

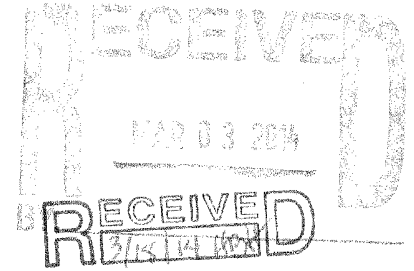


United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

FEB 26 2014



In Reply Refer To:
FWS/Region 4/DH NRDAR

Memorandum

To: Field Supervisor, Panama City Ecological Services Office

From: Deputy Deepwater Horizon, Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager *Debra L. McCl.*

Subject: No Effect Determination for the Proposed Bald Point State Park Recreation Area, Florida

As you are no doubt aware, on or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced an explosion, leading to a fire and its subsequent sinking in the Gulf of Mexico (the Gulf). These events resulted in the discharge of millions of barrels of oil into the Gulf over a period of 87 days. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil. These events are hereafter collectively referred to as the Oil Spill.

The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, is a designated natural resource trustee agency authorized by the Oil Pollution Act of 1990 (OPA) and other applicable federal laws to assess and assert a natural resource damages claim for this Oil Spill. DOI is only one of several Trustees, including agencies of the state of Florida, so authorized. Consistent with their federal and state authorities, the Trustees are investigating the resource injuries and losses that occurred as a result of the Oil Spill and have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured resources and to make the public whole for the injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, the National Oceanic and Atmospheric Administration and the Trustees for the five Gulf states affected by the Oil Spill entered into an agreement with BP, a responsible party for the Oil Spill, under which BP agreed to provide \$1 billion for early restoration projects in the Gulf to begin to address injuries to natural resources caused by the Oil Spill. The subject project is being evaluated by the Trustees as a potential early restoration project. The early restoration project has been proposed in a draft early restoration plan that was released for public comment and review on December 6, 2013. If the Trustees select the project after consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by the State of Florida. DOI, acting through the Service, will be a co-Trustee for the project, if it is selected and implemented.

The above facts lead us to the conclusion that consultation/conference under Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), is required for the proposed early restoration project and we wish to engage in such consultation. Accordingly, we have reviewed the proposed Bald Point State Park Recreation Area, Florida project for potential impacts to listed, proposed, and candidate species and proposed and designated critical habitats in accordance with section 7 of the ESA and for impacts to bald eagles and migratory birds in

accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703–712), respectively. Consultation will also be initiated with National Marine Fisheries Service for species where ESA regulatory authority is shared and in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

Bald Point State Park Recreation Area, Florida proposes to improve visitor recreation areas within the park by providing wildlife access and information opportunities along a recently completed road in the park that currently terminates shortly after crossing Chaires Creek. The project area is planted pine uplands adjacent to Chaires Creek. The project activity would involve constructing a visitor day-use area including picnic pavilions, a restroom with an aerobic treatment system and associated septic system drainfield, and an integrated system of boardwalks providing access through the area to a new floating dock, and a canoe/kayak launch area on Chaires Creek. The plans are to develop these facilities to the North of the road and the West of Chaires Creek. Figure 1 provides the general location of the park while Figures 2 and 3 provide more details based on preliminary designs and help orient the project with respect to the road and Chaires Creek. The exact placement of these items would be determined once the project has final design plans.

A site-visit to the action areas was conducted on January 10, 2014, and attended by the Trustees, consultants for the Trustees, National Marine Fisheries Service, U.S. Fish and Wildlife Service (Panama City Ecological Services Field Office), and DOI Case Management Office personnel to review for potential issues associated with siting and construction of the project.

We reviewed the species list for Franklin County, Florida (Table 1)¹ and also considered the presence of bald eagles (*Haliaeetus leucocephalus*) and migratory birds. We did not review the proposed project for impacts to Gulf sturgeon or its critical habitat. Consultation with National Marine Fisheries Service will be requested to consider potential affects to in-water sea turtles, Gulf sturgeon and Gulf sturgeon critical habitat and are not considered in this letter.

The project area is inland within the park in an area that is planted pine. Habitat for candidate, proposed, or listed species is not known to be present within the proposed project area and none of these species are expected to occur within the action area. Habitat for listed species is present in the larger park area (i.e., bay facing shoreline habitats may be used by sea turtles); however, creating facilities as proposed is not expected to increase visitor use in other areas of the park nor create access to these habitats that wasn't previously available. Therefore, we have made a no effect determination for all candidate, proposed, and listed species in Franklin County, under the jurisdiction of the U.S. Fish and Wildlife Service. No terrestrial critical habitat is designated or proposed in or near the action area; therefore, none will be adversely modified or destroyed.

No bald eagles are known to nest near the project area. However, migratory birds likely use the area for feeding, loafing, nesting, and resting. Because the project area is already used by the public for recreation short-term construction activity is anticipated to represent a marginal source

¹ The U.S. Fish and Wildlife, Panama City office website (<http://www.fws.gov/panamacity/specieslist.html>) provides a county-based list of federal threatened, endangered, and other species of concern likely to occur in the Florida Panhandle. Information downloaded March 13, 2013.

of additional disturbance to species already in the area. However, precautions during construction will be used to protect any migratory birds that may be feeding, loafing, or resting in or near the project area. Such precautions include minimizing construction noise to the extent practicable, using care to avoid birds when operating machinery or vehicles near birds, and general contractor awareness of bird presence. Vegetation will need to be removed to develop facilities associated with this project. Vegetation that could be used for nesting will be removed during the non-breeding season. If visitors are likely to approach migratory bird nesting areas through use of the project area after implementation (as determined by Park staff, Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service), educational signage will be posted at strategic locations. Signage will remind visitors of important migratory bird areas within the Park and any necessary precautions to avoid impacts to the species and their habitats. Signage will be coordinated with the Florida Fish and Wildlife Conservation Commission and the Panama City Ecological Services Field Office. We anticipate these measures should avoid any take of migratory birds. Therefore, no impacts to bald eagles or migratory birds are anticipated.

Based upon the information presented above, we have determined the proposed project will have no effect to listed, proposed, or candidate species and will not result in adverse modification or destruction of proposed or designated critical habitat under the jurisdiction of the U.S. Fish and Wildlife Service. As mentioned previously, consultation will also be initiated with National Marine Fisheries Service for species where ESA regulatory authority is shared and in regards to MMPA. No take of bald eagles or migratory birds is anticipated.

We request your concurrence with our determination. If you have questions or concerns regarding this request for consultation, please contact Holly Herod, Fish and Wildlife Biologist, at 404-679-7089 or holly_herod@fws.gov.

Panama City, FL 32405

Tel: 850-769-0552

XIII. Reviewing Ecological Services Office Evaluation:

A. Concurrence Nonconcurrence _____

B. Formal consultation required _____

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed):

RECEIVED
2/10/14



Signature

Donald Imman

Field Supervisor

3/10/2014

date

Panama City FO

office

Figure 1. Location of envisioned Bald Point State Park Recreation Areas Project.

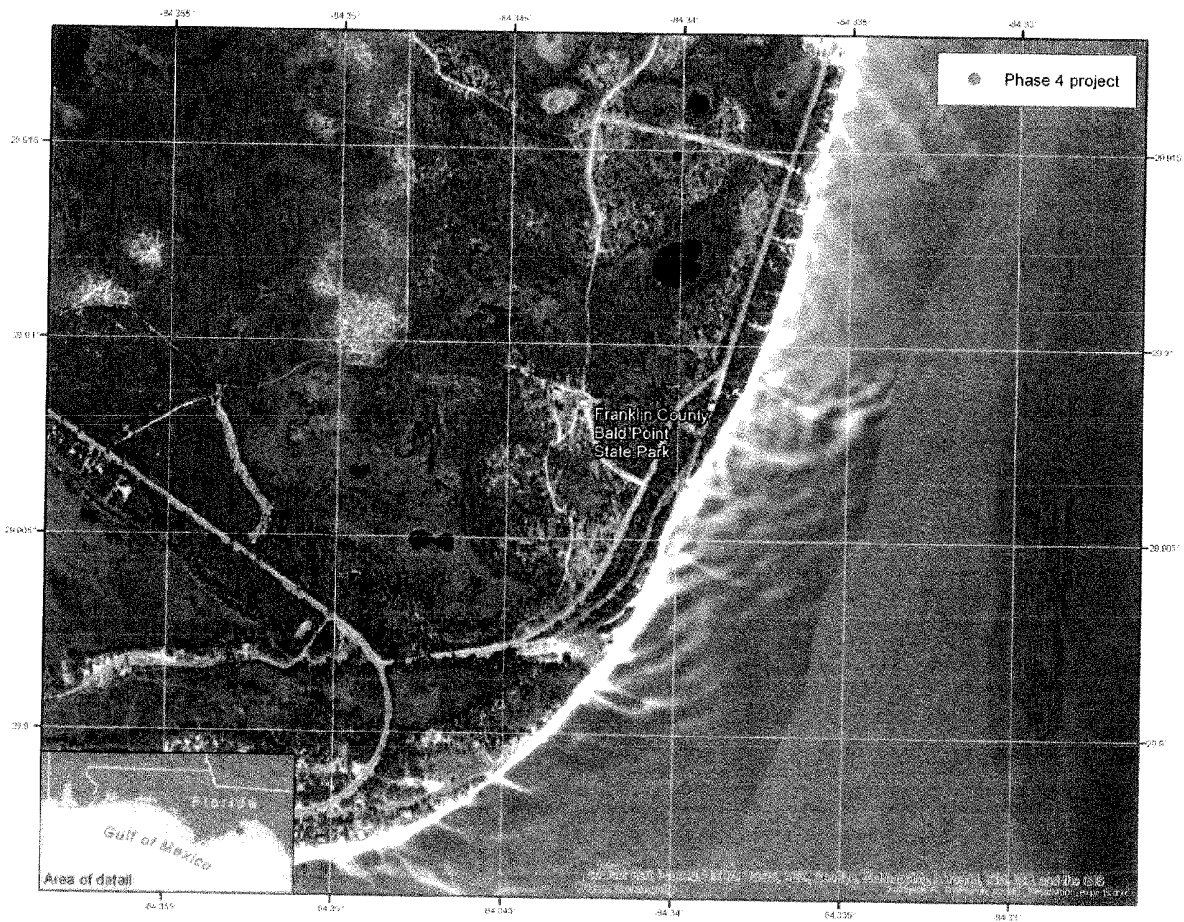


Figure 2. Detail for proposed facilities to be developed at Bald Point State Park Recreation Areas near Chaires Creek.

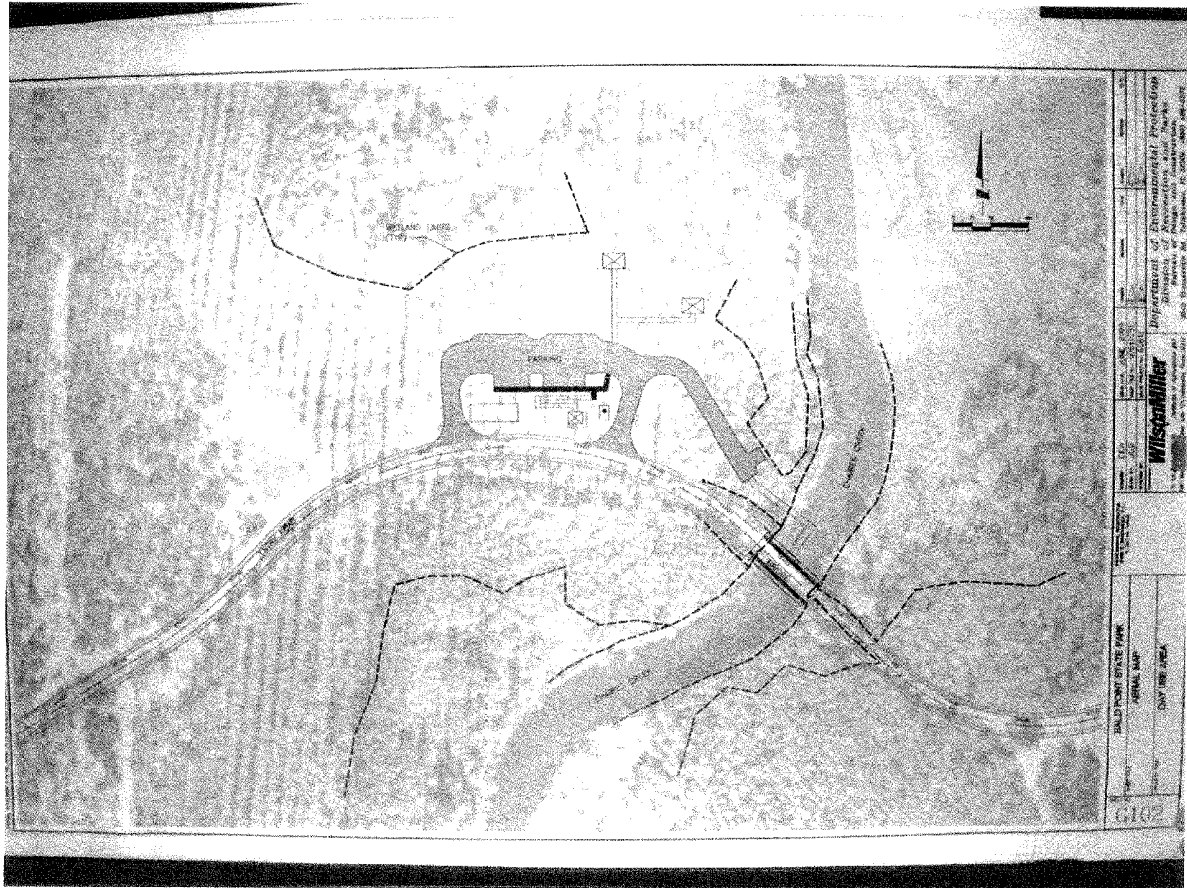


Figure 3. Additional detail for proposed facilities to be developed at Bald Point State Park Recreation Areas near Chaires Creek.

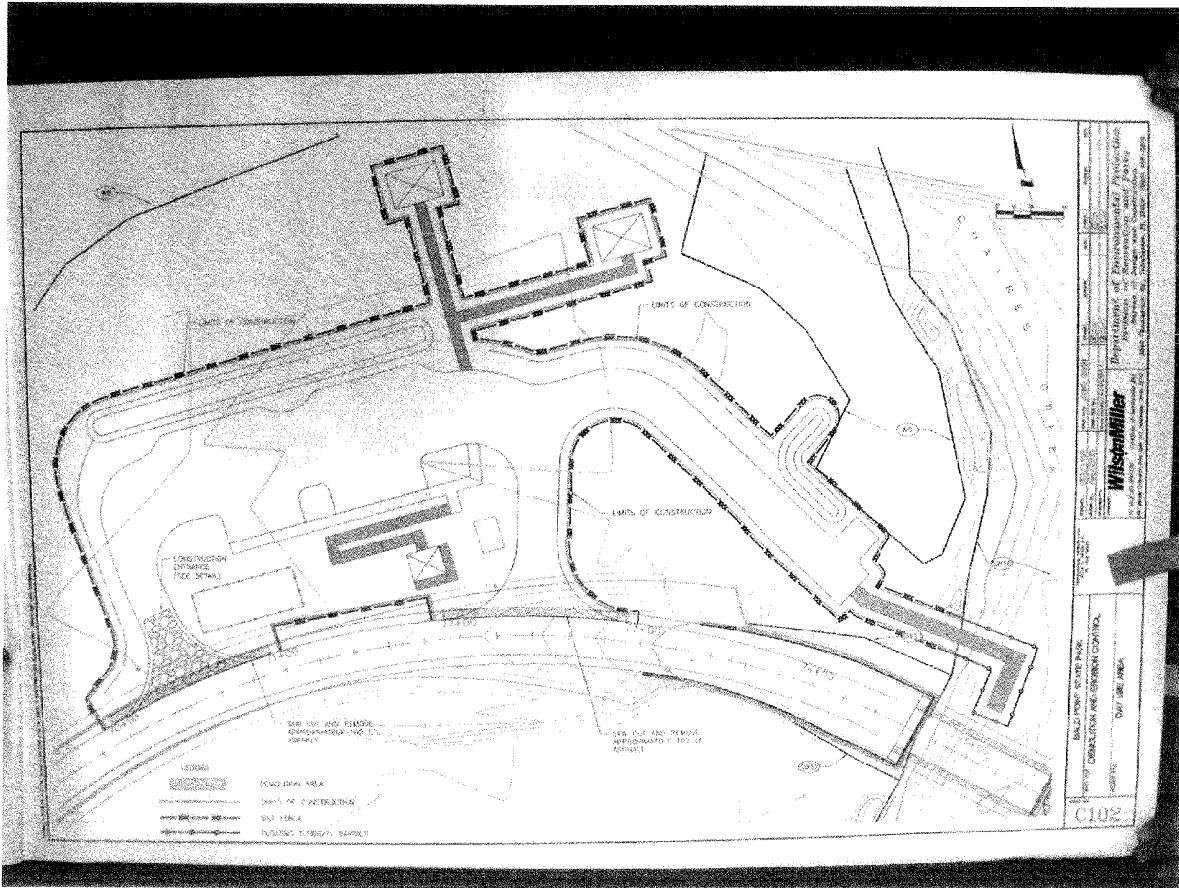


Table 1. Species of Concern for Franklin County, Florida.

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Amphibians	Frosted flatwoods salamander	T (CH)		Palustrine: wet Flatwoods, dome swamp, basin swamp. Terrestrial: mesic flatwoods (reproduces in ephemeral wetlands within this community).	NE	Listed natural community is inconsistent with the project habitat
Amphibians	Gopher frog	SSC	ce	Terrestrial: sandhill, scrub, scrubby flatwoods, xeric hammock (reproduces in ephemeral wetlands within these communities).	NE	Listed natural community is inconsistent with the project habitat
Birds	Arctic peregrine falcon	ce	E	Estuarine: winters along coasts Lacustrine: various Palustrine: various Terrestrial: various, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Birds	Bachman's sparrow	ce		Terrestrial: various, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Birds	Bald eagle	BGEPA		Estuarine: marsh edges, tidal swamp, open water Lacustrine: swamp lakes, edges Palustrine: swamp, floodplain Riverine: shoreline, open water Terrestrial: pine and hardwood forests, clearings.	NE	Listed natural community is inconsistent with the project habitat
Birds	Least tern		T	Estuarine: various Lacustrine: various Riverine: various Terrestrial: beach dune, ruderal. Nests common on rooftops.	NE	Listed natural community is inconsistent with the project habitat
Birds	Piping plover	T (CH)	T	Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants.	NE	Listed natural community is inconsistent with the project habitat
Birds	Red knot	C		Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants.	NE	Listed natural community is inconsistent with the project habitat
Birds	Red-cockaded woodpecker	E		Terrestrial: mature pine forests.	NE	Listed natural community is inconsistent with the project habitat

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Birds	Reddish egret	ce	SSC	Estuarine: tidal swamp, depression marsh, bog, marl prairie, wet prairie Lacustrine: flatwoods/prairie lake, marsh lake Marine: tidal swamp.	NE	Listed natural community is inconsistent with the project habitat
Birds	Southeastern kestrel	ce	T	Estuarine: various habitats Palustrine: various habitats Terrestrial: open pine forests, clearings, ruderal, various.	NE	Listed natural community is inconsistent with the project habitat
Birds	Southeastern snowy plover	ce	T	Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas.	NE	Listed natural community is inconsistent with the project habitat
Birds	Wakulla seaside sparrow	ce	SSC	Estuarine: tidal marsh Marine: tidal marsh.	NE	Listed natural community is inconsistent with the project habitat
Birds	Wood stork	E	E	Estuarine: marshes Lacustrine: floodplain lakes, marshes (feeding), various Palustrine: marshes, swamps, various.	NE	Listed natural community is inconsistent with the project habitat
Fish	Gulf sturgeon	T (CH)	SSC	Estuarine: various Marine: various habitats Riverine: alluvial and blackwater streams.	--	NMFS will consult if necessary
Mammals	Florida black bear	ce	T	Palustrine: titi swamps, floodplains Terrestrial: pine and hardwood forests.	NE	Listed natural community is inconsistent with the project habitat
Mammals	Florida mouse	ce	SSC	Terrestrial: scrub, sandhill, scrubby flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Mammals	Round-tailed muskrat	ce		Estuarine: tidal marsh Lacustrine: marsh lake, flatwoods/prairie lake Palustrine: floodplain marsh, swale, depression marsh, basin marsh.	NE	Listed natural community is inconsistent with the project habitat
Mammals	Southeastern big-eared bat	ce		Palustrine: various, floodplains Terrestrial: pine and hardwood forests, ruderal, various.	NE	Listed natural community is inconsistent with the project habitat

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Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Mammals	West Indian manatee	E	E	Estuarine: submerged vegetation, open water Marine: open water, submerged vegetation Riverine: alluvial stream, blackwater stream, spring-run stream.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Fat threeridge	E (CH)		Riverine: main channels of small to large rivers in slow to moderate currents; fine to medium silty sand, also mixtures of sand, clay, and gravel. Panhandle drainages: Chipola and Apalachicola Rivers.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Gulf moccasinshell	E (CH)		Riverine: medium-sized creeks to large rivers with sand and gravel substrates in slow to moderate currents. Panhandle drainages: Econfina Creek and Chipola River.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Oval pigtoe	E (CH)		Riverine: medium-sized creeks to small rivers; various substrates; slow to moderate currents.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Purple bank climber	T (CH)		Riverine: small to large rivers in sand, sand mixed with mud, or gravel substrates with slow to moderate currents. Panhandle drainages: Chipola, Apalachicola, and Ochlockonee Rivers.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Shinyrayed pocketbook	E (CH)		Riverine: medium-sized creeks to mainstem rivers in a range of substrates including sand, clay, and gravel with slow to moderate current. Panhandle drainages: Econfina (Creek), Chipola, and Ochlockonee (upstream of Lake Talquin) Rivers.	NE	Listed natural community is inconsistent with the project habitat
Plants	Apalachicola dolls daisy	ce		Palustrine: Floodplain Forest.	NE	Listed natural community is inconsistent with the project habitat
Plants	Bent golden aster	ce	E	Terrestrial: pine forest, ruderal.	NE	Listed natural community is inconsistent with the project habitat

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Plants	Buckthorn	ce	E	Palustrine: hydric hammock, floodplain swamp.	NE	Listed natural community is inconsistent with the project habitat
Plants	Carolina grass-of-parnassus	ce	E	Palustrine: seepage slope Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Chapman's butterwort	ce	T	Palustrine: wet flatwoods, seepage slopes, bog, dome swamp, ditches; in water.	NE	Listed natural community is inconsistent with the project habitat
Plants	Chapman's crownbeard	ce	T	Palustrine: seepage slope Terrestrial: mesic flatwoods with wiregrass (<i>Aristida stricta</i>).	NE	Listed natural community is inconsistent with the project habitat
Plants	Corkwood		T	Estuarine: tidal marsh Palustrine: freshwater tidal swamp, hydric hammock.	NE	Listed natural community is inconsistent with the project habitat
Plants	Curtiss' loosestrife	ce	E	Palustrine: wet Flatwoods edges, floodplain swamp, seepage slope, dome swamp edges Terrestrial: seepage slope.	NE	Listed natural community is inconsistent with the project habitat
Plants	Florida bear-grass	ce	T	Terrestrial: mesic flatwoods grassy areas.	NE	Listed natural community is inconsistent with the project habitat
Plants	Florida skullcap	T	E	Palustrine: seepage slope, wet flatwoods, grassy openings Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Godfrey's (violet) butterwort	T	E	Palustrine: wet flatwoods, wet prairie, bog; in shallow water Riverine: seepage slope; in shallow water. Also, roadside ditches and similar habitat.	NE	Listed natural community is inconsistent with the project habitat
Plants	Godfrey's blazing star	ce	E	Terrestrial: sandhill, scrub, coastal grassland; disturbed areas.	NE	Listed natural community is inconsistent with the project habitat
Plants	Gulf coast lupine	ce	T	Terrestrial: beach dune, scrub, disturbed areas, roadsides, blowouts in dunes.	NE	Listed natural community is inconsistent with the project habitat

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Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Plants	Harper's beauty	E	E	Palustrine: wet prairie, seepage slope, roadsides, edges of titi swamps.	NE	Listed natural community is inconsistent with the project habitat
Plants	Harper's grooved yellow flax	ce		Palustrine: wet Flatwoods Terrestrial: mesic flatwoods; in site-prepped areas.	NE	Listed natural community is inconsistent with the project habitat
Plants	Harper's yellow-eyed grass	ce	T	Palustrine: seepage slope, wet prairie, bogs.	NE	Listed natural community is inconsistent with the project habitat
Plants	Hooded pitcher plant		T	Palustrine: wet flatwoods, wet prairie, seepage slope.	NE	Listed natural community is inconsistent with the project habitat
Plants	Hummingbird flower		E	Palustrine: seepage slope, dome swamp edges, floodplain swamps Riverine: seepage stream banks Terrestrial: seepage slopes.	NE	Listed natural community is inconsistent with the project habitat
Plants	Large-flowered-grass-of-parnassus		E	Palustrine: dome swamp margins, seepage slope Riverine: spring-run stream edge Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Large-leaved jointweed	ce	T	Terrestrial: scrub, sandpine/oak scrub ridges.	NE	Listed natural community is inconsistent with the project habitat
Plants	Meadow beauty	ce	E	Palustrine: dome swamp margin, seepage slope, depression marsh; on slopes; with hypericum.	NE	Listed natural community is inconsistent with the project habitat
Plants	Panhandle spiderlily	ce	E	Palustrine: dome swamp edges, wet prairie, wet flatwoods, baygall edges, swamp edges Terrestrial: wet prairies and flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Parrot pitcher plant		T	Palustrine: wet flatwoods, wet prairie, seepage slope.	NE	Listed natural community is inconsistent with the project habitat
Plants	Pine-woods aster	ce	E	Palustrine: seepage slope Terrestrial: sandhill, scrubby and mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat

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Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Plants	Scare-weed	ce	T	Terrestrial: mesic flatwoods, sand hill; on disturbed sites.	NE	Listed natural community is inconsistent with the project habitat
Plants	Southern milkweed	ce	T	Palustrine: wet prairie, seepage slope edges Riverine: seepage stream banks Terrestrial: mesic flatwoods, drainage ditches.	NE	Listed natural community is inconsistent with the project habitat
Plants	Southern red lily		T	Palustrine: wet prairie, wet flatwoods, seepage slope Terrestrial: mesic flatwoods, seepage slope; usually with grasses.	NE	Listed natural community is inconsistent with the project habitat
Plants	Spoon-leaved sundew		T	Lacustrine: sinkhole lake edges Palustrine: seepage slope, wet flatwoods, depression marsh Riverine: seepage stream banks, drainage ditches.	NE	Listed natural community is inconsistent with the project habitat
Plants	Sweet shrub		E	Terrestrial: upland hardwood forest, slope forest, bluffs Palustrine: bottomland forest, stream banks, floodplains.	NE	Listed natural community is inconsistent with the project habitat
Plants	Telephus spurge	T	E	Terrestrial: mesic flatwoods; disturbed wiregrass (<i>Aristida stricta</i>) areas, coastal scrub. All known sites are within 4 miles of Gulf of Mexico.	NE	Listed natural community is inconsistent with the project habitat
Plants	Thick-leaved water willow	ce	E	Palustrine: dome swamp, seepage slope Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Tropical waxweed	ce		Palustrine: wet prairie, seepage slope Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	West's flax	ce	E	Palustrine: dome swamp, depression marsh, wet flatwoods, wet prairie, pond margins.	NE	Listed natural community is inconsistent with the project habitat
Plants	White birds-in-a-nest	T	E	Palustrine: seepage slope Terrestrial: grassy mesic pine flatwoods, savannahs, roadsides, and similar habitat.	NE	Listed natural community is inconsistent with the project habitat

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Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Plants	White-top pitcher plant	ce	E	Palustrine: wet prairie, seepage slope, baygall edges, ditches.	NE	Listed natural community is inconsistent with the project habitat
Plants	Wiregrass gentian	ce	E	Palustrine: seepage slope, wet prairie, roadside ditches Terrestrial: mesic flatwoods, planted slash pine.	NE	Listed natural community is inconsistent with the project habitat
Plants	Yellow butterwort		T	Palustrine: flatwoods, bogs.	NE	Listed natural community is inconsistent with the project habitat
Plants	Yellow fringeless orchid	ce	E	Palustrine: wet prairie, seepage slope Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Alligator snapping turtle	ce	SSC	Estuarine: tidal marsh Lacustrine: river floodplain lake, swamp lake Riverine: alluvial stream, blackwater stream.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Barbour's map turtle	ce	SSC	Palustrine: floodplain stream, floodplain swamp Riverine: alluvial stream.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Eastern indigo snake	T	T	Estuarine: tidal swamp Palustrine: hydric hammock, wet Flatwoods Terrestrial: mesic flatwoods, upland pine forest, sand hills, scrub, scrubby flatwoods, rockland hammock, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Florida pine snake	ce	SSC	Lacustrine: ruderal, sandhill upland lake Terrestrial: flatwoods, xeric hammock, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Gopher tortoise	C	SSC	Terrestrial: sandhills, scrub, scrubby flatwoods, xeric hammocks, coastal strand, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Green turtle	E	E	Terrestrial: sandy beaches; nesting.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Hawksbill turtle	E	E	Marine: open water; no nesting.	NE	Listed natural community is inconsistent with the project habitat

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Reptiles	Kemp's ridley turtle	E	E	Terrestrial: sandy beaches; nesting.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Leatherback turtle	E	E	Terrestrial: sandy beaches; nesting.	NE	Listed natural community is inconsistent with the project habitat
Reptiles	Loggerhead turtle	T	T	Terrestrial: sandy beaches; nesting.	NE	Listed natural community is inconsistent with the project habitat