APPENDIX

CONTENTS

REGULATORY CORRESPONDENCE

DEPARTMENT OF THE NAVY
NAVAL SEA SYSTEM COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376

IN REPLY REFER TO
4770
Ser 333/123
30 June 2010

Nancy Schamu, Executive Director
National Conference of State Historic Preservation Officers
Suite 342
Hall of the States
444 N. Capitol St. NW
Washington, DC 20001

Dear Ms. Schamu:

On March 5, 2010, the Advisory Council on Historic Preservation issued a Program Comment for the Department of the Navy setting forth the way in which the Navy will comply with Section 106 of the National Historic Preservation Act, with regard to determining the eligibility of vessels with the potential for listing in the National Register of Historic Places (NRHP), and the treatment of adverse effects that may result from certain methods of final disposition.

In accordance with the Program Comment's procedures for participation by historic preservation stakeholders, the Navy will provide statements of eligibility or ineligibility for listing in the NRHP to the National Conference of State Historic Preservation Officers (NCSHPO), in addition to placing them on the Navy's web site. The Navy will solicit written comments on those statements of eligibility or ineligibility for listing in the NRHP from historic preservation stakeholders via its web site. Historic preservation stakeholders will have sixty days from the time the list is published to provide their comments. The Navy will notify historic preservation stakeholders, including the Historic Naval Ships Association (HNSA) and other Veterans affiliated organizations, at the beginning of the sixty-day period.

The NCSHPO and the copy-to addresses of this letter are invited to submit written comments on the following ships and the Navy's determinations of eligibility:

- Ex-FORRESTAL (AVT 59), located in Philadelphia, PA, is eligible for listing on the NRHP.
- Ex-SARATOGA (CV 60), located in Newport, RI, is not eligible.

- Ex-RANGER (CV 61), located in Bremerton, WA, is eligible.
- Ex-INDEPENDENCE (CV 62), located in Bremerton, WA, is not eligible.
- Ex-KITTY HAWK (CV 63), located in Bremerton, WA, is eligible.
- Ex-CONSTELLATION (CV 64), located in Bremerton, WA, is eligible.
- USNS MOUNT BAKER (AE 34), an active ship based on the east coast that scheduled for inactivation on August 2, 2010, is not eligible.

The Naval History and Heritage Command's determinations of eligibility or ineligibility for these ships are available at www.navsea.navy.mil/teamships/Inactiveships/Historic/Historic.aspx.

Sincerely,

Glen Clark
Deputy Program Manager
Navy Inactive Ships Program, PMS 333

Copy to:
Historic Naval Ships Association
USS Forrestal Association, Inc.
USS Saratoga Association, Inc.
USS Ranger Reunion Association, Inc.
USS Ranger Foundation, Inc.
USS Independence CV 62 Association, Inc.
USS Kitty Hawk CVA/CV-63 Veterans Association, Inc.
USS Constellation CVA/CV 64 Association, Inc.
AE/AOE Sailors Association, Inc.

DETERMINATION OF ELIGIBILITY FOR EX-CONSTELLATION TO BE LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES

CONSTELLATION (CV-64)

Final Determination: 30 November 2010

The Third Ship of the Fleet to carry the Name
Design: SCB Number 127A
Built By: New York Naval Shipyard
Keel Laid: 14 September 1957
Launched: 8 October 1960
Commissioned: 27 October 1961
Decommissioned: 7 August 2003

A complete history of the ship is not available at present in the *Dictionary of American Naval Fighting Ships*. Although the history available concludes with her 2003 decommissioning, it is not as comprehensive as those for other carriers.

Deployments:

Western Pacific: 21 (Includes tours in the Indian Ocean and Arabian Gulf)

Awards:

Presidential Unit Citation: 1 (1971 – 1972 Deployment)
Navy Unit Commendation: Multiple Awards
Meritorious Unit Commendation: Multiple Awards
Navy Battle Efficiency Award: Multiple Awards
Navy Expeditionary Service Medal: Multiple Awards
National Defense Service Medal: Multiple Awards
Armed Forces Expeditionary Service Medal: Multiple Awards
Vietnam Service Medal: Multiple Awards
Humanitarian Service Medal: Multiple Awards
Sea Service Deployment Ribbon: Multiple Awards
Republic of Vietnam Gallantry Cross Meritorious Unit Citation Medal Multiple Awards
Republic of Vietnam Campaign Medal: Multiple Awards

Navy Crosses awarded to LT Randall H. "Duke" Cunningham and LT(JG) William P. Driscoll of VF-96 flying from CONSTELLATION in 1972. They were the first Aces of the Vietnam War.

Noteworthy Accomplishments / Events:

1960: While CONSTELLATION was fitting out in New York Naval Shipyard, a major fire broke out killing 50 shipyard workers and 14 military people.

1964: With TICONDEROGA (CV-14), launches the first air strikes of the Vietnam War.

1972: Is awarded the Presidential Unit Citation and two officers of her embarked air wing are each awarded the Navy Cross becoming the first Aces of the Vietnam War.

2001: In the wake of 11 September *Al Qaeda* attack, her air wing is among the first to support Operation NOBLE EAGLE (defense of the homeland).

Conclusion:

CONSTELLATION (CV-64) is eligible for listing on the National Register of Historic Places. Although her written history is not completed, she is credited with being awarded a Presidential Unit Citation. In addition two of the officers flying from her assigned air wing received Navy Crosses and became the first Aces of the Vietnam War.

Sources:

CONSTELLATION (CV-64) Decommissioning Program dated 7 August 2003

Friedman, Norman. U.S. Aircraft Carriers An Illustrated Design History. Naval Institute Press, Annapolis 1983.

Grossnick, Roy. United States Naval Aviation 1910 – 1995. Naval Historical Center, Washington, D.C. 1996.

Polmar, Norman. The Naval Institute Guide to the Ships and Aircraft of the U.S. Fleet 15th ed. Naval Institute Press, Annapolis 1993.

Polmar, Norman. The Naval Institute Guide to the Ships and Aircraft of the U.S. Fleet 18th ed. Naval Institute Press, Annapolis 2005.

CONSTELLATION (CV-64) *DANFS* Entry. Unattributed, 2003
http://www.history.navy.mil/danfs/c13/constellation-iii.htm

Command Histories and Command Operations Reports for CONSTELLATION (CV-64) in the collections of the History and Archives Division, Naval History and Heritage Command, (formerly the Naval Historical Center, Naval Warfare Division, Ships' Histories Branch).

HISTORIC PRESERVATION STAKEHOLDER COMMENT:

Historic preservation stakeholder comments received are considered when preparing final determinations. The initial determination for this vessel was made available for comment by historic preservation stakeholders for 60 days. During that time, the Navy received zero (0) written comments.

Preserving America's Heritage

Program Comment Pursuant to 36 C.F.R. § 800.14(e)
Implementing Section 106 of the National Historic Preservation Act
for the Evaluation of Vessels for Eligibility for Listing
in the National Register of Historic Places
and the Treatment of Eligible Vessels to Resolve Adverse Effects
that May Result from Certain Methods of Final Disposition

I. Introduction

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to "take into account the effect of [an] undertaking on any...structure...eligible for inclusion in the National Register" and to "afford the Advisory Council on Historic Preservation...a reasonable opportunity to comment with regard to such undertaking." Regulations promulgated by the Advisory Council on Historic Preservation (ACHP) and codified at 36 C.F.R. Part 800 describe the procedures Federal agencies must follow to meet their Section 106 obligations. Under 36 C.F.R. § 800.14, the ACHP provides Federal agencies with "a variety of alternative methods...to meet their Section 106 obligations," thereby allowing agencies "to tailor the Section 106 process to their needs." (65 FR 77698-01).

The following Program Comment was proposed by the Navy, and issued by the ACHP on (date to be determined), pursuant to 36 C.F.R. § 800.14(e). The Program Comment benefits the Navy and the historic preservation stakeholders by providing the Navy with a process for evaluating floating vessels to determine eligibility for listing in the National Register of Historic Places (NRHP) for Section 106 and Section 110 purposes. The Program Comment also provides a Section 106 method of treatment of eligible vessels to resolve adverse effects that result from certain methods of final disposition. The Program Comment will enable Navy decision-makers to apply the eligibility criteria as defined by the National Park Service (NPS) at 36 C.F.R. Part 60 to vessels in active service and decommissioned vessels. Furthermore, the Program Comment will give the public and various historic preservation stakeholders opportunities to provide input regarding a vessel's eligibility for listing in the NRHP. The Program Comment will establish a type of treatment (i.e., collecting documentation in accordance with Section IV of this Program) that will begin immediately from the time a vessel is determined eligible, and thus, well before a Navy decision to dispose of the vessel. Finally, the Program Comment will clarify that the Navy will not need to conduct Section 106 reviews regarding effects to active vessels.

By implementing the Program Comment, the Navy will no longer be required to follow the standard Section 106 process for each final disposition decision affecting inactive vessels. In addition to satisfying the Navy's obligations under Section 106 of the NHPA for vessels, the Program Comment enables the Navy to fulfill its responsibility under Section 110 of the NHPA to manage and maintain vessels that may be eligible for listing in the NRHP in a way that considers the preservation of their historic value.

II. Background

Naval vessels are the ships and service craft built by and for the Navy, used in furthering the Navy's military mission, and listed in the Naval Vessel Register (NVR). Naval vessels are an unusual type of historic property. They are mobile assets that are put into harm's way and remain in active service for typically less than fifty years. Because naval vessels have a limited useful life, the Chief of Naval Operations undertakes a Ship Disposition Review (SDR) each year to determine whether any vessels should be decommissioned from active service. The total number of vessels to be decommissioned varies from year to year, but currently averages eight per year.

Upon the decommissioning of a vessel, the Secretary of the Navy is authorized, under 10 U.S.C. § 7304, to strike the vessel from the NVR. By the authority of the Secretary of the Navy under 10 U.S.C. §§ 7305-7307, stricken Navy vessels may be: 1) sold; 2) dismantled; 3) transferred, by gift or otherwise, to any State, Commonwealth, or possession of the U.S., the District of Columbia, or non-profit entity; 4) used for experimental purposes, including Navy sink exercises (SINKEXes); 5) transferred, by gift or otherwise, to any State, Commonwealth or possession of the U.S. for use as an artificial reef; or 6) disposed to a foreign nation by sale, lease, grant, loan, barter, transfer or otherwise. These six methods of final disposition, which are "undertakings" as defined by 36 C.F.R. § 800.16(y), are available to the Navy because it is neither cost effective nor consistent with the Navy's mission to retain vessels that have surpassed their useful life.

III. Determining Eligibility for Listing in the NRHP

A. Criteria

The Secretary of the Interior, through the NPS, established four criteria pursuant to its authority under the NHPA for determining whether property is eligible for listing in the NRHP. The four evaluation criteria are codified at 36 C.F.R. § 60.4 and listed below. The Navy is required to evaluate vessels for eligibility for listing in the NRHP using the four evaluation criteria:

i. are associated with events that have made a significant contribution to the broad patterns of our history;

ii. are associated with the lives of persons significant in our past;

iii. embody the distinctive characteristics of a type, period, or method of construction; or

iv. have yielded, or may be likely to yield, information important in prehistory or history.

Navy vessels that meet one or more of these criteria, and that continue to possess integrity of (as appropriate) design, materials, workmanship, feeling and/or association are eligible for listing in the NRHP.

Recognizing that vessels have a limited useful life of typically less than fifty years, the Navy has determined that, for Section 106 and Section 110 purposes, vessels possessing any of the following characteristics at any time, including during active service, are of exceptional importance and meet the listing eligibility criteria established by the NPS and codified at 36 C.F.R. § 60.4:

i. The vessel was awarded an individual Presidential Unit Citation. (A Presidential Unit Citation is awarded to military units that have performed an extremely meritorious or heroic act, usually in

the face of an armed enemy.)

ii. An individual act of heroism took place aboard the vessel such that an individual was subsequently awarded the Medal of Honor or the Navy Cross. (The Medal of Honor is awarded for valor in action against an enemy force. The Navy Cross is awarded for extraordinary heroism in action not justifying an award of the Medal of Honor.)

iii. A President of the United States was assigned to the vessel during his or her naval service.

iv. The vessel was the first to incorporate engineering, weapons systems, or other upgrades that represent a revolutionary change in naval design or warfighting capabilities, or other special and unique considerations.

v. Some other historic or socially significant event occurred on the vessel.

B. Process

Each year, qualified Navy historians with knowledge about Navy vessels will review each vessel in active service to determine which, if any, possess any of the characteristics described above, and integrity, and therefore, will be determined eligible for listing in the NRHP.

Upon decommissioning, those vessels that have not already been determined eligible for listing in the NRHP will be evaluated by qualified Navy historians with knowledge about Navy vessels in accordance with the listing eligibility criteria established by the NPS, including whether the vessels possess integrity, and informed by the above, and thus, prior to making any final disposition decision with the potential to adversely affect historic property.

Depending on the availability of funds, the Navy may also develop type-specific context studies to determine NRHP listing eligibility of classes of vessels. Context studies shall be consistent with the eligibility criteria noted above and with the NPS publications "How to Apply the National Register Criteria for Evaluation," "How to Complete the National Register Multiple Property Documentation Form," and "Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places." Vessels will be analyzed by class and the appropriate historic preservation stakeholders will be consulted on appropriate application of the National Register criteria. In the event that context studies are developed, they will be made available to the public in accordance with Section IV of this Program.

C. Participation by Historic Preservation Stakeholders

The Navy encourages historic preservation stakeholders, including but not limited to the ACHP, the NPS, State Historic Preservation Officers (SHPO), the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation (National Trust), and the public to participate in the process for determining whether a vessel meets the eligibility criteria for listing in the NRHP. Through its existing public outreach programs the Navy will invite the public and historic preservation stakeholders to provide written comments and justification that support determining a vessel eligible for listing in the NRHP.

After the annual SDR, the Navy provides a list of vessels planned to be decommissioned over the next five years in a Report to Congress on the Annual Long-Range Plan for Construction of Naval Vessels. Subsequent to the release of the annual report to Congress, the Navy will provide statements of eligibility or ineligibility for listing in the NRHP to the NCSHPO, as well as place them on its website for

those vessels to be decommissioned in the forthcoming year. The Navy will then solicit written comments on those statements of eligibility or ineligibility for listing in the NRHP from historic preservation stakeholders via its website. Historic preservation stakeholders will have sixty days from the time of publication of the list of vessels to be decommissioned to provide their comments. The Navy will notify historic preservation stakeholders, including the Historic Naval Ships Association (HNSA) and other Veterans-affiliated organizations, of the beginning of the sixty-day period. All written comments should be mailed to the Naval History and Heritage Command (NHHC) or submitted electronically via the NHHC's website. The Navy will consider all written comments received before making a final determination as to whether a vessel is eligible for listing in the NRHP. If the Navy determines no question exists as to whether a vessel is eligible for listing in the NRHP, then the Navy will publish its final determination of listing eligibility for each vessel on its website. If the Navy determines that a question exists as to whether a vessel is eligible for listing in the NRHP, or if the ACHP or the Secretary of the Interior so request, the Navy will seek a formal determination of eligibility from the Keeper. Upon review, the Keeper's determination of listing eligibility shall be final.

An historic preservation stakeholder may also comment on a vessel's eligibility or ineligibility for listing in the NRHP in writing while the vessel is in active service. These comments should be mailed to the NHHC or submitted electronically via the NHHC's website. The NHHC will acknowledge receipt of the comments in writing, and retain the comments for consideration when preparing the statement of eligibility or ineligibility for the vessel prior to the vessel's scheduled decommissioning.

D. Effect of Eligibility Determination on Active Vessels

A determination that a vessel in active service is eligible for listing in the NRHP shall not affect the vessel's availability for routine operations, combat operations, and modernization to keep the vessel battle-worthy, safe, and habitable, as required by the Navy's military mission. Specifically, the Navy shall employ, deploy, activate, inactivate, repair, modify, move and decommission such vessels without regard to their eligibility and without needing to consider effects to them under Section 106 of the NHPA.

IV. Treatment of Vessels Determined to be Eligible for Listing in the NRHP

The Navy will take the following steps regarding vessels determined to be eligible for listing in the NRHP during active service or upon decommissioning:

i. Annotate the vessel's entry in the NVR to reflect listing eligibility and include the basis for eligibility (the public can access the NVR at http://www.nvr.navy.mil); and

ii. Make available a documentation package consisting of historically significant records such as command operation reports, war diaries, and deck logs, as they are submitted (the public would be able to access the documentation package at the NHHC; unclassified command operation reports will be available at http://www.history.navy.mil).

The Navy will also strongly consider making the vessel available for donation only upon decommissioning and striking from the NVR pursuant to 10 U.S.C. § 7306 for up to two years unless:

i. The vessel is designated for Foreign Military Sales (FMS) transfer;

ii. There are other Navy requirements for its continued use;

iii. The material condition of the vessel precludes donation;

iv. National security or other restrictions preclude donation; or

v. The vessel is nuclear powered. (Additional coordination with the Director, Naval Nuclear Propulsion Program is required to determine donation feasibility.)

The Navy's Ship Donation Program is described at http://peoships.crane.navy.mil/ donation/. Donation application requirements include submission of acceptable curatorial/museum and maintenance plans among other plans for the preservation of the vessel in a condition satisfactory to the Secretary of the Navy. If a qualified donee is not identified within two years, the Navy may remove the vessel from donation hold status and proceed with another method of final disposition. Contracts between the Navy and qualified donees include provisions that address the historic preservation of the vessel. As part of its Section 106 responsibilities, the Navy provides these contractual provisions to each appropriate SHPO for comment before finalizing the contract.

The Navy will publish a list of vessels available for donation in the Federal Register and at http://peoships.crane.navy.mil/donation/. The list will include any NRHP eligible vessel initially precluded from donation that, due to a change in status, becomes available for donation.

The Navy will take the following steps regarding decommissioned vessels determined eligible for listing in the NRHP before final disposition by a method other than donation:

i. Give priority to compiling histories of these eligible vessels when preparing entries in the *Dictionary of American Naval Fighting Ships*;

ii. Retain and, depending on classification, provide public access to historical documentation from NRHP eligible vessels such as command operation reports, war diaries, and ship deck logs at the NHHC (deck logs that are more than thirty years old are transferred to the National Archives and Records Administration (NARA) for permanent retention);

iii. In addition to the standard curator items removed from the vessel upon decommissioning in accordance with required Navy policy, including citations, correspondence of significant historical value, ship histories, paintings, ship silver services, and photographs selected to best display the physical characteristics of the vessel, the Navy would make the vessel available to the Navy Curator and eligible non-profit organizations for removal of additional equipment, parts of the vessel, etc. that contribute to the historical significance of the vessel. Items removed by the Navy Curator will be maintained and considered for loan to qualified U.S. non-profit organizations in accordance with 10 U.S.C. §§ 2572, 4575; and

iv. Within three years of designating a NRHP-eligible vessel for final disposition, deposit with the NARA documentation consisting of archivally stable media of the following items:

a. A Booklet of General Plans; and

b. The last report of the Board of Inspection and Survey describing the material condition of the vessel.

Note that accessibility to the public will depend on the document's classification and NARA policies.

V. Reports

The Navy will submit an annual report to the NCSHPO and the ACHP on the progress of this Program Comment on 1 December, annually. The report will include the following information:

i. The names and status of active vessels identified as eligible for listing in the NRHP, and the basis for their eligibility;

ii. The names and status of decommissioned vessels identified as eligible for listing in the NRHP, and a copy of the statement of eligibility;

iii. The names and status of decommissioned vessels identified as ineligible for listing in the NRHP, and a copy of the statement of ineligibility; and

iv. The names of the vessels eligible for listing in the NRHP whose final disposition occurred during the reporting period, along with the status of the documentation supporting final disposition.

The annual report will also be made available to the public on the Navy's donation website.

VI. Effect of the Program Comment

By following this Program Comment, the Navy will meet its responsibilities for compliance with Section 110, in part, and Section 106 of the NHPA concerning the evaluation of vessels for eligibility for listing in the NRHP and the final disposition of eligible vessels. Accordingly, the Navy will no longer be required to follow the standard Section 106 process for each final disposition decision affecting inactive vessels, except as provided in this Program Comment.

Vessels already determined eligible for listing in the NRHP that are not subject to an existing agreement established through the Section 106 consultation process will be subject to this Program Comment as if their eligibility had been established as a result of this Program Comment. Vessels that are the subject of an existing agreement established pursuant to the Section 106 regulations will continue to be subject to that existing agreement.

The Program Comment described herein will remain in effect for twenty years, unless and until the Navy decides to terminate its application or the ACHP "determines that the consideration of historic [vessels] is not being carried out in a manner consistent with the program comment" and withdraws the comment. (36 C.F.R. § 800.14(e)(6)). Upon either event, the Navy shall comply with the requirements of 36 C.F.R. Part 800 for each undertaking within the scope of this Program Comment. The Navy shall inform historic preservation stakeholders of the Program Comment's termination.

The Navy shall reexamine the Program Comment's effectiveness after the first year of implementation and every five years thereafter within the context of its annual report or by convening a meeting with historic preservation stakeholders. In reexamining the Program Comment's effectiveness, the Navy shall consider any written recommendations for improvement submitted by historic preservation stakeholders to the NHHC.

Once in effect, the Program Comment may be amended when such an amendment is agreed to in writing by the Navy and the ACHP. The amendment will be effective on the date a copy of the amended Program Comment signed by the Navy and the ACHP is filed with the ACHP.

Appendix A - Definitions

a. Command Operation Report, formerly Command History Report means a report that covers the operational and administrative actions of the command for each calendar year and usually consists of a chronology, a narrative, and enclosures. Some Command Operation Reports are classified for a set period of time.

b. Decommission means to remove a vessel from active service.

c. Documentation package means a compilation of historically significant records including, but not limited to, command operation reports, war diaries, and deck logs.

d. Effect means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

e. Historic Preservation Stakeholder means the ACHP, the NPS, SHPOs, NCSHPO, the National Trust, any other agency or organization specifically concerned with historic preservation issues, and the public.

f. Naval Vessel Register means the official inventory of ships and service craft titled to or in the custody of the U.S. Navy. It includes information about vessels from the time of their authorization through their life cycle and final disposition.

g. Ship deck log means a daily chronology of particular events for administrative and legal purposes, as set forth by the Office of the Chief of Naval Operations Instruction 3100.7 series.

h. Ship disposition review means an annual review of vessels in active service conducted by the Chief of Naval Operations to determine which vessels will be decommissioned from active service and retained for potential reactivation or stricken from the Naval Vessel Register and designated for disposal.

i. Stricken vessel means a decommissioned vessel that has been removed from the Naval Vessel Register.

j. Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

k. Vessel means the floating ships and service craft built by and for the Navy, used in furthering the Navy's military mission, and listed in the Naval Vessel Register. *Vessel* does not include shipwrecks or those vessels retained in Navy custody for public display (i.e., USS CONSTITUTION, NAUTILUS (SSN 571), ex-BARRY (DD 933)).

l. War diary means a ship's recounting of wartime operations. Some war diaries are written in a cursory fashion. Others are works of literary art. War diaries for combat actions are included with the Command Operations Report.

(Issued on March 5, 2010.)

COASTAL CONSISTENCY

-----Original Message-----
From: Randall, Loree' (ECY) [mailto:lora461@ECY.WA.GOV]
Sent: Thursday, July 14, 2011 1:27 PM
To: Jill Enright
Cc: michael.hardiman@navy.mil
Subject: RE: CCND for ex-CONSTELLATION

As indicated below after discussing this project I determined that no further coordination is needed per Washington's Coastal Zone Management Program. If you have any other questions please contact me.

Loree' Randall
Ecology 401/CZM Policy lead
360/407-6068
Lora461@ecy.wa.gov

-----Original Message-----
From: Jill Enright [mailto:jenright@dandp.com]
Sent: Wednesday, July 13, 2011 5:15 AM
To: Randall, Loree' (ECY)
Cc: michael.hardiman@navy.mil
Subject: RE: CCND for ex-CONSTELLATION

Just wanted to check and see if you got the below message and see if you knew when you would have time to respond. NAVSEA would like to move forward with the EA which is in Draft stage currently. Thank you.

-----Original Message-----
From: Jill Enright
Sent: Wednesday, June 29, 2011 9:22 AM
To: 'lora461@ecy.wa.gov'
Cc: Cummings, Tuwana H CIV NAVSEA, SEA 00L
Subject: FW: CCND for ex-CONSTELLATION
Importance: High

Loree',
I have been corresponding with Michael Hardiman of NAVFAC regarding the proposed removal of ex-CONSTELLATION from INACTSHIPMAINTO Bremerton. As you can see below, he has discussed this with you and you have all agreed that there would be no effect on coastal use or resources and that a CCND is not required. Mike referred me to you and NAVSEA legal has asked that I get an email response from you to add to the EA we are preparing for the proposed removal of the vessel from WA and following dismantling in MD or TX.
Can you please provide me a concurrence that we are ok proceeding without doing a CCND for WA?
Thank you,
Jill

-----Original Message-----
From: Hardiman, Michael O CIV NAVFAC NW, PRB41 [mailto:michael.hardiman@navy.mil]
Sent: Tuesday, June 28, 2011 7:09 PM
To: Jill Enright
Cc: Leicht, Gregory B CIV NAVFAC NW, Environmental

Subject: RE: CCND for ex-CONSTELLATION

The only action you have in WA State is removal of a vessel. Our call is that there is no effect on coastal use or resources and that a negative determination is not required on our end. As I've said, we have discussed with the State Federal Consistency Coordinator the need for CZMA coordination for operational related activities at NBK. They agreed that coordination is not needed. Recommend that you or Tuwana call Loree' Randall, Federal Consistency Coordinator, with WA Dept. of Ecology at (360) 407-6068 to discuss your action and the need for coordination. Citation of the phone call in you EA should be all that's needed.

Mike

-----Original Message-----
From: Jill Enright [mailto:jenright@dandp.com]
Sent: Monday, January 10, 2011 5:19
To: Hardiman, Michael O CIV NAVFAC NW, PRB41
Cc: Leicht, Gregory B CIV NAVFAC NW, Environmental
Subject: RE: CCND for ex-CONSTELLATION

We are drafting an EA to cover the removal of the vessel from Bremerton and the dismantling actions at a facility (either Sparrows Point or Brownsville currently). The only part that is in the WA coastal zone would be the removal of the ship from the facility.

From: Ray Newby <Ray.Newby@GLO.TEXAS.GOV>
Sent: Thursday, April 10, 2014 16:40
To: Poles, James S CIV NAVSEA SEA21, SEA21I
Subject: Re: Follow-up to 4 April telephone conversation

Mr. Poles,

Yes, I concur. I'm not aware of any federal actions or activities that would be associated with this project that would require a Texas CMP consistency certification. Please let me know if you need any additional information regarding this matter.

Sincerely,

Please let me know if you need any additional information on this matter.

Ray Newby, P.G.
Coastal Geologist
Texas General Land Office
Coastal Resources Program
ph. (512) 475-3624
fx. (512) 475-0680
>>> "Poles, James S CIV NAVSEA SEA21, SEA21I" <james.poles@navy.mil> 4/10/2014 10:07 AM
>>>
To: Mr. Ray Newby, P.G., Texas General Land Office

Mr. Newby: We spoke on April 4, 2014, regarding the U.S. Navy's plans to tow one or more inactive ships via the Brownsville Ship Channel to ship dismantling facilities located in or nearby Brownsville. I explained that I needed confirmation that this activity would not require a Coastal Zone Management conformity review by the State of Texas because the towing would take place in existing ship channels and the towing/dismantling would not require any dredging or construction. You indicated that a conformity review by or permit under the Texas Coastal Management Program would not be required.

Our general counsel has asked me to obtain your concurrence via email. Please reply back to this email with the statement, "concur."

Thank you for your help in this matter.

Sincerely,

James S. Poles
Environmental Project Manager
Navy Inactive Ships Office (SEA-21I)
Naval Sea Systems Command
Washington Navy Yard @ NAVSEAWEST
202-781-0149 (office)
202-246-8642 (cell)

INFORMAL CONSULTATION WITH

NATIONAL MARINE FISHERIES SERVICE

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

C. R. Pietras, CAPT USN
Navy Inactive Ships Program (PMS 333)
Naval Sea Systems Command
1333 Isaac Hull Avenue
Washington Navy Yard, DC 20376-2701

OCT 10 2012

Subject: Request for informal consultation under section 7(a)(2) of the Endangered Species Act regarding proposed towing and dismantling of inactive U.S. Navy vessels

This letter responds to the U.S. Navy, Naval Sea Systems Command's (NAVSEA) request for National Marine Fisheries Service (NMFS) review and concurrence with your determination of not likely to adversely affect (NLAA) listed threatened or endangered species or critical habitats designated under the Endangered Species Act (ESA). This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence. A complete record of this consultation is on file at the NMFS Office of Protected Resources in Silver Spring, MD.

Consultation History and Proposed Action

On 14 August 2012, NMFS received a letter (Attachment 1) from NAVSEA proposing to tow two inactive Navy ships, the Ex-FORREST SHERMAN and Ex-CONSTELLATION (Attachment 2), from respective berthing locations in Bremerton, WA and Philadelphia, PA to dismantling facilities in either Brownsville, TX; New Orleans, LA; or Baltimore, MD. Proposed towing routes (Attachment 3) traverse "Territorial waters of the United States" and the "High Seas" and are subject to provisions of the Endangered Species Act (ESA).

To reduce the potential for vessel strike, NAVSEA will employ the following minimization measures as part of the proposed action:

- When towing within North Atlantic right whale, seasonal habitat areas, the tug and tow will transit at speeds of 10 knots or less in accordance with 50 CFR 224.105, 9 December 2008, Speed restrictions to protect North Atlantic Right Whales. NOTE: While the U.S. Navy is technically exempt from this rule, NAVSEA has proposed to respect substantive provisions of the Rule for this activity.
- Whenever marine mammals or sea turtles are sighted, the tug's crew will increase vigilance and take reasonable and prudent actions to avoid collisions and other activities that might result in close interactions between the vessels and animals. Actions may include changing speed and/or direction as dictated by environmental and other conditions (e.g., safety, weather).

ESA-listed species that occur in the Atlantic Ocean, Pacific Ocean and Gulf of Mexico action areas (i.e., towing routes) that may be affected include the blue whale (*Balaenoptera musculus*), fin whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), North Atlantic right whale (*Eubalaena glacialis*), North Pacific right whale (*Eubalaena japonica*), sei whale (*Balaenoptera borealis*), sperm whale (*Physeter macrocephalus*), gray whale (*Eschrichtius robustus*), southern resident killer whale (*Orcinus orca*), Guadalupe fur seal (*Arctocephalus townsendi*), steller sea lion (*Eumetopias jubitus*), green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's ridley sea turtle (*Lepidochelys kempii*), leatherback sea turtle (*Dermochelys coriacea*), Nine distinct population segments of the loggerhead sea turtle (*Caretta caretta*), olive ridley sea turtle (*Lepidochelys olivacea*), Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*Acipenser brevisrostrum*).

Designated Critical Habitat for affected species including southern resident killer whales and North Atlantic right whale (Southeast Atlantic) occurs within the action area, however, we determined that the primary constituent elements of designated critical habitat would not be adversely affected or modified by the two towing events. Stressors associated with vessel operation and towing including sound and potential for direct strike would not limit space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; or sites for breeding, reproduction, or rearing of offspring.

NAVSEA's "Biological Analysis for Species Listed Under the Endangered Species Act in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean" (Attachment 4) concludes that the proposed towing of these two vessels may affect ESA-listed marine mammals and sea turtles. The analysis concluded that there is potential for vessels and/or the tow cable to strike animals during transit and the limited maneuverability of the tug (Attachment 5) and towed vessels during transit reduce the ability to avoid animals sighted in close proximity.

NAVSEA's analysis did not address potential impacts to Atlantic sturgeon or shortnose sturgeon which may be encountered along the Eastern Seaboard of the United States especially during towing operations in the Delaware River, Delaware Canal and Chesapeake Bay system. The Philadelphia/Delaware River port complex is located far up in the estuary. The port's location from the Atlantic Ocean requires vessels to navigate through most of the estuary and potential Atlantic sturgeon habitat, thereby increasing the possibility of interactions with sturgeon. (J. Jed Brown & Gregory W. Murphy, 9 January 2011). Atlantic sturgeon spend most of their time at the bottom of the water column and are more likely to be impacted by larger vessels (J. Jed Brown & Gregory W. Murphy, 9 January 2011). Large vessels that transit the shipping channel typically draft close to the bottom of the channel, thereby posing a threat of strike or entrainment to sturgeon positioned close to the bottom of the channel. Despite the presence of Atlantic and shortnose sturgeon in the action area, it is not likely that an individual towing event would result in strike of Atlantic or shortnose sturgeon due to the low density of sturgeon and minimal time that a vessel would be in a given location.

Conclusion

After review of the proposed action, including minimization measures, using substantive requirements of the ESA Section 7 and Section 706 of the Administrative Procedure Act

(5 U.S.C. 706) and using the best scientific and commercially available data, we determined that while ESA-listed species are present in the action area, the low speed of the tugs and tows along with the relatively short periods they will be transiting habitats, and the low density of listed species, reduce the likelihood for vessel strike or encounter with the tow cable such that the risk is discountable. Considering information provided by NAVSEA and our analysis on potential impacts to Atlantic and shortnose sturgeon, NMFS concurs with the NAVSEA determination that towing of the two decommissioned vessels from berthing locations to dismantling locations along the proposed routes are not likely to adversely affect ESA-listed species. Additionally designated critical habitat would not be adversely affected or modified.

Reinitiation of Consultation

Although low, the potential remains for vessels to strike or impact ESA-listed species with the tow cable. Should it be determined during towing, that unanticipated behavioral harassment or injury of threatened or endangered species has occurred, NAVSEA shall re-initiate consultation with NMFS Office of Protected Resources, Endangered Species Act Interagency Cooperation Division to develop and implement mitigation to avoid additional take or initiate formal consultation in accordance with ESA section 7(a)(2). Our point of contact is Ms. Gina Shultz (301)427-8495 or Email: Gina.Shultz@noaa.gov.

Sincerely,

Helen M. Golde, Acting Director
Office of Protected Resources

5 Attachments:
1. NAVSEA request for concurrence on NLAA, 14 August 2012
2. U.S. Navy Decommissioned Vessels
3. Proposed Towing Routes
4. Biological Analysis for Species Listed Under the Endangered Species Act in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean
5. U.S. Navy Tugs and Towing Procedures

DEPARTMENT OF THE NAVY
NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2701

IN REPLY REFER TO

4770
Ser 333/178
August 14, 2012

Helen Golde
Acting Director
National Marine Fisheries Service
Office of Protected Species
1315 East West Highway
13th Floor
Silver Spring, MD 20910

Dear Ms. Golde:

The U.S. Navy, Naval Sea Systems Command, Navy Inactive Ships Program (PMS 333) is planning to contract for the tow and dismantling of inactive ships that are eligible for listing in the National Register of Historic Places (NRHP) from their existing berthing locations in Bremerton, Washington; Pearl Harbor, Hawaii; and Philadelphia, Pennsylvania, to dismantling facilities to be determined upon contract award. Possible locations of these facilities are Brownsville, Texas; New Orleans, Louisiana; or Baltimore, Maryland. The first two ships scheduled for this action that are eligible for listing in the NRHP are the ex-FORREST SHERMAN (DD 931), located in Philadelphia, and ex-CONSTELLATION (CV 64), located in Bremerton.

Compliance with the National Environmental Policy Act (NEPA) is underway for the towing and dismantling of ex-FORREST SHERMAN and ex-CONSTELLATION as separate proposed actions. The towing portion of each proposed action would occur in both territorial and non-territorial waters and may affect, but are not likely to adversely affect, species listed under the Endangered Species Act (ESA). The following assessment, analysis, and effects determination are provided for your review and response.

Proposed Action. Ex-FORREST SHERMAN would be towed from NAVSEA Inactive Ships On-Site Maintenance Office (INACTSHIPMAINTO) Philadelphia, PA to a commercial dismantling facility at Brownsville, TX, New Orleans, LA, or Baltimore, MD. Ex-CONSTELLATION would be towed from NAVSEA INACTSHIPMANTO Bremerton, WA to a commercial dismantling facility in Brownsville, TX or Baltimore, MD. The Proposed Action may occur at any time during the year.

Ex-FORREST SHERMAN is 418 feet (127 m) in length, with a beam of 45 ft (14 m) and light draft of 14.8 ft (4.5 m). The tow cable could be up to 2,000 ft (610 m) long, consisting of 2.25 inch (5.72 cm) diameter wire rope. While underway, the cable may dip 100 ft (30 m) below the surface; the tug would maintain approximately 75 tons (68 metric tons) of strain on the cable.

Towing routes from Philadelphia would depend upon the ultimate destination determined upon contract award. To access the facilities at Brownsville or New Orleans, the proposed route would track offshore once departing Delaware Bay to remain outside the main axis of the Gulf Stream, nearing the coast approaching Cape Hatteras, and passing through the Straits of Florida before entering the Gulf of Mexico. To access facilities at Baltimore, MD, the proposed route would include travel along the Delaware River to the "Reedy Point" entry of the Chesapeake and Delaware Canal, near Delaware City, DE, and would transit the canal entering the Chesapeake Bay north of Baltimore.

Ex-CONSTELLATION is 990 ft (302 m) in length, with an in-water draft of 31 ft (9.4 m) (aft) and 28 ft 6 in (8.7 m) (fwd). The specifications for the tow cable would be similar to those described for ex-FORREST SHERMAN.

Towing routes from Bremerton would depend upon the ultimate destination determined upon contract award, and may require that the tug and tow pass Cape Horn or travel through the Straits of Magellan. Once in the Atlantic Ocean, the tug and ex-CONSTELLATION would either proceed through the Gulf of Mexico to Brownsville or continue along the Atlantic Coast, entering the Chesapeake Bay at Hampton Roads.

Federally-Listed Species in the Action Area. The threatened and endangered species identified that could potentially occur in the area of the proposed action are listed in Table 1 (Atlantic) and Table 2 (Pacific).

Potential Effects to Federally-Listed Species. Encountering strikes from the ships' hulls, the tug's propeller, or the tow cable have the potential to cause injury or mortality to marine mammals and sea turtles.

Marine mammals frequently are exposed to vessel movement as a result of research, ecotourism, commercial and private vessel traffic, and government activities. However, vessel strike avoidance measures are limited in a towing situation because a tug is constrained in its ability to both turn quickly and rapidly alter speed, similar to other vessel movements by self-propelled ships. As a result, the following protective measures are proposed to be implemented for the proposed action and similar tows of inactive ships that are eligible for listing in the NRHP:

- The tug and tow will transit at speeds of 10 knots or less in accordance with the Whale Ship Strike Reduction Rule (50 C.F.R. 224.105, 9 December 2008) for protection of right whales in seasonal management areas.

- Whenever marine mammals or sea turtles are sighted in an area, the tug's crew would increase vigilance and take reasonable and prudent actions to avoid collisions or activities that might result in close interaction of the ship and the animals. Actions may include changing speed and/or direction as dictated by environmental and other conditions (e.g., safety, weather).

Conclusion. The presence of ESA-listed marine mammals and sea turtles (Tables 1 and 2) in combination with the restrictive maneuverability of the tug and towed vessel led the Navy to determine that towing of inactive vessels may affect, but is not likely to adversely affect, ESA-listed species. Protective measures as described will be implemented, thereby reducing the potential for adverse effects associated with towing operations. The Navy determines that towing ex-FORREST SHERMAN and ex-CONSTELLATION may affect, but is not likely to adversely affect, ESA-listed species.

We request a conference call or meeting with your office at your earliest convenience to further discuss this proposed action.

4770
Ser 333/178
August 14, 2012

The point of contact regarding this matter is Mr. Thomas Fetherston. He can be reached by phone at (401) 832-5857 or by email at thomas.n.fetherston@navy.mil.

Sincerely,

C. R. Pietras
CAPT USN
Program Manager
Navy Inactive Ships Program (PMS 333)

Enclosures: 1. Table 1: Endangered and Threatened Species that may occur in the Atlantic and Gulf of Mexico Action Areas.

2. Table 2: Endangered and Threatened Species that may occur in the Pacific Action Area.

Table 1. Endangered and Threatened Species that may occur in the Atlantic and Gulf of Mexico Action Areas.

Common name	Scientific name	Status	Occurrence	
			Gulf of Mexico	Atlantic
Marine mammals				
Blue whale	*Balaenoptera musculus*	Endangered	X	X
Fin whale	*Balaenoptera physalus*	Endangered	X	X
Humpback whale	*Megaptera novaeangliae*	Endangered	X	X
North Atlantic right whale	*Eubalaena glacialis*	Endangered		X
Sei whale	*Balaenoptera borealis*	Endangered	X	X
Sperm whale	*Physeter macrocephalus*	Endangered	X	X
Sea turtles				
Green turtle	*Chelonia mydas*	Endangered/ Threatened[1]	X	X
Hawksbill turtle	*Eretmochelys imbricata*	Endangered	X	X
Kemp's ridley turtle	*Lepidochelys kempii*	Endangered	X	X
Leatherback turtle	*Dermochelys coriacea*	Endangered	X	X
Loggerhead turtle	*Caretta caretta*	Endangered/ Threatened[2]	X	X
Olive ridley turtle	*Lepidochelys olivacea*	Threatened	X	X[3]

[1] As a species, the green turtle is listed as threatened, but the Florida and Mexican Pacific coast nesting populations are listed as endangered.

[2] Nine distinct population segments exist for loggerhead sea turtles. The North Pacific Ocean, South Pacific Ocean, North Indian Ocean, Northeast Atlantic Ocean, and Mediterranean Sea distinct population segments of the loggerhead sea turtle are listed as endangered. The Southeast Indo-Pacific Ocean, Southwest Indian Ocean, Northwest Atlantic Ocean, and South Atlantic Ocean distinct population segments are listed as threatened.

[3] Occurs south of Florida

Table 2. Endangered and Threatened Species that may occur in the Pacific Action Area.

Common name	Scientific name	Status	Occurrence		
			Pacific	Gulf of Mexico	Atlantic
Marine mammals					
Blue whale	*Balaenoptera musculus*	Endangered	X	X	X
Fin whale	*Balaenoptera physalus*	Endangered	X	X	X
Gray whale	*Eschrichtius robustus*	Endangered	X		
Humpback whale	*Megaptera novaeangliae*	Endangered	X	X	X
Killer whale	*Orcinus orca*	Endangered[1]	X	Not ESA-listed	Not ESA-listed
North Atlantic right whale	*Eubalaena glacialis*	Endangered			X
North Pacific right whale	*Eubalaena japonica*	Endangered	X		
Sei whale	*Balaenoptera borealis*	Endangered	X	X	X
Sperm whale	*Physeter macrocephalus*	Endangered	X	X	X
Guadalupe fur seal	*Arctocephalus townsendi*	Endangered	X[2]		
Steller sea lion	*Eumetopias jubatus*	Threatened	X		
Sea turtles					
Green turtle	*Chelonia mydas*	Endangered/ Threatened[3]	X	X	X
Hawksbill turtle	*Eretmochelys imbricata*	Endangered	X[2]	X	X
Kemp's ridley turtle	*Lepidochelys kempii*	Endangered		X	X
Leatherback turtle	*Dermochelys coriacea*	Endangered	X	X	X
Loggerhead turtle	*Caretta caretta*	Endangered/ Threatened[4]	X	X	X
Olive ridley turtle	*Lepidochelys olivacea*	Endangered/ Threatened[5]	X	X	X[7]

[1] Only the southern resident population in Puget Sound is listed as endangered.
[2] Occurs in the Southwest Region.
[3] As a species, the green turtle is listed as threatened, but the Florida and Mexican Pacific coast nesting populations are listed as endangered.
[4] Nine distinct population segments exist for loggerhead sea turtles. The North Pacific Ocean, South Pacific Ocean, North Indian Ocean, Northeast Atlantic Ocean, and Mediterranean Sea distinct population segments of the loggerhead sea turtle are listed as endangered. The Southeast Indo-Pacific Ocean, Southwest Indian Ocean, Northwest Atlantic Ocean, and South Atlantic Ocean distinct population segments are listed as threatened.
[6] The breeding populations of Mexico's Pacific coast are listed as endangered. Other populations listed as threatened.
[7] Occurs south of Florida.

ATTACHMENT II
U.S. NAVY DECOMISSIONED VESSELS

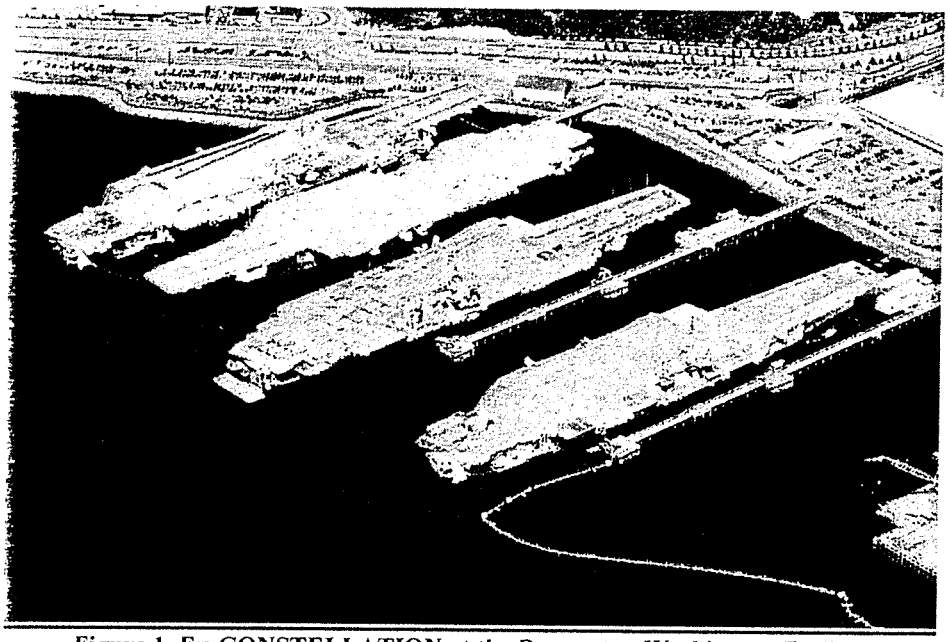


Figure 1. Ex-CONSTELLATION at the Bremerton Washington Facility

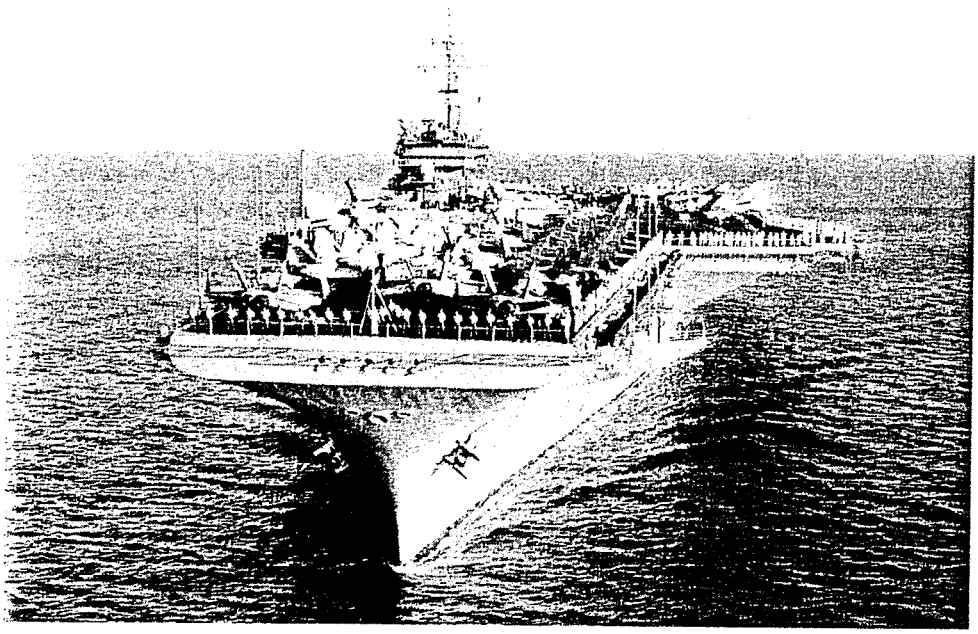


Figure 2. Ex-CONSTELLATION underway

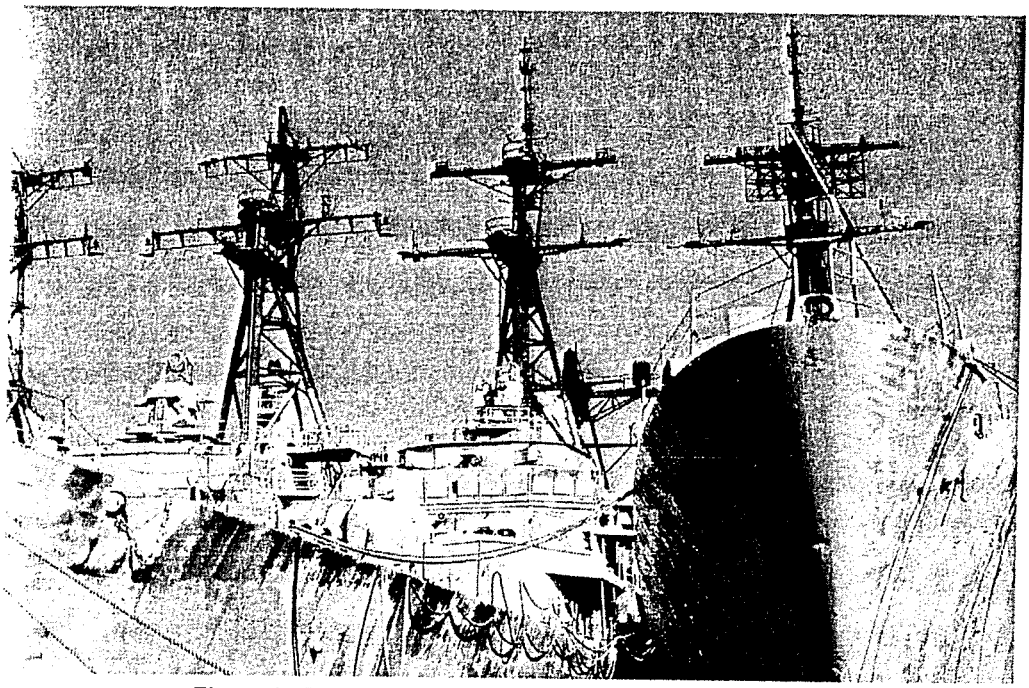


Figure 3. Ex-FORREST SHERMAN (Second from Right)

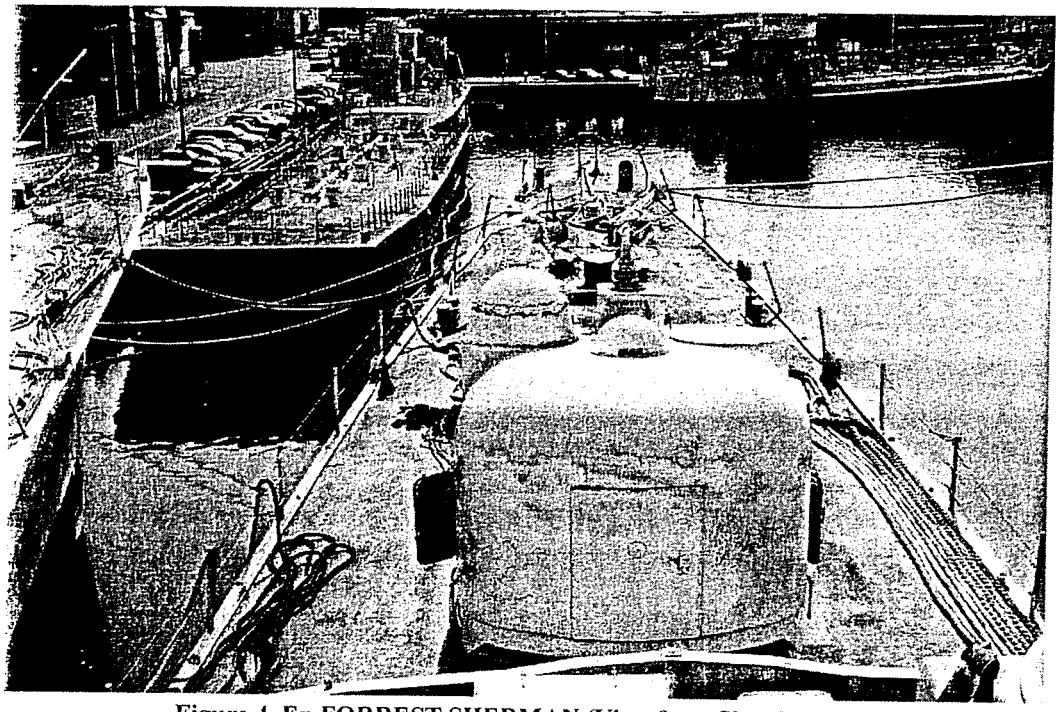


Figure 4. Ex-FORREST SHERMAN (View from Signal Bridge)

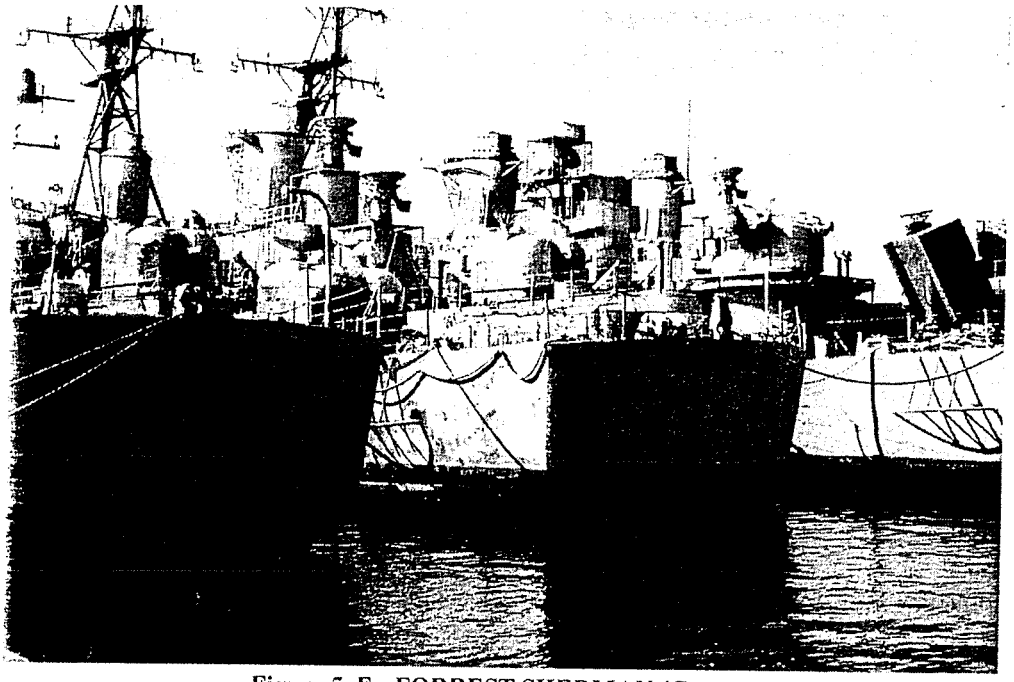


Figure 5. Ex-FORREST SHERMAN (Center)

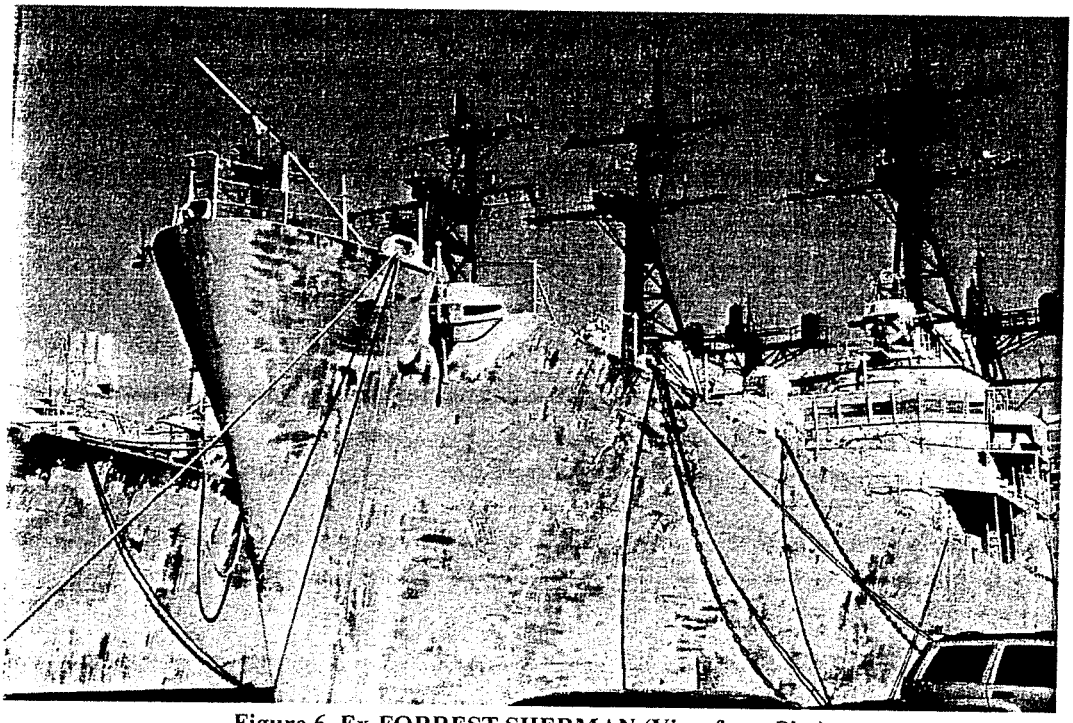


Figure 6. Ex-FORREST SHERMAN (View from Pier)

ATTACHMENT III
U.S. NAVY PROPOSED TOWING ROUTES

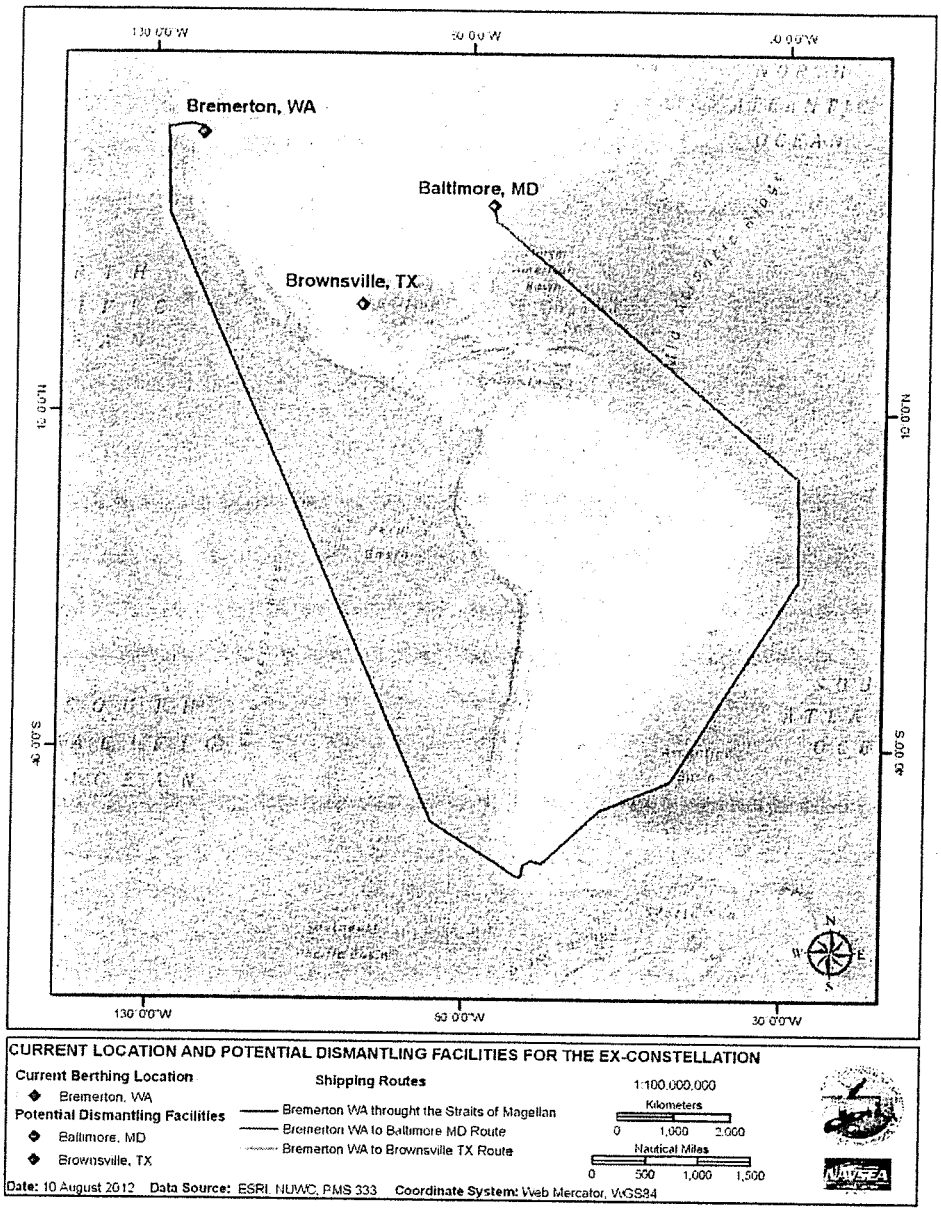


Figure 7. Alternative Towing Routes for the Ex-CONSTELLATION

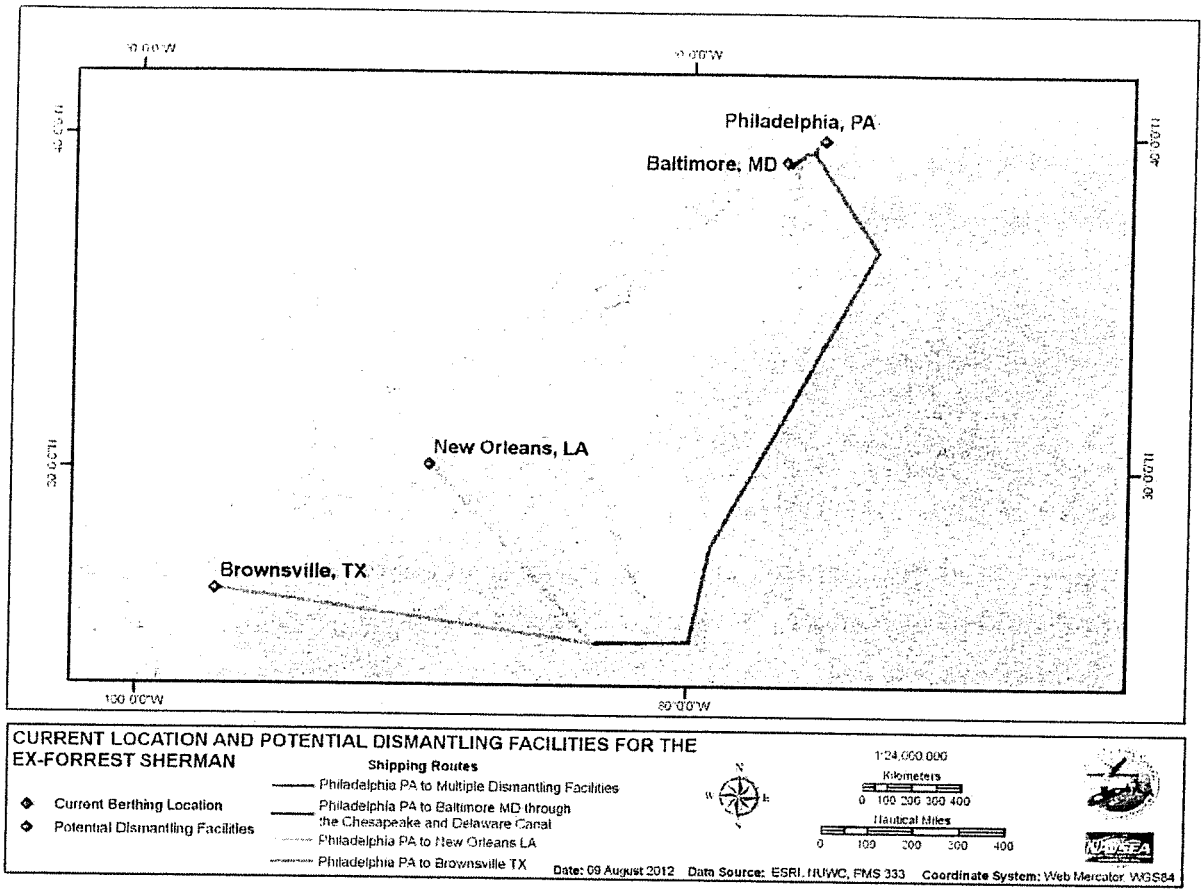


Figure 8. Alternative Towing Routes for the Ex-FORREST SHERMAN

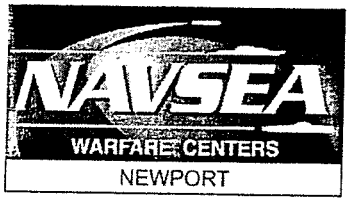
ATTACHMENT IV
BIOLOGICAL ANALYSIS FOR SPECIES LISTED UNDER THE ENDANGERED SPECIES ACT IN THE ATLANTIC OCEAN, GULF OF MEXICO AND PACIFIC OCEAN

Biological Analysis for Species Listed Under the Endangered Species Act in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean

September 2012

For Additional Information

Naval Undersea Warfare Center Division, Newport RI
Environmental Division, Mission Environmental Planning Program
1176 Howell St., Newport, RI 02841



CHAPTER 1 EXISTING ENVIRONMENT

1.1. MARINE MAMMALS

The marine mammals discussed here are listed under the Endangered Species Act (ESA). General marine mammal occurrence is presented for the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Information specific to the Study Areas of the proposed transit routes are presented when possible.

1.1.1. Cetaceans

1.1.1.1. Blue whale

Blue whales (*Balaenoptera musculus*) are listed as endangered and may occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The blue whale inhabits all oceans and typically occurs near the coast, over the continental shelf, though it is also found in oceanic waters. Blue whales as a species are thought to summer in high latitudes and move into the subtropics and tropics during the winter (Yochem and Leatherwood 1985). Historical blue whale observations collected by Reeves et al.(2004) show a broad longitudinal distribution in tropical and warm temperate latitudes during the winter months, with a narrower, more northerly distribution in summer.

The blue whale is considered an occasional visitor in United States (U.S.) Atlantic waters, which may represent the current southern limit of its feeding range (Cetacean and Turtle Assessment Program (CETAP) 1982; Wenzel et al. 1988). Although the exact extent of their southern boundary and wintering grounds are not well understood, blue whales are occasionally found in waters off of the U.S. Atlantic coast (Waring et al. 2010). There are only two reliable records for blue whales in the Gulf of Mexico; both are strandings. This is one of the most rare cetacean species in the Gulf of Mexico (Jefferson and Schiro 1997; Würsig et al. 2000).

On the Pacific coast their range includes the California Current System and the open ocean. The majority of blue whale sightings are in nearshore and continental shelf waters; however, blue whales frequently travel through deep oceanic waters during migration. Blue whales in the north Pacific are known to migrate between higher latitude feeding grounds of the Gulf of Alaska and the Aleutian Islands to lower latitude breeding grounds of California and Baja California, Mexico (Oleson et al. 2009). The west coast is known to be a feeding area for this species during summer and fall (Bailey and Thompson 2009; Caretta et al. 2011).

Blue whales are likely to occur within the Atlantic and Pacific Study Areas but are not likely to occur within the Gulf of Mexico.

1.1.1.2. Fin whale

Fin whales (*Balaenoptera physalus*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Fin whales are broadly distributed throughout the world's oceans, usually in temperate to polar latitudes and less commonly in warm tropical waters (Reeves et al. 2002). Therefore fin whale presence within the Gulf of Mexico is considered extralimital.

Fin whales are common in waters of the U.S. Atlantic, principally from Cape Hatteras northward (Cetacean and Turtle Assessment Program (CETAP) 1982). Their summer foraging areas are from the coast of North America to the Arctic (U.S. Department of Commerce and National Marine Fisheries Service 2010). The open ocean range of the fin whale includes the Gulf Stream, North Atlantic Gyre, and Labrador Current.

In the Pacific Ocean, fin whales have been documented from 60° North (N) to 23° N, and they have frequently been recorded in waters off the southern California coast (Mizroch et al. 2009; Caretta et al. 2011). Aggregations of fin whales are present year-round in southern and central California (Forney et al. 1995). Fin whales are distributed across the North Pacific during the summer (May through October) from the southern Chukchi Sea (69°N) south to the Subarctic Boundary (approximately 42°N) and to 30°N in the California Current (Mizroch et al. 1999). During the winter (November through April), fin whales are sparsely distributed from 60°N, south to the northern edge of the tropics, near which it is assumed that mating and calving take place (Mizroch et al. 1999).

Fin whales are likely to occur within all the Atlantic and Pacific Oceans.

1.1.1.3. Humpback whale

Humpback whales (*Megaptera novaengliae*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Humpback whales are distributed worldwide in all major oceans and most seas. They typically are found during the summer on high-latitude feeding grounds and during the winter in the tropics and subtropics around islands, over shallow banks, and along continental coasts, where calving occurs. Most humpback whale sightings are in nearshore and continental shelf waters; however, humpback whales frequently travel through deep oceanic waters during migration (Clapham and Mattila 1990; Calambokidis et al. 2001). Humpback feeding habitats are typically shallow banks or ledges with high seafloor relief (Payne et al. 1990; Hamazaki 2002).

Their primary range in the Atlantic includes the nearshore waters of the Northeast U.S. continental shelf. Their secondary range includes the Southeast U.S. continental shelf, Caribbean Sea, Gulf of Mexico, and Gulf Stream. In the Atlantic humpbacks are most likely to occur in the mid-Atlantic between January and March; however, they may occur year-round, based on sighting and stranding data in both mid-Atlantic waters and the Chesapeake Bay (Barco et al. 2002; Swingle et al. 2008).

Humpback whales in the North Pacific are distributed in the following wintering areas: the Hawaiian Islands, the Revillagigedo Islands off Mexico, and along the coast of mainland Mexico (Calambokidis et al. 2001). During summer months, North Pacific humpback whales feed in a nearly continuous band from southern California to the Aleutian Islands (Calambokidis et al. 2001). The Central North Pacific stock of humpback whales occurs throughout known breeding grounds in Hawaii during winter and spring (November through April) (Allen and Angliss 2010). Peak occurrence around the Hawaiian Islands is from late February through early April (Au et al. 2000; Caretta et al. 2011). During the fall-winter period, primary occurrence is expected from the coast to 50 nautical miles (nm; 93 kilometers[km]) offshore (Au et al. 2000; Mobley Jr. 2004).

The California, Oregon, and Washington stock of humpback whales use the waters within Southern California as a summer feeding ground. Peak occurrence occurs in southern California from December through June (Calambokidis et al. 2001). While there are exceptions, the vast majority of humpback whales that feed off Washington, Oregon, and California breed in waters off mainland Mexico and Central America (Barlow et al. 2011).

Humpback whales are likely to occur in all of the Study Areas; however their occurrence will be associated with the nearshore waters of the continental shelf and not in waters of the high seas.

1.1.1.5. Killer whale

Killer whales (*Ocrinus orca*) occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The distinct population segment of southern resident population in Puget Sound is listed as endangered. Killer whales are found in all marine habitats, from the coastal zone (including most bays and inshore channels) to deep oceanic basins and from equatorial regions to the polar pack ice zones of both hemispheres. Although killer whales are also found in tropical waters and the open ocean, they are generally most numerous in coastal waters and at higher latitudes (Dahlheim and Heyning 1999). In most areas of their range, killer whales do not show movement patterns that would be classified as traditional migrations. However, there are often seasonal shifts in density, both onshore/offshore and north/south.

Killer whales are considered uncommon in waters of the Atlantic Ocean (Katona et al. 1988) (Waring et al. 2010). Furthermore nearshore observations are rare. The open ocean range of the killer whale in the Atlantic includes the Labrador Current, Gulf Stream, and North Atlantic Gyre. Sightings of killer whales in the Gulf of Mexico on surveys from 1951 to 1995 were most frequent in the north-central region of the Gulf of Mexico. Killer whales are relatively uncommon in the northern Gulf of Mexico, with only 49 (CV=0.77) individuals estimated to occur there (Waring et al. 2010).

In the north Pacific, the recognizable geographic pods are variously known as "residents", "transients" and "offshore" ecotypes (Hoelzel et al. 2007). Along the west coast of North America, all three ecotypes of killer whales are known to occur in Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (Forney et al. 1995; Ford and

Ellis 1999; Calambokidis and Barlow 2004; Dahlheim et al. 2008). Although they are not commonly observed in southern California coastal areas, killer whales are found year round off the coast of Baja California (Forney et al. 1995; Caretta et al. 2011).

The southern resident killer whale distinct population segment is a trans-boundary population that resides for part of the year in the protected inshore waters of the Strait of Georgia and Puget Sound (especially in the vicinity of Haro Strait, west of San Juan Island, and off the southern tip of Vancouver Island) principally during the late spring, summer, and fall (Ford et al. 1994; Krahn et al. 2004). Pods have visited coastal sites off Washington and Vancouver Island (Ford et al. 1994) and are known to travel as far south as central California and as far north as the Queen Charlotte Islands. The overall range of the southern resident killer whale in winter is unknown.

Killer whales are likely to occur within the Pacific Study Area near Washington and in waters deeper than the continental shelf. They are not likely to occur in the Atlantic and Gulf of Mexico Study Areas.

1.1.1.6. North Atlantic right whale

North Atlantic right whales (*Eubalaena glacialis*) are listed as endangered and occur in the Atlantic Ocean. The North Atlantic right whale has been sighted in the Gulf of Mexico but the sighting records probably are of extralimital strays from wintering grounds off the Southeastern U.S. (Jefferson and Schiro 1997). New England waters are an important feeding habitat for right whales, which feed primarily on copepods in this area.

The western North Atlantic right whale population ranges primarily from calving grounds in coastal waters of the southeastern U.S. to feeding grounds in New England waters. The coastal waters of Georgia and Florida in the southeastern U.S. were designated as critical habitat by NMFS in 1994 (50 CFR 226 1994). However, movements within and between habitats are extensive. Systematic surveys conducted off the coast of North Carolina suggest that calving grounds may extend as far north as Cape Fear (McLellan et al. 2004). Since 2004, consistent aerial survey efforts have been conducted during the migration and calving season (15 November to 15 April) in coastal areas of Georgia and South Carolina, to the north of currently defined critical habitat (Glass and Taylor 2006; Khan and Taylor 2007; Sayre and Taylor 2008); Schulte and Taylor 2010). Results suggest that this region may not only be part of the migratory route but also a seasonal residency area. Results from an analysis by Schick et al. (2009) suggest that the migratory corridor of North Atlantic right whales is broader than initially estimated and that suitable habitat exists beyond the 20 nm (37 km) coastal buffer presumed to represent the primary migratory pathway (National Oceanic Atmospheric Administration).

North Atlantic right whales are likely to occur within the Atlantic Study Area, and not likely to occur in the Gulf of Mexico. This species is not expected within the Pacific Study Area.

1.1.1.7. North Pacific right whale

North Pacific right whales (*Eubalaena japonica*) are listed as endangered and occur in the Pacific Ocean. The likelihood of a North Pacific right whale being present in the proposed Study Area is extremely low as this species has only been observed rarely in the Bering Sea and Gulf of Alaska in recent years. The only recorded sighting of a right whale in the southern California area occurred in March 1992 approximately 43 mi (70 km) off the southern end of San Clemente Island (Carretta et al. 1994). Based on this information, it is highly unlikely for this species to be present in the Study Area.

North Pacific right whales are not likely to occur in the Pacific Study Area. This species is not expected within the Atlantic or Gulf of Mexico Study Areas.

1.1.1.8. Sei whale

Sei whales (*Balaenoptera borealis*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Sei whales are most often found in deep, oceanic waters of the cool temperate zone and are rarely observed near the coast (Jefferson et al. 2008; Horwood 2009). They appear to prefer regions of steep bathymetric relief, such as the continental shelf break, canyons, or basins situated between banks and ledges (Kenney and Winn 1987; Schilling et al. 1992; Gregr and Trites 2001; Best and Lockyer 2002). These areas are often the location of persistent hydrographic features, which may be important factors in concentrating zooplankton, especially copepods. On the feeding grounds, the distribution is largely associated with oceanic frontal systems (Horwood 1980).

Sei whales spend the summer feeding in subpolar high latitudes and return to lower latitudes to calve in winter. They are generally found between 10° N and 70° N latitudes. Satellite tagging data indicate sei whales feed and migrate east to west across large sections of the North Atlantic (Olsen et al. 2009); they are not often seen within the equatorial Atlantic. There are only five reliable sei whale records for the Gulf of Mexico (Würsig et al. 2000). Sei whales are uncommon in most tropical regions, and based on the scarcity of records for this species in the Gulf, any sightings there would be considered extralimital for this species (Jefferson and Schiro 1997). Sei whales, therefore, are not expected to occur in the Gulf of Mexico portion of the Study Area.

In the North Pacific, sei whales are thought to occur mainly south of the Aleutian Islands. They are present all across the temperate North Pacific north of 40° N (National Marine Fisheries Service 1998) and are seen at least as far south as 20° N (Horwood 1980). Whaling data suggest that the northern limit for this species is about 55° N (Gregr et al. 2000). In the east, they range as far south as Baja California, Mexico (National Marine Fisheries Service 1998). They are generally found feeding along the California Current (Perry et al. 1999). There are records of sightings in California waters as early as May and June, but primarily are encountered there during July to September and leave California waters by mid-October.

Sei whales are likely to occur within the Atlantic and Pacific Study Areas. Their occurrence in the Gulf of Mexico is uncommon and they are not likely to occur within the Gulf of Mexico Study Area.

1.1.1.9. Sperm whale

Sperm whales (*Physeter macrocephalus*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Sperm whales are found in polar to tropical waters in all oceans, from approximately 70°N to 70°S (Rice 1998). Females are normally restricted to areas with sea-surface temperatures greater than 15°C, whereas males, especially the largest males, can be found in waters bordering pack ice (Rice 1989). Sperm whale distribution can be variable, but is generally associated with waters over the continental shelf edge, continental slope, and offshore waters (Cetacean and Turtle Assessment Program (CETAP) 1982; Hain et al. 1985; Fiscus et al. 1989; Rice 1989; Smith et al. 1996; Reeves and Whitehead 1997; Waring et al. 2001; Davis et al. 2002).

Distribution along the east coast of the U.S. is centered along the shelf break and over the slope. During winter, high densities occur in inner slope waters east and northeast of Cape Hatteras, North Carolina (National Marine Fisheries Service (NMFS) 2006; Palka 2006; Waring et al. 2010). Waring et al. (1993) suggest that this offshore distribution is more commonly associated with the Gulf Stream edge and other features. In spring, distribution shifts northward to Delaware and Virginia, and the southern portion of Georges Bank. Summer and fall distribution is similar, extending to the eastern and northern portions of Georges Bank and north into the Scotian Shelf. Occurrence south of New England on the continental shelf is highest in the fall (Waring et al. 2010).

The sperm whale is the most common large cetacean in the northern Gulf of Mexico (Palka and Johnson 2007). The distribution of sperm whales in the Gulf of Mexico is strongly linked to surface oceanography, such as loop current eddies that locally increase production and availability of prey (O'Hern and Biggs 2009). Sperm whales aggregate at the mouth of the Mississippi River and along the continental slope in or near cyclonic cold-core eddies (counterclockwise water movements in the northern hemisphere with a cold center) (Davis et al. 2007). In the north-central Gulf of Mexico, sperm whales are especially common near the Mississippi Canyon, where some are present year-round. The Mississippi River Delta is an area of known sperm whale occurrence as the continental shelf is very narrow and extends the nutrient-rich river plume into deep waters where primary productivity and zooplankton abundance are amplified (Baumgartner et al. 2001; Davis et al. 2002).

Sperm whales are found year round in California waters (Forney and Barlow 1993; Barlow 1995). Sperm whales are known to reach peak abundance from April through mid-June and from the end of August through mid-November (Carretta et al. 2010). Two occurrences of sperm whale stranding in Oregon were recorded in 1970 and 1979. Based on habitat preference, the sperm whale is expected to occur seaward of the 1,000 m isobaths in the Pacific Northwest. Secondary occurrence between the 200 m and 1,000 m isobaths, accounts for the possibility of

sightings in more shallow waters. Sperm whale occurrence in waters between the shore and the 200 m isobath is expected to be rare since this species prefers deep waters (Department of the Navy 2006).

Sperm whales are likely to occur within all the Study Areas especially along the portions of the transit located along the continental shelf and slope.

1.1.2. Pinnipeds

1.1.2.1. Guadalupe fur seal

Guadalupe fur seals (*Arctocephalus townsendi*) are listed as endangered and occur in the Pacific Ocean near Southern California. The Guadalupe fur seal is typically found on shores with abundant large rocks, often at the base of large cliffs. They are also known to inhabit caves, which provide protection and cooler temperatures, especially during the warm breeding season (Belcher and Lee Jr. 2002). Guadalupe fur seals are most common at Guadalupe Island, Mexico, their primary breeding ground (Melin and Delong 1999). A second rookery was found in 1997 at the San Benito Islands off Baja California (Maravilla-Chavez and Lowry 1999). Adult and juvenile males have been observed at San Miguel Island, California (Melin and Delong 1999). Sightings have also occurred at Santa Barbara, San Nicolas, and San Clemente Islands (Stewart 1981; Stewart et al. 1993).

Guadalupe fur seals can be found in deeper waters of the California Current System (Hanni et al. 1997; Jefferson et al. 2008). Adult males, juveniles, and nonbreeding females may live at sea during some seasons or for part of a season (Reeves et al. 1992). Several observations suggest that this species travels alone or in small groups of fewer than five (Seagars 1984; Belcher and Lee Jr. 2002). The movements of Guadalupe fur seals at sea are generally unknown, but strandings have been reported in northern California and as far north as Washington (Etnier 2002). The northward movement of this species possibly has resulted from an increase in its population (Etnier 2002).

The Guadalupe fur seal is most likely in coastal areas and is not likely to occur in the open ocean of the Pacific Study Area. This species is not expected in the Atlantic or Gulf of Mexico Study Areas.

1.1.2.2. Stellar sea lion

Stellar sea lions (*Eumetopias jubatus*) are listed as threatened and occur in the northwest Pacific Ocean year round. Peak abundance occurs on land during the spring breeding season and at sea during the fall (Bonnell et al. 1992). In Washington State, steller sea lions primarily haul out along the coast from the Columbia River to Cape Flattery and on the southern coast of Vancouver Island near the Strait of Juan de Fuca (Jeffries et al. 2000). Primary rookery sites in Oregon are located along the southern coast at Orford and Rogue Reefs, while main haulout sites are also in Sea Lion Caves, Three Arch Rocks, Ecola Point, and the Columbia River jetty

(Bonnell et al. 1992; Brown 1997). St. George Reef is the primary haulout and rookery site in northern California (Loughlin et al. 1992).

Stellar sea lions are most likely in coastal areas in the Pacific Northwest and is not likely to occur in the open ocean of the Pacific Study Area. This species is not expected in the Atlantic or Gulf of Mexico Study Areas.

1.1.3. Sea Turtles

1.1.3.1. Green sea turtle

The green sea turtle (*Chelonia mydas*) occurs in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The green sea turtle is listed as two populations under the ESA: the Florida and Mexico Pacific coast breeding colonies, and sea turtles from all other populations. The breeding colonies on the Pacific coast of Florida and Mexico are designated as endangered and all other colonies are designated as threatened (43 FR 32800-32811 1978). In 1998, critical habitat was designated for green sea turtles in coastal waters around Culebra Island, Puerto Rico, from the mean high water line seaward to 3 nm (5.5 km) to include Culebra's outlying Keys (Fish et al. 1998).

The green sea turtle is distributed worldwide across tropical and subtropical coastal waters between 45° N and 40° S (The State of the World's Sea Turtles Team 2011). After emerging from the nest, green turtle hatchlings swim to offshore areas where they float passively in major current systems. Post-hatchling green turtles forage and develop in floating *Sargassum* habitats of the open ocean. At the juvenile stage (estimated at 5 to 6 years) they leave the open-ocean habitat and retreat to protected lagoons and open coastal areas that are rich in seagrass or marine algae (Bresette et al. 2006), where they will spend most of their lives (Bjorndal and Bolten 1988). The optimal developmental habitats for late juveniles and foraging habitats for adults are warm shallow waters 9.8 – 16 feet (ft; 3 – 5 meters [m]) deep with abundant submerged aquatic vegetation and close to nearshore reefs or rocky areas (Seminoff et al. 2002; Holloway-Adkins 2006).

During the winter, the highest concentration of green turtles occurs just north of Cape Canaveral, a known wintering area for juveniles. Juvenile green turtles are the second-most abundant sea turtle species in North Carolina summer developmental habitats, occurring year-round within continental shelf waters, while adults are restricted to more southern latitudes (Epperly et al. 1995b). Most green sea turtle sightings north of Florida are of juveniles and occur during late spring to early fall (Lazell Jr. 1980; Burke et al. 1992; Epperly et al. 1995a).

Juveniles use the estuarine and nearshore waters of central Florida throughout the year, including Pensacola Bay, St. Joseph Bay, Charlotte Harbor, Cedar Keys, Homosassa Springs, Crystal River, and Tampa Bay (Renaud et al. 1995). In the northern Gulf of Mexico, green sea turtles prefer the coastal habitats of southern Texas (e.g., lagoons, channels, inlets, bays) including Texas' Laguna Madre (Renaud et al. 1995). As water temperatures rise from April to June, green sea turtle numbers increase in the continental shelf waters off Galveston Bay and in those

waters associated with the continental shelf break northeast of Corpus Christi. The sparse sighting records in Louisiana and Texas waters, as well as nesting records on the southern Texas coast, indicate that green turtles are found in the northwestern Gulf of Mexico during spring but in far fewer numbers than in the northeastern Gulf. Suitable nesting beaches are located throughout the Gulf region, from the shores of northern Mexico and southern Texas in the western Gulf of Mexico to southern Florida and the Florida panhandle in the eastern Gulf of Mexico.

Green sea turtles are widely distributed in the subtropical coastal waters of southern Baja California, Mexico, and Central America (Cliffton 1995); (National Marine Fisheries Service et al. 1998b). The main group of eastern Pacific Ocean green sea turtles is found on the breeding grounds of Michoacán, Mexico, from August through January and year-round in the feeding areas, such as those on the western coast of Baja California, along the coast of Oaxaca, and in the Gulf of California (the Sea of Cortez) (National Marine Fisheries Service et al. 1998b). Bahía de Los Angeles in the Gulf of California has been identified as an important foraging area for green sea turtles (Seminoff et al. 2003). The western coasts of Central America, Mexico, and the U.S. constitute a shared habitat for this population (National Marine Fisheries Service et al. 1998b). The green sea turtle is not known to nest on Southern California beaches. Ocean waters off Southern California and northern Baja California are also designated as areas of occurrence because of the presence of rocky ridges and channels and floating kelp habitats suitable for green sea turtle foraging and resting (Stinson 1984); however, these waters are often at temperatures below the thermal preferences of this primarily tropical species. Due to the warm water habitat preference the green sea turtle is not expected to occur off the coasts of Oregon or Washington, but will occur off the coast of California.

Green turtles are likely to occur in the continental shelf and warm shallow waters of all Study Areas. They are not likely to occur in the high seas.

1.1.3.2. Hawksbill sea turtle

Hawksbill sea turtles (*Eretmochelys imbricata*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The hawksbill is the most tropical of the world's sea turtles, rarely occurring above 35° N or below 30° S (Seminoff et al. 2003). Critical habitat was designated for hawksbill terrestrial nesting areas in Puerto Rico in the year 1982 (50 CFR § 17 1982). Critical marine habitat was designated in the year 1998 for the coastal waters surrounding Mona and Monito Islands, Puerto Rico from the mean high water line seaward to 3 nm (5.55 km) (National Marine Fisheries Service et al. 1998a).

Hatchlings are believed to occupy open-ocean waters, associating themselves with surface algal mats in the Atlantic Ocean (Parker 1995; Seminoff et al. 2003; Witherington and Hirama 2006). Juveniles leave the open-ocean habitat after 3 to 4 years and settle in coastal foraging areas, typically coral reefs but occasionally seagrass beds, algal beds, mangrove bays, and creeks (Mortimer and Donnelly 2009). Juveniles and adults share the same foraging areas, including tropical nearshore waters associated with coral reefs, hardbottoms, or estuaries with mangroves

(Musick and Limpus 1997). In nearshore habitats, resting areas for late juvenile and adult hawksbills are typically in deeper waters, such as sandy bottoms at the base of a reef flat (Houghton et al. 2003). As they mature into adults, hawksbills move to deeper habitats and may forage to depths greater than 295 ft (90 m). During this stage, hawksbills are seldom found in waters beyond the continental or insular shelf unless they are in transit between distant foraging and nesting grounds (Renaud et al. 1995; Shaver et al. 2005; Shaver and Rubio 2008).

While hawksbills are known to occasionally migrate long distances in the open ocean, they are primarily found in coastal habitats and use nearshore areas more exclusively than other sea turtles. Despite a lack of information regarding the hawksbill turtle's use of the open ocean in all life stages, they have been reported rarely off of Cape Cod and in North Carolina (Seminoff et al. 2003). Due to these sightings and the relative warmth of the Gulf Stream into the higher latitudes of the North Atlantic, hawksbills are assumed to be present in the North Atlantic, Gulf Stream and Open Ocean.

Hawksbill turtles occur regularly in the nearshore waters of southern Florida and the Gulf of Mexico (National Marine Fisheries Service et al. 2007b). The greatest hawksbill turtle numbers in the southeastern U.S. are found in the fall off southern Florida. There, hawksbills are documented from winter to summer from Palm Beach to the Florida Keys, and to coastal waters just northwest of Tampa Bay, where the northernmost stranding records typically occur (National Marine Fisheries Service et al. 2007b). Hawksbill turtle sightings in waters off the Florida Panhandle, Alabama, Mississippi, Louisiana, and Texas (Rabalais and Rabalais 1980; Rester and Condrey 1996; Seminoff et al. 2003), though rare, are likely of early juveniles born on nesting beaches in Mexico that have drifted north with the dominant currents (National Marine Fisheries Service et al. 1993).

Water temperature in the Pacific Northwest and southern California region of the Study Area is generally too low for hawksbills, and their occurrence is rare. Nesting is rare in the eastern Pacific Ocean region, and does not occur along the U.S. west coast (National Marine Fisheries Service et al. 1998a; Seminoff et al. 2003). If hawksbills were to occur in the southern California region, it would most likely be during an El Niño event, when waters along the California current are unusually warm (National Marine Fisheries Service et al. 2007b).

Hawksbill sea turtles are likely to occur in all the Study Areas and may occur in the open ocean. The highest density is expected within the Gulf of Mexico and along the Straits of Florida.

1.1.3.3. Kemp's ridley sea turtle

Kemp's ridley sea turtles (*Lepidochelys kempii*) are listed as endangered and occur in the Atlantic Ocean and Gulf of Mexico. Habitats frequently used by Kemp's ridley sea turtles in U.S. waters are warm-temperate to subtropical sounds, bays, estuaries, tidal passes, shipping channels, and beachfront waters, where their preferred food, the blue crab, is abundant (Lutcavage and Musick 1985; Seney and Musick 2005). Adult female Kemp's ridley sea turtles take part in mass synchronized nesting emergences known as "arribadas" on only a few nesting

beaches; this nesting strategy is unique to *Lepidochelys* spp. The nesting season in the Atlantic and Gulf of Mexico Study Areas occur from April through July.

Evidence suggests that post-hatchling and small juvenile Kemp's ridley sea turtles, similar to loggerhead and green sea turtles of the same region forage and develop in floating *Sargassum* habitats of the North Atlantic Ocean. Juveniles migrate to habitats along the Atlantic continental shelf from Florida to New England (Morreale et al. 1992; Peña 2006) at around two years of age. Migrating juvenile Kemp's ridleys travel along coastal corridors in waters generally shallower than 164 ft (50 m) in bottom depth (U.S. Department of Commerce and National Marine Fisheries Service 2010). Suitable developmental habitats are seagrass beds and mud bottoms in waters of less than 33 ft (10 m) bottom depth and with sea surface temperatures between 72°F and 90°F (22°C and 32°C) (Coyne et al. 2000).

In the spring, Kemp's ridleys in south Florida begin to migrate northward. As waters become warmer Kemp's ridley turtle travel as far north as Long Island Sound and even Nova Scotia (Bleakney 1955). Satellite telemetry data suggest that turtles migrate south in October and November within the Southeast United States—from Georgia and northern Florida to the waters south of Cape Canaveral—and return to their summer foraging grounds in March and April. The offshore waters south of Cape Canaveral are identified as an important overwintering area for turtles foraging in Atlantic coastal waters (Henwood and Ogren 1987; Schmid 1995).

The Kemp's ridley occurs year-round in the coastal waters of the Gulf of Mexico from the Yucatán peninsula to south Florida (Lazell Jr. 1980; Morreale et al. 1992). The entire population nests in the Gulf of Mexico, along a stretch of beaches from southern Texas to the Yucatán peninsula. Key foraging sites on the west coast of Florida include Charlotte Harbor and Gullivan Bay (Witzell and Schmid 2005). Important year-round developmental habitats in the northern Gulf of Mexico include the western coast of Florida (particularly the Cedar Keys area), the eastern coast of Alabama, and the mouth of the Mississippi River (Lazell Jr. 1980; Lutcavage and Musick 1985; Márquez-Millán 1990; National Marine Fisheries Service et al. 1992b; Márquez-Millán 1994; Weber 1995; Schmid et al. 2002). Coastal waters off western Louisiana and eastern Texas also provide adequate habitats for bottom feeding.

As adults, many turtles remain in the Gulf of Mexico, with only occasional occurrence in the Atlantic Ocean (Caretta et al. 2011). Recent analysis of sightings and strandings from the eastern Atlantic Ocean may indicate that as the population increases, the range of Kemp's ridley sea turtles may be expanding into the eastern Atlantic Ocean (Witt et al. 2007).

Kemp's ridley sea turtles are likely to occur within the Atlantic and Gulf of Mexico Study Areas. They are not expected in the Pacific Study Area.

1.1.3.4. Leatherback sea turtle

Leatherback sea turtles (*Lepidochelys kempii*) are listed as endangered and occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The leatherback turtle is the most widely distributed

of all sea turtles, found from tropical to subpolar oceans, and nests on tropical and occasionally subtropical beaches (National Marine Fisheries Service et al. 1992a; Gilman et al. 2006; Myers and Hays 2006). Found from 71° N to 47° S, it has the most extensive range of any adult turtle (Eckert 1995). Adult leatherback turtles forage in temperate and subpolar regions in all oceans, and migrate to tropical nesting beaches between 30° N and 20° S. Leatherbacks have a wide nesting distribution, primarily on isolated mainland beaches in tropical oceans (mainly in the Atlantic and Pacific Oceans, with few in the Indian Ocean) and temperate oceans (southwest Indian Ocean) (National Marine Fisheries Service et al. 1992a), and to a lesser degree on some islands.

Limited information is available on the habitats used by post-hatchling and early juvenile leatherback sea turtles (National Marine Fisheries Service et al. 1992a). These life stages are restricted to waters warmer than 79°F (26°C); consequently, much time is spent in the tropics (Eckert 2002). Upwelling areas, such as equatorial convergence zones, serve as nursery grounds for post-hatchling and early juvenile leatherback sea turtles because these areas provide a high biomass of prey (Musick and Limpus 1997).

Late juvenile and adult leatherback sea turtles are known to range from mid-ocean to the continental shelf and nearshore waters (Schroeder and Thompson 1987; Shoop and Kenney 1992; Grant and Ferrell 1993). Juvenile and adult foraging habitats include both coastal and offshore feeding areas in temperate waters and offshore feeding areas in tropical waters (Frazier 2001). The movements of adult leatherback sea turtles appear to be linked to the seasonal availability of their prey and the requirements of their reproductive cycles (Collard 1990; Davenport and Balazs 1991).

In the Atlantic Ocean, female leatherback sea turtles have been tracked traveling from nesting beaches in the southern Caribbean due north to waters off Cape Breton Island, Nova Scotia, where they forage for many months (James et al. 2005). Most turtles left during October and all migrated south. Some turtles moved to waters near nesting beaches in Central and South America, while others migrated to open-ocean waters between 5° N and 23° N, or to continental shelf waters off the southeastern U.S. In February and March, these turtles migrated back to the North Atlantic Ocean, typically arriving in June (James et al. 2005).

Aerial surveys off the southeastern U.S. coast indicate that leatherback sea turtles occur in these waters throughout the year, with peak abundance in summer (Turtle Expert Working Group 2007). Leatherback sea turtles occur regularly in the northern Gulf of Mexico, inhabiting deep offshore waters in the vicinity of DeSoto Canyon for feeding, resting, and migrating (Landry Jr. and Costa 1999; Davis et al. 2000). Leatherback sea turtles may also occur in shallow waters on the continental shelf and have been observed feeding on dense aggregations of jellyfish in nearshore waters off the Florida Panhandle, the Mississippi River Delta, and the Texas coast (Collard 1990).

In the eastern North Pacific Ocean, leatherback turtles are broadly distributed from the tropics to as far north as Alaska (Eckert 1993; Hodge and Wing 2000). Stinson (1984) concluded that the

leatherback was the most common sea turtle in U.S. waters north of Mexico. While the leatherback is known to occur throughout the California Current System, it is not known to nest anywhere along the U.S. Pacific Ocean coast. Leatherback turtles are regularly seen off the western coast of the U.S., with the greatest densities found off central California. Off central California, sea surface temperatures are highest during the summer and fall, and oceanographic conditions create favorable habitat for prey species. There is some evidence that they follow the 61°F (16°C) isotherm into Monterey Bay (Starbird et al. 1993).

Leatherback sea turtles are likely to occur within all the Study Areas. The highest density is expected over the continental shelf and shallower coastal waters.

1.1.3.5. Loggerhead sea turtle

Loggerhead sea turtles (*Caretta caretta*) occur in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. Nine distinct population segments exist for loggerhead sea turtles. The North Pacific Ocean, South Pacific Ocean, North Indian Ocean, Northeast Atlantic Ocean, and Mediterranean Sea distinct population segments are listed as endangered. The Southeast Indo-Pacific Ocean, Southwest Indian Ocean, Northwest Atlantic Ocean, and South Atlantic Ocean distinct population segments are listed as threatened.

Loggerhead sea turtles occur in U.S. waters in habitats ranging from coastal estuaries to waters far beyond the continental shelf (Dodd Jr. 1988). Loggerheads typically nest on beaches close to reef formations and next to warm currents (Dodd Jr. 1988), preferring beaches facing the ocean or along narrow bays (National Marine Fisheries Service et al. 1998b). Nesting occurs from April through September, with a peak in June and July (Williams-Walls et al. 1983; Dodd Jr. 1988; Weishampel et al. 2006). At emergence, hatchlings swim to offshore currents and remain in the open ocean, often associating with floating mats of *Sargassum* (Carr 1986,1987; Witherington and Hirama 2006). Migration between oceanic and nearshore habitats occurs during the juvenile stage as turtles move seasonally from open-ocean current systems to nearshore foraging areas (Bolten 2003; Mansfield 2006). Once adults, loggerheads continue to migrate seasonally from feeding areas to mating and, for females, nesting areas (Bolten 2003). After reaching sexual maturity, adult turtles settle in nearshore foraging habitats (Musick and Limpus 1997; Godley et al. 2003).

After reaching a length of approximately 16 in. (40 cm) (Carr 1987), early juvenile loggerheads make a transoceanic crossing, swimming back to nearshore feeding grounds near their beach of origin in the western Atlantic Ocean (Musick and Limpus 1997; Bowen et al. 2004). Juvenile loggerhead sea turtles inhabit offshore waters in the North Atlantic Ocean, where they are often associated with natural and artificial reefs (Fritts et al. 1983). Subadult and adult loggerhead turtles tend to inhabit deeper offshore feeding areas along the western Atlantic coast, from mid-Florida to New Jersey (Hopkins-Murphy et al. 2003; Roberts et al. 2005).

Shoop and Kenney(1992) estimated that a minimum of 8,000–11,000 loggerheads are present in the Northeast U.S. Continental Shelf waters each summer, with the highest summer occurrence

in waters over the mid-continental shelf, roughly from Delaware Bay to Hudson Canyon. Juveniles are frequently observed in developmental habitats, including coastal inlets, sounds, bays, estuaries, and lagoons with depths less than 100 m (Turtle Expert Working Group 1998; Hopkins-Murphy et al. 2003). Long Island Sound, Cape Cod Bay, and Chesapeake Bay are the most frequently used juvenile developmental habitats along the Northeast U.S. Continental Shelf (Burke et al. 1991; Prescott 2000; University of Delaware Sea Grant 2000; Mansfield 2006).

Coles and Musick (2000) identified preferred sea surface water temperatures to be between 56°F and 82°F (13.3°C and 28°C) for loggerhead turtles off North Carolina. As water temperatures drop from October to December, most loggerheads emigrate from their summer developmental habitats and eventually return to warmer waters south of Cape Hatteras, where they spend the winter (Morreale and Standora 1998). The nesting population of the Northwest Atlantic Ocean loggerhead sea turtle distinct population segment is concentrated along the U.S. east coast and Gulf of Mexico from southern Virginia to Alabama (Conant et al. 2009). The greatest proportion of that nesting occurs on the Florida Atlantic coast, below latitude 29° N (Ehrhart et al. 2003).

Loggerhead sea turtles can be found during all seasons in both continental shelf and slope waters of the Gulf of Mexico (Fritts et al. 1983; Davis et al. 2000). Nesting is infrequent in this region, and juvenile loggerheads appear to primarily use the developmental habitats found in the northwestern Gulf (Pitman 1990; Bowen et al. 1995; Zug et al. 1995; Musick and Limpus 1997; Bolten 2003). The occurrence of loggerhead sea turtles during winter is likely concentrated in the northeastern Gulf, in Alabama and Florida Panhandle shelf waters, and in the deeper off-shelf waters from Texas to Florida, although not as abundantly as in shelf waters.

Pacific Ocean loggerheads appear to use the entire North Pacific Ocean during development. There is substantial evidence that the North Pacific Ocean stock makes two transoceanic crossings. Offshore, juvenile loggerheads forage in or migrate through the North Pacific Subtropical Gyre as they move between North American developmental habitats and nesting beaches in Japan. The North Pacific Transition Zone is defined by convergence zones of high productivity that stretch across the entire north Pacific Ocean from Japan to California (Polovina et al. 2001). These turtles, whose oceanic phase lasts a decade or more, have been tracked swimming against the prevailing current, apparently to remain in the areas of highest productivity. Juvenile loggerheads originating from nesting beaches in Japan migrate through the North Pacific Transition Zone en route to important foraging habitats in Baja California (Bowen et al. 1995).

The loggerhead turtle is known to occur at sea in the Southern California, but does not nest on Southern California beaches. Southern California waters are considered an area of occurrence during the warm-water period. The area of occurrence during the cold-water period is cut along the 64°F (18°C) isotherm. Loggerheads are generally not found in waters colder than 60.8°F (16°C), so the area north of the 60.8°F (16°C) isotherm is depicted as an area of rare occurrence (NMFS 2003). Loggerhead turtles primarily occupy areas where the sea surface temperature is between 59°F and 77°F (15°C and 25°C). The loggerhead embarks on transoceanic migrations, and has been reported as far north as Alaska and as far south as Chile.

Loggerhead sea turtles are likely to occur within all the Study Areas. They are primarily concentrated in warmer waters but may conduct open ocean migrations which could potentially cross the proposed transit route once in the high seas.

1.1.3.6. Olive ridley sea turtle

Olive ridley sea turtles (*Lepidochelys olivacea*) occur south of Florida in the Atlantic Ocean, Gulf of Mexico and Pacific Ocean. The Olive ridley sea turtle is listed as threatened, except the breeding populations of Mexico's Pacific coast are listed as endangered. Most olive ridley turtles lead a primarily open ocean existence (National Marine Fisheries Service et al. 1998c). Outside of the breeding season, the turtles disperse, but little is known of their foraging habitats or migratory behavior. Neither males nor females migrate to one specific foraging area, but tend to roam and occupy a series of feeding areas in the open ocean (Plotkin et al. 1994). The olive ridley has a large range in tropical and subtropical regions in the Pacific Ocean, and is generally found between 40° N and 40° S. Both adult and juvenile olive ridley turtles typically inhabit offshore waters, foraging from the surface to a depth of 490 ft (149 m) (National Marine Fisheries Service et al. 1998c). Groups of more than 100 turtles have been observed as far offshore as 120° W, at about 1,620 nm from shore (Arenas and Hall 1992). Sightings of large groups of olive ridley turtles at sea reported by Oliver in 1946 (National Marine Fisheries Service et al. 1998c) may indicate that turtles travel in large flotillas between nesting beaches and feeding areas (Márquez-Millán 1990). Specific post- breeding migratory pathways to feeding areas do not appear to exist, although olive ridley turtles swim hundreds to thousands of kilometers over vast oceanic areas.

The olive ridley sea turtle (*Lepidochelys olivacea*) in the Atlantic is considered extralimital. Western Atlantic olive ridley sea turtle populations are centered near Suriname/French Guiana and Brazil. Between 1999 and 2001, three individuals were reported in coastal south Florida; however, all were strandings (Foley et al. 2003). These are the first known sightings in Florida and the northernmost occurrences of olive ridleys in the western North Atlantic. These sightings are considered extralimital occurrences, and genetic analysis confirmed that these three turtles were members of the Suriname/French Guiana population (Foley et al. 2003). Currently, there are no olive ridley nesting beaches in the eastern U.S., and there are no known feeding, breeding, or migration areas.

A significant nesting area for olive ridley turtles, globally, occurs in the eastern Pacific Ocean, along the western coast of southern Mexico and northern Costa Rica, with reported nesting as far north as southern Baja California (Fritts et al. 1982). In the open ocean of the eastern Pacific Ocean, olive ridley turtles are often seen near flotsam (floating debris), possibly feeding on associated fish and invertebrates (Pitman 1992). The olive ridley turtle occurs off the coast of southern and central California, but is not known to nest on California beaches. Olive ridley turtles are occasionally seen in shallow waters less than 165 ft (50 m), although these sightings are relatively rare (National Marine Fisheries Service et al. 1998c). In general, turtle sightings increase during summer as warm water moves northward along the coast (Stinson 1984; Steiner and Walder 2005).

Olive ridley sea turtles are likely to occur within all Study Areas. Densities are expected to be highest in warm waters.

CHAPTER 2 ENVIRONMENTAL CONSEQUENCES

2.1. IMPACTS TO THE BIOLOGICAL ENVIRONMENT

The primary issue regarding the biological environment is vessel movement which could result in collision between the tug, tow cable or tow and marine mammals or sea turtles.

2.1.1. Marine Mammals

Interactions between surface vessels and marine mammals have demonstrated that surface vessels represent a source of acute and chronic disturbance for marine mammals (Hewitt 1985; Kraus et al. 1986; 63 FR 46693 1998; Au et al. 2000; Magalhães et al. 2002; Richter et al. 2003; Nowacek et al. 2004; Bejder et al. 2006; Richter et al. 2006; Richter et al. 2008; Jefferson et al. 2009; Williams et al. 2009). In some circumstances, marine mammals respond to vessels with the same behavioral repertoire and tactics they employ when they encounter predators, although it is not clear what environmental cue or cues marine animals might respond to - the sounds of water being displaced by the ships, the sounds of the ships' engines, or a combination of environmental cues surface vessels produce while they transit.

These studies establish that marine mammals engage in avoidance behavior when surface vessels move toward them. It is not clear whether these responses are caused by the physical presence of a surface vessel, the underwater noise generated by the vessel, or an interaction between the two, although the noise generated by the vessels is probably an important contributing factor to the responses of cetaceans to the vessels. In one study, North Atlantic right whales were documented to show little overall reaction to the playback of sounds of approaching vessels, but they did respond to an alert signal by swimming strongly to the surface, which may increase their risk of collision (Nowacek et al. 2004). Aside from the potential for an increased risk of collision addressed below, physical disturbance from vessel use is not expected to result in more than a momentary behavioral response.

Vessel speed, size, and mass are all important factors in determining potential impacts of a vessel strike to marine mammals (Vanderlaan and Taggart 2007). For large vessels, speed and angle of approach can influence the severity of a strike. Silber et al. (2010) found, based on hydrodynamic modeling, that whales at the surface experienced impacts that increased in magnitude with the ship's increasing speed. Results of the study also indicated that potential impacts were not dependent on the whale's orientation to the path of the ship, but that vessel speed may be an important factor. At ship speeds of 15 knots or higher, there was a marked increase in intensity of centerline impacts on whales. Results also indicated that when the whale was below the surface (about one to two times the vessel draft), there was a pronounced propeller suction effect. This suction effect may draw the whale into the hull of the ship, increasing the probability of propeller strikes (Silber et al. 2010).

Vessel collisions are well known source of mortality in marine mammals, and can be a significant factor affecting some large whale populations (Knowlton and Kraus 2001; Laist et al. 2001; Van Waerebeek et al. 2007). During a review of data on the subject, Laist et al. (2001) compiled historical records of ship strikes, which contained 58 anecdotal accounts. It was noted that in the majority of cases, the whale was either not observed or seen too late to maneuver in an attempt to avoid collision. Right whales have been observed to exhibit little reaction to approaching vessels (Nowacek et al. 2004). Logging sperm whales, recovering on the surface from deep foraging dives, are also particularly susceptible to being struck (Watkins et al. 1999).

The speed of the ship is an important factor in predicting the lethality of a strike. Laist et al. (2001) noted that most severe and fatal injuries occurred when the vessel was traveling in excess of 14 knots (kts) with no recorded mortalities at speeds less than 10 kts. Although the tug and tow will be traveling at 10 kts or less, slow speed does not eliminate the chance that a collision will result in fatal injury. Vanderlaan & Taggert (2007) analyzed this question and concluded that at speeds below 8 kts there was still a 20% risk of death from blunt trauma. Additionally, there is a possibility a marine mammals could be struck by the tug's propeller, which even at low speeds greatly increases the chance of a mortal wound (Knowlton and Kraus 2001; Woodward et al. 2004). The towed ship would pose the same threat for blunt trauma as the tug, but not possess the added danger of a rotating propeller.

The effect of encountering a tow cable has not been widely analyzed. It is 2,000 ft (610 m) in length with a relatively narrow diameter (2.25 inches [5.72 centimeters]). The tow cable was evaluated for the potential to injure marine mammals because it will be at a depth of up to 100 ft (30 m) and have tension of up to 75 tons. Nowacek et al. (2001) used data recording tags to investigate the diving and surfacing behavior of right whales. It was concluded that during ascent in particular, the animal's positive buoyancy reduced its ability to maneuver, even if a threat was perceived overhead. Studies on tissue injuries in both right and humpback whales resulting from interaction with 6.5 millimeter (mm) and 9.5 mm diameter polypropylene lines used on lobster gear concluded that elasticity of the line, tension applied and the length that was drawn over the skin were factors in how deeply the line penetrated the epidermis. More elastic lines and shorter draw lengths were less damaging than those lines with minimal stretch and greater length (Winn et al. 2008). Should a large whale surface from beneath the tow cable, the lack of elasticity of wire rope under great strain combined with up to 2,000 ft of draw length has the potential to cause lacerations and injury.

2.1.2. Sea Turtles

Sea turtles can detect approaching vessels, likely by sight rather than by sound (Bartol and Ketten 2006; Hazel et al. 2007). Sea turtles seem to react more to slower moving vessels (2.2 knots) than to faster vessels (5.9 knots or greater). During an interaction with sea turtles and a 6m aluminum boat at 10 kts, turtles were not able to dive and achieve a depth sufficient to avoid collision with a larger craft (Hazel et al. 2007).

Vessel-related injuries to sea turtles are more likely to occur in areas with high boating traffic. For example, propeller wounds on loggerhead sea turtles are found often in southeast Florida, from Palm Beach County to Miami-Dade County, likely due to the prevalence of recreational boating in that region (National Marine Fisheries Service et al. 2007a). A study in Queensland, Australia produce similar results (Hazel and Gyuris 2006).

Minor strikes may cause temporary reversible impacts, such as diverting the turtle from its previous activity or causing minor injury. Major strikes are those that can cause permanent injury or death from bleeding/trauma, paralysis and subsequent drowning, infection, or inability to feed. Apart from the severity of the physical strike, the likelihood and rate of a turtle's recovery from a strike may be influenced by its age, reproductive state, and general condition. Much of what is written about recovery from vessel strikes is inferred from observing individuals some time after a strike. Numerous sea turtles bear scars that appear to have been caused by propeller cuts or collisions with vessel hulls (Lutcavage et al. 1997; Hazel et al. 2007), suggesting that not all vessel strikes are lethal. Conversely, fresh wounds on some stranded animals may strongly suggest a vessel strike as the cause of death. The actual incidence of recovery versus death is not known, given available data.

Any of the sea turtle species found in the Study Area can occur at or near the surface in open ocean and coastal areas, whether feeding or periodically surfacing to breathe. Sea turtles spend most of their time submerged (Renaud and Carpenter 1994; Sasso and Witzell 2006). Leatherback turtles are more likely to feed at or near the surface in open ocean areas. Green, hawksbill, Kemp's ridley, and loggerhead turtles are more likely to forage nearshore, and although they may feed along the seafloor, they surface periodically to breathe while feeding and moving between nearshore habitats. These species are distributed widely in all offshore portions of the Study Area.

2.2. RISK ASSESSMENT

Preventing collision with marine mammals and sea turtles depends on detecting the animal in time to take effective action. The NOAA "Vessel Strike Avoidance Measures" are based upon sighting animals and taking action to avoid them, including maneuvering and shifting engines into neutral. In the case of a tug and tow, the ability to take such actions is considerably constrained. Additionally, it is difficult to sight whales or sea turtles during periods of poor visibility.

Although the tug, tow cable and tow may affect endangered species encountered along the proposed tow routes, the chance that such an encounter would result in serious injury is extremely remote. The relatively low speed of the tug and tow reduces the chance that a fatal injury to listed whales will occur (Vanderlaan and Taggart 2007). The most susceptible species are North Atlantic right whales and sperm whales that may be logging at the surface. All species of sea turtles are considered vulnerable.

There has been speculation that at low speeds animals may be afforded more time to take action to avoid contact with the vessel. There have been few reported collisions of whales with ships at speeds under 10 kts (Laist et al. 2001; Jensen and Silber 2003; Vanderlaan and Taggart 2007), but whether it is related to avoidance on the part of the animal or operators being able to take action is unclear in the available literature.

The amount of time that the tug and tow spends in habitats associated with these species is another important consideration. The route planned for the ex-CONSTELLATION from Bremerton around South America has the tug and tow traveling south through the U.S. Exclusive Economic Zone (EEZ) between 50 and 100 nm (92 and 185 km) from the coast, then far out at sea in the open ocean, through the Straits of Magellan before turning north toward the Gulf of Mexico or the East Coast of North America. There will be a relatively short period of time during which the tug and tow will transit southern resident killer whale habitat as it travels out of Puget Sound, remaining within the U.S. EEZ as it parallels the coast before moving further offshore until it approaches the Straits of Magellan. The proposed route then takes the tug and tow well offshore of the eastern South American Coast. The vessels will not likely encounter significant densities of listed species until the Gulf of Mexico where sea turtles become more abundant. The route to Baltimore will mostly occur off the continental shelf, but cross the shelf break near Virginia, passing through the North Atlantic right whale migratory corridor as it enters the Chesapeake Bay at Hampton Roads. Right whales may be present in this area from November through April, with peak abundance during March and April (Knowlton et al. 2002). All recorded sightings were within 35 nm of shore (Knowlton et al. 2002). At a speed of 8 kts, the tug and tow would transit this area in less than four and a half hours.

The ex-FORREST SHERMAN will transit to either New Orleans, LA or Brownsville, TX after departing from Philadelphia and heading east from Delaware Bay until beyond the main axis of the Gulf Stream before turning south. Right whale occurrence in the vicinity of Delaware Bay is similar to what is noted for Hampton Roads, with the exception that they may range slightly further offshore (Knowlton et al. 2002). However, all sightings have been within 40 nm of the coast. Again, using an 8 knot average speed it will take the tug and tow five hours to clear this corridor. Sea turtles are more abundant in the Straits of Florida and the Gulf of Mexico. The potential route into New Orleans passes through a few areas of high sperm whale density approaching the shelf break off the Mississippi Delta (Baumgartner et al. 2001; Davis et al. 2002). The general region stretches for approximately 100 nm, which would take 12.5 hours to transit at 8 kts. In all cases, when viewed within the broad context of the action proposed, the amount of time the tug and tow will occur in areas where listed species may been encountered is minimal.

In conclusion, based upon the low speed of the tug and tow along with the relatively short periods they will be transiting habitats where the most susceptible species (North Atlantic right whales, sperm whales and sea turtles) are most likely to be encountered, the Navy concludes that this action may affect but is not likely to adversely affect endangered species.

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ATTACHMENT V
U.S. NAVY TUGS AND TOWING

Towing would be performed in accordance with requirements of Appendix H of the U.S. Navy Towing Manual S1740-AA-MAM-010, Rev 3, July 2002. The contractor would be responsible for making all applicable notifications associated with the towing activity and would adhere to all applicable safety requirements for towing the inactive ships. Commercial pilots would be utilized for departures from and entries into ports.

Tugs

The characteristics of the tugs used for the towing of vessels to be disposed of by dismantling would depend on the contractor ultimately hired to perform the task, route chosen and size of the tow. Within the harbors where the ships are berthed, smaller harbor tugs would be used to move the inactive ship away from the piers and into position where the cable could be passed from the towing tug and attached to the vessel.

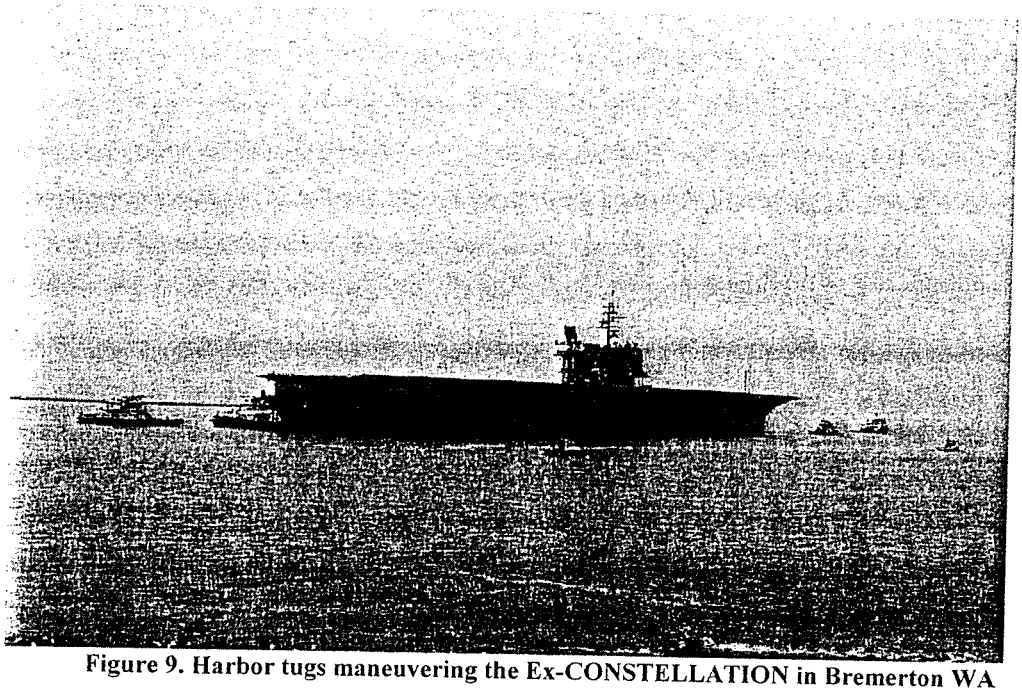

Figure 9. Harbor tugs maneuvering the Ex-CONSTELLATION in Bremerton WA

The size of the tug employed to move the inactive vessel depends on the factors previously mentioned. For example, moving ex-FORREST SHERMAN from Philadelphia, through the Chesapeake and Delaware Canal to Baltimore would require less power than towing the same ship in the open ocean. Similarly, a tug involved in open-ocean towing of the ex-CONSTELLATION around South America would necessarily be among the largest and most seaworthy class of these vessels, generally referred to as a salvage tug.

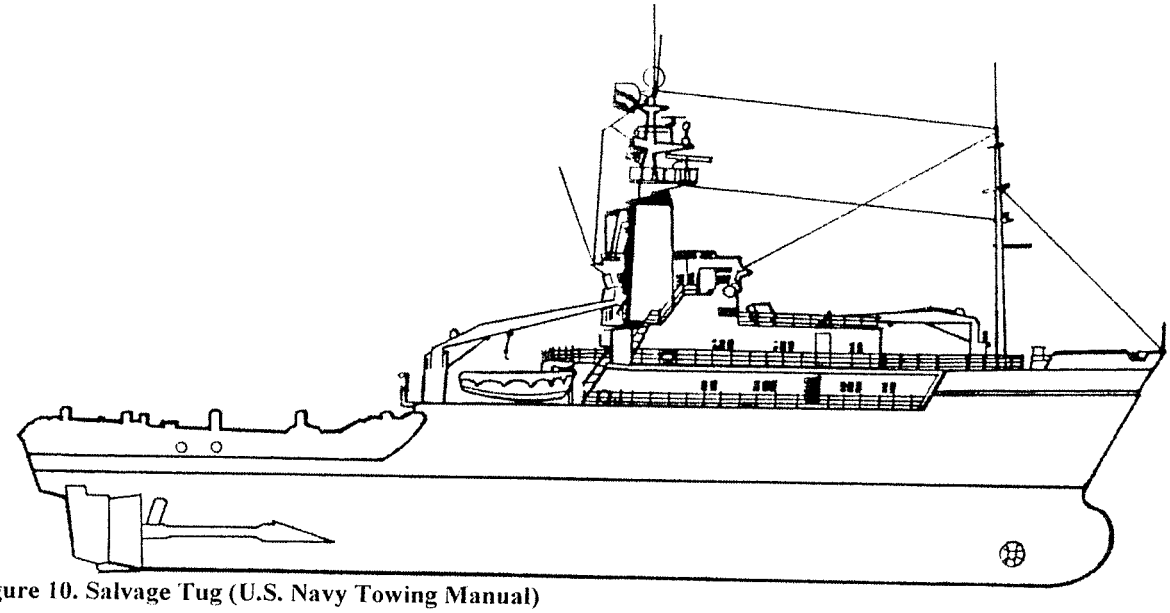

Figure 10. Salvage Tug (U.S. Navy Towing Manual)

Figure 11. Atlantic Service, a modern offshore commercial tug (Hornbeck Offshore Transportation)

The following chart from the U.S. Navy Towing Manual compares a variety of available commercial tugs with a Navy salvage ship and provides examples of their differing capabilities.

Table 1. Typical Commercial Salvage/Towing Vessels for Hire Compared with a U.S. Navy Salvage Ship.

Name	*USS Safeguard*	*Atlantic Salvor*	*Fotiy Krilov*	*Baraka II*
Type	USN Salvage and Rescue	Towing and Salvage	Salvage	Salvage
Year	1985	1975	1989	1994
LOA (ft)	255	254	321.5	227
Beam (ft)	51	43.25	64	51
Draft (ft)	15.5	21.5	23.5	24.25
Horse Power	4200	8800	24482	16000
Bollard Pull (tons)	54	127	250	161
Max Speed (kts)	13.5	16	18	17

Table 2. Typical Commercial Salvage/Towing Vessels for Hire

Name	*Smit Singapore*	*Otto Candies*	*Star Sirius*	*Salvigour*
Type	Towing and Salvage	Anchor Handling	Anchor Handling	Salvage
Year	1984	1985	1985	1990
LOA (ft)	247	140	213	218.1
Beam (ft)	50.1	42	47.5	48.2
Draft (ft)	25	20.1	24.25	20.7
Horse Power	13500	7200	9180	6600
Bollard Pull (tons)	188	100	112	110
Max Speed (kts)	13	14	12	16

Once in the open sea, the length of the tow cable will depend upon the size of the tow and weather conditions encountered. In the case of towing a large ship depicted below, the cable may be 2000' long and dip 100' below the surface while maintaining 75 tons of towline tension.

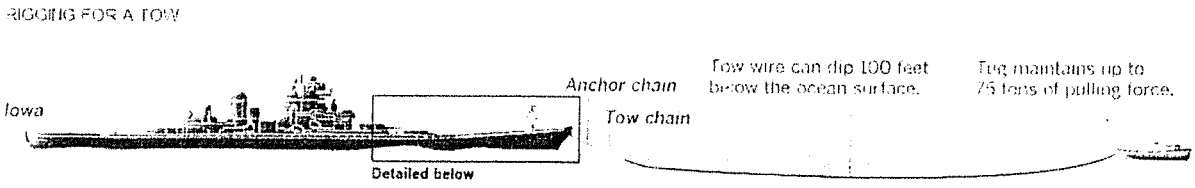

Figure 12. Typical tug and tow configuration for a large ship, in this case Ex-IOWA.

The Ex-CONSTELLATION would have similar rigging while the smaller Ex-FORREST SHERMAN would require less cable and towing force.