



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/R4/DH NRDAR

JAN 04 2016

Memorandum

To: Field Supervisor, Panama City Ecological Services Field Office, Florida

From: Deputy *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager *Deborah H. McClain*

Subject: Informal Consultation Request for the Proposed Florida Coastal Access Project

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 in the State of Florida, so authorized. Consistent with their federal and state authorities, the Trustees have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured natural resources to make the public whole for injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, National Oceanic and Atmospheric Administration (NOAA), 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 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 December 1, 2015. If the Trustees select the project after publication of the plan and consideration of public comment and a stipulated agreement is reached with BP, the project will be implemented by the Florida Department of Environmental Protection (FDEP).

The above facts lead us to the conclusion that consultation 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 project and we wish to engage in such consultation. The proposed Florida Coastal Access Project has four project components. We have reviewed each of the project components and the overall project for potential impacts to listed, candidate, and proposed species and designated and proposed critical habitats in accordance with Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). Potential effects, conservation measures and justifications for our determinations are presented for each component of the proposed project in separate Biological Evaluation (BE) forms attached to this letter. The determination for each project component is listed in Table 1 below. Our summary determination for the overall project is may affect, but not likely to adversely affect piping plover, red knot, West Indian manatee, Florida skullcap, Godfrey's butterwort, papery whitlow-wort, telephus spurge, white birds-in-a-nest, and Harper's beauty. The attached BE forms will also be used to initiate consultation with National Marine Fisheries Service (five species of sea turtles (loggerhead, green, Kemp's ridley, leatherback, and hawksbill) using in-water habitats, Gulf sturgeon, Gulf sturgeon critical habitat) and in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

Within the BE forms, we have also reviewed the proposed project 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 and we determined take would be avoided.

Potential effects, conservation measures and justifications for our determinations are presented for each component of the proposed project in separate BE forms to facilitate your review. However, we request your concurrence with the proposed project in totality rather than component by component. To facilitate your response, should you concur with our determinations, we have attached a template response letter. If you have questions or concerns regarding this request for consultation, please contact Ashley Mills, Fish and Wildlife Biologist, at 812-756-2712 or ashley_mills@fws.gov.

Attachments (7)

