**Memo to File**

**FROM:** Mark VanMouwerik, Restoration Project Manager, Environmental Quality Division, National Park Service

**DATE:** June 6, 2019

**SUBJECT:** Summary of Endangered Species Act (ESA) compliance

On March 22, 2019, I completed – with Mike Wrigley’s (NPS Intermountain Region Chief of Biological Resources and ESA specialist) and Kristen Philbrook’s (NPS Intermountain Region Wildlife Biologist and ESA specialist) assistance – a “Biological Assessment (BA) – Limited Scope Assessment” for the 2018 “Draft Amendment to the Final Restoration Plan and Environmental Assessment, M/T Skaubay and M/V Berge Banker Oil Spill Natural Resource Damage Assessment, Galveston, Texas.” This 20-pg. document described the projects, the project area, the T&E species and critical habitat in the project area, the conservation measures that would be taken for each species and for the critical habitat, and the effects on species and critical habitat. It concluded that the action to be taken A) “may affect, but is not likely to adversely affect” the T&E species, and B) “may affect, but are not likely to adversely affect” Piping Plover critical habitat; there will be “no adverse modification” of Piping Plover critical habitat.

The BA was emailed along with a cover letter – signed by Mark Spier, NPS representative to the Trustee Council and Padre Island National Seashore Superintendent – to Mary Orms at the U.S. Fish and Wildlife Texas Coastal Ecological Services Field Office in Corpus Christi, Texas on March 28, 2019. The letter informed her of our determinations and requested their written concurrence.

On April 5, 2019, Ms. Orms informed me that she was working on several large projects that came in before ours. After that, no communications were received from her or the Corpus Christi Field Office despite me calling her twice and leaving messages, asking Chip Wood of that same office to contact her, Kendal Keyes of Texas Parks and Wildlife Department emailing her on May 24, 2019, and me emailing her on April 12 and May 3.

Since it has been over 30 days (69 days, actually) since the BA and cover letter were sent to Ms. Orms at the FWS Field Office, we are moving forward on completing NEPA compliance by checking the box “No” for the question in the Extraordinary Circumstances table in the eight NPS categorical exclusion (CE) forms that says “If implemented, would the proposal… H. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?” Compliance with ESA for these projects is now considered complete.

Also note: on November 21, 2014, Mary Orms at the FWS Corpus Christi Field Office did provide a determination to Kendal Keyes (TPWD Biologist) on the construction of five bollard-and-cable fences at MISP, one of which – the “Bollard and Cable Fencing for Pedestrian Safety at Day Use Area” project – is in the 2018 Amended Plan. The determination was for the five sea turtle species, Piping Plover, Red Knot, and Whooping Crane. FWS did not disagree with TPWD’s “no effect” determination on whooping cranes; and FWS concurred with TPWD’s determination of “may affect, but is not likely to adversely affect” Piping Plovers, Red Knots, and nesting sea turtles.”