

From: Mary_Orms@fws.gov
To: Wade_Stablein@nps.gov
Date: Wednesday, March 14, 2007 11:16AM
Subject: BNP ST 991 #1, ST 991 #2

Wade:

Are you taking over the oil and gas projects? I have the above project for review and I have a few questions and comments.

- 1) It appears that the project is located at the same location or well pad used by Peach and Manzano, for which we already have an existing Biological Opinion on for BNP. Is that correct?
- 2) At that time the Peach Biological Assessment stated that the NPS's Biological Assessment determined a "may affect, but not likely to adversely affect any listed species or critical habitat", however, NPS requested formal consultation. Because of ongoing litigation at that time the Service accepted the BA as it was and complied with NPS's request for a Biological Opinion. The Dunn-Murdock BA was written the same way. The Service has been accommodating the Park's requests, but this is actually incorrect. Formal consultation is triggered by a "may affect" determination, which for oil and gas activities that require beach access the likelihood of a turtle being impacted does exist even with all the measures be in place and it would be prudent for PAIS to be issued an incidental take statement just in case there is a "take". Therefore, the Service would recommend, if appropriate, future BA's reflect a "may affect" determination on species that could be impacted, such as the sea turtles, and the transmittal letter reflect the same.
- 3) For the ST 991#1 and ST 991 #2, if it located in the same location as the Peach and Manzano, we can amend that biological opinion and include this project under that BO because it is in the same location, and same company. However, we recommend the BA and the transmittal letter be revised to show a "may affect" on the sea turtles and the transmittal letter request an amendment to the existing biological opinion (2-11-04-F-050) to include these additional projects.
- 4) You may wonder why we did a biological opinion on Dunn Murdock if it was in the same location as the previous one. The reason is that 1) BNP received was not issued a biological opinion at the time that project was to be done, 2) a different company (Kindee not BNP) is doing the project now and we have new information on sea turtle impacts and have measures that need to be adhered to.

If you have any questions, please feel free to call me.

Mary Orms
U.S. Fish and Wildlife Service
Corpus Christi Ecological Services Field Office
c/o Texas A&M University at Corpus Christi
6300 Ocean Drive, Unit 5837
Corpus Christi, TX 78412-5837
Phone: (361) 994-9005 Ext: 246
Fax: (361) 994-8262