**TEMPLATE for Request to NOAA Fisheries Southeast Regional Office**

**for Initiation of Expedited Informal Consultation**

June, 2021

<**bold text**> indicates information needed from you. Please adjust as necessary for your Action Agency and consultation requirements.

*Italic text provides guidance that you will delete from your letter*

Tables have been cross-referenced to aid the user

Hyperlinks take you to example language and helpful websites

<**insert date**>

Mr. David Bernhart

Assistant Regional Administrator for Protected Resources

National Marine Fisheries Service

Southeast Regional Office

St. Petersburg, Florida

Re: Request for Initiation of Expedited Informal Consultation under section 7(a)(2) of the Endangered Species Act for <**insert project name and, if available, project/permit number**>.

Dear Mr. Bernhart:

The <**insert Federal action agency (acronym)>** proposes to <**carry out/authorize/fund**> the proposed project as described below. We request initiation of informal consultation under section 7(a)(2) of the Endangered Species Act (ESA) for the <**insert name of the project>**. We have determined that the proposed activity may affect, but is not likely to adversely affect, the ESA-listed species and critical habitat included in the table(s) below. Our supporting analysis is provided below. We request your written concurrence with our determinations.

Pursuant to our request for expedited informal consultation, we are providing, enclosing, or otherwise identifying the following information:

* A description of the action to be considered;
* A description of the action area;
* A description of any listed species or critical habitat that may be affected by the action; and
* An analysis of the potential routes of effect on any listed species or critical habitat.

**Proposed Action**

This proposed project is intended to <**briefly explain the purpose of the project>**. We expect work to commence on **<insert anticipated starting date for work and any construction windows>**, and extend through **<anticipated completion date with a buffer if practicable to prevent the need for reinitiation of consultation due to weather delays or equipment difficulties> <insert any appropriate proposed project plans that help the reader to understand the proposed action>.**

*For Federal action agencies that may have an existing consultation for the proposed action (Letter of Concurrence, Biological Opinion, or Programmatic), please describe the consultation and why this project does not fit under it. For example, if USACE Jacksonville District, why does the proposed action not fall under the JAXBO?*

*Describe all activities to be carried out. Bullets, tables, and concise descriptive text are preferable to narrative paragraphs. Adequate descriptions for each component of a project are required to determine the effects of an action. The details below relate to activities that the Southeast Regional Office (SERO) frequently consults on; however, these do not cover all activities that may occur under various projects. Other component activities of the project should be described with sufficient detail to understand potential routes of effects to listed species and critical habitat.*

* *If turbidity/silt curtains or cofferdams will be used, describe:*
	+ *installation method*
	+ *size of area within the curtain or cofferdam*
	+ *in-water duration of installed curtain or cofferdam*
* *If dredging, include the following information:*
	+ *dredge type*
	+ *maintenance dredging or new dredging*
	+ *volume and type (sand, mud, rock, etc.) of material to be removed*
	+ *current depth of area to be dredged*
	+ *proposed (new dredging) or currently authorized (maintenance dredging) dimensions (area and depth) of channel and/or location to be dredged*
	+ *disposal location and estimate of number of trips*
	+ *if maintenance is included, indicate the frequency of recurring dredging and location of disposal*
	+ *time of year proposed (dredging start and stop dates)*
	+ *duration of work (total hours or days of dredging)*
* *If pile driving, complete Table 1 below. Use a separate column for each unique combination of pile type and installation method (examples are provided below). List all noise-related Best Management Practices (BMPs) and noise abatement measures that will be used. For more information on BMPs or noise abatement, go to our* [*Section 7 Consultation Guidance*](https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance) *(https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance).* *A confined space is any space that is bounded by solid object(s) (such as a shoreline, seawall, jetty, or other structure) that are within the estimated injurious or behavioral radii and would effectively serve as a barrier or otherwise prevent animals from moving past it to exit the area. This does not include objects such as docks or other pile-supported structures that would not stop animal movement or significantly reflect noise. Conversely, in an open-water environment, the animal would be able to move away from the noise without passing through or by the noise source.*

**Table 1. Pile Installation**

| Pile Type and Material | *Concrete, Square* | *Wood, Round* | *Pre-cast Concrete Panels* |
| --- | --- | --- | --- |
| Pile Diameter (inches) | *24-in* | *12-in* | *NA* |
| Number of Piles Total | *5* | *10* | *NA* |
| Installation Method | *Impact* | *Vibratory* | *Jetting* |
| Number of Strikes per Pile (if using impact hammer) or Number of Seconds of Vibration per Pile (if using vibratory hammer) | *NA* | *NA* | *NA* |
| Number of Piles Installed per Day (if using impact or vibratory hammer) | *No more than 5* | *2* | *NA* |
| Duration of pile driving activity (days) | *5-6* | *1-2* | *3-4* |
| Substrate and water depth in pile installation area | *Sand/Silt, 10 ft* | *Sand, 3 ft* | *Sand/Mud, at MHW* |
| Confined Space or Open Water? | *Open Water* | *Open Water* | *Open Water* |
| Noise abatement used | *Nylon cushion block* | *None* | *None* |

* *If there will be project vessels, provide*:
	+ *approximate size and type of vessel (i.e., deep draft, cargo, barge etc.)*
	+ *available information on speed*
	+ *travel routes*
	+ *number of trips*
	+ *time window of operations*
	+ *amount of time each vessel will be underway*
	+ *presence of lookout*
* *If in-water or over-water structures, include the following information:*
	+ *size of the structure and how it will be constructed, installed, or removed*
	+ *whether any listed or non-listed special resources (i.e., seagrass, mangroves, or corals) are in the footprint of the structure*
	+ *generally, (depending on location, listed species, critical habitat, etc.) repair and/or replacement of public fishing piers cannot be consulted on informally unless the project has an existing consultation that considers the potential of “take” due to recreational fishing*
* *If aquaculture, describe:*
	+ *species being grown/raised*
	+ *source of species (spat, stock, etc.)*
	+ *all proposed gear including vertical and ground lines, anchoring methods*
	+ *layout of gear (include figures wherever possible)*
	+ *markings and maintenance planned for gear*
	+ *size of area impacted/leased and portion of area where gear will be deployed*
* *If artificial reef:*
	+ *Depending on the material and location of the artificial reef the consultation may be informal or formal. If the artificial reef material will consist of low-relief material and is not located within the boundary of any critical habitat, it is likely that the consultation can be completed informally. However, location and size configurations of reef material will need to be considered in critical habitat for all species to determine whether the consultation will be formal or informal. Low-relief reef material includes materials such as solid concrete material, rock rubble, and individual artificial reef modules that present less complicated vertical relief. Please see* [*Guidance for Consultations on Artificial Reef Projects*](https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance)*(*[*https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance*](https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance)*) for more information.*
	+ *NMFS SERO considers high-relief, complex artificial reef material to include any vessel, aircraft, decommissioned oil rig, bridge span, metal tower, etc., that extends 7 feet or more from the seafloor and that has a footprint greater than 200 square feet (individually or collectively), excluding prefabricated artificial reef modules. Because sea turtles have become entangled in high relief artificial reef material the consultation will likely be formal.*
* *If rip-rap or other material being placed* *on shoreline or bottom, describe:*
	+ *type of material*
	+ *dimensions (water depth, linear feet, and area covered by riprap)*
	+ *placement method (e.g., small rocks by hand)*
	+ *material source location*
	+ *whether material will be placed below and/or above the waterline*
	+ *volume of material to be placed*
	+ *characteristics of substrate that will be covered or removed*

*If there is any activity on land, include it. If the effects of land based activities do not extend into the water, then explain why no listed species under NMFS jurisdiction will be exposed to effects of land-based activities and, thus, this aspect of the proposed action will not be considered further*. *If effects of land based activities extend into the water, include an assessment in the “Effects” section of this consultation request.*

**Conservation Measures and BMPs**

* *Indicate whether the* [*Protected Species Construction Conditions*](file:///C%3A%5CUsers%5Ccalusa.horn%5CDesktop%5CProtected%20Species%20Construction%20Conditions%2C%20Revised%3A%20May%202021%20%28PDF%2C%203%20pages%29) *will be followed (https://media.fisheries.noaa.gov/2021-06/Protected\_Species\_Construction\_Conditions\_1.pdf).*
* *Include any other mitigation/minimization measures proposed as part of the action (e.g., special permit conditions, restrictions on equipment, time of year, daytime only construction, etc.).*

**Description of the Action Area**

The *action area* is all areas to be affected by the Federal action and not merely the immediate area involved in the action (50 CFR 402.02). *Effects of the action* are all consequences to listed species or critical habitat that are caused by the proposed action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. The action area is distinct from and can be larger than the project footprint because some elements of the project may affect listed species or critical habitat some distance from the project footprint. The action area, therefore, extends out to a point where no effects from the project are expected to occur.

For this project, the action area includes <**provide a description of the geographic area where all project effects may extend, including latitude and longitude in decimal degrees, and name of waterbody. If applicable, note the distance between the action area and the nearest estuary or ocean inlet. Insert action area figure.>**.

*Considerations for determining the action area for projects that SERO frequently consults on are provided below. Additional information may be required depending on the project type.*

* *Area affected by the dredging:*
	+ *dredging area and disposal area*
	+ *transit route to disposal area*
	+ *extent of sediment/turbidity plume during dredging AND disposal*
* *Area affected by pile driving and associated noise:*
	+ *anticipated distance noise may propagate from the pile driving source*
	+ *extent of sediment disturbance*
* *Area affected by vessel traffic:*
	+ *number, type, and route of vessels associated with the dredging and/or construction to and from the project site as well as operations and functions at the project site and disposal area; new vessel traffic that may result from additional moorings/boat slips.*
	+ *If effects of land based activities extend into the water, include the extent of those effects in the action area.*
	+ *Extent of any other effects*

*This section should also describe the conditions, habitats, and uses dominating the action area, including the project footprint. Identify general site conditions, include water depth, substrate type, and presence of any submerged aquatic vegetation, hard bottoms, mangroves, corals, etc.*

*For help defining the Action Area go to our* [*Section 7 Consultation Guidance*](https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance) *(https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance).*

*The most common error is not including the noise impact radius in the action area.*

# Potentially Affected NMFS ESA-Listed Species and Critical Habitat

*Please see* [*NMFS Threatened and Endangered Species and Critical Habitats*](https://www.fisheries.noaa.gov/southeast/consultations/threatened-and-endangered-species-and-critical-habitats) *for more information (*[*https://www.fisheries.noaa.gov/southeast/consultations/threatened-and-endangered-species-and-critical-habitats*](https://www.fisheries.noaa.gov/southeast/consultations/threatened-and-endangered-species-and-critical-habitats)*).*

We have assessed the listed species that may be present in the action area and our determination of the project’s potential effects to them as shown in Table **2** below. *Delete the row(s) in Table 2 for species that are not present in the action area and select your effect determination for each species that may be present.*

Please note abbreviations used in *Table 2*: E = endangered; T = threatened; NLAA = may affect, not likely to adversely affect; NE = no effect; N/A = not applicable

**Table 2. ESA-listed Species in the Action Area and Effect Determination(s)**

| **Species** | **ESA Listing Status** | **Listing Rule/Date** | **Most Recent Recovery Plan/Outline Date** | **Effect Determination (Species)** |
| --- | --- | --- | --- | --- |
| **Sea Turtles** |  |  |  |  |
| Green (North Atlantic [NA] distinct population segment [DPS]) | T | 81 FR 20057/April 6, 2016 | October 1991 | Choose an item. |
| Green (South Atlantic [SA] DPS) | T | 81 FR 20057/April 6, 2016 | October 1991 | Choose an item. |
| Kemp’s ridley | E | 35 FR 18319/December 2, 1970 | September 2011 | Choose an item. |
| Leatherback | E | 35 FR 8491/June 2, 1970 | April 1992 | Choose an item. |
| Loggerhead (Northwest Atlantic [NWA] DPS) | T | 76 FR 58868/September 22, 2011 | December 2008 | Choose an item. |
| Hawksbill | E | 35 FR 8491/June 2, 1970 | December 1993 | Choose an item. |
| **Fish** |  |  |  |  |
| Smalltooth sawfish (U.S. DPS) | E | 68 FR 15674/April 1, 2003 | January 2009 | Choose an item. |
| Gulf sturgeon (Atlantic sturgeon, Gulf subspecies) | T | 56 FR 49653/September 30, 1991 | September 1995 | Choose an item. |
| Shortnose sturgeon | E | 32 FR 4001/March 11, 1967 | December 1998 | Choose an item. |
| Atlantic sturgeon (Carolina DPS) | E | 77 FR 5914/February 6, 2012 | N/A | Choose an item. |
| Atlantic sturgeon (SA DPS) | E | 77 FR 5914/February 6, 2012 | N/A | Choose an item. |
| Atlantic sturgeon (Chesapeake Bay DPS) | E | 77 FR 5914/February 6, 2012 | N/A | Choose an item. |
| Atlantic sturgeon (New York Bight DPS) | E | 77 FR 5914/February 6, 2012 | N/A | Choose an item. |
| Atlantic sturgeon (Gulf of Maine DPS) | T | 77 FR 5914/February 6, 2012 | N/A | Choose an item. |
| Scalloped hammerhead shark (Central and Southwest Atlantic DPS) | T | 79 FR 38213/July 3, 2014 | N/A | Choose an item. |
| Nassau grouper | T | 81 FR 42268/June 29, 2016 | 2018 | Choose an item. |
| Giant manta ray | T | 83 FR 2916/January 22, 2018 | 2019 | Choose an item. |
| Oceanic whitetip shark | T | 83 FR 4153/January 30, 2018 | 2018 | Choose an item. |
| **Invertebrates and Marine Plant** |  |  |  |  |
| Elkhorn coral (*Acropora palmata*) | T | 71 FR 26852/May 9, 2006 | March 2015 | Choose an item. |
| Staghorn coral (*Acropora cervicornis*) | T | 71 FR 26852/May 9, 2006 | March 2015 | Choose an item. |
| Boulder star coral (*Orbicella franksi*) | T | 79 FR 53852/September 10, 2014 | N/A | Choose an item. |
| Mountainous star coral (*Orbicella faveolata*) | T | 79 FR 53852/September 10, 2014 | N/A | Choose an item. |
| Lobed star coral (*Orbicella annularis*) | T | 79 FR 53852/September 10, 2014 | N/A | Choose an item. |
| Rough cactus coral (*Mycetophyllia ferox*) | T | 79 FR 53852/September 10, 2014 | N/A | Choose an item. |
| Pillar coral (*Dendrogyra cylindrus*) | T | 79 FR 53852/September 10, 2014 | N/A | Choose an item. |
| Johnson’s seagrass | T | 63 FR 49035/September 14, 1998 | October 2002 | Choose an item. |
| **Marine Mammals** |  |  |  |  |
| North Atlantic right whale | E | 35 FR 18319/December 2, 1970 | June 2005 | Choose an item. |
| Blue whale | E | 35 FR 18319/December 2, 1970 | July 1998 | Choose an item. |
| Fin whale | E | 35 FR 12222/December 2, 1970 | August 2010 | Choose an item. |
| Sei whale | E | 35 FR 12222/December 2, 1970 | December 2011 | Choose an item. |
| Sperm whale | E | 35 FR 12222/December 2, 1970 | December 2010 | Choose an item. |
| Bryde’s whale | E | 84 FR 15446/April 15, 2019 | 2020 | Choose an item. |

*Select either the following statement or Table 3 with associated text, as applicable, and delete the other selection.*

The project is not located in critical habitat, and there are no potential routes of effect to any critical habitat.

*OR*

We have assessed the critical habitats that overlap with the action area and our determination of the project’s potential effects to them as shown in Table **3** below. *Delete the row(s) in Table 3 for critical habitats that are not present in the action area and select your effect determination for each critical habitat that does overlap with the action area. Duplicate rows in the table if the action area overlaps with multiple critical habitat units for the same species (e.g., LOGG-N-17 and LOGG-S-1 would be 2 separate rows).*

Please note abbreviations used in Table **3**: NLAA = may affect, not likely to adversely affect; NE = no effect

**Table 3. Critical Habitat(s) in the Action Area and Effect Determination(s)**

| **Species** | **Critical Habitat in the Action Area** | **Critical Habitat Rule/Date** | **Effect Determination****(Critical Habitat)** |
| --- | --- | --- | --- |
| **Sea Turtles** |  |  |  |
| Green sea turtle(North Atlantic and South Atlantic DPS) | Choose an item. | 63 FR 46693/September 2, 1998 | Choose an item. |
| Leatherback sea turtle | Choose an item. | 44 FR 17710/March 23, 1979 | Choose an item. |
| Loggerhead sea turtle(Northwest Atlantic Ocean DPS) | Choose an item. | 79 FR 39856/July 10, 2014 | Choose an item. |
| Hawksbill sea turtle | Choose an item. | 63 FR 46693/September 2, 1998 | Choose an item. |
| **Fish** |  |  |  |
| Smalltooth sawfish (U.S. DPS) | Choose an item. | 74 FR 45353/September 2, 2009 | Choose an item. |
| Atlantic sturgeon (South Atlantic DPS) | Choose an item. | 82 FR 39160/August 17, 2017 | Choose an item. |
| Atlantic sturgeon (Carolina DPS) | Choose an item. | 82 FR 39160/August 17, 2017 | Choose an item. |
| Gulf sturgeon | Choose an item. | 68 FR 13370/March 19, 2003 | Choose an item. |
| **Invertebrates and Marine Plant** |  |  |  |
| Elkhorn coral | Choose an item. | 73 FR 72210/November 26, 2008 | Choose an item. |
| Staghorn coral | Choose an item. | 73 FR 72210/November 26, 2008 | Choose an item. |
| Johnson’s seagrass | Choose an item. | 65 FR 17786/April 5, 2000 | Choose an item. |
| **Marine Mammal** |  |  |  |
| North Atlantic right whale | Choose an item. | 81 FR 4837/January 27, 2016 | Choose an item. |

**Effects of the Action**

*Concurrence from NMFS is only required for NLAA determinations. This section needs to contain the substantive analysis that supports your NLAA conclusions. If ALL effects determinations are NE, then consultation with NMFS is not required (see https://media.fisheries.noaa.gov/dam-migration/02-110-20.pdf). If you have made NE determinations for some species, you are not required to provide that analysis in your concurrence request, but we recommend that you do so, particularly when the reason for the NE may not be self-evident (e.g., an action is of a type that can affect a particular species that occurs in the project vicinity, but there is a local barrier that prevents the species from being exposed to the action). If the effect determination for any listed species or critical habitat is “may affect, likely to adversely affect”, then formal consultation with NMFS is required and the Expedited Informal Consultation Track is not available.*

*The “Effects of the Action” section should be organized by routes of effect, which may result from multiple aspects of the proposed action. In general, this section should discuss the direction, intensity, and duration of the different effects of the action on the species clearly explaining how the effect meets the NLAA standard, meaning it’s either beneficial, insignificant, or extremely unlikely to occur. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact (and should never reach the scale where take occurs). Based on best judgment, a person would not be able to meaningfully measure, detect, or evaluate insignificant effects. For examples of completed consultations please search the* [*Environmental Consultation Organizer (ECO)*](https://www.fisheries.noaa.gov/resource/tool-app/environmental-consultation-organizer-eco) *(*[*https://www.fisheries.noaa.gov/resource/tool-app/environmental-consultation-organizer-eco*](https://www.fisheries.noaa.gov/resource/tool-app/environmental-consultation-organizer-eco)*). ECO is a web-based query system that allows all federal agencies, project managers, permit applicants, consultants, and the general public to find NMFS’s ESA and Essential Fish Habitat (EFH) consultations.*

ROUTE(S) OF EFFECT TO ESA-LISTED SPECIES:

*For each route of effect provide the following information as applicable:*

* *Establish if individuals will be exposed to the effect/stressor and if so, which individuals (i.e., life stage, species);*
* *Consider physical and noise impacts as well as impacts to the species from effects to their habitat;*
* *Describe habitat used by the listed species in the action area;*
* *Discuss how the habitat would be utilized by the species (e.g., foraging, migrating, breeding, spawning, over-wintering);*
* *Duration of species presence (i.e., is it occasional, intermittent, or are they there for days or months at a time and does it overlap with when the activity will take place?);*
* *Explain why each species is expected to be in the area where effects will be experienced;*
* *Conduct a noise analysis for pile-driving activities and any other activities that may affect listed species. Noise analysis is not needed for every project (i.e., for dredging or other non-pile-driving activities with a no effect determination). Please see the* [*How to Calculate Acoustic Impacts for Effects Analysis*](https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance) *for assistance in conducting your analysis (https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance).*

*Additionally, explain the consequence of that route of effect; provide rationale for why the effects are extremely unlikely to occur or insignificant (unable to be meaningfully measured, detected or evaluated) or wholly beneficial (positive effects with no associated negative effects).*

ROUTES OF EFFECT TO CRITICAL HABITAT

*Include this section only if the project may affect critical habitat, as shown in Table 3. For each type of critical habitat in the action area, choose one of the options, below, and DELETE the others.*

The project is located within the boundary of <**insert critical habitat unit**>. However, none of the physical or biological features essential for the conservation of the species (“essential features”) are present, and there are no potential routes of effect to this critical habitat.

*-OR-*

The project is located within the boundary of <**insert critical habitat unit**>. The following physical or biological features essential for the conservation of the species (“essential features”) are present in <**Unit #**> <**list essential feature(s)**>. We do not believe any of the essential features may be affected by the proposed action.

*-OR-*

The project is located in <**insert critical habitat unit**>. The physical or biological features essential for the conservation of the species (“essential features”) are present in <**Unit #**> <**list features**>. We believe only the <**insert essential feature(s)**> may be affected by the proposed action.

*-If any critical habitat may be affected, THEN complete the following evaluation for each type-*

*Discuss the direction, intensity, and duration of the effect of the action on the essential features of habitat clearly explaining how the effect is beneficial, insignificant, or extremely unlikely to occur. This section should clearly indicate (1) a specific route of effect to the essential feature(s), (2) your effects determination regarding that route of effect, and (3) your rationale for reaching that determination.*

**Conclusion**

The <**insert action agency**> has reviewed the proposed project for its effects to ESA-listed species and their critical habitat. Based on the analysis above, we have determined that <**insert proposed action>** is not likely to adversely affect any listed species or critical habitat under NMFS’s jurisdiction. We have used the best scientific and commercial data available to complete this analysis. We request your concurrence with this determination.

Sincerely,

<**Signature**>

**Literature Cited**

<**Provide a complete citation for any references included in this letter>** *(Please note: the literature cited is very important because in order to determine if we concur with your NLAA determination, we may need to review the literature that you used as a basis for your determination. For some of our frequently requested consultations and references please see* [*Frequently Requested Biological Opinions*](https://www.fisheries.noaa.gov/content/endangered-species-act-section-7-biological-opinions-southeast) *(https://www.fisheries.noaa.gov/content/endangered-species-act-section-7-biological-opinions-southeast)).*