

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE U.S. FISH AND WILDLIFE SERVICE

AND

THE MINERALS MANAGEMENT SERVICE

WHEREAS the Minerals Management Service (MMS) is responsible for leasing tracts within the outer continental shelf (OCS) for oil and gas exploration, development, and production in accordance with the OCS Lands Act, 43 U.S.C. § 1331 et seq., which, inter alia, requires that many decisions be made within set time periods;

WHEREAS OCS oil and gas activities to be authorized or carried out by the MMS can involve potential impacts to endangered and threatened species protected by the Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.;

WHEREAS the MMS is required to consult with the U.S. Fish and Wildlife Service (FWS) under Section 7(a)(2) of the ESA when any of its proposed OCS oil and gas activities "may affect" an endangered or threatened species under FWS jurisdiction; and,

WHEREAS both the MMS and the FWS intend that all Section 7 consultations involving OCS oil and gas activities be conducted as promptly and efficiently as possible;

It is agreed between the parties that:

1. Consultations under Section 7(a)(2) of the ESA between the MMS and the FWS on proposed OCS oil and gas activities will be conducted in a prompt and efficient manner and will be given, to the maximum extent practicable, priority over other Federal actions requiring consultation. To the maximum extent practicable, the FWS will deliver its final biological opinion within 90 days after the receipt of the request from MMS for formal consultation on any phase or phases of an OCS oil and gas activity.
  
2. Biological opinions prepared by the FWS Regional Offices on OCS oil and gas activities will be reviewed and concurred with by the Director of the FWS before they are signed at the Regional Office level.
  
3. When, at the request of a permit or license applicant, the MMS initiates early consultation with the FWS under Section 7(a)(3) of the ESA, the MMS will submit to the FWS all relevant data supplied to it by the applicant and any other relevant, available data. The FWS agrees that the MMS is not obligated to generate additional data when preparing any required biological assessment or other data submission to support the request for early consultation.

4. The FWS and the MMS will discuss in detail, during the consultation period, reasonable and prudent alternatives for OCS oil and gas activities that receive "jeopardy" biological opinions. They will do so to avoid alternatives that cannot be implemented for legal or technical reasons.

Done, this the 15<sup>th</sup> day of October, 1985.

*J. Eugene Hester*

Acting

DIRECTOR,

OCT 10 1985

U.S. FISH AND WILDLIFE SERVICE

*Wm D. Stables*

DIRECTOR,

OCT 15 1985

MINERALS MANAGEMENT SERVICE