



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

Southeast Regional Office  
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March 2, 2018

F/SER4:DD

Steve Touw, Coordinator  
Caribbean Regional Response Team  
Edison Environmental Center  
2890 Woodbridge Ave.  
Edison, NJ 08837-3679

Dear Mr. Touw:

NOAA's National Marine Fisheries Service (NMFS), Southeast Region, Habitat Conservation Division (HCD) has reviewed the Endangered Species Act (ESA) Biological Assessment and Essential Fish Habitat Evaluation (BA and EFH Evaluation) for Use of Oil Spill Dispersants and In-Situ Burning as Part of Response Actions Considered by the Caribbean Regional Response Team (CRRT).

As specified in the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), EFH consultation is required for federal actions which may adversely affect EFH. The U.S. Coast Guard (USCG) and Environmental Protection Agency (EPA), as CRRT co-chairs, have determined any impacts from dispersant and in-situ burn response operations on EFH are expected to be minor. This determination is based on the CRRT's best management practices (BMPs), policies, and procedures for the use of dispersants and in-situ burning which incorporate measures to minimize overall harm to EFH. The actions identified in the BA and EFH Evaluation as well as the consolidated BMPs indicate they are intended to avoid and/or minimize impacts to ESA and EFH resources, however as written, many of the BMPs specify "ESA-listed corals" or "designated critical habitat". As an example, the final recommendation in Booming Operations reads "Booms should be anchored in a way that avoids entanglement or abrasion of ESA-listed corals." Whereas only a few corals are listed under the ESA all corals are considered EFH under the MSFCMA. We recommend the CRRT update all their BMPs to avoid confusion and clarify actions are protective of EFH as well as ESA resources.

Also enclosed for the CRRT's information are BMPs developed by us to assist the USCG, EPA, and NOAA Scientific Support Coordinators for minimizing impacts to trust resources and serve as EFH conservation recommendations for certain, frequently utilized, emergency response activities. These are intended to prevent the need to conduct emergency consultation with HCD during every oil spill occurring in the NMFS Southeast Region's area of responsibility. They also provide the USCG and EPA advice on when it may be necessary to conduct after-the-fact consultation; generally when response activities result in unexpected or unanticipated adverse effects to habitats identified and described as EFH. These BMPs will also be maintained on the



Southeast Region's HCD website. We appreciate the opportunity to provide these comments. Questions should be directed to Mr. David Dale at (727) 824-5317 or by e-mail at David.Dale@noaa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Dale".

/ for

Virginia M. Fay  
Assistant Regional Administrator  
Habitat Conservation Division

Enclosure