

Summary of Public Comments Received on Draft Map for John H. Chafee Coastal Barrier Resources System Units Q01P, Q01A/Q01AP, and AL-05P and U.S. Fish and Wildlife Service Responses and Recommendations

I. Overview

The U.S. Fish and Wildlife Service (Service) prepared a draft revised map dated September 22, 2009, for four Coastal Barrier Resources System (CBRS) units in Baldwin and Mobile Counties, Alabama - Mobile Point Unit Q01P, Pelican Island Unit Q01A/Q01AP, and Alligator Lake Unit AL-05P. The Service held a 60-day public comment period on the draft map from September 12 through November 14, 2011. This effort makes progress towards fulfilling a mandate in the Coastal Barrier Resources Reauthorization Act of 2005 (Pub. L. 109-226) to prepare draft revised maps for all CBRS areas, propose additions to the CBRS, and solicit public comments on the draft revised maps.

The Service announced the availability of the draft map and the opportunity to provide comments in a notice published in the *Federal Register* on September 12, 2011 (76 FR 56215). The Service sent letters dated September 15, 2011, to 65 stakeholders including members of Congress; Federal, state, and local officials; and nongovernmental organizations. The Service also published a public notice in a local paper, *The Islander*, on September 27, October 4, October 11, and October 18, 2011. The draft map, *Federal Register* notice, and summaries of the proposed boundary changes were made available on the Service's website during the public comment period.

The Service received letters and/or email correspondence from the following 10 entities during the comment period:

- Alabama Historical Commission (supports proposed changes to Unit Q01P, no comment on other units)

- Town of Dauphin Island (supports proposed structure removals, opposes all proposed additions)
- Dauphin Island Chamber of Commerce (opposes all proposed changes)
- Dauphin Island Property Owners Association (supports proposed structure removals, opposes all proposed additions)
- South Alabama Regional Planning Commission (supports proposed structure removals, opposes all proposed additions)
- Dauphin Island Park & Beach Board (opposes proposed additions to Units AL-05P and Q01AP)
- National Wildlife Federation (supports all proposed changes)
- The Nature Conservancy (supports all proposed changes)
- U.S. Department of Defense, Installations and Environment (no comments on proposed changes)
- U.S. General Services Administration – Southeast Sunbelt Region (no comments on proposed changes)

The comments focused primarily on three of the four units on the draft map: Units AL-05P, Q01A, and proposed new Unit Q01AP. In general, local interests opposed all proposed additions to Units AL-05P, Q01A, and Q01AP, but supported the proposed removal of 22 private structures from Units AL-05P and Q01A. The local interests are primarily concerned that (1) inclusion of additional lands on Dauphin Island within the CBRS may discourage future development of the Island, and (2) economic and

environmental recovery projects funded by Deepwater Horizon oil spill fines may be adversely affected by the proposed additions to the CBRS. The environmental groups supported the proposed additions to the CBRS and stated that expanding the CBRS makes good fiscal, public safety, and environmental sense.

Copies of the comments submitted to the Service during the public comment period are available to the public upon request. Requests for copies of the public comments may be submitted to the Service's Headquarters Office or via email to: CBRA@fws.gov.

II. Summary of Public Comments and Service Responses

The comments received during the public comment period and the Service's responses to these comments are summarized below.

Need for Updated Base Map Imagery

Comments: The Town of Dauphin Island and the Dauphin Island Park & Beach Board recommended replacing the base map dated 2008 with a more recent base map.

Service Response: The Service agrees with the recommendation to update the base map, and has replaced the 2008 base map imagery with 2013 imagery. This update of the underlying base map resulted in minor changes to fit the CBRS boundaries to the new image.

Public Meetings and Proper Notification and Advertising

Comments: The Town of Dauphin Island and the South Alabama Regional Planning Commission recommended that clarification and a more specific and detailed explanation for the proposed CBRS boundary changes should be

provided. They also recommended that the Service hold public meetings, with proper notification and advertising, about the proposed changes so that all parties impacted may be informed.

Service Response: The Service conducted outreach efforts to inform interested stakeholders and the public of the comment period and opportunity to submit comments on the draft map. These outreach efforts included: publication of a notice in the *Federal Register*; publication of a notice in a local paper; transmittal of letters soliciting comments to 65 stakeholders (including Federal, State, and local officials as well as non-governmental organizations); and posting information concerning the draft map and comment period on the Service's website. The Service did not conduct public meetings due to limited program staff and resources available for the public review effort. The Service believes that the materials provided to describe the proposed boundary changes and the outreach efforts conducted were appropriate to inform stakeholders and the public of the proposed changes and the opportunity to submit comments on the draft map.

CBRS Expansion Could Affect Recovery Efforts Associated with the Deepwater Horizon Oil Spill and Constrain Future Development on Dauphin Island

Comments: The Town of Dauphin Island and the South Alabama Regional Planning Commission stated that proposed CBRS changes could thwart the Town's ability to pursue projects to restore and rehabilitate the local environment and economy following the 2010 Deepwater Horizon oil spill that are funded by fines. These commenters were also concerned that there is limited remaining space for future growth on Dauphin Island and that the proposed revisions impact most of those parcels that could provide future economic sustainability for the local business community and the municipality. The Dauphin Island Chamber of Commerce recommended that the proposed changes to the CBRS on Dauphin Island be dropped for the foreseeable future to allow for already proposed improvements to be pursued and completed.

Service Response: With the passage of the Coastal Barrier Resources Act (CBRA), Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on coastal barriers, resulting in the loss of natural resources, threats to human life, health, and property, and the expenditure of millions of tax dollars each year. CBRA seeks to save taxpayers' money, keep people out of harm's way, and remove federal incentives to develop coastal barriers by restricting most new Federal expenditures and financial assistance for areas designated within the CBRS. CBRA does not prohibit or regulate development; however, it wisely removes the Federal incentives to build on these unstable and environmentally sensitive areas.

In remapping Units Q01P, Q01A, and AL-05P, the Service identified areas that are appropriate for addition to the CBRS, as directed by Section 4 of Pub. L. 109-226. The Service's assessment indicates that the undeveloped areas proposed for addition to existing Units Q01P, Q01A, and AL-05P (and areas proposed for inclusion within new Units Q01AP and AL-05) meet the CBRA criteria for an undeveloped barrier (16 U.S.C. 3502(1) and 16 U.S.C. 3503(g)(1)) and are therefore appropriate for inclusion within the CBRS.

There is an exception to CBRA's prohibitions on Federal spending which may apply to projects that are truly intended to restore the local environment and are beneficial to fish and wildlife. However, each project must be evaluated individually to determine whether the project qualifies for an exception under CBRA. In order to determine whether a specific project is consistent with CBRA, the Federal funding agency must request a CBRA consistency consultation from the Service's local Ecological Services Field Office. Information about the CBRA consistency consultation process for proposed projects and actions within the CBRS can be found on the Service's website at: <http://www.fws.gov/cbra/Consultations/Consultations.html>.

Opposition to Proposed Inclusion of Isle Dauphine Golf Club within Unit Q01A

Comments: The Dauphin Island Property Owners Association commented that they oppose the addition of the Isle Dauphine Golf Club (which encompasses 90 percent of the property they own) within Unit Q01A. They stated that this golf course is owned by every property owner in the Township of Dauphin Island and is the largest parcel of future developable property remaining on the Island. They stated that the golf course has elevations along the Gulf from five feet to over 25 feet along the north property line and should not be included within the CBRS due to its elevation.

Service Response: The Service considered the elevation of the Isle Dauphine Golf Club when developing the proposed boundaries for Unit Q01A. The Service's remapping summary for Unit Q01A (which was dated September 2011 and made available online) states: "The [Q01A] boundary...runs west along the 10 foot contour, which is the geomorphic break between the low-lying portion of the golf course and a ridge to the north that is inappropriate for inclusion." The northern portions of the golf course that have elevations predominately above 10 feet are not included in the proposed additions to the unit. The Service recommended portions of the golf course for inclusion within the CBRS because a review of this area and the level of development that was on the ground in 2013 found that this area meets the CBRA criteria for an undeveloped coastal barrier.

Removal of Undeveloped Properties Situated Between Developed Properties in Units AL-05P and Q01A

Comments: The Town of Dauphin Island, the Dauphin Island Property Owners Association, and the South Alabama Regional Planning Commission commented that they support the proposed removal of 22 structures from Units Q01A and AL-05P. The Town also recommends that "the remaining undeveloped properties situated within these same areas should also be included for removal despite the fact that no structures are currently in place."

Summary of Public Comments and Service Responses and Recommendations

Service Response: The Service did propose the removal of the undeveloped lots situated in between the developed lots along Hernando Place, Audubon Place, and Audubon Street in Units AL-05P and Q01A. Based on the Service's assessment of 2013 imagery, portions of 14 lots (10 of which contain structures, four of which are undeveloped) along Hernando Place are proposed for removal north of the Coastal Construction Line, along with the entirety of 21 lots (12 of which contain structures, nine of which are undeveloped) along Audubon Place and Audubon Street.

Park-Related Structures in Units AL-05P and Q01AP

Comments: The Dauphin Island Park & Beach Board commented that it has four structures that are proposed for addition to Unit AL-05P and two structures that are proposed for addition to Unit Q01AP that currently carry Federal flood insurance, and that these structures may require improvements which would not be allowed by the proposed changes to the CBRS.

Service Response: New Federal flood insurance coverage may be provided for structures in Otherwise Protected Areas (OPAs) that are used in a manner consistent with the purpose for which the area is protected (Sec. 9 of Pub. L. 101-591). Park-related structures (e.g., visitor's center, restrooms, bathhouse, etc.) are therefore exempt from the OPA prohibition on Federal flood insurance, and would be allowed to carry Federal flood insurance regardless of when they were built or improved.

III. Service Recommendations

The Service has prepared a final recommended map, dated April 10, 2015, for three existing and two new CBRS units, Mobile Point Unit Q01P, Pelican Island Unit Q01A/Q01AP, and Alligator Lake Unit AL-05/AL-05P, located in Baldwin and Mobile Counties, Alabama. The final recommended map removes private properties that were inappropriately included within the CBRS in the past and adds undeveloped lands and associated aquatic habitat that meet

the CBRA criteria for inclusion within the CBRS.

The Service has reviewed all comments received on the draft map dated September 22, 2009; no changes were made to the map based on the comments that were received, except to replace the 2008 base map imagery with 2013 imagery and make minor modifications to ensure that the final recommended boundaries properly fit the new image. Additionally, the final recommended map includes within new System Unit AL-05 a 14-acre U.S. Coast Guard (USCG) parcel (which was originally proposed for inclusion within OPA Unit AL-05P) because the USCG no longer uses this parcel for recreation. This recommendation is described in further detail in the document entitled John H. Chafee Coastal Barrier Resources System Unit AL-05, Alligator Lake, Alabama Summary of Final Recommended Changes. All other proposed changes depicted on the September 22, 2009 draft map remain the same on the Service's final recommended map dated April 10, 2015.

The map dated April 10, 2015, reflects the Service's recommended changes to certain CBRS units in Alabama; however these changes will only become effective if the revised map is adopted through legislation enacted by Congress. Copies of the map and summaries of the recommended changes are available on the Service's website at: www.fws.gov/cbra.

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