waters of the United States, including areas such as Long Island Sound, Chesapeake Bay, Pamlico and Core Sounds, Mosquito and Indian River Lagoons, Biscayne Bay, Florida Bay, as well as numerous embayments fringing the Gulf of Mexico, comprise important inshore habitat. Along the Atlantic and Gulf of Mexico shoreline, essentially all shelf waters are inhabited by loggerheads (Conant et al. 2009).

Like juveniles, non-nesting adult loggerheads also use the neritic zone. However, these adult loggerheads do not use the relatively enclosed shallow-water estuarine habitats with limited ocean access as frequently as juveniles. Areas such as Pamlico Sound, North Carolina, and Indian River Lagoon, Florida, are regularly used by juveniles but not by adult loggerheads. Adult loggerheads do tend to use estuarine areas with more open ocean access, such as the Chesapeake Bay in the U.S. mid-Atlantic. Shallow-water habitats with large expanses of open ocean access, such as Florida Bay, provide year-round resident foraging areas for significant numbers of male and female adult loggerheads (Conant et al. 2009).

Offshore, adults primarily inhabit continental shelf waters, from New York south through Florida, The Bahamas, Cuba, and the Gulf of Mexico. Seasonal use of mid-Atlantic shelf waters, especially offshore New Jersey, Delaware, and Virginia during summer months, and offshore shelf waters, such as Onslow Bay (off the North Carolina coast), during winter months has also been documented (Hawkes et al. 2007) GADNR, unpublished data; SCDNR, unpublished data). Satellite telemetry has identified the shelf waters along the west Florida coast, the Bahamas, Cuba, and the Yucatán Peninsula as important resident areas for adult female loggerheads that nest in Florida (Foley et al. 2008; Girard et al. 2009; Hart et al. 2012). The southern edge of the

Grand Bahama Bank is important habitat for loggerheads nesting on the Cay Sal Bank in the Bahamas, but nesting females are also resident in the bights of Eleuthera, Long Island, and Ragged Islands. They also reside in Florida Bay in the United States, and along the north coast of Cuba (A. Bolten and K. Bjorndal, University of Florida, unpublished data). Moncada et al. (2010) report the recapture of 5 adult female loggerheads in Cuban waters originally flipper-tagged in Quintana Roo, Mexico, which indicates that Cuban shelf waters likely also provide foraging habitat for adult females that nest in Mexico.

Status and Population Dynamics

A number of stock assessments and similar reviews (Conant et al. 2009; Heppell et al. 2003; NMFS-SEFSC 2009; NMFS 2001; NMFS and USFWS 2008; TEWG 1998; TEWG 2000; TEWG 2009) have examined the stock status of loggerheads in the Atlantic Ocean, but none have been able to develop a reliable estimate of absolute population size.

Numbers of nests and nesting females can vary widely from year to year. Nesting beach surveys, though, can provide a reliable assessment of trends in the adult female population, due to the strong nest site fidelity of female loggerhead sea turtles, as long as such studies are sufficiently long and survey effort and methods are standardized (e.g., NMFS and USFWS 2008). NMFS and USFWS (2008) concluded that the lack of change in 2 important demographic parameters of loggerheads, remigration interval and clutch frequency, indicate that time series on numbers of nests can provide reliable information on trends in the female population.

Peninsular Florida Recovery Unit

The PFRU is the largest loggerhead nesting assemblage in the Northwest Atlantic. A near-complete nest census (all beaches including index nesting beaches) undertaken from 1989 to 2007 showed an average of 64,513 loggerhead nests per year, representing approximately 15,735 nesting females per year (NMFS and USFWS 2008). The statewide estimated total for 2020 was 105,164 nests (FWRI nesting database).

In addition to the total nest count estimates, the FWRI uses an index nesting beach survey method. The index survey uses standardized data-collection criteria to measure seasonal nesting and allow accurate comparisons between beaches and between years. FWRI uses the standardized index survey data to analyze the nesting trends (Figure 5) (<https://myfwc.com/research/wildlife/sea-turtles/nesting/beach-survey-totals/>). Since the beginning of the index program in 1989, 3 distinct trends were identified. From 1989-1998, there was a 24% increase that was followed by a sharp decline over the subsequent 9 years. A large increase in loggerhead nesting has occurred since, as indicated by the 71% increase in nesting over the 10-year period from 2007 and 2016. Nesting in 2016 also represented a new record for loggerheads on the core index beaches. While nest numbers subsequently declined from the 2016 high FWRI noted that the 2007-2021 period represents a period of increase. FWRI examined the trend from the 1998 nesting high through 2016 and found that the decade-long post-1998 decline was replaced with a slight but non-significant increasing trend. Looking at the data from 1989 through 2016, FWRI concluded that there was an overall positive change in the nest counts although it was not statistically significant due to the wide variability between 2012-2016 resulting in widening confidence intervals. Nesting at the core index beaches declined in 2017 to 48,033, and rose again each year through 2020, reaching 53,443 nests, dipping back to 49,100 in

2021, and then in 2022 reaching the second-highest number since the survey began, with 62,396 nests. It is important to note that with the wide confidence intervals and uncertainty around the variability in nesting parameters (changes and variability in nests/female, nesting intervals, etc.) it is unclear whether the nesting trend equates to an increase in the population or nesting females over that time frame (Ceriani, et al. 2019).

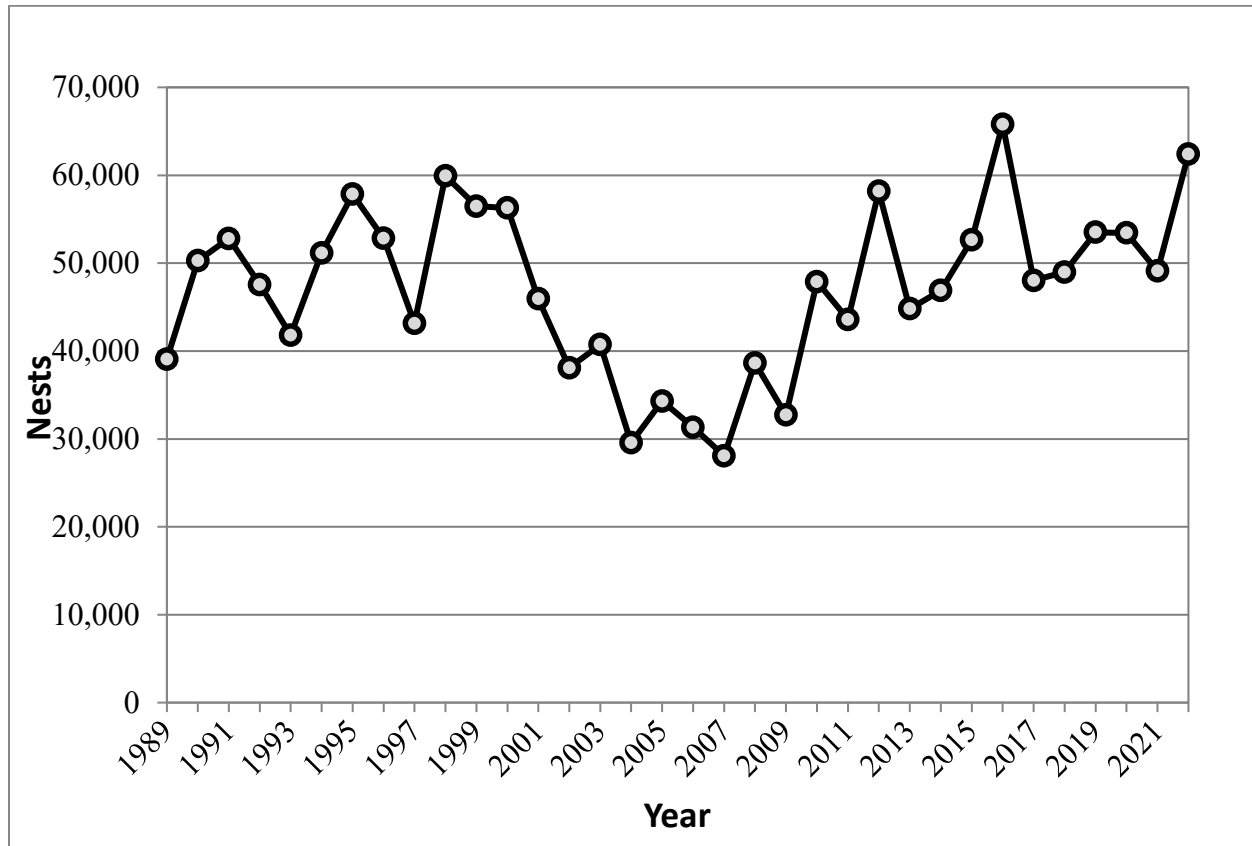


Figure 5. Loggerhead sea turtle nesting at Florida index beaches since 1989.

Northern Recovery Unit

Annual nest totals from beaches within the NRU averaged 5,215 nests from 1989-2008, a period of near-complete surveys of NRU nesting beaches (GADNR unpublished data, NCWRC unpublished data, SCDNR unpublished data), and represent approximately 1,272 nesting females per year, assuming 4.1 nests per female (Murphy and Hopkins 1984). The loggerhead nesting trend from daily beach surveys showed a significant decline of 1.3% annually from 1989-2008. Nest totals from aerial surveys conducted by SCDNR showed a 1.9% annual decline in nesting in South Carolina from 1980-2008. Overall, there are strong statistical data to suggest the NRU had experienced a long-term decline over that period of time.

Data since that analysis (Table 3) are showing improved nesting numbers and a departure from the declining trend. Georgia nesting has rebounded to show the first statistically significant increasing trend since comprehensive nesting surveys began in 1989 (Mark Dodd, GADNR press release, <https://georgiawildlife.com/loggerhead-nest-season-begins-where-monitoring-began>). South Carolina and North Carolina nesting have also begun to shift away from the past declining

trend. Loggerhead nesting in Georgia, South Carolina, and North Carolina all broke records in 2015 and then topped those records again in 2016. Nesting in 2017 and 2018 declined relative to 2016, back to levels seen in 2013 to 2015, but then bounced back in 2019, breaking records for each of the three states and the overall recovery unit. Nesting in 2020 and 2021 declined from the 2019 records, but still remained high, representing the third and fourth highest total numbers for the NRU since 2008. In 2022 Georgia loggerhead nesting broke the record at 4,071, while South Carolina and North Carolina nesting were both at the second-highest level recorded.

Table 3. Total Number of NRU Loggerhead Nests (GADNR, SCDNR, and NCWRC nesting datasets compiled at Seaturtle.org).

Year	Georgia	South Carolina	North Carolina	Totals
2008	1,649	4,500	841	6,990
2009	998	2,182	302	3,482
2010	1,760	3,141	856	5,757
2011	1,992	4,015	950	6,957
2012	2,241	4,615	1,074	7,930
2013	2,289	5,193	1,260	8,742
2014	1,196	2,083	542	3,821
2015	2,319	5,104	1,254	8,677
2016	3,265	6,443	1,612	11,320
2017	2,155	5,232	1,195	8,582
2018	1,735	2,762	765	5,262
2019	3,945	8,774	2,291	15,010
2020	2,786	5,551	1,335	9,672
2021	2,493	5,639	1,448	9,580
2022	4,071	7,970	1,906	13,947

In addition to the statewide nest counts, South Carolina also conducts an index beach nesting survey similar to the one described for Florida. Although the survey only includes a subset of nesting, the standardized effort and locations allow for a better representation of the nesting trend over time. Increases in nesting were seen for the period from 2009-2013, with a subsequent steep drop in 2014. Nesting then rebounded in 2015 and 2016, setting new highs each of those years. Nesting in 2017 dropped back down from the 2016 high, but was still the second highest on record. After another drop in 2018, a new record was set for the 2019 season, with a return to 2016 levels in 2020 and 2021 and then a rebound to the second highest level on record in 2022 (Figure 6).

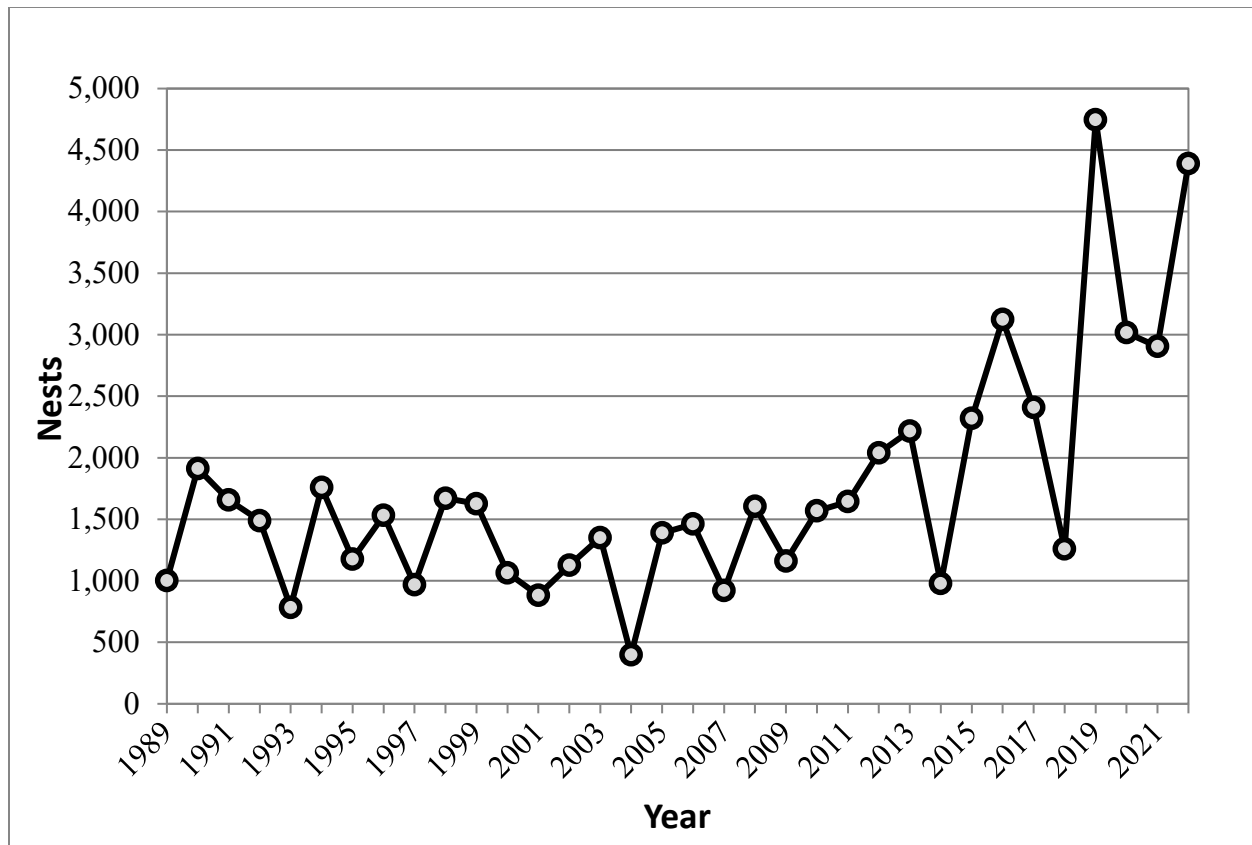


Figure 6. South Carolina index nesting beach counts for loggerhead sea turtles (data provided by SCDNR)

Other Northwest Atlantic DPS Recovery Units

The remaining 3 recovery units – Dry Tortugas (DTRU), Northern Gulf of Mexico (NGMRU), and Greater Caribbean (GCRU) – are much smaller nesting assemblages, but they are still considered essential to the continued existence of the species. Nesting surveys for the DTRU are conducted as part of Florida’s statewide survey program. Survey effort was relatively stable during the 9-year period from 1995-2004, although the 2002 year was missed. Nest counts ranged from 168-270, with a mean of 246, but there was no detectable trend during this period (NMFS and USFWS 2008). Nest counts for the NGMRU are focused on index beaches rather than all beaches where nesting occurs. Analysis of the 12-year dataset (1997-2008) of index nesting beaches in the area shows a statistically significant declining trend of 4.7% annually. Nesting on the Florida Panhandle index beaches, which represents the majority of NGMRU nesting, had shown a large increase in 2008, but then declined again in 2009 and 2010 before rising back to a level similar to the 2003-2007 average in 2011. From 1989-2018 the average number of NGMRU nests annually on index beaches was 169 nests, with an average of 1100 counted in the statewide nesting counts (Ceriani et al. 2019). Nesting survey effort has been inconsistent among the GCRU nesting beaches, and no trend can be determined for this subpopulation (NMFS and USFWS 2008). Zurita et al. (2003) found a statistically significant increase in the number of nests on 7 of the beaches on Quintana Roo, Mexico, from 1987-2001, where survey effort was consistent during the period. Nonetheless, nesting has declined since

2001, and the previously reported increasing trend appears to not have been sustained (NMFS and USFWS 2008).

In-water Trends

Nesting data are the best current indicator of sea turtle population trends, but in-water data also provide some insight. In-water research suggests the abundance of neritic juvenile loggerheads is steady or increasing. Although Ehrhart et al. (2007) found no significant regression-line trend in a long-term dataset, researchers have observed notable increases in CPUE (Arendt et al. 2009; Ehrhart et al. 2007; Epperly et al. 2007). Researchers believe that this increase in CPUE is likely linked to an increase in juvenile abundance, although it is unclear whether this increase in abundance represents a true population increase among juveniles or merely a shift in spatial occurrence. Bjørndal et al. (2005), cited in NMFS and USFWS (2008), caution about extrapolating localized in-water trends to the broader population and relating localized trends in neritic sites to population trends at nesting beaches. The apparent overall increase in the abundance of neritic loggerheads in the southeastern United States may be due to increased abundance of the largest oceanic/neritic juveniles (historically referred to as small benthic juveniles), which could indicate a relatively large number of individuals around the same age may mature in the near future (TEWG 2009). In-water studies throughout the eastern United States, however, indicate a substantial decrease in the abundance of the smallest oceanic/neritic juvenile loggerheads, a pattern corroborated by stranding data (TEWG 2009).

Population Estimate

The NMFS SEFSC developed a preliminary stage/age demographic model to help determine the estimated impacts of mortality reductions on loggerhead sea turtle population dynamics (NMFS-SEFSC 2009). The model uses the range of published information for the various parameters including mortality by stage, stage duration (years in a stage), and fecundity parameters such as eggs per nest, nests per nesting female, hatchling emergence success, sex ratio, and remigration interval. Resulting trajectories of model runs for each individual recovery unit, and the western North Atlantic population as a whole, were found to be very similar. The model run estimates from the adult female population size for the western North Atlantic (from the 2004-2008 time frame), suggest the adult female population size is approximately 20,000-40,000 individuals, with a low likelihood of females' numbering up to 70,000 (NMFS-SEFSC 2009). A less robust estimate for total benthic females in the western North Atlantic was also obtained, yielding approximately 30,000-300,000 individuals, up to less than 1 million (NMFS-SEFSC 2009). A preliminary regional abundance survey of loggerheads within the northwestern Atlantic continental shelf for positively identified loggerhead in all strata estimated about 588,000 loggerheads (interquartile range of 382,000-817,000). When correcting for unidentified turtles in proportion to the ratio of identified turtles, the estimate increased to about 801,000 loggerheads (interquartile range of 521,000-1,111,000) (NMFS-NEFSC 2011).

Threats (Specific to Loggerhead Sea Turtles)

The threats faced by loggerhead sea turtles are well summarized in the general discussion of threats in Section 4.1.1. Yet the impact of fishery interactions is a point of further emphasis for this species. The joint NMFS and USFWS Loggerhead Biological Review Team determined that the greatest threats to the Northwest Atlantic DPS of loggerheads result from cumulative fishery bycatch in neritic and oceanic habitats (Conant et al. 2009).

Regarding the impacts of pollution, loggerheads may be particularly affected by organochlorine contaminants; they have the highest organochlorine concentrations (Storelli et al. 2008) and metal loads (D'Ilio et al. 2011) in sampled tissues among the sea turtle species. It is thought that dietary preferences were likely to be the main differentiating factor among sea turtle species. Storelli et al. (2008) analyzed tissues from stranded loggerhead sea turtles and found that mercury accumulates in sea turtle livers while cadmium accumulates in their kidneys, as has been reported for other marine organisms like dolphins, seals, and porpoises (Law et al. 1991).

While oil spill impacts are discussed generally for all species in Section 4.1.1, specific impacts of the DWH oil spill event on loggerhead sea turtles are considered here. Impacts to loggerhead sea turtles occurred to offshore small juveniles as well as large juveniles and adults. A total of 30,800 small juvenile loggerheads (7.3% of the total small juvenile sea turtle exposures to oil from the spill) were estimated to have been exposed to oil. Of those exposed, 10,700 small juveniles are estimated to have died as a result of the exposure. In contrast to small juveniles, loggerheads represented a large proportion of the adults and large juveniles exposed to and killed by the oil. There were 30,000 exposures (almost 52% of all exposures for those age/size classes) and 3,600 estimated mortalities. A total of 265 nests (27,618 eggs) were also translocated during response efforts, with 14,216 hatchlings released, the fate of which is unknown (DWH Trustees 2016). Additional unquantified effects may have included inhalation of volatile compounds, disruption of foraging or migratory movements due to surface or subsurface oil, ingestion of prey species contaminated with oil and/or dispersants, and loss of foraging resources which could lead to compromised growth and/or reproductive potential. There is no information currently available to determine the extent of those impacts, if they occurred.

Unlike Kemp's ridleys, the majority of nesting for the Northwest Atlantic DPS occurs on the Atlantic coast and, thus, loggerheads were impacted to a relatively lesser degree. However, it is likely that impacts to the NGMRU of the Northwest Atlantic DPS would be proportionally much greater than the impacts occurring to other recovery units. Impacts to nesting and oiling effects on a large proportion of the NGMRU recovery unit, especially mating and nesting adults likely had an impact on the NGMRU. Based on the response injury evaluations for Florida Panhandle and Alabama nesting beaches (which fall under the NFMRU), the DWH Trustees (2016) estimated that approximately 20,000 loggerhead hatchlings were lost due to DWH oil spill response activities on nesting beaches. Although the long-term effects remain unknown, the DWH oil spill event impacts to the Northern Gulf of Mexico Recovery Unit may result in some nesting declines in the future due to a large reduction of oceanic age classes during the DWH oil spill event. Although adverse impacts occurred to loggerheads, the proportion of the population that is expected to have been exposed to and directly impacted by the DWH oil spill event is relatively low. Thus we do not believe a population-level impact occurred due to the widespread distribution and nesting location outside of the Gulf of Mexico for this species.

Specific information regarding potential climate change impacts on loggerheads is also available. Modeling suggests an increase of 2°C in air temperature would result in a sex ratio of over 80% female offspring for loggerheads nesting near Southport, North Carolina. The same increase in air temperatures at nesting beaches in Cape Canaveral, Florida, would result in close to 100% female offspring. Such highly skewed sex ratios could undermine the reproductive capacity of

the species. More ominously, an air temperature increase of 3°C is likely to exceed the thermal threshold of most nests, leading to egg mortality (Hawkes et al. 2007). Warmer sea surface temperatures have also been correlated with an earlier onset of loggerhead nesting in the spring (Hawkes et al. 2007; Weishampel et al. 2004), short inter-nesting intervals (Hays et al. 2002), and shorter nesting seasons (Pike et al. 2006).

5 ENVIRONMENTAL BASELINE

5.1 Overview

This section describes the effects of past and ongoing human and natural factors contributing to the current status of the species, their habitats, and ecosystem within the action area without the additional effects of the proposed action. In the case of ongoing actions, this section includes the effects that may contribute to the projected future status of the species, their habitats, and ecosystem. The environmental baseline describes the species' health based on information available at the time of the consultation.

By regulation, the environmental baseline for an Opinion refers to the condition of the listed species or its designated critical habitat in the action area, without the consequences to the listed species or designated critical habitat caused by the proposed action. The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process. The impacts to listed species or designated critical habitat from Federal agency activities or existing Federal facilities that are not within the agency's discretion to modify are part of the environmental baseline (50 CFR 402.02).

Focusing on the impacts of the activities in the action area specifically, allows us to assess the prior experience and state (or condition) of the endangered and threatened individuals that occur in an action area, that will be exposed to effects from the action under consultation. This focus is important because, in some states or life history stages, or areas of their ranges, listed individuals will commonly exhibit, or be more susceptible to, adverse responses to stressors than they would be in other states, stages, or areas within their distributions. These localized stress responses or stressed baseline conditions may increase the severity of the adverse effects expected from the proposed action.

5.2 Baseline Status of ESA-Listed Species Considered for Further Analysis

The status of this species in the action area, as well as the threats to this species, is supported by the species accounts in Section 4 (Status of the Species).

As stated in Section 2.2 (Action Area), the proposed action occurs in the Gulf of Mexico, approximately 8.9 nm offshore of Port Isabel, Hidalgo County, Texas. As discussed in Section 3.1.3, four species of ESA-listed sea turtles may be adversely affected by the proposed action. These species are highly migratory.

5.3 Additional Factors Affecting the Baseline Status of ESA-Listed Species Considered for Further Analysis

5.3.1 Federal Actions

We have undertaken a number of Section 7 consultations to address the effects of federally-permitted dredging and other federal actions on threatened and endangered sea turtle species, and when appropriate, has authorized the incidental taking of these species. Each of those consultations sought to minimize the adverse effects of the action on sea turtles. The summary below of federal actions and the effects these actions have had on sea turtles includes only those federal actions in the action areas which have already concluded or are currently undergoing formal Section 7 consultation.

Federal Dredging Activity

Marine dredging vessels are common within U.S. coastal waters. Although the underwater noises from dredge vessels are typically continuous in duration (for periods of days or weeks at a time) and strongest at low frequencies, they are not believed to have any long-term effect on sea turtles. Still, the construction and maintenance of federal navigation channels and dredging in sand mining sites (borrow areas) have been identified as sources of sea turtle mortality. Hopper dredges in the dredging mode are capable of moving relatively quickly compared to sea turtle swimming speed and can thus overtake, entrain, and kill sea turtles as the suction draghead(s) of the advancing dredge overtakes the resting or swimming turtle. Entrained sea turtles rarely survive.

To reduce take of listed species, relocation trawling may be utilized to capture and move sea turtles. In relocation trawling, a boat equipped with nets precedes the dredge to capture sea turtles and then releases the animals out of the dredge pathway, thus avoiding lethal take. Relocation trawling has been successful and routinely moves sea turtles in the Gulf of Mexico. We have consulted on numerous individual dredging projects (including maintenance dredging, beach nourishment, and sand mining operations), as well as conducted larger, regional Opinions. Each of these Opinions had its own ITS and determined that hopper dredging during the proposed actions would not jeopardize any species of sea turtles or other listed species, or destroy or adversely modify critical habitat of any listed species.

Federal Vessel Activity

Watercraft are the greatest contributors to overall noise in the sea and have the potential to interact with sea turtles through direct impacts or propellers. Sound levels and tones produced are generally related to vessel size and speed. Larger vessels generally emit more sound than smaller vessels, and vessels underway with a full load, or those pushing or towing a load, are noisier than unladen vessels. Vessels operating at high speeds have the potential to strike sea turtles. Potential sources of adverse effects from federal vessel operations in the action area include operations of the FERC, USCG, NOAA, BSEE, U.S. EPA, USFWS, and USACE.

We have conducted Section 7 consultations related to energy projects in the Gulf of Mexico (BOEM, FERC, BSEE, U.S. EPA, and USCG) to implement conservation measures for vessel

operations. Through the Section 7 process, where applicable, we have and will continue to establish conservation measures for all these agency vessel operations to avoid or minimize adverse effects to listed species. At the present time, they present the potential for some level of interaction.

Oil and Gas Exploration and Extraction

Oil and gas exploration, production, and development in the Gulf of Mexico federally regulated by the BOEM and the USEPA are the subject of a NMFS's programmatic Biological Opinion under the NMFS consultation number FPR-2017-9234. These activities are expected to result in some sublethal effects to ESA-listed sea turtles, including impacts associated with pile driving for, or the explosive removal of, offshore structures, seismic exploration, marine debris, and oil spills. The primary causes of mortality are related to vessel strikes, oil spills, and marine debris.

Impact of DWH Oil Spill on Status of Sea Turtles

On April 20, 2010, while working on an exploratory well approximately 50 mi offshore of Louisiana, the semi-submersible drilling rig DWH experienced an explosion and fire. The rig subsequently sank and oil and natural gas began leaking into the Gulf of Mexico. Oil flowed for 86 days, until the well was finally capped on July 15, 2010. Millions of barrels of oil were released into the Gulf. Additionally, approximately 1.84 million gallons of chemical dispersant was applied both subsurface and on the surface to attempt to break down the oil.

The DWH event and associated response activities (e.g., skimming, burning, and application of dispersants) have resulted in adverse effects on ESA-listed sea turtles. The maps below (Figure 8) show the spread of the DWH spill and the areas affected, which includes the action area. The effects of the DWH spill on the ESA-listed sea turtles was discussed in Section 4.1.1 above.

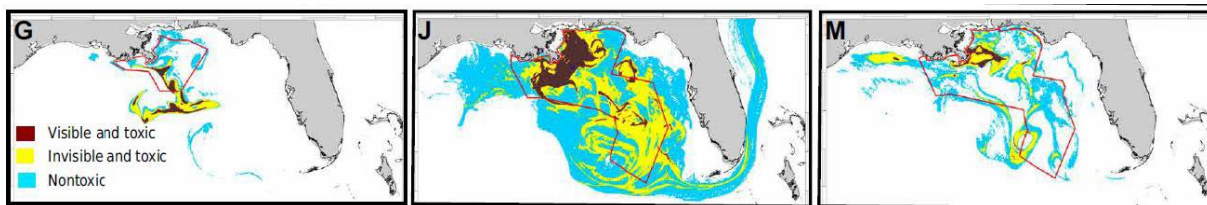


Figure 7. The spread of the impacts from the DWH spill; G from 15 May 2010, J from 18 June 2010, M from 2 July 2010 (Berenshtein et al. 2020)

ESA Permits

Sea turtles are the focus of research activities authorized by Section 10 permits under the ESA. Regulations developed under the ESA allow for the issuance of permits allowing take of certain ESA-listed species for the purposes of scientific research under Section 10(a)(1)(a) of the ESA. Authorized activities range from photographing, weighing, and tagging sea turtles incidentally taken in fisheries, to blood sampling, tissue sampling (biopsy), and performing laparoscopy on intentionally captured sea turtles. The number of authorized takes varies widely depending on the research and species involved, but may involve the taking of hundreds of sea turtles annually. Most takes authorized under these permits are expected to be (and are) nonlethal. Before any research permit is issued, the proposal must be reviewed under the permit regulations. In addition, since issuance of the permit is a federal activity, our issuance of the permit must also be

reviewed for compliance with Section 7(a)(2) of the ESA to ensure that issuance of the permit does not result in jeopardy to the species or adverse modification of its critical habitat.

Fisheries

Threatened and endangered sea turtles are adversely affected by fishing gears used throughout the continental shelf of the action area. Gillnet, pelagic and bottom longline, other types of hook-and-line gear, trawl, and pot fisheries have all been documented as interacting with sea turtles. The Gulf of Mexico Fishery Management Council develops and amends FMPs for various fishery resources within the Gulf of Mexico and NMFS consults on these FMPs through the Section 7 consultation process. The FMPs and their amendments applicable to the range of the action area include Coastal Migratory Pelagic FMP, Reef Fish FMP, and Shrimp FMP. Some of these consultations resulted in subsequent rulemaking to reduce the impacts of the specific fisheries on sea turtle populations. Examples include additional monitoring of and TED requirements in the southeast U.S. shrimp fisheries, as well as gear limitations and mandatory possession and use of sea turtle release equipment to reduce bycatch mortality in Atlantic highly migratory species fisheries and reef fish fisheries. All Opinions had an ITS and determined that fishing activities, as considered (i.e., with conservation requirements) would not jeopardize any species of sea turtles or other listed species, or destroy or adversely modify critical habitat of any listed species.

5.3.2 State and Private Actions

State Fisheries

Various fishing methods used in state commercial and recreational fisheries, including gillnets, fly nets, trawling, pot fisheries, pound nets, and vertical line are all known to incidentally take sea turtles, but information on these fisheries is sparse (NMFS 2001). Most of the state data are based on extremely low observer coverage, or sea turtles were not part of data collection; thus, these data provide insight into gear interactions that could occur but are not indicative of the magnitude of the overall problem.

Trawl Fisheries

Shrimp trawls that operate in the action area may adversely affect sea turtles. On December 16, 2016, we published a notice of availability of our DEIS (EIS No. 20160294; 81 FR 91169) as well as a proposed rule (81 FR 91097) in the Federal Register to address incidental bycatch and mortality of sea turtles in the Southeastern U.S. shrimp fisheries. The proposed rule would have revoked the alternative tow time restrictions for skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) at 50 CFR 223.206(d)(2)(ii)(A)(3), and require those vessels to use TEDs designed to exclude small turtles while fishing. On December 20, 2019 (84 FR 70048), we published a final rule that requires all skimmer trawls 40 feet and greater in length to use TEDs designed to exclude small sea turtles in their nets effective August 1, 2021.

Other trawl fisheries, such as ones operating for blue crab and sheepshead, may also interact with sea turtle populations in state waters. Many of these vessels are shrimp trawlers that alter their gear in other times of the year to target these other species. At this time, however, we lack sufficient information to quantify the level of anticipated take that may be occurring in these other trawl fisheries.

Recreational Fishing

Recreational fishing as regulated by Florida can affect protected species or their habitats within the action area. Recreational fishing from private vessels may occur in the action area.

Observations of state recreational fisheries have shown that loggerhead sea turtles are known to bite baited hooks and frequently ingest the hooks. Hooked turtles have been reported by the public fishing from boats, piers, and beach, banks, and jetties and from commercial anglers fishing for reef fish and for sharks with both single rigs and bottom longlines. Additionally, lost fishing gear such as line cut after snagging on rocks, or discarded hooks and line, can also pose an entanglement threat to sea turtles in the area. A detailed summary of the known impacts of hook-and-line incidental captures to loggerhead sea turtles can be found in the SEFSC TEWG reports (TEWG 1998; TEWG 2000).

Vessel Traffic

Commercial traffic and recreational boating pursuits can have adverse effects on sea turtles via propeller and boat strike damage. The STSSN (<https://www.fisheries.noaa.gov/national/marine-life-distress/sea-turtle-stranding-and-salvage-network>) includes many records of vessel interactions (propeller injury) with sea turtles off of the Atlantic coast. Data show that vessel traffic is one cause of sea turtle mortality (Environment Australia 2003; Hazel and Gyuris 2006; Lutcavage et al. 1997). Stranding data for the project area (Zone 21, see Section 6.2.1) show that vessel-related injuries are noted in stranded sea turtles. Data indicate that live- and dead-stranded sea turtles showing signs of vessel-related injuries continue in a high percentage of stranded sea turtles in coastal regions of the southeastern United States. Although the USACE-permitted docks and boatlifts may determine the location of recreational vessels, for most projects the docks themselves are not believed to result in increases of the number recreational vessels on the water.

Coastal Development

Beachfront development, lighting, and beach erosion control all are ongoing activities along the Florida coastlines, including near the action area. These activities potentially reduce or degrade sea turtle nesting habitats or interfere with hatchling movement to sea. Nocturnal human activities along nesting beaches may also discourage sea turtles from nesting sites. The extent to which these activities reduce sea turtle nesting and hatchling production is unknown. Still, more and more coastal counties are adopting stringent protective measures to protect hatchling sea turtles from the disorienting effects of beach lighting.

Artificial Reefs

TPWD has a very active artificial reef program. There are numerous artificial reef sites (Figure 1) located in close proximity to the action area.

Impacts of artificial reefs on sea turtles are described in both the Effects of the Action (Section 6) below and in Barnette (2017).

5.3.3 Marine Debris, Pollution, and Environmental Contamination

Coastal runoff, marina and dock construction, dredging, aquaculture, increased under water noise and boat traffic can degrade marine habitats used by sea turtles (Colburn et al. 1996) and negatively impact nearshore habitats, including the action area. Fueling facilities at marinas can sometimes discharge oil, gas, and sewage into sensitive estuarine and coastal habitats. Although these contaminant concentrations are unknown in the action area, the sea turtles analyzed in this Opinion travel within near shore and offshore habitats and may be exposed to and accumulate these contaminants during their life cycles.

The Gulf of Mexico is an area of high-density offshore oil extraction with chronic, low-level spills and occasional massive spills (e.g., the DWH oil spill event). As discussed above, when large quantities of oil enter a body of water, chronic effects such as cancer, and direct mortality of wildlife becomes more likely (Lutcavage et al. 1997). Oil spills in the vicinity of nesting beaches just prior to or during the nesting season could place nesting females, incubating egg clutches, and hatchlings at significant risk (Fritts and McGehee 1982; Lutcavage et al. 1997; Witherington 1999).

The accumulation of organic contaminants and trace metals has been studied in loggerhead, green, and leatherback sea turtles (Aguirre et al. 1994; Caurant et al. 1999; Corsolini et al. 2000) (Mckenzie et al. 1999). Omnivorous loggerhead sea turtles had the highest organochlorine contaminant concentrations in all the tissues sampled, including those from green and leatherback turtles (Storelli et al. 2008). It is thought that dietary preferences were likely to be the main differentiating factor among species. (Sakai et al. 1995) found the presence of metal residues occurring in loggerhead sea turtle organs and eggs. (Storelli et al. 1998) analyzed tissues from 12 loggerhead sea turtles stranded along the Adriatic Sea (Italy) and found that characteristically, mercury accumulates in sea turtle livers while cadmium accumulates in their kidneys, as has been reported for other marine organisms like dolphins, seals, and porpoises (Law et al. 1991). No information on detrimental threshold concentrations is available, and little is known about the consequences of exposure of organochlorine compounds to sea turtles. Research is needed on the short- and long-term health and fecundity effects of chlorobiphenyl, organochlorine, and heavy metal accumulation in sea turtles.

5.3.4 Conservation and Recovery Actions Benefitting Sea Turtles

NMFS has implemented a number of regulations aimed at reducing potential for incidental mortality of sea turtles from commercial fisheries in the action area. These include sea turtle release gear requirements for Atlantic Highly Migratory Species and Gulf of Mexico reef fish fisheries, and TED requirements for the southeastern shrimp fisheries. TEDs and other bycatch reduction device requirements may reduce sea turtle bycatch in Southeast trawl fisheries (Atlantic Sturgeon Status Review Team 2007). NMFS has required the use of TEDs in southeast United States shrimp trawls since 1989 to reduce the potential for incidental mortality of sea turtles in commercial trawl fisheries. In addition to regulations, outreach programs have been established and data on sea turtle interactions with recreational fisheries has been collected through the Marine Recreational Fishery Statistical Survey (MRFSS)/Marine Recreational Information Program.

NMFS published a Final Rule (66 FR 67495, December 31, 2001) detailing handling and resuscitation techniques for sea turtles that are incidentally caught during scientific research or fishing activities. Persons participating in fishing activities or scientific research are required to handle and resuscitate (as necessary) sea turtles as prescribed in the Final Rule. These measures help to prevent mortality of hardshell turtles caught in fishing or scientific research gear. We, along with cooperating states, have established an extensive network of STSSN participants along the Atlantic and Gulf of Mexico coasts that not only collect data on dead sea turtles, but also rescue and rehabilitate any live stranded sea turtles. The network, which includes federal, state and private partners, encompasses the coastal areas of the eighteen-state region from Maine to Texas, and includes portions of the U.S. Caribbean. Data are compiled through the efforts of network participants who document marine turtle strandings in their respective areas and contribute those data to the centralized STSSN database.

In response to the growing awareness of recreational fishery impacts on sea turtles, in 2006 the MRFSS added a survey question regarding sea turtle interactions within recreational fisheries. We are exploring potential revisions to Marine Recreational Information Program to quantify recreational encounters with sea turtles on a permanent basis.

5.3.5 Stochastic Events

Seasonal stochastic (i.e., random) events, such as hurricanes, occur in the western Gulf of Mexico and can affect the action area. These events are by nature unpredictable, and their effect on the recovery of the species is unknown; yet, they have the potential to directly impede recovery if animals die as a result or indirectly if important habitats are damaged. Other stochastic events, such as a winter cold snap, can injure or kill sea turtles.

5.3.6 Climate Change

As discussed earlier in this Opinion, there is a large and growing body of literature on past, present, and future impacts of global climate change. Potential effects commonly mentioned include changes in sea temperatures and salinity (due to melting ice and increased rainfall), ocean currents, storm frequency and weather patterns, and ocean acidification. These changes have the potential to affect species behavior and ecology including migration, foraging, reproduction (e.g., success), and distribution. For example, sea turtles currently range from temperate to tropical waters. A change in water temperature could result in a shift or modification of range. Climate change may also affect marine forage species, either negatively or positively (the exact effects for the marine food web upon which sea turtles rely is unclear, and may vary between species). It may also affect migratory behavior (e.g., timing, length of stay at certain locations). These types of changes could have implications for sea turtle recovery. Additional discussion of climate change can be found in the Status of the Species.

With regard to the action area, global climate change may affect the timing and extent of population movements and their range, distribution, species composition of prey, and the range and abundance of competitors and predators. Changes in distribution including displacement from ideal habitats, decline in fitness of individuals, population size due to the potential loss of

foraging opportunities, abundance, migration, community structure, susceptibility to disease and contaminants, and reproductive success are all possible impacts that may occur as the result of climate change. Still, more information is needed to better determine the full and entire suite of impacts of climate change on sea turtles and specific predictions regarding impacts in the action area are not currently possible.

6 EFFECTS OF THE ACTION

6.1 Overview

Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action but that are not part of the action. A consequence is caused by the proposed action if the effect would not occur but for the proposed action and the effect is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action (50 CFR 402.02).

In this section of our Opinion, we assess the effects of the action on listed species that are likely to be adversely affected. The analysis in this section forms the foundation for our jeopardy analysis in Section 8. The quantitative and qualitative analyses in this section are based upon the best available commercial and scientific data on species biology and the effects of the action. Where data are limited or equivocal, we have occasionally needed to make reasonable determinations based upon our best professional judgment to bridge the gap in the available data. Sometimes, the best available information may include a range of values for estimating the risk of entanglement and for estimating the number of sea turtle deaths associated with entanglement and entrapment in high relief artificial reef structures. In all instances the approach to our analysis is explained, including how uncertainty, causation, and the choice among a range of values are evaluated and addressed.

6.2 Effects of the Proposed Action on ESA-Listed Species Considered for Further Analysis

6.2.1 Routes of Effect That Are Not Likely to Adversely Affect ESA-Listed Species

Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) may be adversely affected by their inability to access the project sites for foraging, refuge, and nursery habitat due to their avoidance of construction activities and related noise. We determined these effects are insignificant. These species may forage in the area but the size of the area from which animals will be excluded is relatively small in comparison to the available sandy habitat nearby. In addition, any disturbances to green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) would be intermittent, and construction will be limited to daylight hours only. These ESA-listed sea turtles will be able to move around the project sites once deployment is complete and at night.

Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) could be physically injured if struck by transport vessels or materials during deployment at reef sites. We believe this is extremely unlikely to occur for the following reasons. Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) are highly mobile, and able to avoid slow-moving equipment. Further, the mitigation measures require that deployment activities will cease immediately if any protected species is sighted within 150 ft (50 yds) of the active deployment site, and such activities will not recommence until the project supervisor reports that no protected species have been sighted for at least 20 minutes. Operation will not resume until the protected species has departed the project area of its own volition, or at least 20 minutes have passed since the animal was last seen.

Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) may also be physically injured or killed if they become entangled in abandoned fishing gear or other debris that may accumulate on low-relief artificial reef structures. We believe these species are extremely unlikely to become entangled in fishing gear and marine debris that accumulates on low relief artificial reef material. Low-relief and solid concrete material, rock rubble, and individual artificial reef modules present less complicated vertical relief that is not as likely to accumulate monofilament as larger, higher-relief materials, as documented in Barnette (2017). The implementation of the mitigation measures listed above in Section 2.1.2 would further reduce the likelihood of entanglement. The mitigation measures require that all reef material have all steel reinforcement rods, rebar, and other protrusions cut off and level with the surface of the concrete to minimize the snagging of fishing gear. The best available information presented in Barnette (2017) indicates that gear and animal entanglement on fishing gear accumulated on low-relief material is extremely unlikely to occur under these conditions. Sea turtle entanglement on fishing gear and marine debris accumulated on high-relief material is discussed in Section 6.2.2 below.

Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) could also be injured or killed as a result of hooking or other interactions incidental to fishing activities in the vicinity of the proposed action. We believe the proposed action is extremely unlikely to increase the risk of incidental capture because there is no evidence that the establishment of artificial reefs increases the numbers of fishers or boats participating in a given fishery.

Green sea turtles (North Atlantic DPS), hawksbill sea turtles, Kemp's ridley sea turtles, and loggerhead sea turtles (Northwest Atlantic DPS) may become entrapped (stuck) in reef structures. First, the mitigation measures make it unlikely that a sea turtle will become entrapped in a structure during deployment activities because these measures require that deployment activities will not commence until the project supervisor reports that no protected species have been sighted within 150 ft of the active deployment site for at least 20 minutes and to cease all deployment activities immediately if any protected species are sighted within 150 ft of the active deployment site. Deployment activities will not recommence until the project supervisor reports that no protected species have been sighted for at least 20 minutes. It is also possible for entrapment to occur within an artificial reef structure after it has been deployed. It is possible for a sea turtle to position itself under the edge of open-bottom reef structures and then become

wedged or trapped. A sea turtle could also become disoriented inside a structure such as a vessel and have difficulty escaping. We believe this is extremely unlikely to occur for the following reasons. The applicant will adhere to the applicable recommendations and guidelines provided in TPWD's *Texas Public Reef Building Program Standard Operating Procedures and Guidelines* (2012) and *Texas Artificial Reef Plan* (1990), the Gulf Atlantic States Marine Fisheries Commission's *Guidelines for Marine Artificial Reef Materials* (2004), the Environmental Protection Agency and Maritime Administration's *National Guidance: Best Management Practices for Preparing Vessels Intended to Create Artificial Reefs* (2006), and the National Oceanic and Atmospheric Administration's *National Artificial Reef Plan* (2007). As a result, we conclude that sea turtle entrapment within low-relief or high-relief artificial reef materials is extremely unlikely to occur.

6.2.2 Routes of Effect That Are Likely to Adversely Affect ESA-Listed Species

NMFS believes that the presence of high-relief artificial reef material is likely to adversely affect the green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS). High-relief artificial reef material specifically refers to vessels, aircrafts, decommissioned oil rigs, bridge spans, metal towers, or similar material that extends 7 ft or more from the seafloor and that has a footprint greater than 200 ft² (individually or collectively), excluding prefabricated artificial reef modules. The proposed deployment will result in a footprint of 320 ac with material extending up to 27 ft above the sea floor.

Because artificial reefs are generally designed and advertised to promote fishing opportunities, sea turtles may be adversely affected by becoming entangled in lost fishing gear and marine debris that accumulates on these structures (e.g., discarded fishing line, anchor line, or discarded netting). The risk of entanglement increases over the lifespan of the artificial reef structure as more gear and debris accumulates (Barnette 2017). Our assessment of this risk and its effects on sea turtles are discussed in more detail below.

Approach to Assessment

Our analysis first reviews what activities associated with the proposed action are likely to adversely affect sea turtles in the action area (i.e., what the stressors of the proposed action are). We then review an individual's range of responses to a specific stressor, and the factors affecting the likelihood, frequency, and severity of an individual's exposure to that stressor. Subsequently, our focus shifts to evaluating and quantifying exposure. We estimate the number of individuals of each species likely to be exposed and the likely fate of those animals.

Since the proposed action will deploy high-relief material (vessels, aircrafts, decommissioned oil rigs, bridge spans, metal towers and similar material), we anticipate adverse effects on the green sea turtle (North Atlantic DPS), Kemp's ridley sea turtle, leatherback sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS) from entanglement and drowning in monofilament and other entangling gear that accumulates on that type of reef material. Given the complex habitat and vertical relief afforded by these materials, it is not uncommon for these sites to accumulate a significant amount of lost fishing gear over time (Barnette 2017).

In general, due to the absence of monofilament immediately following deployment of an artificial reef, we expect the risk of entanglement to be extremely low for some period of years. However, as time passes and monofilament line accumulates, the probability of an entanglement event increases. Also, the longer the accumulated line is present, the greater the chance that a sea turtle will encounter it. The rate of monofilament accumulation and the time it takes to reach the level where we might anticipate an entanglement-related mortality likely varies significantly due to the factors previously mentioned. As time passes, the integrity of the high-relief material will become compromised and the structure may undergo significant and dramatic collapse. In some areas of the southeastern U.S., this process is facilitated by hurricane events. Regardless, over time, this will reduce the amount of vertical relief, but not eliminate the likelihood of monofilament accumulation. Therefore, the risk of an entanglement event persists, but perhaps at a somewhat lower level.

In some instances though, this collapse may increase the risk of entanglement. For example, as discussed in Barnette (2017), intact vessels sunk as artificial reefs off South Florida may not present a high risk of entanglement initially, even with significant monofilament entanglement, as sea turtles are frequently observed at the sand/hull interface where there is little entangled line. This potential preference may “shield” them from greater entanglement risk present on the deck and upper structures. Once the vessel collapses, however, the reduced relief of the vessel places entangled monofilament in closer proximity to the seabed and to sea turtles utilizing the material. The probability of entanglement could also remain fairly high or increase in areas that are not typically exposed to current that could otherwise abrade or help accumulate and incorporate entangled monofilament.

Based on the best available information presented in Barnette (2017) and STSSN data for the action area, we anticipate adult loggerhead and Kemp’s ridley sea turtles will be the sea turtle species primarily associated with entanglement events on high-relief artificial reef material within the action area as a result of the proposed action. This is likely due to the species habitat preferences and other life history characteristics. Studies evaluating sea turtle dive profiles and depth distribution are limited and generally have focused on female sea turtles, likely due to the ease of tagging during nesting activities. While this is still useful, as it provides information on depth ranges where inter-nesting female sea turtles may spend a significant amount of their time, it does not provide the full depth range in which all sea turtles may be exposed to entanglement risk on artificial reefs. For example, Houghton et al. (2002), while examining the diving depth profiles of two female loggerhead sea turtles during nesting, documented a maximum diving depth of 230 ft; though they noted the vast majority of the inter-nesting interval was spent at depths less than 66 ft. While loggerheads have been documented diving to depths exceeding 760 ft (Sakamoto et al. 1990), other studies have demonstrated the majority of dives are occurring at much shallower depths. For instance, Arendt et al. (2012) documented most dives were conducted shallower than 160 ft, and were typically between 65-130 ft, when looking at male loggerhead sea turtles off the southeastern U.S. However, one of the authors of this study noted that one of the limitations about diving behavior is that a lot of the depths reflect where animals were captured and individual animal preferences, and do not reflect comprehensive diving behavior across the species as a whole (M. Arendt, SCDNR, pers. comm. with NMFS Biologist M. Barnette). In this case, the proposed reef deployment area in this proposed action is in water depths between 75 and 115 ft.

Similarly, while it might make sense to scale the threat based on areas where we believe current or other oceanographic parameters, sea turtle densities, fishing patterns, artificial reef size, or other factors may decrease or increase the risk of entanglement from monofilament and other lines fouled on artificial reef material, the limited available information is insufficient to do so. Therefore, based on our best professional judgement, we consider all complex, high-relief materials deployed as artificial reefs (excluding prefabricated artificial reef muddles) to present similar entanglement risks to sea turtles over time, regardless of their location within the action area.

Barnette (2017) documents that an historic shipwreck submerged for more than 120 years (i.e., foundered in 1897) appears to be still accumulating monofilament and resulting in sea turtle mortalities due to entanglement events. Given the remaining structure on that shipwreck, it is likely to persist for another 30 years (Barnette 2017). Therefore, for purposes of this analysis, we use an effective lifespan of 150 years for vessels, decommissioned oil rigs, bridge spans, and any other high-relief artificial reef materials.

Frequency of entanglement likely varies greatly by site due to numerous factors. As a result of limited information on the subject, however, it is not practical or feasible to examine these issues further. Barnette (2017) documents that several sites using vessels have had repeated instances of sea turtle entanglement over time, and there was documentation of one site with multiple entanglements. Although specific reasons for the number of entanglements at this reef site have not been identified, some artificial reefs appear to present a more significant threat of entanglement than others due to sea turtle habitat preference, migration corridors, reef structure or composition, or other environmental parameter (Barnette 2017). Barnette (2017) also noted that evidence of sea turtle entanglement events is ephemeral, and the absence of evidence of entanglement should not be viewed as evidence that entanglements have not occurred. Perhaps some complex, high-relief artificial reefs will never result in a sea turtle mortality due to entanglement, but given the available information, and our best professional judgement based on experience from similar projects, we consider all vessels, decommissioned oil rigs, bridge spans, and other large metal structures deployed as high-relief artificial reefs similarly.

The lack of ongoing monitoring and the ephemeral nature of turtle entanglement evidence documented in Barnette (2017) (i.e., decomposition, current, predation, etc.) presents difficulties in estimating an annual take rate due to entanglement. For purposes of this analysis, based on the findings in Barnette (2017) and our informed judgement, we assume a 25-year delay of significant entanglement risk. After that point, we conservatively assume any high-relief artificial structure may result in 1 sea turtle mortality due to entanglement per year on a “mature” artificial reef site (i.e., a site that has accumulated sufficient line to present a lethal threat). Serious entanglement will effectively anchor a sea turtle to the artificial reef and prevent it from reaching the surface to breath, resulting in sea turtle mortality due to drowning (i.e., forced submergence). Numerous entanglement examples are documented in Barnette (2017). We consider this effect (i.e., 1 sea turtle mortality per year) to be ongoing for the next 75 years for vessels, decommissioned oil rigs, bridge spans, and any other high-relief materials (i.e., a total of 75 sea turtles entangled over 75 years). After that point, we anticipate entanglement risk will be reduced on average due to material deterioration and subsidence. The entanglement risk over the

next 50 years of the material's effective lifespan will result in 1 sea turtle mortality every 3 years. This translates to an estimated take of 92 sea turtles over 150 years resulting from the deployment of a single vessel, decommissioned oil rig, bridge span, or any other high-relief artificial reef structure.

6.2.2.1 Estimating Total Sea Turtle Mortalities

To calculate the overall sea turtle mortalities for the proposed action, based on our best professional judgement and past experience with similar projects, we begin with the assumption that the typical lifespan of 1 structure of high-relief artificial reef material (i.e., a vessel, decommissioned oil rig, bridge span, or other large metal structure) is 150 years. Next, based on our analysis above, we assume deployment of 1 structure of high-relief artificial reef material will result in the following rates of mortality due to entanglement over 150 years: (1) during the first 25 years, we assume calculate there will be 0 sea turtle mortalities; (2) for the next 75 years, we calculate there will be 1 sea turtle mortality each year; and (3) for the last 50 years, we assume calculate there will be 1 sea turtle mortality every 3 years.

The proposed project will result in the deployment of up to 3 high-relief structures in the Queen Isabella Reef area over the 2-year lifespan of the USACE permit (Section 2.1.1). Below we calculate the total number of sea turtle mortalities anticipated at the Queen Isabella Reef area.

Queen Isabella Reef Deployment Area (1 high-relief structure over 2 years):

Years 0-25 = 0 sea turtle mortalities

Years 26-100 = 75 years × 1 sea turtle mortality per year per structure = 75 sea turtle mortalities × 3 structures = 225 sea turtle mortalities

Years 101-150 = 50 years × (1 sea turtle mortality ÷ 3) = 16.667 sea turtle mortalities per structure × 3 structures = 50 sea turtle mortalities

Total for 150 years = 225 + 50 = 275 sea turtle takes

In total, the number of sea turtle mortalities over 150 years resulting from the deployment of up to 3 high-relief artificial reef structures at the Queen Isabella Reef is estimated to be 275 sea turtles.

6.2.2.2 Estimating Species Take Percentages

We used the 2014-2024 STSSN data for offshore Zone 21, a statistical subarea used when reporting commercial fishing data, which includes the action area, to determine the expected number of mortalities for each species within the action area. Zone 21 extends from approximately 26° to 27° North latitude (from approximately the southern border of Cameron County to the middle of Kenedy County) along the east coast of Texas. Based on the location of the artificial reef deployments areas and substrate type present in those areas, we believe this is the best available data to estimate the relative abundance of sea turtle species in the action area

and therefore, the percentages of sea turtle take by species as a result of the proposed actions. The 10-year dataset for this area shows a total of 1,933 sea turtle strandings (excluding unidentified turtles) (Table 4).

Table 4. Texas Offshore Zone 21 Sea Turtle Stranding Data for Years 2014-2024

Species	Total Strandings	Species Percent Composition
Green (North Atlantic DPS)	1,365	70.62
Hawksbill	30	1.55
Kemp's Ridley	303	15.68
Loggerhead	235	12.16
Grand Total	1,933	100

To calculate the number of expected sea turtle takes broken down by species, we use the following equation, results of which are summarized in Table 5:

Expected takes by species for the artificial reef sites over a 150-year time frame out of 275 anticipated sea turtle takes

$$= \text{total expected sea turtle takes in 150 years from 3 high-relief structures (275)} \times \text{percent composition from stranding data for each species (Table 4)}$$

Expected takes for green sea turtles over 150 years

$$= 275 \times 0.7062 = 194.19$$

Expected takes for hawksbill sea turtles over 150 years

$$= 275 \times 0.0155 = 4.2680$$

Expected takes for Kemp's ridley sea turtles over 150 years

$$= 275 \times 0.1568 = 43.1066$$

Expected takes for loggerhead sea turtles over 150 years

$$= 275 \times 0.1216 = 33.4325$$

Table 5. Breakdown of Species Based on Stranding Data

Species	Percent from Stranding Data	Species Breakdown of 225 Anticipated Sea Turtle YR 26 to YR 100	Species Breakdown of 275 Anticipated Sea Turtle Takes over 150 years
Green (North Atlantic DPS)	70.62	158.8852	194.19
Hawksbill	1.55	3.4920	4.2680
Kemp's ridley	15.68	35.2690	43.1066
Loggerhead (Northwest Atlantic DPS)	12.16	27.3539	33.4325

Table 5, above, summarizes the total number of anticipated lethal takes for each species of sea turtle. We took the total number of sea turtle mortalities expected for each time period of reef aging and multiplied it by the species percentages in Table 4 (e.g., 225 mortalities in YR 26-100

× 0.1568 Kemp’s ridley sea turtles = 36 Kemp’s ridley sea turtle mortalities during YR 26-100 of the life of the reef). Totals in Table 6 summarize the number of lethal entanglements anticipated over a period of 150 years for each sea turtle species. All calculated values are rounded up to the nearest whole number to capture whole individuals of the species.

Table 6. Anticipated Amount of Lethal Take Over and Period of 150 Years Due to 3 Deployments of High-Relief Structures

Species	Lethal Take
Green sea turtle (North Atlantic DPS)	195
Hawksbill sea turtle	5
Kemp’s ridley sea turtle	44
Loggerhead sea turtle (Northwest Atlantic DPS)	34
Total sea turtle take	278

7 CUMULATIVE EFFECTS

ESA Section 7 regulations require NMFS to consider cumulative effects in formulating its Opinions (50 CFR 402.14). Cumulative effects include the effects of future state or private actions, not involving federal activities, that are reasonably certain to occur within the action area considered in this Opinion (50 CFR 402.02). NMFS is not aware of any future projects that may contribute to cumulative effects.

8 JEOPARDY ANALYSIS

To “jeopardize the continued existence of” a species means “to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and the recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species” (50 CFR 402.02). Thus, in making this determination for each species, we must look at whether the proposed action directly or indirectly reduces the reproduction, numbers, or distribution of a listed species. If there is a reduction in 1 or more of these elements, we evaluate whether the action would be expected to cause an appreciable reduction in the likelihood of both the survival and the recovery of the species.

The NMFS and USFWS’s ESA Section 7 Handbook (USFWS and NMFS 1998) defines survival and recovery, as these terms apply to the ESA’s jeopardy standard. Survival means “the species’ persistence...beyond the conditions leading to its endangerment, with sufficient resilience to allow recovery from endangerment.” The Handbook further explains that survival is the condition in which a species continues to exist into the future while retaining the potential for recovery. This condition is characterized by a sufficiently large population, represented by all necessary age classes, genetic heterogeneity, and number of sexually mature individuals producing viable offspring, which exists in an environment providing all requirements for completion of the species’ entire life cycle, including reproduction, sustenance, and shelter. Per the Handbook and the ESA regulations at 50 CFR 402.02, recovery means “improvement in the status of listed species to the point at which listing is no longer appropriate under the criteria set out in Section 4(a)(1) of the Act.” Recovery is the process by which species’ ecosystems are restored or threats to the species are removed or both so that self-sustaining and self-regulating

populations of listed species can be supported as persistent members of native biotic communities.

The analyses conducted in the previous sections of this Opinion serve to provide a basis to determine whether the proposed action would be likely to jeopardize the continued existence of green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS). In Section 6.0, we outlined how the proposed action can adversely affect these species. Now we turn to an assessment of the species response to these impacts, in terms of overall population effects, and whether those effects of the proposed action, when considered in the context of the Status of the Species (Section 4.0), the Environmental Baseline (Section 5.0), and the Cumulative Effects (Section 7.0), will jeopardize the continued existence of the affected species. For any species listed globally, our jeopardy determination must evaluate whether the proposed action will appreciably reduce the likelihood of survival and recovery at the species' global range. For any species listed as DPSs, a jeopardy determination must evaluate whether the proposed action will appreciably reduce the likelihood of survival and recovery of that DPS.

8.1.1 Green Sea Turtle – North Atlantic DPS

As discussed in Section 4.1.2, only individuals from the North Atlantic DPS and South Atlantic DPS may occur in waters under the purview of the NMFS Southeast Region, with South Atlantic DPS individuals only expected to occur in the U.S. Caribbean. The action area is located in the Gulf of Mexico, therefore only individuals from the North Atlantic DPS are expected to be present. The proposed action may result in the lethal take of 195 green sea turtles from the North Atlantic DPS over the next 150 years.

Survival

The potential lethal take of 195 green sea turtles from the North Atlantic DPS over the next 150 years as a result of the proposed action is a reduction in numbers. A lethal take would also result in a reduction in future reproduction, assuming the individual would be female and would have survived otherwise to reproduce. For example, as discussed above, an adult green sea turtle can lay up to 7 clutches (usually 3-4) of eggs every 2-4 years, with a mean clutch size of 110-115 eggs per nest, of which a small percentage is expected to survive to sexual maturity. The anticipated lethal takes are expected to occur over a large action area (i.e., where the deployment of artificial reef material is occurring); however, the size of each reef compared to the action area as a whole is small and patchy, and green sea turtle generally have large ranges; thus, no reduction in the distribution is expected from the take of these individuals.

Whether the reductions in numbers and reproduction of this species would appreciably reduce its likelihood of survival depends on the probable effect the changes in numbers and reproduction would have relative to current population sizes and trends. The North Atlantic DPS is the largest of the 11 green turtle DPSs. Seminoff et al. (2015) estimated that there are greater than 167,000 nesting green sea turtle females from 73 nesting sites in the North Atlantic DPS.

Tortuguero, Costa Rica is by far the predominant nesting site, accounting for an estimated 79% of nesting for the DPS (Seminoff et al. 2015). A recent long-term study spanning over 50 years

of nesting at Tortuguero found that while nest numbers increased steadily over 37 years from 1971-2008, the rate of increase slowed gradually from 2000-2008. After 2008, the nesting trend has been downwards, with current nesting levels having reverted to that of the mid-1990's, and the overall long-term trend has now become negative (Restrepo, et al. 2023).

Florida accounts for approximately 5% of nesting for this DPS (Seminoff et al. 2015). According to data collected from Florida's index nesting beach survey from 1989-2021, green sea turtle nest counts across Florida have increased dramatically, from a low of 267 in the early 1990s to a high of 40,911 in 2019. Two consecutive years of nesting declines in 2008 and 2009 caused some concern, but this was followed by increases in 2010 and 2011. The pattern departed from the low lows and high peaks in 2020 and 2021 as well, when 2020 nesting only dropped by half from the 2019 high, while 2021 nesting only increased by a small amount over the 2020 nesting, with another increase in 2022 still well below the 2019 high. While nesting in Florida has shown dramatic increases over the past decade, individuals from the Tortuguero, the Florida, and the other Caribbean and Gulf of Mexico populations in the North Atlantic DPS intermix and share developmental habitat. Therefore, threats that have affected the Tortuguero population as described previously, may ultimately influence the other population trajectories, including Florida. Given the large size of the Tortuguero nesting population, which is currently in decline, its status and trend largely drives the status of North Atlantic DPS.

Aside from the long-term increasing nesting trend observed in Florida, the declining trend in nesting observed in Tortuguero indicates a species in decline. However, we do not believe the proposed action will impede the species' survival due to the amount of take resulting from the proposed action, which is not expected to be detectable on a population level or on nesting trends, over a period of 150 years (with no takes anticipated during the first 25 years). Therefore, over the timeframe analyzed, effects from take from the proposed action is not expected to affect population growth, which is vital to the species' survival. We do not believe the proposed action impedes the progress of the recovery program, which aims to increase chances of survival of the species, or achieving the overall recovery strategy. After analyzing the magnitude of the effects of the proposed action, in combination with the past, present, and future expected impacts to the DPS discussed in this Opinion, we believe the proposed action is not reasonably expected to cause an appreciable reduction in the likelihood of survival of the green sea turtle North Atlantic DPS in the wild.

Recovery

The North Atlantic DPS of green sea turtles does not have a separate recovery plan at this time. However, an Atlantic Recovery Plan for the population of Atlantic green sea turtles (NMFS and USFWS 1991) does exist. Since the animals within the North Atlantic DPS all occur in the Atlantic Ocean and would have been subject to the recovery actions described in that plan, we believe it is appropriate to continue using that Recovery Plan as a guide until a new plan, specific to the North Atlantic DPS, is developed. The Atlantic Recovery Plan lists the following relevant recovery objectives over a period of 25 continuous years:

Objective: The level of nesting in Florida has increased to an average of 5,000 nests per year for at least 6 years.

Objective: A reduction in stage class mortality is reflected in higher counts of individuals on foraging grounds.

According to data collected from Florida's index nesting beach survey from 1989-2021, green sea turtle nest counts across Florida have increased dramatically, from a low of 267 in the early 1990s to a high of 40,911 in 2019. Two consecutive years of nesting declines in 2008 and 2009 caused some concern, but this was followed by increases in 2010 and 2011. The pattern departed from the low lows and high peaks in 2020 and 2021 as well, when 2020 nesting only dropped by half from the 2019 high, while 2021 nesting increased over the 2020 nesting, indicating that the first listed recovery objective is currently being met. There are currently no estimates available specifically addressing changes in abundance of individuals on foraging grounds. Given the clear increases in nesting, however, it is likely that numbers on foraging grounds have also increased, consistent with the criteria of the second listed recovery objective.

The potential lethal take of up to 195 green sea turtles from the North Atlantic DPS over the next 150 years (with no takes anticipated during the first 25 years) as a result of the proposed action will result in a reduction in numbers when it occurs. This take is unlikely to have any detectable influence on the recovery objectives and trends noted above, and will not result in an appreciable reduction in the likelihood of North Atlantic DPS green sea turtles' recovery in the wild even when considered in the context of the Status of the Species, the Environmental Baseline, and Cumulative Effects discussed in this Opinion.

Conclusion

The lethal take of 195 green sea turtles from the North Atlantic DPS associated with the proposed action are not expected to cause an appreciable reduction in the likelihood of either the survival or recovery of the North Atlantic DPS of green sea turtle in the wild.

8.1.2 Hawksbill Sea Turtle

The proposed action may result in up to 5 lethal hawksbill sea turtle take over the next 150 years.

Survival

The lethal take of up to 5 hawksbill sea turtle over the next 150 years as a result of the project would reduce the number of hawksbill sea turtles, compared to the number that would have been present in the absence of the proposed action, assuming all other variables remained the same. Any potential lethal take could also result in a reduction in future reproduction, assuming the individual would be a female and would have survived to reproduce in the future. For example, an adult hawksbill sea turtle can lay 3-5 clutches of eggs every few years (Meylan and Donnelly 1999; Richardson et al. 1999) with up to 250 eggs/nest (Hirth and Latif 1980). Thus, the loss of a female could preclude the production of thousands of eggs and hatchlings, of which a fraction would otherwise survive to sexual maturity and contribute to future generations.

In the absence of any total population estimates for hawksbill sea turtles, nesting trends are the best proxy we have for estimating population changes. The most recent 5-year status review estimated between 22,000 and 29,000 adult females existed in the Atlantic basin in 2007 (NMFS and USFWS 2013a); this estimate does not include juveniles of either sex or mature males. Hawksbill nesting trends also indicate an improvement over the last 20 years. A survey of historical nesting trends (i.e., 20-100 years ago) for the 33 nesting sites in the Atlantic Basin found declines at 25 of those sites and data were not available for the remaining 8 sites. However, in the last 20 years, nesting trends have been improving. Of those 33 sites, 10 sites now show an increase in nesting, 10 sites showed a decrease, and data for the remaining 13 are not available (NMFS and USFWS 2013a).

We believe increases in nesting over the last 20 years, relative to the historical trends, indicate improving population numbers. Additionally, even when we conservatively evaluate the potential effects of the proposed action on a portion of the hawksbill population (i.e., adult females) we believe the impacts will be minor relative to the entire population. The anticipated lethal take is expected to occur over a large action area (i.e., where the deployment of artificial reef material is occurring); however, the size of each reef compared to the action area as a whole is small and patchy, and hawksbill sea turtles generally have large ranges; thus, no reduction in the distribution is expected from the take of these individuals.

We believe the potential loss of up to 5 hawksbill sea turtle over the next 150 years will not have any detectable effect on the population, distribution or reproduction of hawksbills. Therefore, we do not believe the proposed action will cause an appreciable reduction in the likelihood of survival of this species in the wild.

Recovery

The Recovery Plan for the population of the hawksbill sea turtles (NMFS and USFWS 1993) lists the following relevant recovery objectives over a period of 25 continuous years:

Objective: The adult female population is increasing, as evidenced by a statistically significant trend in the annual number of nests on at least 5 index beaches, including Mona Island (Puerto Rico) and Buck Island Reef National Monument (U.S. Virgin Islands).

Objective: The numbers of adults, subadults, and juveniles are increasing, as evidenced by a statistically significant trend on at least 5 key foraging areas within Puerto Rico, USVI, and Florida.

Although the most recent 5-year review indicates there is not enough information to evaluate the statistical significance of nesting trends, nesting populations are increasing at the Puerto Rico (Mona Island) and U.S. Virgin Islands (BIRNM) index beaches. Also in the U.S. Caribbean, additional nesting beaches are now being more systematically monitored to allow for future population trend assessments. Elsewhere in the Caribbean outside U.S. jurisdiction, nesting populations in Antigua/Barbuda and Barbados are increasing; however, other important nesting concentrations in the insular Caribbean are decreasing or their status is unknown, including Antigua/Barbuda (except Jumby Bay), Bahamas, Cuba (Doce Leguas Cays), Jamaica, and

Trinidad and Tobago (NMFS and USFWS 2013a). Based on this information we do not expect the loss of 5 hawksbill sea turtles over the next 150 years will impede this recovery objective.

The proposed action could cause the loss of up to 5 hawksbill sea turtles over the next 150 years and the animals may or may not be adult and may or may not be female. We determined the potential lethal captures associated with the proposed action would not have any detectable influence on the magnitude of those trends. While information on trends for adults, subadults, and juveniles at key foraging areas is not yet available, we also believe it is unlikely the potential removal of 5 hawksbill over the next 150 years will have any detectable influence over the numbers of adults, subadults, and juveniles occurring at 5 key foraging areas. Thus, we believe the proposed action is not likely to impede the recovery objectives above and will not result in an appreciable reduction in the likelihood of hawksbill sea turtles' recovery in the wild.

Conclusion

The effects associated with the proposed action are not expected to cause an appreciable reduction in the likelihood of either the survival or recovery of the hawksbill sea turtle in the wild.

8.1.3 Kemp's Ridley Sea Turtle

The proposed action may result in the lethal take of 44 Kemp's ridley sea turtles over the next 150 years.

Survival

The potential lethal take of up to 44 Kemp's ridley sea turtle over the next 150 years as a result of the proposed action would reduce the species' population compared to the number that would have been present in the absence of the proposed action, assuming all other variables remained the same. The TEWG (Turtle Expert Working Group 1998) estimates age at maturity from 7-15 years. Females return to their nesting beach about every 2 years (Turtle Expert Working Group 1998). The mean clutch size for Kemp's ridley sea turtle is 100 eggs/nest, with an average of 2.5 nests/female/season. Lethal takes could also result in a potential reduction in future reproduction, assuming at least one of these individuals would be female and would have survived to reproduce in the future. The loss of 31 Kemp's ridley sea turtle could preclude the production of thousands of eggs and hatchlings, of which a fractional percentage would be expected to survive to sexual maturity. Thus, the death of any females would eliminate their contribution to future generations, and result in a reduction in sea turtle reproduction. The anticipated lethal takes are expected to occur over a large action area (i.e., where the deployment of artificial reef material is occurring); however, the size of each reef compared to the action area as a whole is small and patchy, and Kemp's ridley sea turtle generally have large ranges; thus, no reduction in the distribution is expected from the take of these individuals.

In the absence of any total population estimates for Kemp's ridley sea turtle, nesting trends are the best proxy for estimating population changes. Following a significant, unexplained 1-year decline in 2010, Kemp's ridley sea turtle nests in Mexico reached a record high of 21,797 in

2012 (Gladys Porter Zoo nesting database 2013). There was a second significant decline in Mexico nests 2013 through 2014; however, nesting in Mexico has increased 2015 through 2017 (Gladys Porter Zoo 2016).

A small nesting population is also emerging in the United States, primarily in Texas, rising from 6 nests in 1996 to 42 in 2004, to a record high of 353 nests in 2017 (National Park Service data, <http://www.nps.gov/pais/naturescience/strp.htm>, <http://www.nps.gov/pais/naturescience/current-season.htm>). It is worth noting that nesting in Texas has paralleled the trends observed in Mexico, characterized by a significant decline in 2010, followed by a second decline in 2013-2014, but with a rebound in 2015-2017, but nesting for 2018 declined to 17,945, with another steep drop to 11,090 nests in 2019 (Gladys Porter Zoo data, 2019). Nesting numbers rebounded in 2020 (18,068 nests), dropped in 2021 to 195 nests, then rebounded to 284 nests in 2022 (National Park Service data). Given the significant inter-annual variation in nesting data, sea turtle population trends necessarily are measured over decades and the long-term trend line better reflects the population increase in Kemp's ridley sea turtle. With the recent increase in nesting data (2015-17) and recent declining numbers of nesting females (2013-14 and 2018-2019), it is too early to tell whether the long-term trend line is affected. Recent years have seen nesting data plateau, and it is unknown whether the population is stabilizing or is likely to increase again.

While it is clear that the population has increased over the long-term, the future trajectory of nesting trends is unclear. We believe the potential lethal take of 44 Kemp's ridley sea turtles over the next 150 years (with no takes anticipated during the first 25 years), which is only a small fraction of the oscillating but still large overall nesting population, and we have no reason to believe nesting females will be disproportionately affected. We believe the potential mortality associated with the proposed action will have no detectable effect on current nesting trends and therefore, will not reduce the likelihood of survival in the wild.

Recovery

As to whether the proposed action will appreciably reduce the species' likelihood of recovery, the recovery plan for the Kemp's ridley sea turtle (NMFS et al. 2011) lists the following relevant recovery objective:

Objective: A population of at least 10,000 nesting females in a season (as measured by clutch frequency/female/season) distributed at the primary nesting beaches (Rancho Nuevo, Tepehuajes, and Playa Dos) in Mexico is attained. Methodology and capacity to implement and ensure accurate nesting female counts have been developed.

With respect to this recovery objective, the most recent nesting numbers in 2022 indicate there were a total of 17,418 nests on the main nesting beaches in Mexico. This number represents approximately 4,436 nesting females for the season based on 2.5 clutches/female/season. Although there has been a substantial increase in the Kemp's ridley population within the last few decades, the number of nesting females is still below the number of 10,000 nesting females per season required for downlisting (NMFS and USFWS 2015). Since we concluded that the potential loss of up to 44 Kemp's ridley sea turtles over the next 150 years (with no takes anticipated during the first 25 years) is not likely to have any detectable effect on nesting trends,

we do not believe the proposed action will impede the progress toward achieving this recovery objective. Thus, we believe the proposed action will not result in an appreciable reduction in the likelihood of Kemp's ridley sea turtles' recovery in the wild.

Conclusion

The lethal take of 44 Kemp's ridley sea turtles associated with the proposed action are not expected to cause an appreciable reduction in the likelihood of either the survival or recovery of Kemp's ridley sea turtle in the wild.

8.1.4 Loggerhead Sea Turtle – Northwest Atlantic DPS

The proposed action may result in the lethal take of 34 loggerhead sea turtles from the Northwest Atlantic DPS over the next 150 years.

Survival

The lethal take of 34 loggerhead sea turtles over the next 150 years is a reduction in numbers. A lethal take could also result in a potential reduction in future reproduction, assuming the individual would be female and would have survived to reproduce in the future. For example, an adult female loggerhead sea turtle can lay approximately 4 clutches of eggs every 3 years, with 100-126 eggs per clutch. While we have no reason to believe the proposed action will disproportionately affect females, the loss of even 1 adult female could preclude the production of thousands of eggs and hatchlings of which a small percentage would be expected to survive to sexual maturity. A reduction in the distribution of loggerhead sea turtles is not expected from lethal takes attributed to the proposed action. The anticipated lethal take is expected to occur in a discrete action area and loggerhead sea turtles in the Northwest Atlantic DPS generally have large ranges; thus, no reduction in the distribution is expected from the take of these individuals.

Whether or not the reductions in loggerhead sea turtle numbers and reproduction attributed to the proposed action would appreciably reduce the likelihood of survival depends on what effect these reductions in numbers and reproduction would have on overall population sizes and trends (i.e., whether the estimated reductions, when viewed within the context of the environmental baseline and status of the species, are of such an extent that adverse effects on population dynamics are appreciable). In Section 4.2.5, we reviewed the status of this species in terms of nesting and female population trends and several recent assessments based on population modeling (i.e., (Conant et al. 2009; NMFS 2009). Below we synthesize what that information means both in general terms and the more specific context of the proposed action.

Loggerhead sea turtles are a slow growing, late-maturing species. Because of their longevity, loggerhead sea turtles require high survival rates throughout their life to maintain a population. In other words, late-maturing species cannot tolerate much anthropogenic mortality without going into decline. Conant et al. (2009) concluded loggerhead natural growth rates are small, natural survival needs to be high, and even low- to moderate mortality can drive the population into decline. Because recruitment to the adult population is slow, population modeling studies suggest even small increased mortality rates in adults and subadults could substantially impact

population numbers and viability (Chaloupka and Musick 1997; Crouse et al. 1987; Crowder et al. 1994; Heppell et al. 1995).

NMFS (2009) estimated the minimum adult female population size for the Northwest Atlantic DPS in the 2004-2008 timeframe to likely be between approximately 20,000-40,000 individuals (median 30,050), with a low likelihood of being as many as 70,000 individuals. Another estimate for the entire western North Atlantic population was a mean of 38,334 adult females using data from 2001-2010 (Richards et al. 2011). A much less robust estimate for total benthic females in the western North Atlantic was also obtained, with a likely range of approximately 30,000-300,000 individuals, up to less than 1 million.

NMFS (2011b) preliminarily estimated the loggerhead population in the Northwestern Atlantic Ocean along the continental shelf of the Eastern Seaboard during the summer of 2010 at 588,439 individuals (estimate ranged from 381,941 to 817,023) based on positively identified individuals. The NMFS-NEFSC's point estimate increased to approximately 801,000 individuals when including data on unidentified sea turtles that were likely loggerheads. The NMFS-NEFSC (2011) underestimates the total population of loggerheads since it did not include Florida's east coast south of Cape Canaveral or the Gulf of Mexico, which are areas where large numbers of loggerheads are also expected. In other words, it provides an estimate of a subset of the entire population.

Florida accounts for more than 90% of U.S. loggerhead nesting. The FWC conducted a detailed analysis of Florida's long-term loggerhead nesting data (1989-2017). They indicated that following a 24% increase in nesting between 1989 and 1998, nest counts declined sharply from 1999 to 2007. However, annual nest counts showed a strong increase (71%) from 2008 to 2016. Examining only the period between the high-count nesting season in 1998 and the 2016 nesting season, researchers found a slight but insignificant increase, indicating a reversal of the post-1998 decline. Nesting in 2017 declined relative to 2016, back to levels seen in 2013 and 2015. The overall change in counts from 1989 to 2017 was significantly positive; however, it should be noted that wide confidence intervals are associated with this complex data set (<http://myfwc.com/research/wildlife/sea-turtles/nesting/loggerhead-trends/>).

Abundance estimates accounting for only a subset of the entire loggerhead sea turtle population in the western North Atlantic indicate the population is large (i.e., several hundred thousand individuals). Nesting trends have been significantly increasing over several years against the background of the past and ongoing human and natural factors (as contemplated in the Status of the Species and Environmental Baseline) that have contributed to the current status of the species. Nesting in 2017 and 2018 declined relative to 2016, back to levels seen in 2013 to 2015, but then bounced back in 2019, breaking records for each of the three states and the overall recovery unit. Nesting in 2020 and 2021 declined from the 2019 records, but still remained high, representing the third and fourth highest total numbers for the NRU since 2008.

The proposed action could lethally take 34 loggerhead sea turtles over the next 150 years (with no takes anticipated during the first 25 years). We do not expect this loss to result in a detectable change to the population numbers or increasing trends because this loss is anticipated to occur over a long timeframe and would result in a low amount of take on an average annual basis

compared to the total population estimate and anticipated growth rate. Preliminary regional abundance survey of loggerheads within the northwestern Atlantic continental shelf for positively identified loggerhead in all strata estimated about 588,000 loggerheads (interquartile range of 382,000-817,000). When correcting for unidentified turtles in proportion to the ratio of identified turtles, the estimate increased to about 801,000 loggerheads (interquartile range of 521,000-1,111,000) (NMFS 2011b). After analyzing the magnitude of the effects of the proposed action, in combination with the past, present, and future expected impacts to the DPS discussed in this Opinion, we believe the proposed action is not reasonably expected to cause an appreciable reduction in the likelihood of survival of the loggerhead sea turtle Northwest Atlantic DPS in the wild.

Recovery

The loggerhead recovery plan defines the recovery goal as “...ensur[ing] that each recovery unit meets its Recovery Criteria alleviating threats to the species so that protection under the ESA is no longer necessary” (NMFS and USFWS 2008). The plan then identifies 13 recovery objectives needed to achieve that goal. We do not believe the proposed action impedes the progress of the recovery program or achieving the overall recovery strategy because the amount of take expected to occur, over 150 year time period, as a result of the proposed action is not expected to be detectable on a population level and therefore not expected to affect population growth over the timeframe analyzed.

The recovery plan for the Northwest Atlantic population of loggerhead sea turtles (NMFS and USFWS 2008) lists the following recovery objectives that are relevant to the effects of the proposed action:

Objective: Ensure that the number of nests in each recovery unit is increasing and that this increase corresponds to an increase in the number of nesting females

Objective: Ensure the in-water abundance of juveniles in both neritic and oceanic habitats is increasing and is increasing at a greater rate than strandings of similar age classes

The recovery plan anticipates that, with implementation of the plan, the western North Atlantic population will recover within 50-150 years, but notes that reaching recovery in only 50 years would require a rapid reversal of the then-declining trends of the NRU, PFRU, and NGMRU. The minimum end of the range assumes a rapid reversal of the current declining trends; the higher end assumes that additional time will be needed for recovery actions to bring about population growth (NMFS and USFWS 2008).

We do not believe the proposed action impedes the progress of the recovery program or achieving the overall recovery strategy because the amount of take expected to occur over a 150-year time period, as a result of the proposed action is not expected to be detectable on a population level or on nesting trends, and therefore it is not expected to affect population growth over the timeframe analyzed. We also indicated that the lethal take of 34 loggerhead sea turtles over the next 150 years (with no takes anticipated during the first 25 years) is so small in relation

to the overall population, that it would not impede achieving the Recovery Objectives, even when considered in the context of the Status of the Species, the Environmental Baseline, and Cumulative Effects discussed in this Opinion. We believe this is true for both nesting and juvenile in-water populations. For these reasons, we do not believe the proposed action will impede achieving the recovery objectives or overall recovery strategy. Thus, we believe the proposed action will not result in an appreciable reduction in the likelihood of loggerhead sea turtle NWA DPS' recovery in the wild.

Conclusion

The lethal take of loggerhead sea turtles associated with the proposed action are not expected to cause an appreciable reduction in the likelihood of either the survival or recovery of the Northwest Atlantic DPS of the loggerhead sea turtle in the wild.

9 CONCLUSION

We reviewed the Status of the Species, the Environmental Baseline, the Effects of the Action, and the Cumulative Effects using the best available data.

The proposed action will result in the take of green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS). Given the nature of the proposed action and the information provided above, we conclude that the action, as proposed, is not likely to jeopardize the continued existence of green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS).

10 INCIDENTAL TAKE STATEMENT

10.1 Overview

Section 9 of the ESA and protective regulations issued pursuant to Section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without a special exemption. *Take* is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct (ESA Section 2(19)). *Incidental take* refers to takings that result from, but are not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant. Under the terms of Section 7(b)(4) and Section 7(o)(2), taking that would otherwise be considered prohibited under Section 9 or Section 4(d) but which is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA, provided that such taking is in compliance with the Reasonable and Prudent Measures and the Terms and Conditions of the Incidental Take Statement of the Opinion.

Section 7(b)(4)(c) of the ESA specifies that to provide an Incidental Take Statement for an endangered or threatened species of marine mammal, the taking must be authorized under Section 101(a)(5) of the MMPA. Since no incidental take of listed marine mammals is anticipated as a result of the proposed action, no statement on incidental take of protected marine

mammals is provided and no take is authorized. Nevertheless, the USACE must immediately notify (within 24 hours, if communication is possible) our Office of Protected Resources if a take of a listed marine mammal occurs.

As soon as the USACE becomes aware of any take of an ESA-listed species under NMFS's purview that occurs during the proposed action, the USACE shall report the take to NMFS SERO PRD via the [NMFS SERO Endangered Species Take Report Form](https://forms.gle/85fP2da4Ds9jEL829) (<https://forms.gle/85fP2da4Ds9jEL829>). This form shall be completed for each individual known reported capture, entanglement, stranding, or other take incident. Information provided via this form shall include the title, Queen Isabella Artificial Reef, the issuance date, and ECO tracking number, SERO-2023-00237, for this Opinion; the species name; the date and time of the incident; the general location and activity resulting in capture; condition of the species (i.e., alive, dead, sent to rehabilitation); size of the individual, behavior, identifying features (i.e., presence of tags, scars, or distinguishing marks), and any photos that may have been taken. At that time, consultation may need to be reinitiated.

The USACE has a continuing duty to ensure compliance with the reasonable and prudent measures and terms and conditions included in this Incidental Take Statement. If the USACE (1) fails to assume and implement the terms and conditions or (2) fails to require the terms and conditions of the Incidental Take Statement through enforceable terms that are added to the permit or grant document or other similar document, the protective coverage of Section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the USACE must report the progress of the action and its impact on the species to NMFS as specified in the Incidental Take Statement (50 CFR 402.14(i)(4)).

10.2 Amount of Extent of Anticipated Incidental Take

Based on the above information and analyses, NMFS believes that the proposed action is likely to adversely affect green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS). These effects will result from the establishment/deployment of a high-relief artificial reef structure. NMFS anticipates the following incidental take may occur as a result of the proposed action over the 2-year deployment timeframe (Table 9).

Table 7. Anticipated Incidental Take Related to Artificial Reef Deployment for the Project over 150 years

Species	Estimated lethal take during first 25 years	Estimated lethal take during first 50 years	Estimated lethal take during first 75 years	Estimated lethal take during first 100 years	Estimated lethal take over entire 150 years
Green sea turtle (North Atlantic DPS)	0	53	106	159	195
Hawksbill sea turtle	0	2	3	4	5
Kemp's ridley sea turtle	0	12	24	36	44
Loggerhead sea turtle	0	10	19	28	35

Based on the best available data, we do not anticipate any non-lethal take of the species listed above. The level of takes occurring annually is highly variable and influenced by sea temperatures, species abundances, monofilament accumulation, and other factors that cannot be predicted. Because one of the purposes of an Incidental Take Statement is to serve as a reinitiation trigger that provides clear signals that the level of anticipated take has been exceeded and, therefore, would require reexamination of the proposed action through a reinitiated consultation, we express the anticipated future take by species over the course of life of the project. The take estimate during the first 25 years for all species is zero. The take estimates for the first 100 years, and the entire 150 year life of the project are from Table 6. The take for the first 50 years, first 75 years are calculated by dividing the take for the first 100 years by 75 (the years of reef maturity at year 100), and then multiplying the result by the number of years the reef has been mature (i.e., a 50 year reef has been mature for 25 years or 1/3 of 75 years of maturity, and a 75 year reef has been mature for 50 years or 2/3 of the 75 years of maturity). The resulting numbers are rounded up for the purpose of triggering reinitiation because it not possible to take a fraction of an individual animal. The exceedance of any take estimate provided in Table 7 for any defined time period will require reinitiation (i.e., take higher than 0 for any species during the first 25 years of life for any high-relief artificial reef structure placed will require reinitiation).

10.3 Effect of Take

NMFS has determined that the anticipated incidental take specified in Section 10.2 is not likely to jeopardize the continued existence of green sea turtle (North Atlantic DPS), hawksbill sea turtle, Kemp's ridley sea turtle, and loggerhead sea turtle (Northwest Atlantic DPS) if the project is developed as proposed.

10.4 Reasonable and Prudent Measures

Section 7(b)(4) of the ESA requires NMFS to issue to any federal agency whose proposed action is found to comply with Section 7(a)(2) of the ESA, but may incidentally take individuals of listed species, a statement specifying the impact of that taking. The Incidental Take Statement must specify the Reasonable and Prudent Measures necessary or appropriate to minimize the impacts of the incidental taking from the proposed action on the species, and Terms and Conditions to implement those measures. “Reasonable and prudent measures” refer to those actions the Director considers necessary or appropriate to minimize the impact of the incidental take on the species” (50 CFR 402.02). Per Section 7(o)(2), any incidental taking that complies with the specified terms and conditions is not considered to be a prohibited taking of the species concerned.

The Reasonable and Prudent Measures and terms and conditions are required to document the incidental take by the proposed action and to minimize the impact of that take on ESA-listed species (50 CFR 402.14(i)(1)(ii) and (iv)). These measures and terms and conditions must be implemented by the USACE for the protection of Section 7(o)(2) to apply. The USACE has a continuing duty to ensure compliance with the reasonable and prudent measures and terms and conditions included in this Incidental Take Statement. If USACE fails to adhere to the terms and conditions of the Incidental Take Statement through enforceable terms, or fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of Section 7(o)(2) may lapse. To monitor the impact of the incidental take, the USACE must report the progress of the action and its impact on the species to SERO PRD as specified in the Incidental Take Statement [50 CFR 402.14(i)(4)].

NMFS has determined that the following Reasonable and Prudent Measures are necessary or appropriate to minimize impacts of the incidental take of ESA-listed species related to the proposed action. The following Reasonable and Prudent Measures and associated terms and conditions are established to implement these measures, and to document incidental takes. Only incidental takes that occur while these measures are in full implementation are not considered to be a prohibited taking of the species. These restrictions remain valid until reinitiation and conclusion of any subsequent Section 7 consultation.

1. The USACE must ensure that the applicants provide take reports regarding all interactions with ESA-listed species at Queen Isabella Artificial Reef.
2. The USACE must ensure that the applicants minimize the likelihood of injury or mortality to ESA-listed species resulting from entanglement in lost fishing gear or marine debris that accumulates at the Queen Isabella Artificial Reef.

10.5 Terms and Conditions

In order to be exempt from the prohibitions established by Section 9 of the ESA, the USACE must comply (or must ensure that any applicant complies) with the following Terms and Conditions.

The following T&Cs include the following:

- 1) To implement RPM 1, if the Permittee discovers or observes any live, damaged, injured or dead individual of an endangered or threatened species during construction, the Permittee shall immediately notify the USACE, Galveston District Engineer so that any necessary stranding coordination can be initiated with the USFWS and the NMFS.
- 2) To implement RPM 1, the federal action agency must ensure that the applicants report all known captures of ESA-listed species and any other takes of ESA-listed species to the NMFS SERO PRD.
 - a. If and when the applicant becomes aware of any known reported capture, entanglement, stranding, or other take, the applicant must report it to NMFS SERO PRD via the NMFS SERO Endangered Species Take Report Form (<https://forms.gle/85fP2da4Ds9jEL829>).
 - i. This form must reference this Opinion by the NMFS tracking number (SERO-2023-00237 Queen Isabella Reef) and date of issuance.
 - ii. This form shall be completed for each individual known reported capture, entanglement, stranding, or other take incident
 - iii. Information provided via this form shall include the species name; the date and time of the incident; the general location and activity resulting in capture; condition of the species (i.e., alive, dead, sent to rehabilitation); size of the individual, behavior, identifying features (i.e., presence of tags, scars, or distinguishing marks), and any photos that may have been taken.
 - b. Every year, the applicants must submit a summary report of capture, entanglement, stranding, or other take of ESA-listed species at Queen Isabella Artificial Reef to NMFS SERO PRD by email at nmfs.ser.esa.consultations@noaa.gov.
 - i. Emails and reports must reference this Opinion by the NMFS tracking number (SERO-2023-00237 Queen Isabella Reef) and the date of issuance.
 - ii. The report will contain the following information: the total number of ESA-listed species captures, entanglements, strandings, or other take that was reported at Queen Isabella Artificial Reef.
 - iii. The report will contain all information for any sea turtles taken to a rehabilitation facility holding an appropriate USFWS Native Endangered and Threatened Species Recovery permit. This information can be obtained from the appropriate State Coordinator for the STSSN (<https://www.fisheries.noaa.gov/state-coordinators-sea-turtle-stranding-and-salvage-network>)
 - iv. The first report will be submitted by January 31, 2025, and will cover the period from reef opening until December 31, 2024. The second report will be submitted by January 31, 2026, and cover the calendar year 2025 and the information in the first report. Thereafter, reports will be prepared every year, covering the prior rolling three-year time period, and emailed no later than January 31 of any year.
 - v. Reports will include records of the clean-ups required in the terms and conditions in 3, below.
- 3) To implement RPM 2, the USACE must ensure that the applicant must provide to the public educational resources on reducing marine debris along with all physical and online promotional materials for Queen Isabella Artificial Reef. Examples are available at <https://marinedebris.noaa.gov/multimedia/posters>.
- 4) To implement RPM 2, the USACE must ensure that the applicant must:

- a. To the extent practicable and within safe driving limits, conduct in-water structure cleanups on a regular basis to remove any derelict tackle, fishing line, or marine debris attached to the structure.

11 CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs federal agencies to utilize their authority to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation Recommendations identified in Opinions can assist action agencies in implementing their responsibilities under Section 7(a)(1). Conservation recommendations are discretionary activities designed to minimize or avoid adverse effects of a proposed action on ESA-listed species or critical habitat, to help implement recovery plans, or to develop information. The following conservation recommendations are discretionary measures that NMFS believes are consistent with this obligation and therefore should be carried out by the federal action agency:

1. Artificial reef programs should include a qualitative assessment of monofilament accumulation on artificial reef structure during artificial reef monitoring dives.
2. All vessels with a planned deployment depth below recognized recreational diving depths (i.e., 130-150 ft) should remove all railing and other non-essential structure that could otherwise easily accumulate monofilament line.
3. The applicant should require the placement and maintenance of acoustic telemetry receivers at each artificial reef site.
4. Conduct or fund research designed to increase the public's knowledge and awareness of marine debris and its impacts on ESA-listed species.

In order for NMFS to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, NMFS requests notification of the implementation of any additional conservation recommendations.

12 REINITIATION OF CONSULTATION

This concludes formal consultation on the proposed action. As provided in 50 CFR 402.16, reinitiation of formal consultation is required and shall be requested by USACE, where discretionary federal action agency involvement or control over the action has been retained, or is authorized by law, and if: (a) the amount or extent of incidental take specified in the Incidental Take Statement is exceeded, (b) new information reveals effects of the action on listed species or critical habitat in a manner or to an extent not considered in this Opinion, (c) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this Opinion, or (d) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, the USACE must immediately request reinitiation of formal consultation and project activities may only resume if the USACE establishes that such continuation will not violate Sections 7(a)(2) and 7(d) of the ESA.

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