

U.S. Department of  
Homeland Security

United States  
Coast Guard



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United States Coast Guard

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29 Apr 2020

Barry Thom  
Regional Administrator  
National Marine Fisheries Service  
West Coast Region  
ATTN: Penny Ruvelas  
501 West Ocean Boulevard, Suite 4200  
Long Beach, CA 90802-42

Re: CBD NOI and Reinitiation

Dear Mr. Thom:

On October 24, 2013, the Coast Guard initiated consultation with NOAA's National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. § 1531 et seq.) for the regulatory codification of Traffic Separation Schemes (TSS) near the ports of Los Angeles/Long Beach and San Francisco/Oakland.

On February 23, 2017, NOAA/NMFS West Coast Region issued a biological opinion stating, "Our analysis indicates that the proposed action is not likely to adversely affect most of these species, and in particular, is not likely to jeopardize humpback whales, blue whales, fin whales, or leatherback sea turtles." The biological opinion is serialized as NMFS No. SWR-2013-9813. Section 2.10 of the biological opinion concluded the formal consultation for the codification under the Ports and Waterways Safety Act of three traffic separation schemes off of California, and discussed the applicable criteria for reinitiation of the consultation, 50 C.F.R. § 402.16.

Since the conclusion of the consultation, the Coast Guard has made no modifications to the three traffic separation schemes consulted on in the biological opinion. The Coast Guard, however, has identified new scientific literature, published since February 23, 2017, that may reveal previously unrecognized effects of the regulatory codification of the TSS that may affect listed species in a manner or to an extent not considered in the biological opinion. We have also identified two newly listed species, oceanic white tip shark (*Carcharinus lonigmanus*) and giant manta ray (*Manta birostris*), that may be affected in the action area of the TSS.

The Coast Guard hereby requests reinitiation of consultation pertaining to NMFS No. SWR-2013-98123 in accordance with Section 2.10 of the biological opinion and 50 C.F.R. §§ 402.16(a)(2), and (a)(4), to ascertain the likelihood of adverse effects, if any, on a listed species.

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We further request Technical Assistance as set forth in Section 3.3 of the ESA Section 7 Consultation Handbook, March 1998, *e.g.*, receiving a species list to ensure all post-consultation listings are properly identified. Finally, we request to conference under 50 CFR § 402.10 regarding the proposed critical habitat for humpback whales published in the Federal Register on October 10, 2019. Endangered and Threatened Wildlife and Plants: Proposed Rule to Designate Critical Habitat for the Central America, Mexico, and Western North Pacific Distinct Population Segments of Humpback Whales, 84 Fed. Reg. 54354 (Oct. 9, 2019).

Sincerely,

TIMOTHY M. BROWN  
U.S. Coast Guard  
Chief, Office of Standards Evaluation and Development  
By direction of the Commandant