

APPENDIX G-4:

FINDING OF NO SIGNIFICANT IMPACT For the Bon Secour National Wildlife Refuge Trail Enhancement Early Restoration Project

Overview and Background

The Department of the Interior (DOI), National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), and United States Department of Agriculture (USDA), (collectively “Federal Trustees”) have conducted an environmental assessment (EA) for the repair and enhancement of the existing 4,950-foot long Jeff Friend Trail located in the Bon Secour National Wildlife Refuge (NWR) near Gulf Shores, Alabama. The Bon Secour NWR Trail Enhancement Project will be implemented by the DOI. The project is an early restoration project funded as part of the *Deepwater Horizon* Natural Resource Damage Assessment and Restoration process in accordance with the “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.” This project is one of several projects to be implemented by the Trustees as identified in the Final Phase IV Early Restoration Plan and Environmental Assessments (Final Phase IV ERP/EA) to accelerate restoration, and represents an initial step toward the restoration of natural resources injured by the *Deepwater Horizon* oil spill (Spill).

Under the Oil Pollution Act of 1990, damages recovered from parties responsible for natural resource injuries are used to restore, replace, rehabilitate and/or acquire the equivalent of the injured natural resources and services they provide (33 U.S.C. § 2706). When Federal Trustees are involved, these restoration activities are subject to the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq. Therefore, the Federal Trustees prepared this environmental assessment (EA) to evaluate the potential environmental impacts associated with the Bon Secour NWR Trail Enhancement Project. This EA tiers from the Final Phase III Early Restoration Plan and Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS) prepared by the Trustees in 2014 and is prepared in accordance with NEPA, Council on Environmental Quality (CEQ) NEPA regulations, and all applicable agency NEPA regulations and guidance.

Summary of Proposed Action and Alternatives

The CEQ NEPA regulations require the decision-maker to consider the environmental effects of the proposed action and a reasonable range of alternatives, including the No Action Alternative, (40 CFR § 1502.14). The EA addresses the proposed action and a No Action alternative. The proposed action’s purpose is to partially restore lost recreation on lands managed by DOI in the five Gulf States as a result of the *Deepwater Horizon* incident. The proposed project is needed to provide a safe and enhanced experience for visitors at Bon Secour NWR. The project will replace an existing and aged gravel trail with

compressed rubber material or other suitable material, and the aged wooden boardwalk sections will be replaced and widened with a composite material boardwalk. The project will also widen two handicap parking places in the existing parking lot and an approximately 10 foot tall, handicap accessible observation platform (made from the same material as the boardwalk) may be placed in a suitable area along the trail.

Under the No Action Alternative, the existing Jeff Friend Trail would be left in its current condition, and the observation platform would not be built. The trail would continue to deteriorate and could ultimately be closed in the future if it became unsuitable for any visitor use.

The proposed action would be selected because it will result in more efficient recovery of DOI recreational use losses compared to the No Action Alternative. The Federal Trustees prepared the Final EA and this Finding of No Significant Impact after considering input from the public during the public comment period for the Draft Phase IV ERP/EA.

Analysis Summary

The Federal Trustees evaluated potential environmental effects of the proposed action and analyzed the significance of this action based on NEPA, CEQ NEPA regulations, and all applicable agency NEPA regulations and guidance. CEQ regulations (40 CFR §1508.27) state that the significance of an action should be analyzed both in terms of “context” and “intensity.” Analysis discussed and summarized below is relevant to making a Finding of No Significant Impact. The Final Phase IV ERP/EA’s analysis of the environmental consequences of this project concludes that minor (or less) impacts to some resource categories and no long-term moderate or major adverse impacts are anticipated to result from implementing this project. See Final Phase IV ERP/EA Chapter 8).

The environmental consequences analysis suggests that resources either would not be affected by project activities or would experience minor adverse and/or minor to moderate beneficial impacts, as discussed below and in the Phase IV ERP/EA Chapter 8:

- Impacts to the physical environment (geology and substrates, air quality/ greenhouse gas emissions and noise) would be short-term and minor. Short-term minor adverse impacts to substrates, air quality/ greenhouse gases and noise levels would occur from construction activities and use of vehicles and equipment. Due to the small scale and scope of the project and the use of best management practices (BMPs), no significant adverse impacts to the physical environment would occur. Mitigation described in the Phase III ERP/PEIS that would be implemented for this project includes employment of standard BMPs for construction to reduce erosion. Soil disturbance would be kept to the minimum area and the minimum length of time necessary to complete the action. Seasonal rainfall would be factored into the construction timeline to reduce ground disturbance during raining or flood seasons. Selection and operation of heavy equipment to minimize adverse effects to the environment (e.g., minimally-sized, low-pressure tires, minimal hard turn paths for tracked vehicles, temporary mats or plates within wet areas or sensitive soils) would be performed. The timing of noise producing activities would be planned to minimize disturbance to nesting birds. BMPs for air quality/greenhouse gas

emissions that will be implemented include shutting down idling construction equipment, if feasible; locating staging areas as close as practicable to the construction site to minimize driving distances between staging areas and the construction site; and encouraging the use of the proper size of equipment for the job to maximize energy efficiency.

- Impacts to the biological environment would be temporary and minor. Habitats near the Jeff Friend Trail would not be adversely impacted. No removal of shrubs, grass or trees is planned. Except for widening the boardwalk portion by one foot, the footprint of the existing trail will not change. The raised observation platform will be sited in an area (flat, sandy) that would minimize impacts to habitats, or would be sited over a non-raised platform that is already a part of the existing trail. Any impacts to habitats would be minimized using BMPs described in the Phase III ERP/PEIS. Those that will be implemented include minimizing the potential for introduction or spread of invasive species by requiring the contractor to clean all equipment before entering and when leaving the refuge. Further, BMPs from the USFWS consultation will be implemented to avoid or minimize potential impacts to migratory birds, such as using care to avoid birds when operating machinery or vehicles near birds and surveys for nests prior to construction activities thereby avoiding nests during construction. Construction of the trail would have localized and temporary impacts within the project footprint area and the intensity of adverse effects to biodiversity or ecosystem function from this will be very minor. Impacts to human uses include short-term minor to moderate adverse impacts to aesthetics and visual resources and tourism and recreation due to temporary trail closure. Public safety would not be impacted due to trail closure during construction. Long-term beneficial impacts are anticipated to aesthetics and visual resources due to the improved appearance of the trail and opportunities for viewing the vistas of Little Lagoon from the raised observation platform; However, a minor long-term adverse impact could occur depending on the placement of the raised platform and its potential to block views of Little Lagoon from the trail. On balance the visual impacts are expected to be beneficial.
- For threatened, endangered, and candidate species with potential to occur in the project area, no effect is anticipated to Alabama beach mouse (endangered), sea turtles (loggerhead and green are threatened, Kemp's ridley is endangered), gopher tortoise (candidate), and eastern indigo snake (threatened). The proposed project is not likely to adversely affect piping plover (threatened) and red knot (threatened). BMPs that will be implemented for piping plover and red knot if they do appear near the project area includes providing 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. 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 the area of their own volition. There is no designated or proposed critical habitat within the project area, therefore none would be adversely modified or destroyed. The USFWS provided concurrence on the Federal Trustees' determinations for effects from the proposed project to endangered, threatened and candidate species.

- The project is not expected to have any significant adverse effects on wetlands and floodplains, pursuant to Executive Orders 11990 and 11988 because the project activities will not take place within, or affect wetlands and the project is not a structure that would impact floodplains.
- The project's potential impacts are not controversial and the project is supported by the general public. It will restore a portion of the lost visitor use on lands managed by DOI in the five Gulf States caused by the Spill by improving the future visitor experience at Bon Secour NWR, and will not significantly impact unique areas such as historic or cultural resources, park lands, wetlands, or ecologically critical areas. It will have no effects on the human environment that would be highly uncertain or involve unique or unknown risks.
- No significant adverse cumulative effects are anticipated from implementation of this project, due in part to its small scale, scope and short duration. This consists of repair of an existing trail and widening of a portion and a one to three month timeframe for construction. The project had no findings of significant adverse direct or indirect impacts.

Copies of the draft EA for this project were made available to the public through a Federal Register notice on May 20, 2015. See *Deepwater Horizon* Oil Spill; Draft Phase IV Early Restoration Plan and Environmental Assessments, 80 FR 29019-29021 (May 20, 2015). Public comments on the Draft Phase IV ERP/EA were taken during a 47-day public comment period extending from June 19, 2015 to July 6, 2015 (80 FR 35393, June 19, 2015). Public comments that were received during this period have been considered and incorporated into the Final Phase IV ERP/EA (Chapter 15, Response to Public Comments). The Final Phase IV ERP/EA is hereby incorporated by reference.

Agency Coordination and Consultation Summary

Endangered Species Act Section 7 consultation with the USFWS has been completed and the USFWS concurred that no threatened, endangered, or candidate species or critical habitat would be adversely affected as a result of implementing this project. The project was also reviewed for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 and the Migratory Bird Treaty Act (MBTA) of 1918, and determined take would be avoided.

NOAA's Restoration Center, in coordination with the Protected Resource Division (PRD) in the SERO, determined that the Bon Secour National Wildlife Refuge Trail Enhancement Early Restoration Project will have No Effect to listed species under the jurisdiction of NMFS. NOAA reviewed the project for compliance with the Magnuson-Stevens Fishery Conservation and Management Act and had informational discussions with NMFS Southeast Regional Office (SERO's) Habitat Conservation Division regarding Essential Fish Habitat (EFH). NOAA found that the project will have No Adverse Impacts to EFH, as there is no EFH in the project area that could be directly or indirectly affected. The project will not require further EFH evaluation.

Potential impacts to cultural and historical resources protected under Section 106 of the National Historic Preservation Act (NHPA) were described in the Final Phase IV ERP/EA Chapter 8, Section 8.2.6.3.1. A complete review of this project under Section 106 of the NHPA has been initiated and will be

completed prior to project implementation. NHPA Section 106 and Tribal consultations would further identify potential cultural resources in the project areas and any mitigation measures necessary to protect those resources.

Because the proposed project has reasonably foreseeable effects on coastal uses or resources that are the subject of federally approved Coastal Zone Management Plans in Alabama, the Federal Trustees submitted a consistency determination for the project to the Alabama Department of Environmental Management (ADEM). ADEM concurred with that determination on behalf of its state. Additional consistency review may be required pursuant to federal regulations (see 15 C.F.R. Part 930) prior to project implementation.

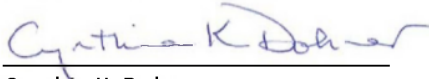
If any further need arises to coordinate and consult with other regulatory authorities, including for example Clean Water Act Section 404 or the Rivers and Harbors Act, the additional coordination or consultation requirements will be addressed prior to project implementation. The status of federal regulatory permits/approvals will be maintained online at: (<http://www.gulfspillrestoration.noaa.gov/environmental-compliance/>) and updated as regulatory compliance information changes. The Federal Trustees' Finding of No Significant Impact for this project is issued subject to the completion of all outstanding compliance reviews under other federal laws. If the proposed action changes or information is brought to light as a result of completing such reviews that is potentially relevant to the environmental evaluation supporting this Finding of No Significant Impact, that evaluation will be updated or supplemented as required by NEPA and a new determination made by the Federal Trustees under NEPA as to whether the proposed action is likely to significantly affect the quality of the human environment.

Determination

In view of the information presented in this document and the environmental analysis contained in the supporting Final Phase IV ERP/EA for the Bon Secour NWR Trail Enhancement Early Restoration Project, the Federal Trustees have determined that the project will not significantly impact the quality of the human environment. Accordingly, preparation of an environmental impact statement for this action is not necessary.

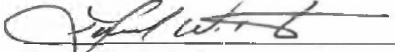
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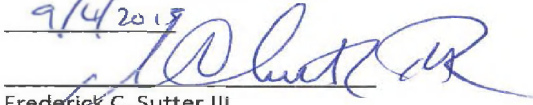
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Signature: 

Cynthia K. Dohner
Authorized Official, U.S. Department of the Interior

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Date: 9/8/2015
Signature: 
David Westerholm
Director, Office of Response and Restoration
National Ocean Service, NOAA


Date: 9/4/2019
Signature: 
Frederick C. Sutter III
Director, Office of Habitat Conservation
National Marine Fisheries Service, NOAA

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Date:

9/10/15

Signature:



Ann C. Mills

Deputy Under Secretary, USDA

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Date: 9/10/15

Signature: Kenneth J. Kopocis
Kenneth J. Kopocis
Principal Representative, EPA