



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

Frank J. Cianfrani  
Chief, Regulatory Branch  
US Army Corps of Engineers  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390

FEB 25 2005

Attn: Edward Bonner, CENAP-OP-R-200401135-1

Dear Mr. Cianfrani,

This is in response to Public Notice number CENAP-OP-R-200401135-1, dated December 17, 2004, in regards to a proposed permit for 15 artificial reef sites in the Atlantic Ocean along the coast of New Jersey between Sandy Hook and Cape May. The 15 artificial reef sites include 2 previously authorized sites within the New York District boundaries, 12 previously authorized sites within the Philadelphia District boundaries, and 1 proposed new site within the Philadelphia District boundaries. The applicant wishes to combine the 14 existing permits along with the new proposed site to form one single permit document.

As mentioned in our letter dated, February 1, 2005, several threatened and endangered sea turtle and whale species under the jurisdiction of the National Marine Fisheries Service (NMFS) are known to occur seasonally in the waters of New Jersey. Federally threatened loggerhead (*Caretta caretta*), endangered Kemp's ridley (*Lepidochelys kempi*) and endangered green (*Chelonia mydas*) sea turtles can be found in New Jersey waters during the summer months. The general trend for these species is to migrate to the New Jersey area in early summer and return south when the water temperature decreases around October. These three species of sea turtles are known to inhabit shallow harbors and embayments and may be present in the project area from May 1 – November 15 of any year. Federally endangered leatherback sea turtles (*Dermochelys coriacea*) are located in New Jersey waters during the warmer months as well. Concentrations of leatherbacks have been observed during the summer off the south shore of Long Island and off the coast of New Jersey. Leatherbacks in these waters are thought to be pursuing their preferred jellyfish prey.

Federally endangered North Atlantic right whales (*Eubalaena glacialis*) and humpback whales (*Megaptera novaeangliae*) may be found seasonally in New Jersey waters. North Atlantic right whales have been documented in the near shore waters of New Jersey from September 1 – March 31. Humpback whales feed during the spring, summer, and fall over a range that encompasses the eastern coast of the United States and may be found in New Jersey waters from February –



April and September - November. Fin (*Balaenoptera physalus*) and Sperm (*Physeter macrocephalus*) whales are also seasonally present in the waters off of New Jersey, but are typically found in deeper offshore waters. Fin whales are likely to be present off the coast of New Jersey from October - January and Sperm whales may be present in these waters from April - October.

It is the understanding of NMFS that the continued use of the 14 existing artificial reef sites along with the development of the one proposed new site will follow the guidelines set by the National Artificial Reef Plan (1985), developed pursuant to Section 204 of the National Fishing Enhancement Act of 1984. Therefore, in accordance with the National Artificial Reef Plan and Department of the Army authorizations, all reef materials of opportunity would be properly cleaned, dismantled and inspected prior to deployment to assure that they are clean and free of contaminants. As such, the finding that the proposed project will not affect any listed species is supported by the information provided by ACOE, in the public notice, and NMFS has no additional information that supports a different conclusion. As Section 7 consultation is only required when an action may affect threatened or endangered species, no consultation pursuant to Section 7 of the ESA is necessary for this project. Should project plans change or new information become available that changes the basis for this determination, consultation should be initiated.

Should you have any questions about these comments, please contact Sara McNulty at (978) 281-9328 ext. 6520.

Sincerely,



Mary A. Colligan  
Assistant Regional Administrator  
for Protected Resources

Cc: Riportella, F/NER4