

July 15, 2010

The Honorable Ken Salazar
Secretary of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Endangered Species Act Consultation on Offshore Oil Drilling Actions

Dear Mr. Secretary:

On behalf of the Endangered Species Coalition and our members who join us in signing this letter, we are writing to express our strong concern that the Department of the Interior (DOI) and the Minerals Management Service (MMS), as well as the entities permitted by these agencies to engage in offshore oil operations in the Gulf of Mexico and elsewhere, appear to be in violation of the Endangered Species Act (ESA) and other important conservation laws. Such violations started before the horrific April 20 BP blow-out and continue to this day.

The ESA requires consultation with the expert wildlife agencies, including the U.S. Fish and Wildlife Service (FWS) under DOI, concerning any agency action that may affect any threatened or endangered species. These species include listed whales, fish, sea turtles and birds. ESA Section 7 consultation is a powerfully constructive tool that can help prevent and prepare for the type of disaster presently gripping the Gulf ecosystem. For example, early consultations would identify adverse effects on listed species or their critical habitat from proposed drilling projects and provide the National Marine Fisheries Service and the FWS with the ability to recommend modifications or mitigation measures to eliminate or reduce these impacts. Significantly, such consultations would include an assessment of the likely impacts of oil spills, including the operator's ability to contain or clean up an oil spill.

The current disaster in the Gulf will devastate endangered species and important wildlife habitat for years to come. At least 36 national wildlife refuges managed by DOI will be

negatively impacted. Most migratory birds in the Western Hemisphere use these marshes as a stopover site. Endangered species such as the Least Tern, beach mice and the Piping Plover are breeding and nesting along this vulnerable coast. Sperm whales, dolphins, and sea turtles swim in the coastal waters. The list goes on.

This tragedy has demonstrated the extraordinarily high risks of oil exploration off our coasts. We find it reckless that DOI has continued to exempt or fast-track dangerous new drilling operations from environmental review since the initial oil disaster. It is particularly unacceptable that numerous offshore oil drilling actions have been approved under the same environmental review short-cuts, including non-compliance with the ESA, used by DOI to approve the *Deepwater Horizon* drilling project which has resulted in the greatest environmental disaster in our nation's history.

In order to help ensure the best response to the current spill and to help prevent or mitigate any future spills, MMS and other agencies (such as Environmental Protection Agency, National Oceanic and Atmospheric Administration, Coast Guard, and Department of Energy) must initiate consultation under the ESA now. FWS needs to be proactive in this process. While current cleanup efforts should continue, actions that should be assessed via consultation include: using or failing to use various clean up techniques; the application of potentially dangerous dispersants; proposals for sand-churning or steam-cleaning; burning of captured oil; wildlife remediation actions; building of sand berms, and others. We are very concerned about reports of endangered sea turtles caught and burned in the booms. MMS and other agencies should also re-examine existing or previous consultations under the ESA to assess cumulative impacts, related actions and other new information for all current offshore oil and gas drilling activities. Interagency consultation should continue over the clean up and restoration process, as well as apply to new policies or actions on future oil and gas drilling activities.

In addition, we feel it is imperative that you request increased funding for endangered species recovery in the Gulf region. Ultimately, BP must pay for impacts to endangered species and their habitats, but increased funding is needed now both to expand staffing at the FWS office in the Gulf and to work with additional trained professionals.

Federal and State agencies do not have enough trained people to adequately monitor and respond to the wildlife impacts. The joint command must establish reasonable and meaningful criteria *immediately* to allow qualified non-governmental professional and para-professional personnel access to enter and help in response and recovery efforts, including the prevention of unintentional disturbance or destruction of habitat of beach nesting birds, and emergency hiring and contracting should be expedited. Now and in the future, DOI must have policies in place that would allow qualified non-governmental organizations and other professional wildlife experts to assist in the search and rescue of endangered species during an oil spill, as well as in the documentation and assessment of both short- and long-term impacts.

By our count, there are approximately 40 threatened and endangered species that live and/or migrate through the Gulf region. Many like the Kemp's ridley sea turtle are critically endangered and others like the Brown Pelican have only recently recovered. We request that there be a thorough review and re-evaluation of recovery plans for endangered and threatened species affected by the spill. We call on you to initiate a full scientific review of the short- and long-term consequences of the oil, hydrocarbons and dispersants on threatened, endangered and other vulnerable species like the Brown Pelican (recently de-listed). Funding and programs must be set up now to begin this necessary long-term monitoring.

We believe all consultations from here on out need to be initiated at the beginning of the Outer Continental Shelf Lands Act permitting process, using the best available science and providing transparency in all decision-making. This is precisely how we can avoid these catastrophes in the future. We look forward to learning that you and those you regulate have come into full compliance with the ESA and that recovery of endangered and threatened species is at the forefront of decisions and actions FWS and other agencies make with regard to cleanup and mitigation. We also look forward to learning what specific steps you will take to correct flaws in ESA implementation associated with these devastating results. The ESA is a crucial component of the current situation and to preventing ones like it in the future.

Sincerely,

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Cc: Dr. Jane Lubchenco, Rep. Pelosi, Rep. Markey, Rep. Rahall, Rep. Obey, Rep. Moran,
Rep. Mollohan, Sen. Boxer, Sen. Feinstein, Sen. Reid, Sen. Mikulski, Nancy Sutley