



Endangered Species Act (ESA) Consultations, Essential Fish Habitat (EFH) Consultations, and Shoreline Cleanup Assessment Technique (SCAT)

Paige Doelling, PhD,
NOAA SSC for Coast Guard District 8
Clean Gulf, December 2014

Roadmap

- What is a consultation?
- How do consultations occur during response?
- What does that mean for SCAT?
- What is different about ESA consultations and EFH consultations?
- How does the response organization carry out recommendations based on the consultation?

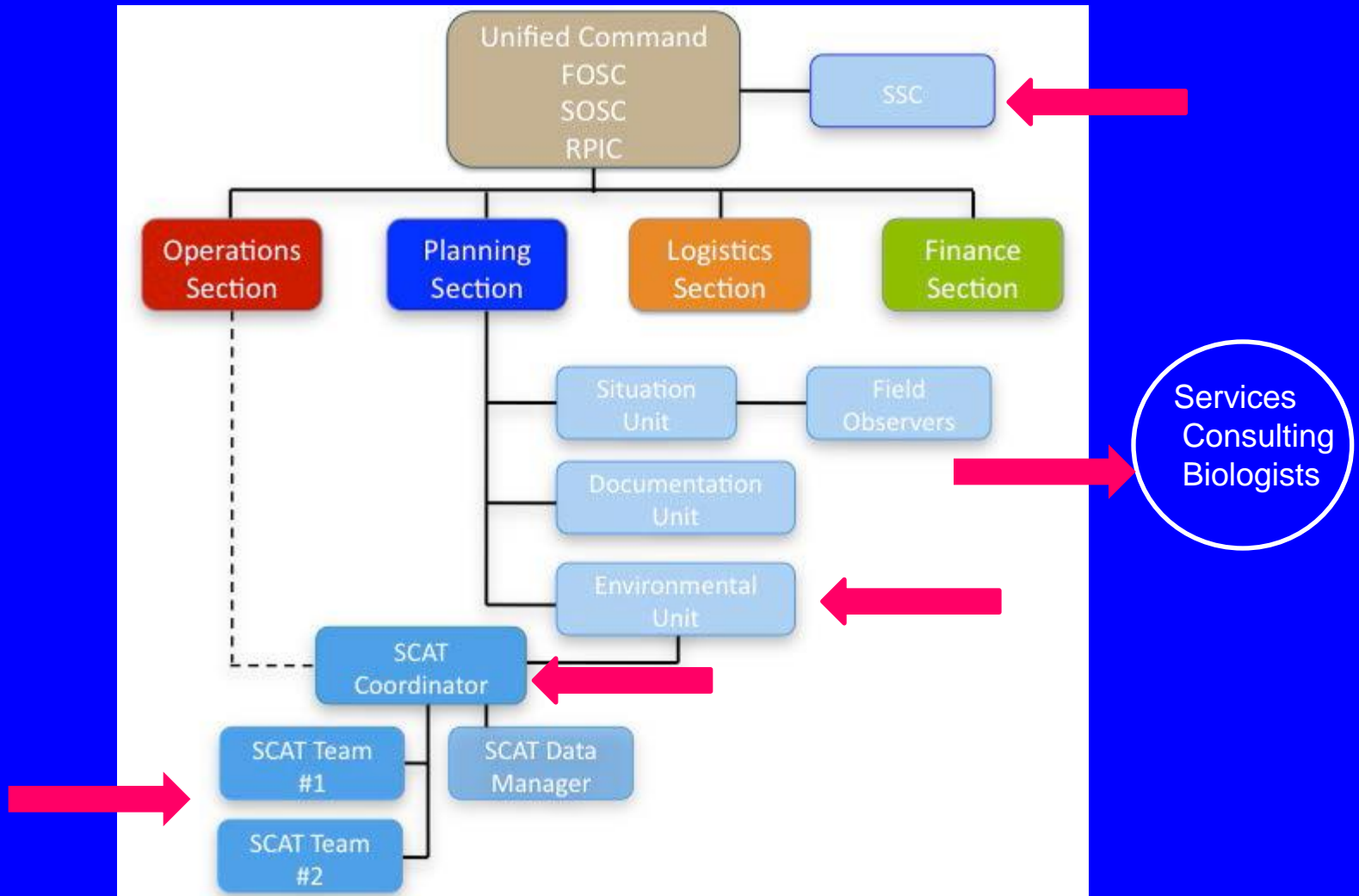
What are Consultations?

- A discussion with a resource agency about how to carry out various activities with minimal adverse effects on the trust resources of that agency
- Legally mandated under certain statutes, such as the Endangered Species Act (ESA) and the Magnuson Stevens Fisheries Conservation and Management Act (MSA)

Minimize effects on species and habitats

Who does the Consultations?

- Consultations are the responsibility of the Federal action agency, as represented by the Federal On-Scene Coordinator (FOOSC)
- In a response, typically are delegated to the Environmental Unit, with assistance from the SSC
- Depending on size of response, appropriate resource agency representatives may be on-scene



Graphic Source: NOAA Shoreline Assessment Manual, 2013

How do the Consultations Affect SCAT Activities?

- Usually result in one or more guidelines, known as Best Management Practices (BMPs), which may affect how SCAT field activities are conducted
- May drive selection of cleanup endpoints, or methods of achieving them, and this will be reflected in the Shoreline Treatment Recommendations (STRs)
- Potential addition of a resource specialist to the SCAT team

Endangered Species Act (ESA)

- Implemented by U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)
- Consultation is required by Section 7
- “Take” is prohibited by Section 9
- During response, FOSC conducts an emergency consultation, in accordance with the 2001 Memorandum of Agreement (MOA) on Spill Planning & Response

What is Take?

- To harass, *harm*, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct
- By regulation, *harm* includes activities which significantly impair essential behavioral patterns, including breeding, feeding, or sheltering
- Also cannot destroy or adversely modify designated critical habitat

What if Take Occurs?

- Take is prohibited except if “incidental to an otherwise lawful activity”
- Response is a lawful activity
- The emergency consultation provides:
 - Notification to the Services that listed species are in the area of operations
 - Input from the Services to the response organization on how to minimize or avoid take
- If incidental take occurs, must complete a formal consultation

Listed Species in the Gulf On the Beach



Sea Turtles

Photo credit: NOAA



Shore Birds

Photo credit: USFWS



Beach Mice

Photo credit: USFWS

Listed Species in the Gulf In the Marsh



American Alligator

Photo credit: USFWS



Whooping Crane

Photo credit: USFWS



Wood Stork

Photo credit: Wikipedia

Listed Species in the Gulf In the Water



Sea Turtles

Photo credit: NOAA



Sturgeon

Photo credit: NOAA



Corals

Photo credit: NOAA



Whales

Photo credit: NOAA

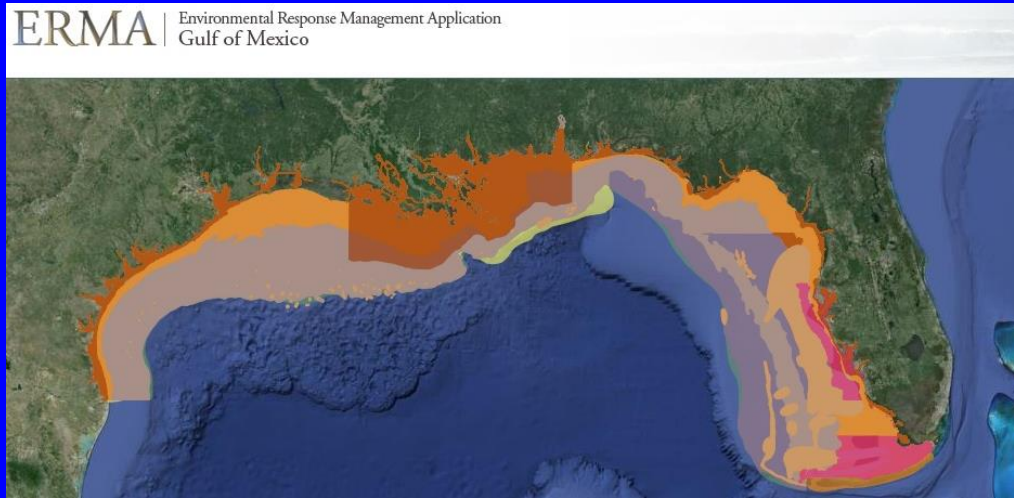
Magnuson Stevens Fishery Conservation and Management Act (MSA)

- Intended to conserve and recover the nation's fisheries.
 - Mandates the use of annual catch limits and accountability measures to end overfishing
 - Provides for widespread market-based fishery management through limited access privilege programs
 - Calls for increased international cooperation
- Includes protections for essential fish habitat (EFH)

Essential Fish Habitat (EFH)

- Essential fish habitat includes all types of aquatic habitat—wetlands, coral reefs, seagrasses, rivers—where fish spawn, breed, feed, or grow to maturity
- Applies to Federally managed species
 - Gulf of Mexico Council currently has 6 Fisheries Management Plans (FMPs), covering 40 different species
 - Many of the Highly Migratory Species (tuna, billfish, and sharks) managed by NMFS also have EFH in the Gulf

EFH in the Gulf of Mexico



From NOAA EFH Mapper

Best Management Practices (BMPs)

- Establishing ways to conduct operations, while minimizing harm
- Generic ones may be pre-established, but also can be developed on an incident-specific basis
- BMPs may be specific to certain statutes, but also may just be good environmental practices

Typical BMPs to Address ESA & EFH Concerns

- Limitations on speed of vehicles or vessels
- Specific “no-entry” locations
- Restrictions on hours of operation
- Noise abatement measures
- Altitude or proximity restrictions for overflights
- Limitations on removal of sediment, beach wrack or vegetation
- No or minimal light pollution
- Avoidance of prop scarring

Documentation

1. Incident Name	2. Operational Period (Date/Time) From: _____ To: _____		Assignment List ICS 204-CG	
3. Branch	4. Division/Group/Staging			
5. Operations Personnel				
Name _____ Affiliation _____ Contact # (s) _____				
Operations Section Chief: _____				
Branch Director: _____				
Division/Group Supervisor/STAM: _____				
6. Resources Assigned <small>*'X' indicates 204a attachment with additional instructions</small>				
Strike Team/Task Force/Resource Identifier	Leader	Contact Info. #	# Of Persons	Reporting Info/Notes/Remarks
7. Work Assignments				
8. Special Instructions				
9. Communications (radio and/or phone contact numbers needed for this assignment)				
Name/Function	Radio: Freq./System/Channel	Phone	Cell/Pager	
Emergency Communications				
Medical	Evacuation	Other		
10. Prepared by:	Date/Time	11. Reviewed by (PSC):	Date/Time	12. Reviewed by (OSC):

1. Incident Name	2. Operational Period (Date/Time) From: _____ To: _____		UNIT LOG ICS 214-CG
3. Unit Name/Designators	4. Unit Leader (Name and ICS Position)		
5. Personnel Assigned			
NAME	ICS POSITION	HOME BASE	
6. Activity Log (Continue on Reverse)			
TIME		MAJOR EVENTS	
7. Prepared by:		Date/Time	

ICS 204 Work Assignment

ICS 214 Unit Log

STRs and BMPs

Texas City Y
Shoreline Treatment Recommendation Operational Permit to Work
 Local Name: **Matagorda Island** STR #: **STR-006** Survey Date: **28-Mar-2014**

Segment Name
TXGN - MI-009
TXGN - MI-010
TXGN - MI-011

Location: Matagorda Island, Aransas NWR

Shoreline Type: Sand Beach

Treatment Type: Surface Subsurface Submerged Manual Mechanical

Oiled Area For Treatment:

This STR applies to sand beach areas on Matagorda Island, primarily in operational division / shoreline segment MI-010 and overlapping into MI-009 and MI-011. The focus of sand beach cleanup operations should be on gross oiling conditions with heavier, thicker oiling, including surface and subsurface oil. If comparable heavy oiling conditions are located in other operational divisions / shoreline segments on Matagorda Island within Aransas NWR, this STR can be applied there as well with concurrence from USFWS NWR field personnel.

SURFACE OILING

This STR addresses sand beach areas with gross oiling conditions consisting of heavier, thicker surface oil residue that is sticky or tacky and rubs off on contact. This STR also addresses heavily oiled beach wrack and debris where the oil is sticky or tacky and rubs off on contact.

SUBSURFACE OILING

This STR also addresses areas with thicker subsurface oiling that is buried to roughly 5 cm (~2 in.) depth. Thicker oiling is defined as subsurface oil that is on average 0.5 cm (0.20 in.) thick or more.

Cleanup Recommendation:

CLEANUP GUIDELINES

The focus of sand beach cleanup operations should be on removing or reducing gross oiling conditions consisting of heavier, thicker oiling, including surface and subsurface oil.

Cleanup endpoints for this STR are:

Surface Oil: No longer rubs off on contact.



To meet this endpoint, the thicker surface oil deposits should be removed. Most of the oil originally deposited on the wrack is weathering (and will continue to weather) to the point that it is no longer a contact hazard. Oiled organic wrack and debris should not be removed if the oil does not rub off on contact. All manmade oiled debris should be removed.

Subsurface Oil: No oil greater than an average of 0.5 cm thick.

To meet this endpoint, the thicker oil deposits should be removed using manual and light mechanical methods as quickly as possible to minimize both remobilization and deeper burial.

Cleanup operations may include manual removal using hand tools, as well as light mechanical removal using Bobcats or comparable equipment for thicker oil deposits. At present, manual cleanup by hand crews, shoveling the oiled material to the Bobcat buckets for transport to dump trucks appears to be the most efficient removal method. Specific manual and light mechanical cleanup methods or work flow can be adapted in the field as needed, in coordination with USFWS NWR field personnel.

Subsurface oil removal should be conducted using a 5 cm depth limit as a guideline. However, based on actual field conditions and coordination with USFWS NWR field representatives, subsurface oil removal

RESOURCES AT RISK
Best Management Practices (BMP) Master Checklist
 Texas City Y Spill Response

MASTER BMP LIST		
Date:	Task Force:	Number of Personnel in TF:
Division:	Description of Activity:	Lat/Long (dd mm.mm):
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid black; padding: 2px;">Implemented (Y/N)</div> <div style="border: 1px solid black; padding: 2px;">Corrective Action (Y/N)</div> </div> Completed by: ICS Position / Printed Name / Signature / Date		
BMP 1	Watch for and avoid collisions with wildlife and report all distressed or dead birds/marine mammals/sea turtle sightings/whale sharks/rays to the Wildlife Hotline (888-384-2000).	
BMP 2	All live and dead sea turtles should be recorded and retrieved (if possible). Call the Wildlife Hotline (888-384-2000). Retrieve injured/dead/oiled sea turtles using the Sea Turtle At-Sea Retrieval Protocol. Ensure that qualified personnel perform sea turtle recovery and persons with the necessary permits are authorized to rehabilitate sea turtles.	
BMP 3	Avoid disturbing vegetation (including dune vegetation), marsh soils, or peat with foot traffic/boats/equipment by 10 feet or contact the Section 7 Coordinator/Liaison to minimize impact or consult a qualified biologist to minimize impact. Use existing travel corridors. Least-likely to impact techniques and BMP's should be employed at all times.	
BMP 4	Report oiled carcasses as quickly as possible to avoid secondary contamination.	
BMP 5	Watch for and avoid collisions with oiled or injured wildlife and report all distressed or dead sea turtles to the NMFS 24-Hr Sea Turtle Hotline at 409-771-2872. Be prepared to provide the time, GPS location, type of animal, condition of the animal (e.g., distressed, stranded on beach, oiled but normal), and a call back number.	
BMP 6	All onshore work should be conducted during daylight hours except within 24 hours of projected oil landfill. If night operations are necessary, confine operations to landward of the intertidal zone.	
BMP 7	From 15 March through 1 October, observe a 10 foot buffer from marked sea turtle nests. If a nest area is contaminated/oiled, contact the onsite Wildlife Observer, Natural Resource Advisor (NRA), or Federal Resource Advisor (FRA) immediately. Only a permitted sea turtle surveyor is authorized to supervise removal operations of contaminated sand, or with proper OSHA training, handle contaminated sand within a flagged turtle nest area. Verify sea turtle nesting activities with agency experts and begin onshore cleanup operations during daylight hours after sea turtle after sea turtle nesting surveys/conservation activities are complete. If an unmarked nest or crawl is discovered, immediately contact a Resource Advisor and/or permit holder for further instructions.	
BMP 8	Utilize existing or designated access/egress areas and roadway, UTV's should remain within the established travel path when possible.	
BMP 9	Verify turtle nesting activities with agency experts and begin onshore work after turtle nesting surveys/conservation activities are completed	

7 April 2014 1 of 5

Take Home Messages – Command Post Personnel

- Be aware these statutory requirements exist
- Consider the needs of species and habitat in development of cleanup endpoints and STRs
- Communicate and be flexible – some adaptive management likely
- Work with Operations to develop and refine methods
- Deconflict and prioritize BMPs
- Document

Take Home Messages – Field Teams

- Be aware of species and habitat possibly present in survey area
- Comply with Best Management Practices (BMPs) if provided
- Communicate if BMPs make work unsafe or impractical
- Report any new sightings
- Document

Questions?

Contact Information:
Paige Doelling
paige.doelling@noaa.gov
206-549-7819

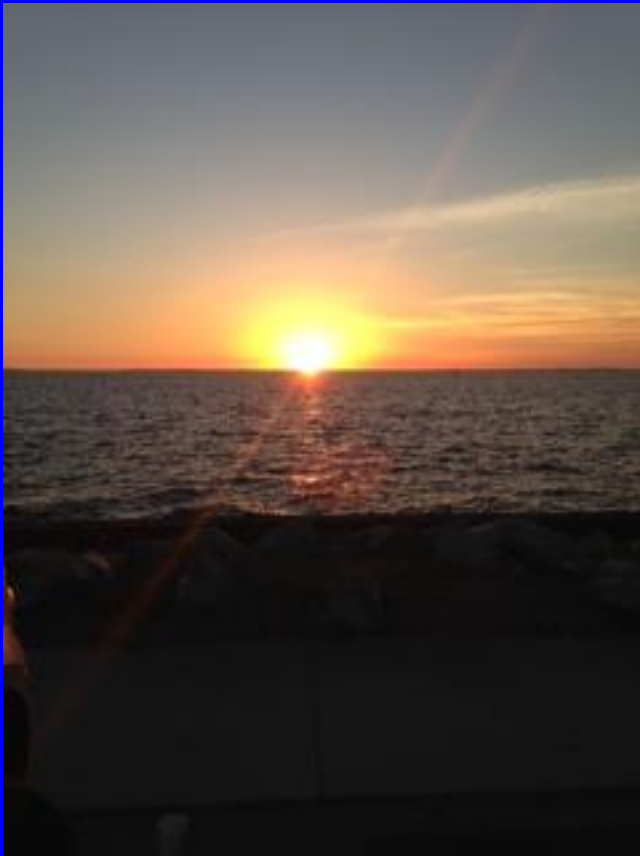


Photo: P. Doelling