

In Reply Refer To:

2015-I-0430

Date 4/10/2015

Memorandum

To: Deputy Case Manager, *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR)

From: Field Supervisor, Alabama Ecological Services Field Office *William Henson*

Subject: Informal Consultation and Conference for the Proposed Bon Secour NWR Trail Enhancement Project, Gulf Shores, AL

This memorandum acknowledges our receipt of your memorandum on March 30, 2015. This response is in accordance with Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA). We have reviewed your proposed project and concur with your March 27, 2015 determinations for endangered and threatened species, their critical habitat, and at-risk species (should they become listed). We based our concurrence on the justification below. Where more than one justification was applicable, multiple boxes were checked and additional comments were added.

Through survey documentation, there are no endangered, threatened, or at-risk species or designated critical habitat on site. Comments: _____

Endangered, threatened, and at-risk species are not known from and are not expected to occur within the vicinity of the proposed project. Comments: _____

Appropriate avoidance and minimization measures have been included within the project description to ensure that any effects to listed species (or at-risk species should they become listed) and their habitats are insignificant or discountable. Comments: _____

The proposed project is completely beneficial to the listed or at-risk species and/or critical habitat considered. Comments: _____

Unless the project description changes, or new information reveals that the effects of the proposed action may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the ESA is necessary.

If you have questions, please contact Dianne Ingram of my staff at (251) 441-5839 or email Dianne_Ingram@fws.gov.

Endangered Species Act Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

Fish and Wildlife Service & National Marine Fisheries Service

This form will be used to provide information for the initiation of informal Section 7 consultations under the Endangered Species Act, if required or to document a No Effect determination. In addition, information provided in this form may be used to inform other regulatory compliance processes such as Essential Fish Habitat (EFH), Marine Mammal Protection Act (MMPA), Section 106 of the National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Bald and Golden Eagle Protection Act (BGEPA). Further information may be required beyond what is captured in this form. Note: if you need additional space for writing, please attach pages as needed.

A. Project Identification

<i>Lead Agency</i>		
U.S. Fish and Wildlife Service/National Marine Fisheries Service	<i>Phone</i>	<i>Email</i>
<i>Agency Contact Person</i>	812-756-2712 and	Ashley_Buchanan@fws.gov and
Ashley Mills and Laurel Jennings	206-526-4601	Laurel.Jennings@noaa.gov
<i>I. Applicant Agency or Business Name</i>		
U.S. Fish and Wildlife Service		
<i>II. Applicant Contact Person</i>	<i>III. Phone</i>	<i>Email</i>
Ben Frater	(251) 517-8019	benjamin_frater@fws.gov
<i>IV. Project Name and ID# (Official name of project and ID number assigned by action agency)</i>		
Bon Secour NWR Trail Enhancement Project, Alabama		
<i>V. Project Type</i>		
Boardwalk Improvements		
<i>VI. NMFS Office (Choose appropriate office based on project location)</i>		
Not Applicable		
<i>VII. FWS Office (Choose appropriate office based on project location)</i>		
Alabama Ecological Services Field Office (Daphne)		

B. Project Location

<i>I. Physical Address of Project Site (If applicable)</i>
Bon Secour National Wildlife Refuge
<i>II. State & County/Parish of Project Site</i>
Baldwin County, Alabama
<i>III. Latitude & Longitude for Project Site (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: http://transition.fcc.gov/mb/audio/bickel/DDDMSS-decimal.html])</i>
30°14'41.18"N, -87°47'14.55"W or 30.244772 N, -87.787375 W (NAD83/WGS84)
<i>IV. Township, range and section of the project area</i>
Township T9S R3E

C. Description of Action Area

1. Attach a separate map delineating where the action will occur. 2. Describe ALL areas that may be affected directly or indirectly by the Federal action and not merely the immediate project site involved in the action, or just where species or critical habitat may be present. Provide a description of the existing environmental conditions and characteristics (e.g., topography, vegetation type, soil type, substrate type, water quality, water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). 3. If habitat for species is present in the action area, provide a general description of the current state of the habitat. 4. Identify any management or other activities already occurring in the area. 5. Detailed map of the area of potential effect for ground disturbing activities if it is different from the project area

The action area is located on the eastern boundary of Bon Secour National Wildlife Refuge. It contains an existing trail/boardwalk and parking area that is located on Highway 180. The Jeff Friend Trail (Trail) is a loop that passes through maritime forest dominated by common native scrub species such as Ilex, pine and oak. The soil is primarily sandy, and it is covered with lichen and leaf litter. The occasional moist swale is found in the area, though not under the Trail. There is one large ephemeral wetland near the Trail. The Trail also runs near the northern shores of Little Lagoon, which is a brackish dune lake; Little Lagoon has a marine connection maintained by a cut in the lagoon's southern shoreline.

The area is primarily rural, but single family beach homes are nearby the project, most notably just east of the parking area.

The Trail connects to the Centennial Trail, also on the Refuge, the latter of which will remain open during the construction period. The Centennial Trail has its own parking area.

The project area theoretically contains suitable habitat for the federally threatened eastern indigo snake, which is a commensal species with gopher tortoise. However, the eastern indigo snake has not been observed in the state of Alabama since 1954 and is functionally extirpated from Alabama (US Fish and Wildlife Service 2008). Bon Secour NWR staff annually trap for snakes in the project area and has never collected nor observed an eastern indigo snake on the Refuge. Moreover, no gopher tortoise burrow has ever been observed within two miles of the Trail site. The eastern indigo snake does not have designated Critical Habitat.

Wintering Red Knot and Piping Plover are not expected to occur anywhere within the action area due to a lack of suitable habitat at all locations except Little Lagoon. Little suitable habitat is present on the northern shores of Little Lagoon construction. Visitor use of the completed Trail would not be expected to discourage piping plovers or red knots from foraging or resting along the shore line of Little Lagoon as there is no line of sight from the Trail to the shoreline. Similarly, the Alabama beach mouse occurs at Bon Secour, but not in the maritime forest where the project area occurs. Though Little Lagoon has sandy beach habitats, sea turtles do not nest or rest there or anywhere else within the action area and would not be affected by construction or visitor use of the Trail.

Citation:

US Fish and Wildlife Service. 2008. Eastern Indigo Snake 5-year Review. 33 pp.

a. *Waterbody*
(If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If the location is in a river or estuary, please approximate the navigable distance from the project location to the marine environment.)

The project is entirely terrestrial and the action area is above the mean high tide line. No construction run off or sediments will be able to access a waterbody.

b. *Existing Structures*
(If applicable. Describe the current and historical structures found in the project area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.

There is an existing boardwalk and asphalt and gravel parking area. The purpose of the project is to replace the existing wooden boardwalk and rock trail and to expand two existing handicapped parking places by approximately 10 feet.

c. *Seagrasses & Other Marine Vegetation*
(If applicable. Describe seagrasses found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the seagrasses in the project area.)

N/A

d. *Mangroves*
(If applicable. Describe the mangroves found in project area. Indicate the species found (red, black, white), the species area of coverage in square footage and linear footage along project shoreline. Attach a separate map showing the location of the mangroves in the project area.)

N/A

e. *Corals*
(If applicable. Describe the corals found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the project area.)

N/A

f. *Uplands*
(If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

The project area is primarily a mature maritime forest. There are some swales containing sedges, and one large ephemeral wetland.

D. Project Description

I. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

1-3 months. That includes deconstruction of existing boardwalk and trail and construction of new one. Work may be completed any time of year.

II. *Describe the Proposed Action: 1. What is the purpose and need of the proposed action? 2. How do you plan to accomplish it? Describe in detail the construction equipment and methods** needed; permanent vs. temporary impacts; duration of temporary impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained. 3. Attach a separate map showing project footprint, avoidance areas, construction accesses, staging/laydown areas. **If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, or artificial reefs, list the method here, but complete the next section(s) in detail.*

The proposed project would be accomplished by a contractor and would replace and/or enhance the 4,950 foot-long trail. The 1,250 foot portion of the trail that is currently wooden boardwalk would be replaced with a composite material boardwalk. The boardwalk would also be widened approximately one foot to better accommodate wheelchairs. The gravel portion of the trail (3,700 feet) would be replaced with either asphalt or a compressed pervious rubber material. No widening of the existing gravel trail is anticipated. An observation platform would be constructed along the boardwalk, at a location yet to be determined. The platform would be approximately 10 feet tall, with a footprint of approximately 20 feet by 20 feet and is planned to accommodate wheelchairs. Finally, the two ADA compliant parking spaces in the parking lot would be widened slightly (about ten feet total) to improve vehicular access.

The gravel portion of the trail would be reconstructed using either asphalt or a composite material. If composite material is used to replace the gravel, the existing gravel would be removed (scrapped and loaded into dump trucks or dumpsters) and the trail composite material would be laid over the existing footprint. The gravel portions of the trail would not be widened. If asphalt is used, the existing gravel would be used as a base material, and after preparation (smoothing, filling), the asphalt would be laid over the gravel.

Staging of equipment and materials for the project would take place in the existing parking area. The trail may be repaired and reconstructed in phases so the equipment needed for each phase is not staged and idle for any period longer than necessary. No new staging areas or access roads would be created. Only previously disturbed areas would be used for parking, turnarounds, etc. Much of the work would be accomplished by hand with hand held tools. Equipment expected to be used to construct the proposed project include a bobcat with auger, a backhoe with loading blade or front end loader, asphalt machine and compactor and a dump truck. The dump truck (if needed) would have an approximate 25 tons per load capacity and would be expected to make approximately 50 trips, about 10 per day over a period of about 5 days. Dumpsters would be brought on site and removed by a contractor, who will be required to dispose of any generated waste in an appropriate manner.

The existing boardwalk portion of the trail would be removed and replaced with a composite-material boardwalk to extend the life of the boardwalk and reduce maintenance time and costs. The new boardwalk would be widened by approximately one foot. Post holes up to 36" deep would be dug by auger, not necessarily in the same places as the existing post holes. A 6" drain pip would be installed at intervals along the trail in areas most conducive to draining water away from the trail during rainfall. The demolished wooden boardwalk would be loaded into dumpsters provided by the contractor. The contractor would be responsible for disposition of any demolished material from the trail.

Since this trail is existing, the use of the area is not anticipated to change. The purpose of the project is to replace the 10 year old Trail's infrastructure before it is rendered unusable.

Maps and photographs and equipment lists are attached.

iii. *Specific In-Water Construction Methods (Provide a detailed account of construction methods. It is important to include step-by-step descriptions of how demolition or removal of structures is conducted and if any debris will be moved and how. Describe how construction will be implemented, what type and size of materials will be used and if machines will be used, manual labor, or both. Indicated if work will be done from upland, barge, or both.)*

a. *Overwater Structures (Place your answers to the following questions in the box below.)*

- i. *Is the proposed use of this structure for a docking facility or an observation platform?*
- ii. *If no, is this a fishing pier? Public or Private? How many people are expected to fish per day? How do you plan to address hook and line captures?*
- iii. *Use of "Dock Construction Guidelines"? <http://sero.nmfs.noaa.gov/pr/endaangered%20species/Section%207/DockGuidelines.pdf>*
- iv. *Type of decking: Grated – 43% open space; Wooden planks or composite planks – proposed spacing?*
- v. *Height above Mean High Water (MHW) elevation?*
- vi. *Directional orientation of main axis of dock?*
- vii. *Overwater area (sqft)?*
- viii. *Use of "Sea Turtle and Smalltooth Sawfish Construction Conditions, March 2006"? <http://sero.nmfs.noaa.gov/pr/endaangered%20species/Sea%20Turtle%20and%20Smalltooth%20Sawfish%20Construction%20Conditions%203-23-06.pdf>*

N/A

b. *Pilings & Sheetpiles (What type of material is the piling or sheetpiles? What size and how many will be used? Method used to install: impact hammer, vibratory hammer, jetting, etc.?)*

N/A

c. *Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)*

N/A

d. *Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)*

N/A

- e. *Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the project area.)*

N/A

- f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)).*

Digging will occur in the terrestrial environment to auger holes for installation of support structures (where needed) for the observation tower. "Digging" may also occur if the gravel trail base is removed for reconstruction.

- g. *Blasting (Projects that use blasting might not qualify as "minor projects," and a Biological Assessment (BA) may need to be prepared for the project. Arrange a technical consultation meeting with NMFS Protected Resources Division to determine if a BA is necessary. Please include explosive weights and blasting plan.)*

N/A

- h. *Artificial Reefs (Provide a detailed account of the artificial reef site selection and reef establishment decisions (i.e., management and siting considerations, stakeholder considerations, environmental considerations), deployment schedule, materials used, deployment methods, as well as final depth profile and overhead clearance for vessel traffic. For additional information and detailed guidance on artificial reefs, please refer to the artificial reef program websites for the particular state the project will occur in.*

N/A

E. Species & Critical Habitat

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area.
2. Attach a separate map identifying species/critical habitat locations within the action area.

For information on species and critical habitat under FWS jurisdiction, visit <http://www.fws.gov/endaangered/species/>.

Under NMFS jurisdiction, visit: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/aulf_of_mexico.pdf.

SPECIES and/or CRITICAL HABITAT (CH)	STATUS	CH UNIT
Eastern Indigo Snake	Select One	
Red Knot	Threatened	
Piping Plover	Threatened	
Gopher Tortoise	Candidate Species	
Loggerhead Sea Turtle - terrestrial	Threatened	
Green Sea Turtle - terrestrial	Threatened	
Kemp's Ridley Sea Turtle - terrestrial	Endangered	
Leatherback Sea Turtle - terrestrial	Endangered	
Hawksbill Sea Turtle - terrestrial	Endangered	
Alabama Beach Mouse	Endangered	
No critical habitat is present in the action area	Select One	
	Select One	
	Select One	
	Select One	
	Select One	
	Select One	

F. Effects of the Proposed Project

I. *Explain the potential beneficial and adverse effects to each species listed above (Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects. If species are present (or potentially present) and will not be adversely affected describe your rationale. If species are unlikely to be present in the general area or action area, explain why. This justification provides documentation for your administrative record, avoids the need for additional correspondence regarding the species, and helps expedite review.)*

The site contains no critical habitat for any species.

Eastern indigo snake. As mentioned above, eastern indigo snake has not been seen in the state of Alabama since 1954. Bon Secour NWR staff conducts annual trapping surveys for snakes and no eastern indigo snakes have been observed or collected.

Gopher tortoise. No gopher tortoise burrow has ever been observed within two miles of the trail site.

Sea Turtles. No species of sea turtle will nest or rest within or adjacent to the project area due to a lack of suitable habitat.

Alabama beach mouse. The beach mouse does not occur within the project area as dune habitat is not present within the action area. The action area contains only maritime forest, swales, and ephemeral wetlands.

Red Knot and Piping Plover. Little suitable habitat is present for these species on the shoreline of Little Lagoon within the action area. If construction occurs during the summer months (approximately May to August), the two species are not generally present along the Gulf coast. However, construction may need to occur in other months which could generate construction noise and disturbance to resting and foraging birds. If construction occurs when either species may be present, conservation measures will be implemented to minimize exposure to noise and disturbance to a level that is insignificant and discountable.

Visitor use of the Trail is not expected to alter behaviors of either species as: both are extremely unlikely to be present near the Trail because little suitable habitat available. If either species were present during visitor use, the Trail does not have a line of sight to the potentially suitable habitat making it unlikely that human presence and associated noise would disturb these species. If disturbed they would likely fly to other abundant suitable habitat areas nearby (i.e., within their normal daily foraging movements) and resume normal activities.

II. *Explain the potential beneficial and adverse effects to critical habitat listed above (Describe what, when, and how the critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects (e.g. acres of habitat, miles of habitat). Describe your rationale if designated or proposed critical habitats are present and will not be adversely affected.*

N/A

G. Actions to Reduce Adverse Effects

<p>I.</p>	<p><i>Explain the actions to reduce adverse effects to each species listed above (For each species for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinstate this consultation.)</i></p> <p>Construction timing may be proposed between May and August when piping plover and red knots are on their breeding grounds (i.e., northern US and Canada). However, if necessary (e.g., weather conditions, balancing multiple resource needs) construction may occur when either species may be present. The conservation measures (BMPs) below are designed to minimize exposure of piping plover and red knot to noise and human disturbance. When these measures are properly implemented, these species generally move away from the action and fly to nearby suitable habitat and resume normal activities. Additional suitable habitat is within 5 miles of the action area which is with the normal range of daily foraging movements. Because of nearby suitable habitat and the ability to properly implement these conservation measures, we have determined the proposed project may affect, but will not likely adversely affect the piping plover or red knot.</p> <ol style="list-style-type: none"> 1. Provide all individuals working on the project with information in support of general awareness of piping plover or red knot presence and means to avoid birds and their habitats. 2. If piping plover or red knots are present within 150 feet of the project area, construction and the operation of any equipment will be halted until the birds leave of their own volition.
<p>II.</p>	<p><i>Explain the actions to reduce adverse effects to critical habitat listed above (For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinstate this consultation.)</i></p> <p>N/A</p>

H. Effect Determination Requested

From the sections above, there should be enough detailed information to provide clear and obvious support for your determinations in the section below. If the rationale for the determination is not clear, additional information must be added to one of the sections. Identify if gulf sturgeon are in saltwater, estuarine, or in freshwater in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. gulf sturgeon CH - saltwater). Identify if sea turtles are in water or on land in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. Loggerhead sea turtle CH - terrestrial).

SPECIES and/or CRITICAL HABITAT	DETERMINATION (see definitions below)
Eastern Indigo Snake	No Effect
Red Knot	May Affect, Not Likely to Adversely Affect
Piping Plover	May Affect, Not Likely to Adversely Affect
Gopher Tortoise	No Effect
Loggerhead Sea Turtle - terrestrial	No Effect
Green Sea Turtle - terrestrial	No Effect
Kemp's Ridley Sea Turtle - terrestrial	No Effect
Leatherback Sea Turtle - terrestrial	No Effect
Hawksbill Sea Turtle - terrestrial	No Effect
Alabama Beach Mouse	No Effect
No critical habitat is present in the action area	No Effect
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact, while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Services concur in writing with the Action Agency's determination of "is not likely to adversely affect" listed species or critical habitat, the section 7 consultation process is completed.

LAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable or insignificant. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation and will require additional information.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

I. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (e.g., walking, camping, clean-up, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (e.g., driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If these measures cannot be implemented, then you must contact the Service’s Migratory Bird Permit Office.

Texas – (505) 248-7882 or by email: permitsR2MB@fws.gov

Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

J. Migratory Birds

Identify the species anticipated in the project area and behaviors (breeding, roosting, foraging) anticipated during project implementation. You may list similar species on a single line and categorize by type (e.g., Wading birds - great blue heron, snowy egret, reddish egret). Use additional tables on the next page if needed.

I.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS
Blue Jay, cardinal, brown thrasher, tufted titmouse, northern mockingbird, eastern towhee, Carolina wren, hairy woodpecker, downy woodpecker,	Nesting, foraging, sheltering, roosting	Bon Secour NWR is in a unique location. It is exceptionally important for migratory birds that cross the Gulf of Mexico. During peak migration times, fallouts will happen in the maritime forest. Exhausted birds require respite to continue their journey. No nests will be destroyed by the project because no trees or shrubs will be removed as a result of the project. Noise from equipment will be loud at times which may sporadically interfere with communication or foraging of nesting birds.

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
Blue Jay, cardinal, brown thrasher, tufted titmouse, northern mockingbird, eastern towhee, Carolina wren, hairy woodpecker, downy woodpecker,	Timing of the project schedule has been not been determined. However, effort will be made to avoid the timing of migration (spring and fall) so that birds can rest undisturbed. However, in order to avoid migration construction may overlap with songbird nesting season. To avoid impacts to nesting songbirds, no trees or shrubs will be removed. USFWS biologists will conduct nesting surveys along the trail within 10 days of bringing equipment on site. The trees containing active nests within 15 feet of the trail will be marked. The contractor will be notified of their presence and urged to avoid staging equipment in the vicinity to minimize Disturbance and noise will be temporary in nature and work will occur during daylight hours only to further minimize impacts to roosting, sheltering, and foraging birds.

Migratory Birds

Continuation page if needed.

II.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

III.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

Pre-existing NEPA Documents

Yes No

Does this project have any pre-existing, site specific NEPA analysis? If YES, then provide final NEPA analysis, if not final then provide draft. If tiered from a programmatic EIS or EA, then provide the programmatic document or a link below.

Deepwater Horizon Early Restoration PEIS

NMFS ESA §7 Consultation

We request that all ESA §7 consultation requests/packages be submitted electronically to: **Laurel.Jennings@noaa.gov**. Questions about consultation status may be directed to the same email address or by phone, 206-526-4601 or 206-794-4761 (cell).

FWS ESA § 7 Consultation

We request that all consultation requests/packages to FWS be submitted electronically to: **Ashley_Buchanan@fws.gov**. You will be notified when we receive your Biological Evaluation. Upon receipt, we will conduct a preliminary review and provide any comments and feedback, including any requests for modifications or additional information. If modifications or additional information is necessary, we will work with you until the Biological Evaluation form is considered complete. Once complete, we will send your Biological Evaluation to the appropriate Field Office to conduct consultation. If you have questions about consultation status, please contact Ashley Mills by phone 812-756-2712 or email **Ashley_Buchanan@fws.gov**.

Name of Person Completing this Form:

Ben Frater

Name of Project Lead:

Date Form Completed:

02/27/2015



