Mills, Ashley <ashley_mills@fws.gov>

CBRA for Deepwater Horizon PLL and Sea Turtle Projects

Debora Mcclain <debora_mcclain@fws.gov> Fri, Jul 17, 2015 at 9:19 AM
To: Bill Pearson <bill_pearson@fws.gov>, Catherine Phillips <catherine_phillips@fws.gov>, David Hoth <david_hoth@fws.gov>, Stephen Ricks <stephen_ricks@fws.gov>, Jeff Weller <jeff_weller@fws.gov>
Cc: Ashley Mills <ashley_mills@fws.gov>

Bill/Davis/Catherine/Steve/Jeff, attached please find the CBRA consistency determinations for the proposed Pelagic Longline Bycatch Reduction and Sea Turtle projects which are part of the Deepwater Horizon Early Restoration Phase IV . If you have any questions please feel free to contract Ashley Mills.

Thanks

Debora L McClain

Deputy DOI DH NRDAR Case Manager

Region 4

134 Union Blvd

Lakewood, CO 80228

Office - 303-236-4338

Cell - 303-829-4615

Email - Debora_McClain@fws.gov

2 attachments

20150707 CBRA letter PLL (3).docx
175K

20150707 CBRA letter Sea Turtles.docx
2384K

Dear Project Leaders,

The DOI Deepwater Horizon NRDA Case Management Office is continuing to move the proposed Early Restoration projects forward through the various environmental compliance consultations. We are currently working on the Coastal Barrier Resources Act consistency determinations. There is 1 project that would occur Gulf wide that is being evaluated by the Trustees as a potential early restoration project. The early restoration project was proposed in the draft early restoration plan that was released for public review and comment on May 20, 2015. 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 National Oceanic and Atmospheric Administration (NOAA).

We used the Coastal Barrier Resources System mapper – Beta (http://www.fws.gov/cbra/Maps/Mapper.html [accessed June 24, 2015]) to determine if proposed projects were located within an Otherwise Protected Area or within a Coastal Barrier Resources System Unit. If the proposed project will occur in an Otherwise Protected Area or outside of a System Unit, no additional analysis was developed.

Pelagic Longline Bycatch Reduction Project, Gulf Wide

The proposed Pelagic Longline Bycatch Reduction Project would be implemented Gulf wide by the National Oceanic and Atmospheric Administration (NOAA) to restore open-ocean (pelagic) fish that were affected by the Spill. The Gulf pelagic longline (PLL) fishery primarily targets yellowfin tuna and swordfish, but incidentally catches and discards other fish, including marlin, sharks, bluefin tuna, and smaller individuals of the target species. The project aims to reduce the number of fish accidentally caught and killed in fishing gear by compensating PLL fishermen who agree to voluntarily refrain from PLL fishing in the Gulf during an annual six-month repose period that coincides with the bluefin tuna spawning season. The project would also provide participating fishermen with two alternative gear types to allow for the continued harvest of yellowfin tuna and swordfish during the repose period when PLL gear is not used.

Consistency Analysis

The proposed Pelagic Longline Bycatch Reduction Project would occur within the Economic Exclusive Zone (EEZ), is not within any designated System Unit and is therefore not subject to CBRA.

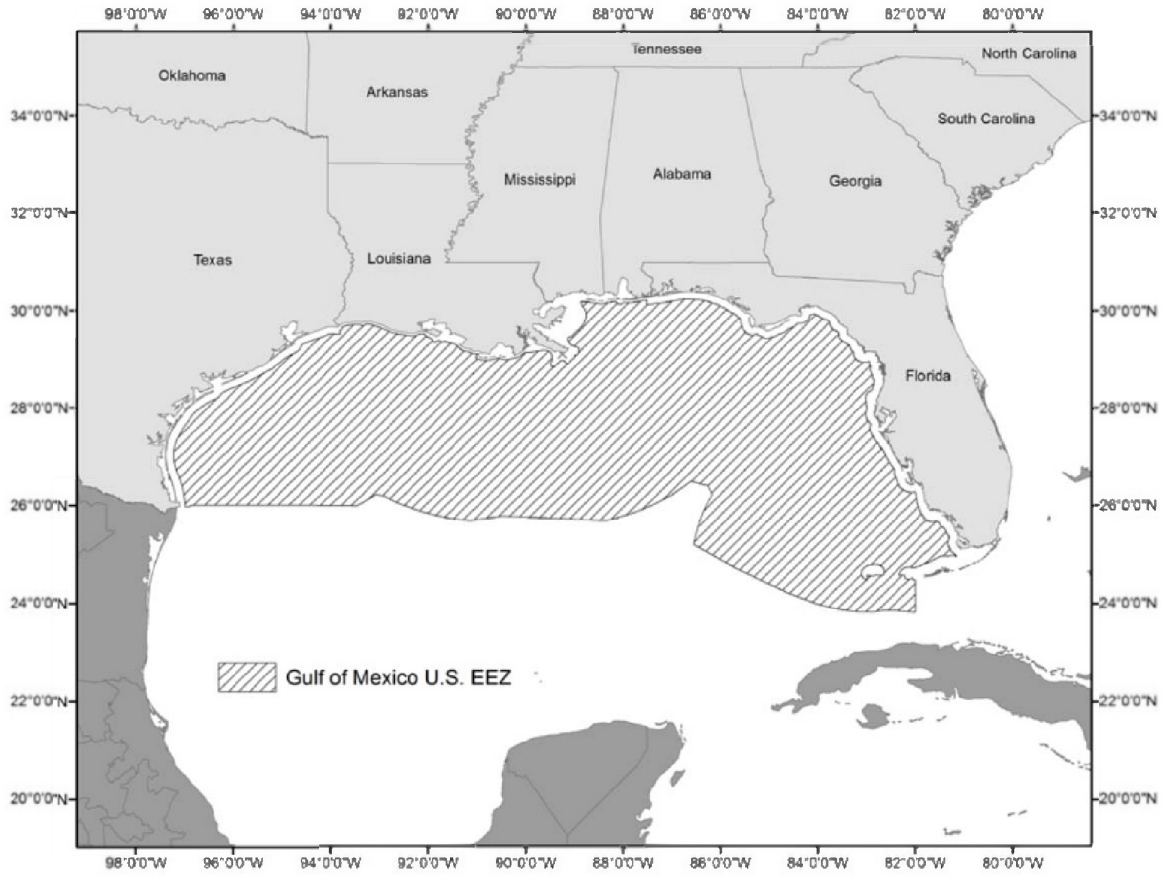

Figure 1. Proposed PLL Project location is the U.S. Exclusive Economic Zone (EEZ) in the Gulf of Mexico indicated by the shaded area.

Dear Project Leaders,

The DOI Deepwater Horizon NRDA Case Management Office is continuing to move the proposed Early Restoration projects forward through the various environmental compliance consultations. First, we would like to thank you for all your efforts in the ESA Section 7 consultations your office conducted for the currently proposed projects. We are now working on the Coastal Barrier Resources Act consistency determinations.

There is one, multi-faceted Sea Turtle Early Restoration Project being evaluated by the Natural Resource Trustees for the Deepwater Horizon oil spill as a potential early restoration project which would occur in the state of Texas and in Gulf of Mexico waters. This early restoration project was proposed in the draft early restoration plan that was released for public review and comment on May 20, 2015. If the Trustees select the Sea Turtle Early Restoration Project after consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by the National Park Service (NPS), the U.S. Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA) and the Texas Parks and Wildlife Department (TPWD).

We used the Coastal Barrier Resources System mapper – Beta (http://www.fws.gov/cbra/Maps/Mapper.html [accessed June 24, 2015]) to determine if proposed projects were located within an Otherwise Protected Area or within a Coastal Barrier System Unit. If the proposed project will occur in an Otherwise Protected Area or outside of a System Unit, no additional analysis was developed.

Sea Turtle Early Restoration Project, Texas and Gulf Wide

The Sea Turtle Early Restoration project is a multi-faceted approach to restoration that collectively addresses identified needs for a variety of species and life stages of sea turtles, consistent with long-term recovery plans and plan objectives for sea turtles in the Gulf of Mexico. The Sea Turtle Early Restoration project consists of four complementary project components:

• The Kemp's Ridley Sea Turtle Nest Detection and Enhancement project component would provide needed additional staff, infrastructure, training, education activities, equipment, supplies, and vehicles over a 10-year period in both Texas and Mexico for Kemp's ridley sea turtle nest detection and protection. It would also provide for the addition of two cabins and two nesting corrals on the southern end of the Padre Island National Seashore (PAIS). In cooperation with several partners, the NPS conducts an extensive program to detect, document, and protect nesting Kemp's ridley sea turtles and their nests in Texas. Today, nest detection patrols occur to some extent from the Bolivar Peninsula on the north Texas Gulf Coast to Boca Chica Beach at the Texas/Mexico border. Kemp's ridley nest primarily during the day in Texas and patrols are generally conducted daily from April through mid-July. The primary goal of this project component is to reduce sea turtle hatchling mortalities through continued support for nest detection and protection activities in Texas and Mexico as part of the ongoing Kemp's ridley recovery efforts.

• The Enhancement of the Sea Turtle Stranding and Salvage Network (STSSN) and Development of an Emergency Response Program project component would enhance the existing STSSN beyond current capacities for 10 years in Texas and across the Gulf as well as develop a formal Emergency Response Program within the Gulf of Mexico. The STSSN was formally established in 1980 to collect information on and document strandings of sea turtles along the U.S. Gulf of Mexico and Atlantic coasts. Sea turtle strandings are defined as animals that either wash ashore or are found floating, dead or alive, and if alive, generally in a weakened condition. The STSSN includes federal, state and private partners, and is coordinated by NOAA. This project component has the goal of improving response capabilities to recover dead and injured sea turtles.

• The Gulf of Mexico Shrimp Trawl Bycatch Reduction component would enhance two existing NOAA programs which would work to reduce the bycatch of sea turtles in shrimp trawls in the Gulf of Mexico. The two programs are the Gear Monitoring Team (GMT) and the Southeast Shrimp Trawl Fisheries Observer Program (Observer Program). The primary goal of the proposed expanded GMT program is to increase capacity for education and outreach to the shrimp fishing community to improve compliance with existing federal TED regulations. The expanded GMT is intended to provide direct benefits to sea turtles by decreasing the likelihood of capture mortality through greater use of properly built, installed, and maintained TEDs. This project component would also expand the capacity of NOAA's Observer Program to place trained observers on shrimping vessels in the Gulf of Mexico to monitor sea turtle bycatch.

• The Texas Enhanced Fisheries Bycatch Enforcement component would enhance TPWD enforcement activities for fisheries that incidentally catch sea turtles while they operate primarily in Texas State waters within the Gulf of Mexico, for a 10-year period. The project component would include a series of patrols focusing on the enforcement of TED regulations in the Gulf of Mexico along the entire Texas coast ensuring compliance aboard commercial shrimp vessels. Targeted patrols would primarily occur during the period of the year when sea turtle strandings have historically been the highest. These patrols would be over and above the current patrol frequency in the Texas state waters of the Gulf of Mexico.

Consistency Analysis

Three of the project components occur in Texas and/or Gulf waters, not within any designated System Unit, and are therefore not subject to CBRA. These components are: Enhancement of the STSSN, Gulf of Mexico Shrimp Trawl Bycatch Reduction, and Texas Enhanced Fisheries Bycatch Enforcement.

One of the four project components, the Kemp's Ridley Sea Turtle Nest Detection and Enhancement, would be implemented on Padre Island National Seashore and other sandy beaches along the Texas coast. This project component would be located within a number of System Units and Otherwise Protected Areas: T04, T05, T05P, T06, TX-06P, T08, T10, T10P, T11, T12, T12P, T15P, T16P and TX-22P. A portion of this proposed project component is located within System Units and is therefore subject to a Consistency Analysis under CBRA. Within the System Units, the proposed action includes beach patrols

for nesting Kemp's ridley sea turtles. Consequently, this activity is consistent with CBRA under the exception to limitations on expenditures for "[p]rojects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects." 16 U.S.C. § 3505(a)(6)(A). The purposes of CBRA are "to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts..." 16 U.S.C. §3501(b). This early restoration project component is designed to restore natural resources injured by the *Deepwater Horizon* oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exception discussed above.

We have also determined that CBRA does not apply to the other locations of this project component because these are Otherwise Protected Areas and the only prohibition is Federal Flood Insurance.

We are requesting your concurrence with our consistency determination for the portion of the project that falls within a System Unit.

If there is anything else we need to capture for CBRA please let me know.

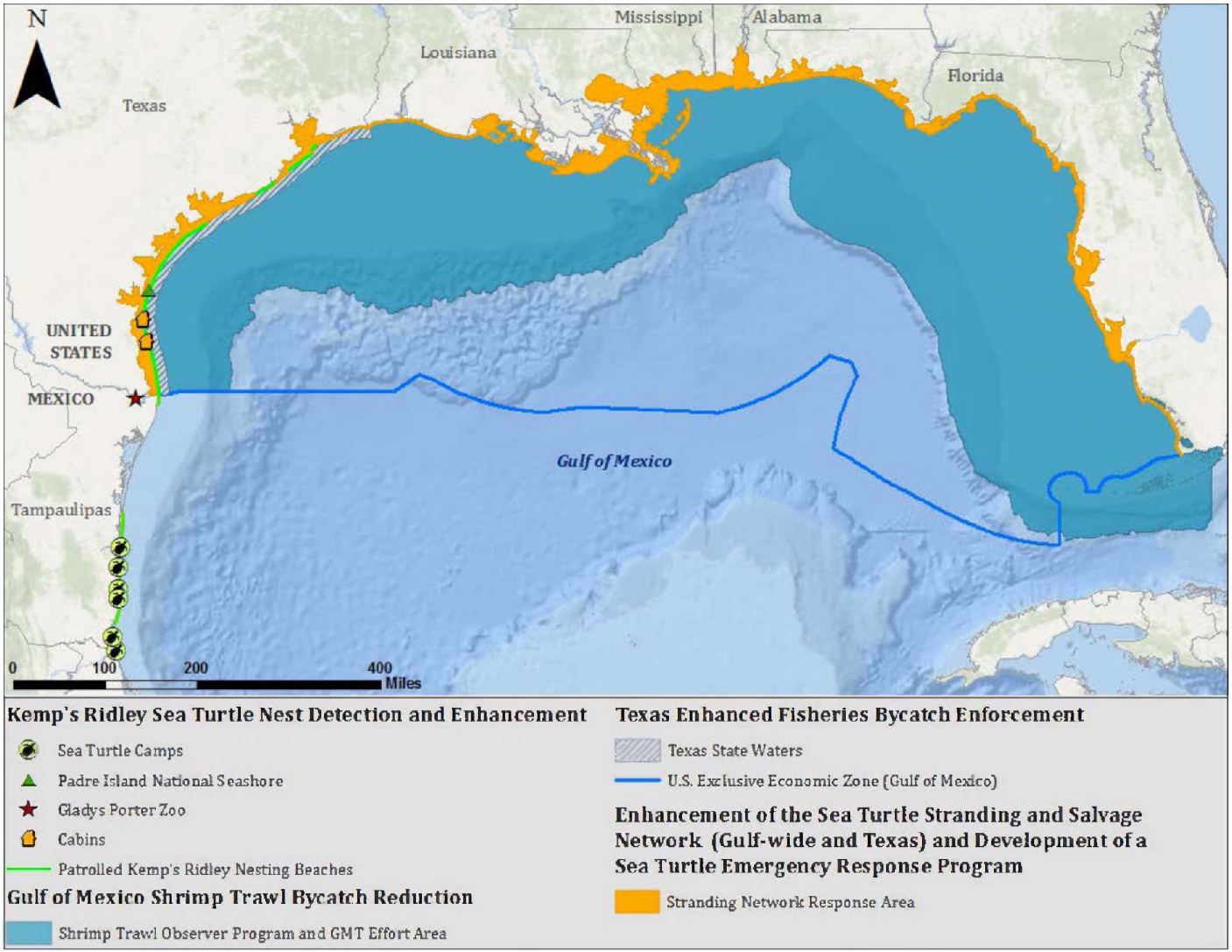

Figure 1. Geographic area of the proposed Sea Turtle Early Restoration project.

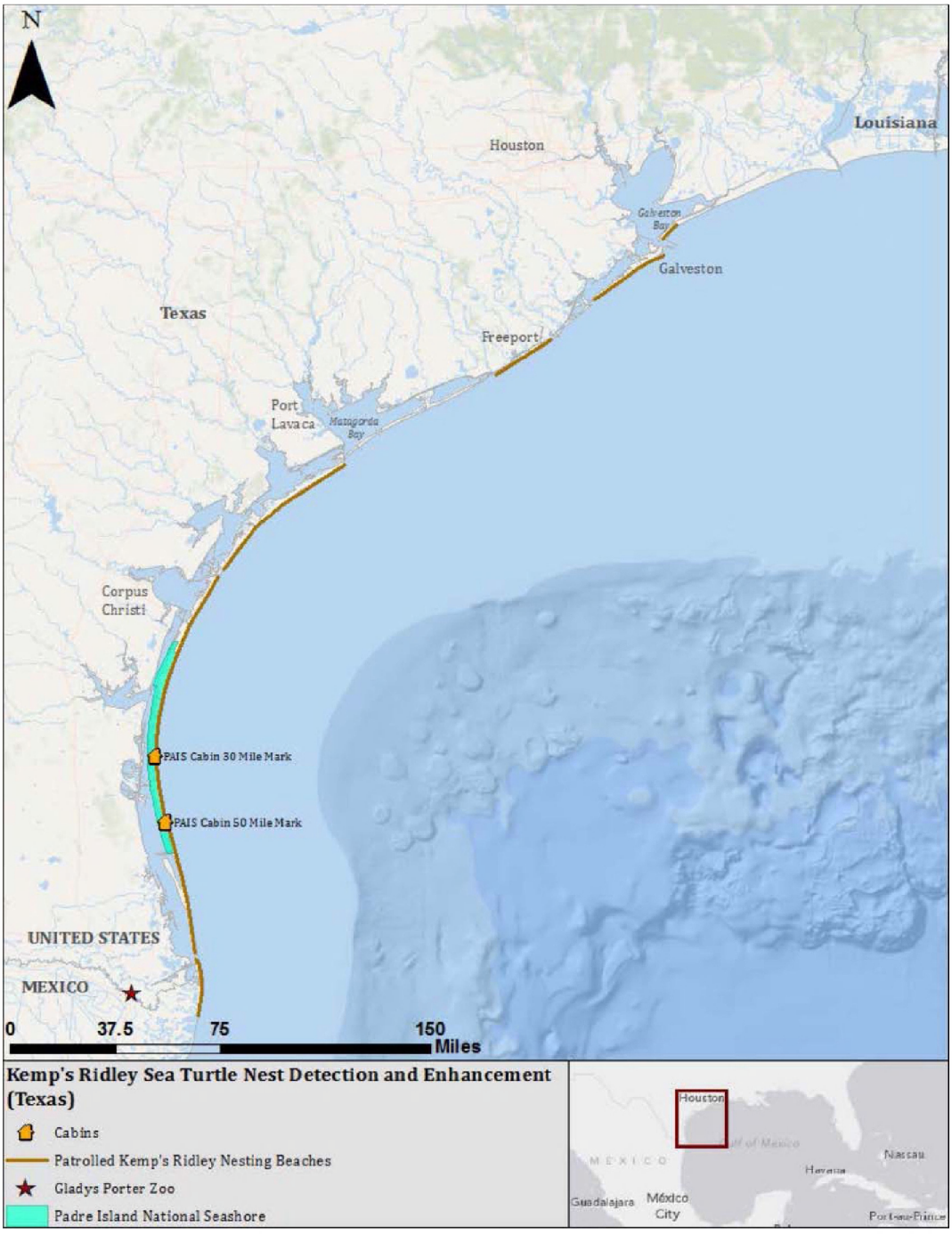

Figure 2. Patrolled Kemp's Ridley nesting beaches on the Texas coast.

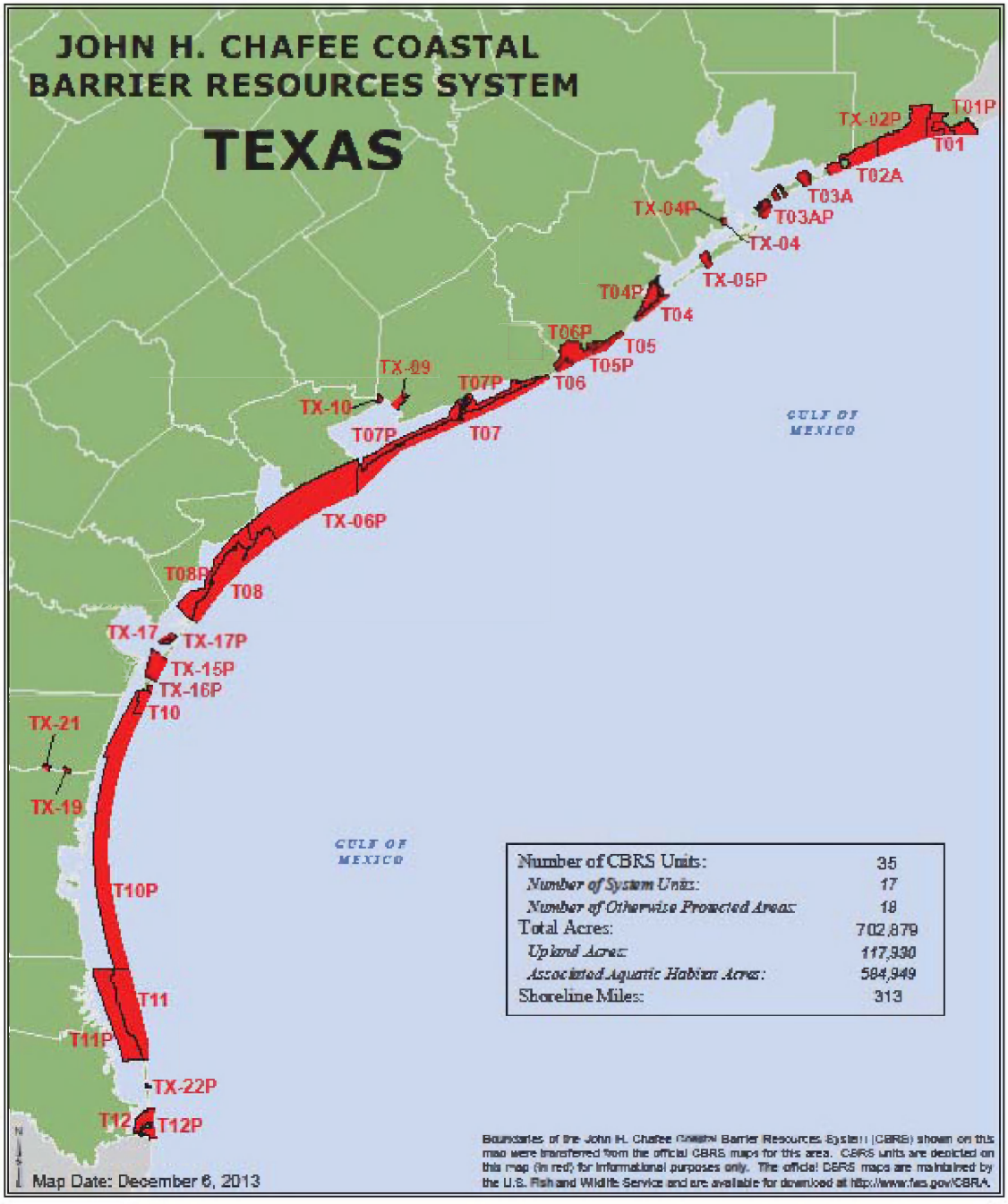

Figure 3. CBRA units in TX.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Gulf Restoration Program Office
17629 El Camino Real, Suite 211
Houston, Texas 77058
281/286-8282 / (FAX) 281/488-5882

September 15, 2015

Ashley Mills
Fish and Wildlife Biologist
Deepwater Horizon NRDAR Case Management Office
341 Greeno Road North, Suite A
Fairhope, Alabama 36532-5539

Dear Ms. Mills,

Thank you for your August 26, 2015 email correspondence concerning a consistency pursuant to the Coastal Barrier Resources Act (CBRA) for the Kemp's Ridley Sea Turtle Nest Detection and Enhancement project. This project involves providing additional staff, training, education, equipment, supplies, and vehicles over a 10 year period. In addition two cabins and two nesting corrals would be constructed on the southern end of Padre Island National Seashore. Although this project is located within a number of Coastal Barrier Resource System (CBRS) Units and Otherwise Protected Areas (OPAs), the only prohibition in OPAs is Federal Flood Insurance. Therefore, this consistency determination is only for those CBRS Units (T04, T05, T05P, T06, TX-06P, T08, T10, T11, T12, T12P, T15P, T16P, and TX-22P) that are identified in your request.

Pursuant to 43 CFR, Subtitle A, dated October 6, 1983, and consistent with Section 6(a)(6) , the U.S. Fish and Wildlife Service (Service) is commenting on the consistency of the proposed action with the purposes of the CBRA as stated in Section 2(b) to minimize the loss of human life, wasteful expenditures of federal revenues, and damage to fish, wildlife, and other natural resources. Compliance of Section 6 of the CBRA rests initially on the federal officer responsible for making the funds or financial assistance available for an action. The Service's responsibility is to respond to a consultation request by providing technical information and comments on the question of consistency with the CBRA. Please note that the final determination whether actions are consistent with the purposes of the CBRA rests with the consulting federal agency.

Based on the description of the proposed project including the proposed construction of two cabins and two nesting corrals on Padre Island National Seashore, you determined that this project qualifies for an exemption under 16 U.S.C. § 3505(a)(6)(A) - "projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects."

Based on a review of the information provided, the Service determines that your project meets the three aforementioned purposes of CBRA and is therefore consistent with CBRA exemption 16 U.S.C. § 6(a)(6)(A).

If you have any questions, or if we can be of further assistance please contact Staff Biologist Harmon Brown at (281) 286-8282.

Sincerely,

John Huffman
Coastal Program Coordinator