



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/R4/DH NRDAR

Memorandum

March 23, 2017

To: Field Supervisor, Jackson Ecological Services Field Office, Mississippi

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

Subject: Informal Consultation Request for the Proposed Graveline Bay Land Acquisition and Management Project in Jackson County, Mississippi

Overview

The Graveline Bay Land Acquisition and Management Project is currently being evaluated as a potential restoration project to restore natural resources in Mississippi that were injured as a result of the *Deepwater Horizon* (*DWH*) oil spill. We have reviewed this project in accordance with Section 7 of the ESA and request your concurrence.

Background

After the *DWH* oil spill, federal and state natural resource trustee agencies (Trustees) came together to assess the effects of the spill and plan for the restoration of injured natural resources. As part of the legal settlement reached with BP in 2016, the Trustees prepared a Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), to provide the framework for *DWH* oil spill restoration across the Gulf.

The Final PDARP/PEIS established Trustee Implementation Groups (TIGs) that develop plans for, choose, and implement specific restoration actions under the Final PDARP/PEIS. The Mississippi Trustee Implementation Group (MS TIG) is made up of the following agencies: Mississippi Department of Environmental Quality (MDEQ); U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management; National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce; U.S. Department of Agriculture; and U.S. Environmental Protection Agency.

The MS TIG is currently evaluating the subject project as a potential restoration project under the MS TIG Draft 2016-2017 Restoration Plan/Environmental Assessment (Draft RP/EA), which was released for public review and comment on December 27, 2016. If the MS TIG selects the subject project, the MDEQ would implement the project. This project would include acquisition and preservation of up to 1,410 acres of habitat within and adjacent to Graveline Bay Coastal Preserve (CP), and restoration and management activities on up to 2,185 acres of existing CP land and newly acquired parcels in the vicinity of the CP.

These 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. We have reviewed the project for potential impacts to listed, candidate, and proposed species, and designated and proposed critical habitats in accordance with Section 7 of the ESA. Potential effects, conservation measures, and justifications for our determinations are presented in the attached Biological Evaluation (BE) form.

Within the BE form, 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. The attached BE form will also be used to document No Effect determinations for species under the National Marine Fisheries Service jurisdiction (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.*).

We determined that the Graveline Bay Land Acquisition and Management Project, may affect, but is not likely to adversely affect piping plover, red knot, black pine snake, gopher tortoise, Louisiana quillwort, Mississippi sandhill crane, and Alabama red-belly turtle, and will have no effect on West Indian manatee or loggerhead sea turtle. This letter requests your concurrence.

When specific locations and management activities are identified, Implementing Trustees will revisit this consultation to determine if any protected species and/or designated critical habitat occur in those areas. If occurrence is known or likely, Implementing Trustees will identify potential impacts as well as measures to avoid or minimize impacts such that when implemented, impacts are insignificant or discountable. If a determination of "may affect, not likely to adversely affect" cannot be made, Implementing Trustees will re-initiate this consultation. Re-initiation will also be required if 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.

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 informal consultation, please contact Ashley Mills, Fish and Wildlife Biologist, at 812-756-2712 or ashley_mills@fws.gov.

Attachments (2)

- Biological Evaluation (BE) form with 5 attachments:
 - Project Map
 - Habitat Map
 - Effects of the Proposed Project
 - Best Practices Summary Table
 - MMNS. 2015. Mississippi State Wildlife Action Plan
- Template response letter

Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

U.S. Fish and Wildlife Service & National Marine Fisheries Service

This form will be filled out by the Implementing Trustee and used by the regulatory agencies. The form will provide information to initiate informal Section 7 consultations under the Endangered Species Act (ESA) and may be used to document a No Effect determination or to initiate pre-consultation technical assistance.

It is recommended that this form also be completed to inform and evaluate additional needs for compliance with the following authorities: Migratory Bird Treaty Act (MBTA), Marine Mammal Protect Act (MMPA), Coastal Barrier Resources Act (CBRA), Bald and Golden Eagle Protection Act (BGEPA) and Section 106 of the National Historic Preservation Act (NHPA).

Further information may be required beyond what is captured on this form. Note: if you need additional space for writing, please attach pages as needed.

A. Project Identification

<i>Federal Action Agency</i>		
<i>Agency Contact(s)</i>		
USFWS: Ashley Mills at 812-756-2712 and Ashley_Mills@fws.gov NMFS: Christy Fellas at 727-551-5714 and Christina.Fellas@noaa.gov		
<i>I. Implementing Trustee</i>		
<i>II. Contact Person</i>	<i>III. Phone</i>	<i>Email</i>
<i>IV. Project Name and ID# (Official name of project and ID number assigned by Trustees in DIVER)</i>		
<i>V. NMFS Office (Choose appropriate office based on project location)</i>	<i>USFWS Office (Choose or write in appropriate office based on project location)</i>	
<i>VI. Project Type #1</i>		
<i>VII. Project Type #2, if helpful</i>		

B. Project Location

<i>I. Physical Address of action area (If applicable)</i>
<i>II. State & County/Parish of action area</i>
<i>III. Latitude & Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees])</i>
<i>IV. Township, range and section of the action area</i>

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 action and not merely the immediate action area 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. Provide or attach a detailed map of the area of potential effect for ground disturbing activities if the area is different from the action area.

- 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.)
- b. *Existing Structures*
(If applicable. Describe the current and historical structures found in the action area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.
- c. *Seagrasses & Other Marine Vegetation*
(If applicable. Describe seagrasses found in action 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 action area.)
- d. *Mangroves*
(If applicable. Describe the mangroves found in action 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 action area.)
- e. *Corals*
(If applicable. Describe the corals found in action 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 action area.)
- 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.).
- g. *Marine Mammals*
(If applicable. Indicate and describe the species found in the action area. Use NMFS' Stock Assessment Reports (SARs) for more information, see <http://www.nmfs.noaa.gov/pr/sars/region.htm>)

D. Project Description

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

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, artificial reefs or fishery activities, list the method here, but complete the next section(s) in detail.***

- II. *Specific In-Water and/or Terrestrial 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. Indicate 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/protected_resources/section_7/guidance_docs/documents/dockkey2002.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 (saft)?*
- 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.?)*
- c. *Marinas and 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 (saft) beneath the boats that will be shaded.)*
- 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.)*

- 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 action area.*
- 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)). If digging in the terrestrial environment, please describe fully with details about possible water jetting, vibration methods to install pilings for dune walk-over structure, or other methods. If using devices/methods/turtle relocation dredging to relocate sea turtles then describe the methods here.*
- 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.)*
- 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.*
- i. *Fishery Activities (Describe any use of gear that could entangle or capture protected species. This includes activities that may enhance fishing opportunities (e.g. fishing piers) or be fishery/gear research related (e.g. involve trawl gear, gillnets, hook and line gear, crab pots etc)).*

E. NOAA Species & Critical Habitat and Effects Determination Requested

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

Identify if Gulf sturgeon are in marine 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 - marine). 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	CH UNIT (if applicable)	LOCATION (sea turtles and Gulf sturgeon only)	DETERMINATION (see definitions below)
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Determination Definitions

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 with the not likely to affect determination. This conclusion is appropriate when effects to the species or critical habitat will be wholly 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 for action with a likely to adversely affect determination, with a biological opinion as the concluding document. 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 is "likely to adversely affect." Any LAA determination requires formal section 7 consultation and will require additional information.

F. USFWS Species & Critical Habitat and Effects Determination Requested

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 USFWS jurisdiction, visit <http://www.fws.gov/endangered/species/>.

Identify if Gulf sturgeon are in marine 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 - marine). 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	CH UNIT (if applicable)	LOCATION (sea turtles and Gulf sturgeon only)	DETERMINATION (see definitions below)
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Determination Definitions

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.

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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.

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G. 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.)*

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.*

H. Actions to Reduce Adverse Effects

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 reinitiate this consultation.)*

II. *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 reinitiate this consultation.)*

I. Marine Mammals

- I. The Marine Mammal Protection Act prohibits the taking (including disruption of behavior, entrapment, injury, or death) of all marine mammals (e.g., whales, dolphins, manatees). However, the MMPA allows limited exceptions to the take prohibition if authorized, such as the incidental (i.e., unintentional but not unexpected) take of marine mammals. The following questions are designed to allow the Agencies to quickly determine if your action has the potential to take marine mammals. If the information provided indicates that incidental take is possible, further discussion with the Agencies is required.

Is your activity occurring in or on marine or estuarine waters, or could it impact the quality (e.g., salinity, temperature) of marine or estuarine waters?

NO YES

- II. Does your activity involve any of the following:

NO YES

- a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
- b) In-water construction or demolition
- c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
- d) In-water Explosive detonation
- e) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
- f) Aquaculture
- g) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
- h) Restoration of barrier islands, levee construction or similar projects
- i) Fresh-water river diversions

- III. If you checked "Yes" to any of the activities immediately above or whether the activity could impact the quality of marine or estuarine waters, please describe the nature of the activities in more detail or indicate which section of the form already includes these descriptions:

- IV. Are any measures planned to mitigate potential impacts to marine mammals? If yes, NO YES
provide text in box below.

J. 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 at a distance greater than 660 feet of a nest may result in disturbance. 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.

Will you implement the above measures? NO YES

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

K. Migratory Birds

Identify the species anticipated in the action 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). If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized. Use additional tables on the next page if needed.

l. Species/Species Group Behavior Species/Habitat Impacts and Conservation Measures to Minimize Impacts

Migratory Birds

Continuation page if needed.

// SPECIES/SPECIES GROUP BEHAVIOR SPECIES/HABITAT IMPACTS and CONSERVATION MEASURES TO MINIMIZE IMPACTS

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NEPA Documents

Is the NEPA analysis for this project complete or in progress?	Yes	No		
Does this project fall under a programmatic NEPA document different from the PDARP/PEIS? (e.g. US Army Corps of Engineers, BOEM or other agency)			Yes	No
Fish and Wildlife Coordination Act (FWCA) consultation initiated or completed, if applicable?			Yes	No

If yes to any question above, please provide details in the text box (i.e. link to the document, or name of the document, year, lead federal agency, USFWS Field Office involved, etc.). If you do not have a link, attach documents to this BE form. Any documentation or information provided will be very helpful in moving your project forward.

NMFS ESA § 7 Consultation

We request that all ESA §7 consultation requests/packages be submitted electronically to: **Christina.Fellas@noaa.gov**

Questions about consultation status may be directed to the email address above or by phone: Christy Fellas: 727-551-5714

USFWS ESA § 7 Consultation

We request that all consultation requests/packages to USFWS be submitted electronically to: **Ashley_Mills@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.

Questions about consultation status may be directed to the email address above or by phone: Ashley Mills: 812-756-2712

- Name of Person Completing this Form:
- Name of Project Lead:
- Date Form Completed:
- Date Form Updated:

Endangered Species Act Programmatic Biological Opinion

Deepwater Horizon Oil Spill Restoration

National Marine Fisheries Service

Complete this section **only** if your project qualifies for streamlined ESA consultation under the ESA Framework Programmatic Biological Opinion completed by NMFS on February 10, 2016. To be eligible for streamlined ESA consultation with NMFS, you must implement all Project Design Criteria (PDCs) applicable to your project. By checking all boxes below that apply to this project you are confirming that PDCs are incorporated into the project design and construction. The entire Biological Evaluation Form must be completed and include any information necessary to verify that all applicable PDCs are incorporated into the project. If the project incorporates more than one type of restoration, check boxes in all appropriate categories.

You must receive NMFS approval before proceeding with your project. Note that this PDC checklist does not apply to ESA consultation with USFWS.

Full text of the PDCs can be reviewed at:

http://sero.nmfs.noaa.gov/protected_resources/section_7/freq_biop/documents/DWH_bo/appendix_a.pdf

Oyster Reef Creation and Enhancement

Yes

No

Marine Debris Removal

Yes

No

Construction of Living Shorelines

Yes

No

Marsh Creation and Enhancement

Yes

No

Construction of Non-Fishing Piers

Yes

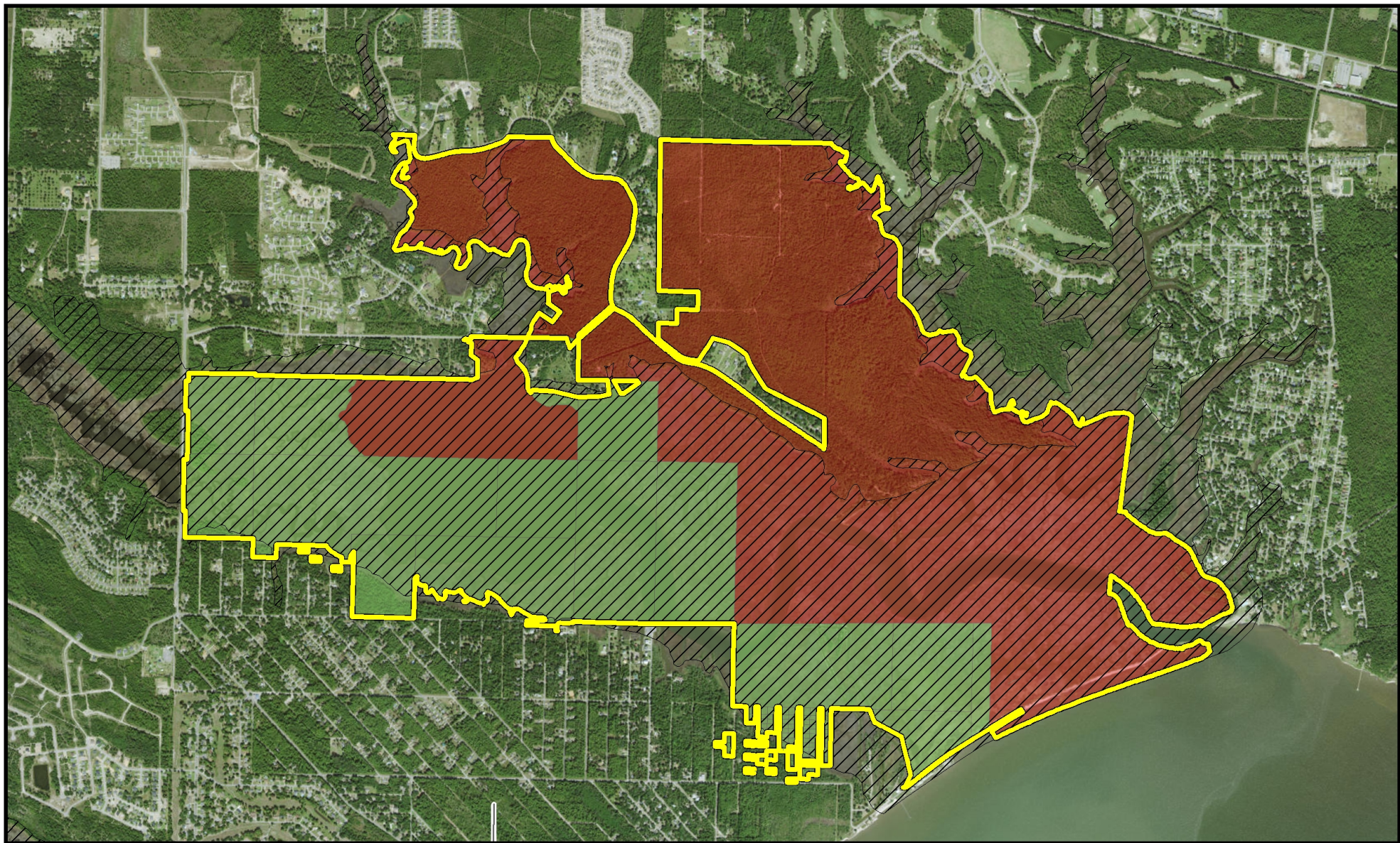
No

Check the box to confirm that all applicable requirements are met and a streamlined consultation with NMFS is requested:





Name of person completing this form:

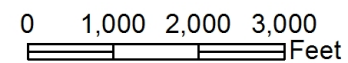
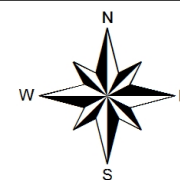
Date form completed:

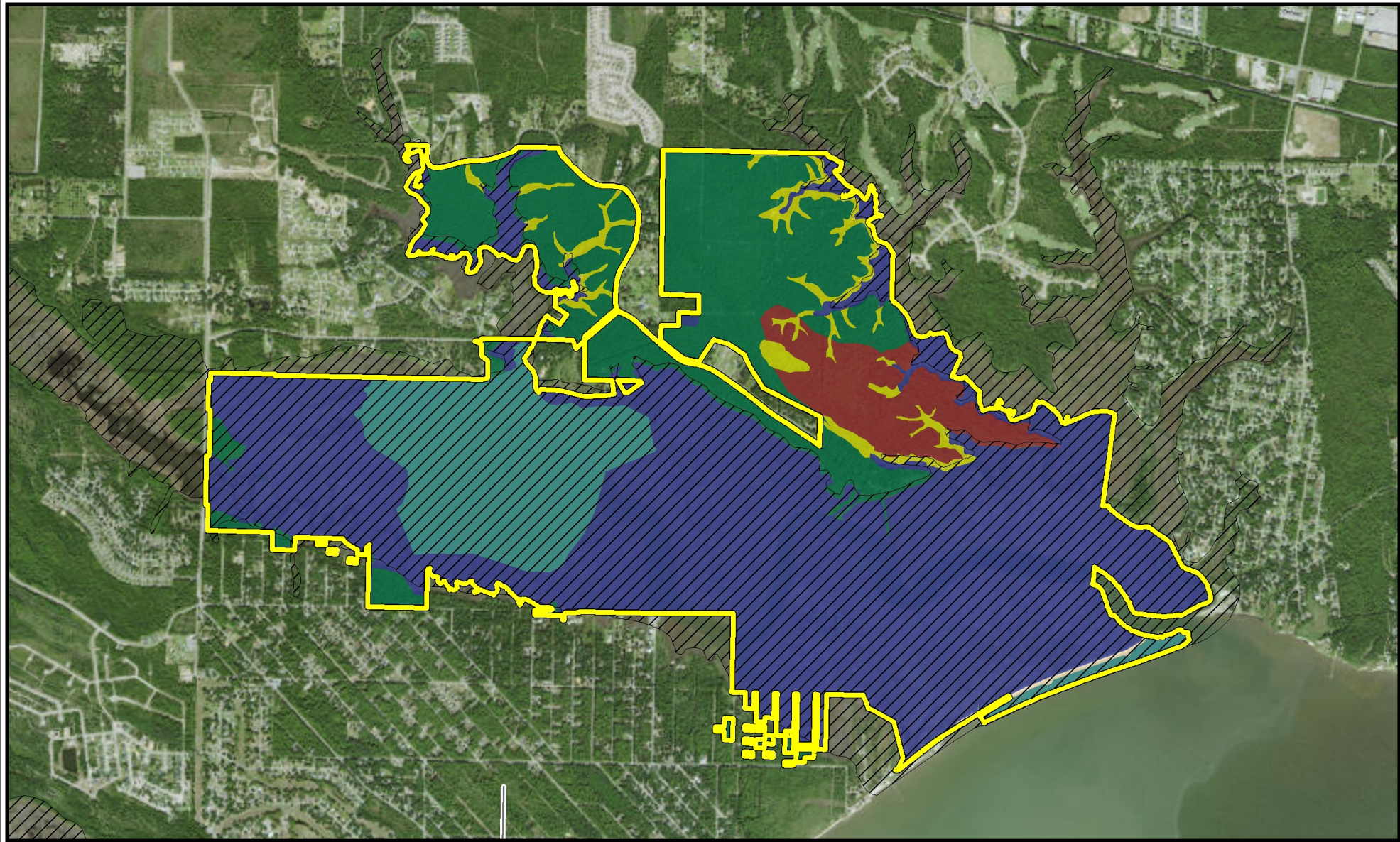
***You must receive NMFS approval before proceeding with your project ***



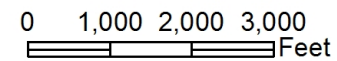
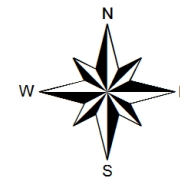
**Graveline Bay Land Acquisition and Management
Figure 1**

-  Project Area
-  Graveline Bay Acquisition Parcels
-  Mississippi Coastal Preserve
-  Graveline Bay Coastal Preserve Publicly Owned Parcels





**Graveline Bay Land Acquisition and Management
Figure 2**



G. Effects of the Proposed Project Graveline Bay Land Acquisition and Management Subsection I

All of the restoration measures and management activities will be designed to have long term beneficial impacts to habitats and the native species that utilize the areas. Land acquisition will prevent development of the land and loss of habitat.

We anticipate this land acquisition will not affect any listed species or designated critical habitat. There may be beneficial and adverse effects to listed species from the restoration measures and management activities, as described below. Direct impacts to species and habitats could originate from vegetation damage from chemical treatment, mechanical treatment, prescribed fire, road removal/repair and culvert placement. The cumulative impacts of all the restoration measures over the length of the project will ultimately be beneficial with little to no long-term adverse effects. Actions to minimize the potential for adverse effects are provided in the Graveline Bay Land Acquisition and Management Best Practices Summary Table (attached) and are discussed for each species below.

None of the restoration measures and management activities will be implemented in open water. To prevent sediment from affecting protected species or their habitats, an erosion control plan and (for chemical treatment) a spill prevention plan will be developed and implemented. The erosion control plan could consist of the use of vegetative buffers (100 feet or greater), revegetation with native species or annual grasses, and any other measures needed to prevent sediment from reaching protected species or their habitat. Graveline beach is not suitable nesting habitat for sea turtles.

The following describes the species habitat and the effects determination:

Piping plover and red knot: Piping plover populations winter on the Gulf and Atlantic coasts. In Mississippi piping plover are commonly observed on barrier islands and beaches and are generally present between August and May. Red knots may stop over on the Gulf coast during their winter and spring migrations, but are generally not a resident species. Acquisition and preservation, chemical treatment, debris removal and access restriction are the restoration measures and management activities planned for beach habitat. On the adjacent estuarine marsh habitat, acquisition and preservation is the only restoration measure planned. Best management practices such as erosion control and spill prevention plans will be implemented, and measures outlined in the Best Practices Summary Table attachment will be implemented to minimize any potential effect to the species. Access restriction includes the placement of barriers to restrict all vehicle traffic to sensitive shoreline areas. During the construction of the barriers there could be a short-term effect to these species, but the prevention of vehicular traffic will be a benefit. Restoration measures and management activities are not expected to adversely impact these species because they can vacate the area during implementation. This project is intended to have beneficial impacts to piping plover and red knot by preserving and enhancing beach habitat. As such, the project may effect, but is not likely to adversely affect the piping plover and red knot.

Alabama red-belly turtle: Habitat is fresh and brackish water with submerged and emergent vegetation and includes freshwater marsh and savannas and flatwoods. In the project area this species could utilize estuarine marsh and fire-suppressed pine savanna. Restoration measures

and management activities on this habitat type include acquisition and preservation, which would benefit the species, as well as chemical treatment, mechanical treatment, prescribed fire, road repair/removal and culvert placement, and debris removal, which could adversely impact this species. If there is potential habitat for the Alabama red-belly turtle, surveys will be conducted in potential habitat. Survey results will be considered in the design of the restoration measures and management activities to either avoid or minimize impacts to the species. Actions to minimize potential adverse effects include, but are not limited to, those listed in the Best Practices Summary Table: erosion control and spill prevention plans. As such, the project may affect, but is not likely to adversely affect the Alabama red-belly turtle.

Black pinesnake: Suitable habitat includes open canopy longleaf pine forest with herbaceous ground cover and well-drained sandy soils and, less so, hardwood forests (USFWS 2010). In the project area this species could utilize fire-suppressed pine savanna. Restoration measures on this habitat type include acquisition and preservation, which would benefit the species, as well as chemical treatment, mechanical treatment, prescribed fire, road repair/removal and culvert placement, and debris removal, which could adversely impact this species. It is not likely that black pinesnake habitat exists in the project area because much of the habitat in the project area is characterized by dense canopy cover or existing disturbance; however, if potentially suitable habitat is identified, then surveys will be conducted. If suitable habitat is discovered, the results will be considered in the design of the restoration measures and management activities to avoid or minimize impacts to the species. The Implementing Trustee(s) will coordinate with the USFWS Jackson, MS field offices if help is needed in identification of habitat, conducting surveys and/or the development of practices for site-specific restoration measures and management activities. As such, the project may affect, but is not likely to adversely affect the black pine snake.

Gopher tortoise: The gopher tortoise uses well-drained to excessively well-drained upland soils. Tortoises require soils that are sandy enough to permit construction of burrows and open canopies and sparse shrub cover which allows sunlight to reach the ground floor. In Mississippi, these areas often support a mixture of longleaf pine and scrub oaks. In the project area this species could utilize fire-suppressed pine savanna and beech magnolia forest. Restoration measures on this habitat type include acquisition/preservation, which will benefit the species. Habitat management activities include chemical treatment, mechanical treatment, prescribed fire, debris removal, and road repair/removal and culvert placement, which could adversely impact this species. Areas that are likely to contain the species will be surveyed; if burrows are identified, conservation measures detailed in the Best Practices Summary Table (attached) will be implemented to avoid or minimize impacts. As such, the project may affect, but is not likely to adversely affect the gopher tortoise.

Louisiana quillwort: The Louisiana quillwort has been observed in 10 counties in 174 streams within 17 watersheds (USFWS 2012) throughout the State of Mississippi with the largest colony found in the DeSoto National Forest (USFWS 2012). This species is found in all three coastal Mississippi counties (MDWFP 2001; USFWS 2012) although none have been found near the project area (MDWFP 2001). In coastal Mississippi, Louisiana Quillwort habitat includes perennial streams and banks in bottomland hardwood habitats likely with bald cypress and possibly the presence of stream macrophytes such as *Sparganium* spp. and *Orontium* spp. (USFWS 2012). Earlier sources indicate that suitable habitat for this species consists of sand or gravel bars located in intermittent streams and associated riparian areas (MDWFP 2001).

Louisiana Quillworts are sensitive to changes in hydrology, sedimentation, and alterations to the surrounding overstory (USFWS 2012). In the project area this species could utilize coastal plain small stream forest habitat. Restoration measures on this habitat type include acquisition/preservation, which would benefit the species, as well as chemical treatment, mechanical treatment, debris removal, road removal/repair and culvert placement, which could adversely affect the species. If mechanical or chemical treatment, road removal/repair, or culvert placement will be conducted within 165 feet of Louisiana quillwort suitable habitat (ephemeral, intermittent, 1st and 2nd order perennial freshwater streams), then a qualified biologist will conduct a survey for Louisiana quillwort. If debris removal is in Louisiana quillwort suitable habitat, a survey will be performed prior to debris removal operations. If the species is found, then protective measures outlined in the Best Practices Summary Table (which is attached) will be implemented. As such, the project may affect, but is not likely to adversely affect the Louisiana quillwort.

Mississippi sandhill crane: The Mississippi sandhill crane utilizes open wetland habitats surrounded by shrubs or trees. Critical Habitat has been designated on and adjacent to the Mississippi Sandhill Crane National Wildlife Refuge (USFWS 2013). The project area is not located within Critical Habitat or in the crane consultation zone. In the project area, this species could utilize coastal plain small stream forest habitat, fire-suppressed pine savanna, and estuarine marsh habitats, primarily for non-breeding season roosting and foraging. Restoration measures on this habitat type include acquisition/preservation, chemical treatment, mechanical treatment, prescribed fire, debris removal, road removal/repair and culvert placement. If disturbed, this species can temporarily leave the area during the implementation of restoration measures and management activities. As such, the project may affect, but is not likely to adversely affect the Mississippi sandhill crane.

Graveline Bay Land Acquisition and Management Best Practices Summary Table

Species/Restoration Measure	Best Practice
Best Practice for Protected Species That Could Occur in the Graveline Bay Land Acquisition and Management Project Area	
Alabama Red-Belly Turtle	Surveys will be conducted in potential habitat. Survey results will be considered in the design of the restoration measures and management activities to either avoid or minimize impacts to the species. Best management practices outlined in applicable erosion control plans and applicable spill prevention plans will be implemented to minimize the indirect impacts.
Black pinesnake	Exemptions under Section 4(d) of the Endangered Species Act allow the following management activities within habitats occupied by the black pinesnake: (1) Prescribed burning, including all fire break establishment and maintenance actions, as well as actions taken to control wildfires; and (2) Herbicide application for invasive plant species control, site-preparation, and mid-story and understory woody vegetation control. All exempted herbicide applications must be conducted in a manner consistent with Federal law, including Environmental Protection Agency label restrictions; applicable State laws; and herbicide application guidelines as prescribed by herbicide manufacturers and ; (3) All forest management activities that maintain lands in a forested condition, except for: (a) Conversion of longleaf-pine-dominated forests (>51 percent longleaf in the overstory) to other forest cover types or land uses; or (b) those activities causing significant subsurface disturbance, including, but not limited to, shearing, wind-rowing, stumping, disking (except during fire break creation or maintenance), root-raking, and bedding. Areas requiring mechanical treatment such as shearing, wind-rowing, stumping, disking, root raking and bedding are typically dominated by invasives woody shrub and tree species and are not suitable habitat (open canopy settings) for black pine snake. An assessment of habitat would be completed. Surveys would be conducted of areas that have potential black pinesnake habitat. The results would be considered in the design of the management and or restoration measures to avoid or minimize impacts to the species. The Implementing Trustee would coordinate with the USFWS Jackson Field Offices if help is needed on identification of habitat, conducting of surveys and/or the development of practices on a site-specific restoration plan.
Gopher tortoise	A qualified biologist will conduct gopher tortoise surveys in areas that have suitable habitat and if burrows are identified, the following conservation measures will be implemented to avoid or minimize impacts: 1) Mechanical Treatment: To the extent practicable, vegetation clearing within 13 feet of a gopher tortoise burrow would be conducted but with hand tools (i.e., weed trimmer, push mower, chainsaws). In specific cases where the hand tool restriction imposes additional costs and time required to maintain mowed areas, the specific provisions for mowing operations with bush-hog or rotary cutters within 13 feet of active and inactive gopher tortoise burrows during the dormant season only (October through April) are as follows: the path of the tractor and mower will be directed so that tires do not cross directly over the burrow entrance, or plane of the underground burrow. However, tractors and mowers of sufficient width can be backed or pulled directly over the burrow apron, entrance, and its underground plane by straddling the wheels on either side of the burrow and apron. Whenever possible, mowing should be conducted in the winter to reduce the likelihood of gopher tortoises being active above ground. If practical, mowing should be planned for cloudy days when the temperatures are coolest. Heavy equipment will stay 14 M (13 ft) from know gopher tortoise burrows. Heavy equipment includes tractors, crawler loaders, crawler dozer, backhoe/loader, front end loader, scraper pan, monitor grader, skid steers, forklift, hydraulic excavator, specialty tracked equipment, gyrotracks with roller choppers, and other equipment. Do not place or operate logging decks within 186 feet of an active or inactive burrow, the area where tortoises normally forage from their burrows. Do not shear, root-rake, disc, bed or create windrows in habitat occupied by tortoises, which is represented as a 2.5-acre area with a radius of 186 feet around any active burrow.

	<p>2) Chemical Treatment - All motorized equipment should be kept a minimum of 4 Meters (13 ft) from gopher tortoise burrows and herbicide applications should be conducted on foot. For foliar herbicide application to control shrubs and small hardwoods, use imazapyr, glyphosate, and/or triclopyr by directed ground spray if prescribed fire is not feasible or is ineffective due to inadequate fuel loads, unmanageable smoke hazards, prescribed fire permit bans and restrictions, or low expected mortality due to the size, density, and cover of shrubs and hardwoods. Do not aerially apply these or other herbicides. Revegetation - for artificial regeneration, do not plant more than 500 seedlings per acre. Design all practices in gopher tortoise habitat to minimize or avoid unintentional damage to non-target plants. This applies to all practices where vegetation is managed such as the use of herbicides or site prep/harvest equipment.</p> <p>3) Road Repair and Culvert Placement/Debris removal: Equipment limitation mentioned above would apply to these restoration measures and management activities.</p>
<p>Louisiana quillwort</p>	<p>If the restoration measure or management activity (i.e. mechanical or chemical treatment, road removal/repair, culvert placement and prescribed fire) will be conducted within 165 feet of Louisiana quillwort suitable habitat (ephemeral, intermittent, 1st and 2nd order perennial freshwater streams), then a qualified biologist will conduct a survey for Louisiana quillwort. If debris removal is in Louisiana quillwort suitable habitat, a survey will be performed prior to debris removal operations. If Louisiana quillwort is found, then the following protective measures should be adopted: No herbicides will be mixed or applied within 100 feet of Louisiana quillwort plants/colonies. Minimize turbidity and siltation from upstream and upslope land clearing activities. No land clearing will occur within 165 feet of streams containing Louisiana quillwort. Heavy equipment will not be used within a 165 ft. buffer area of Louisiana quillwort plants/colonies.</p>
<p>Mississippi Sandhill Crane</p>	<p>Species use habitat primarily for non-breeding season roosting and foraging and can leave the area during construction.</p>
<p>Piping Plover and Red Knot</p>	<p>Provide all individuals working on a restoration activities associated with the project with information in support of general awareness of piping plover or red knot presence and means to avoid birds and their critical or otherwise important habitats.</p> <p>Minimize vegetation planting in preferred habitats and avoid removal of wrack year-round along the shoreline.</p>
<p>Migratory Birds</p>	<p>Pre-work nesting surveys for migratory birds and raptors will be conducted and if evidence of nesting is found, resource managers will coordinate with USFWS Jackson, MS field office to develop appropriate conservation measures. These species are mobile and would likely exit the area during implementation of restoration measures and management activities (no impacts to overall population). The following best practices are contemplated and will be implemented to the extent practicable in order to avoid or minimize impacts to migratory bird species including bald eagles:</p> <ul style="list-style-type: none"> • Use care to avoid birds when operating machinery or vehicles near birds. • Avoid working in migratory bird nesting habitats during breeding, nesting, and fledging (approximately mid-February through late August). If restoration measures or management activities must occur during this timeframe and breeding, nesting, or fledging birds are present, contact the state trust resource agency to obtain the most recent guidance to protect nesting birds or rookeries, and their recommendations will be implemented. • Conservation areas may already be marked to protect bird nesting areas. Stay out of existing marked areas. • If vegetation clearing is necessary, clear vegetation outside the migratory bird nesting season (approximately mid-February through late August) or have a qualified biologist inspect for active nests. If no active nests are found, vegetation may be removed. If active nests are found, vegetation may be removed after the nest successfully fledges.

<p>Bald eagles</p>	<ul style="list-style-type: none"> • If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, have all activities 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. Maintain this avoidance distance from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months). • If a similar activity (such as driving on a roadway) is closer than 660 feet to a nest, maintain a distance buffer as close to the nest as the existing tolerated activity. 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 maintain a distance buffer as close to the nest as the existing tolerated activity. • In some instances, activities conducted within 660 feet of a nest may result in disturbance. If an activity appears to cause initial disturbance, stop the activity and move all individuals and equipment away until the eagles are no longer displaying disturbance behaviors.
<p>General Best Practices for Site-Specific Restoration Measures and Best Management Practices-Graveline Bay Land Acquisition and Management Project</p>	
<p>Chemical Treatment</p>	<p>For chemical treatment, personnel applying chemicals would follow all warning labels on chemical containers. Personnel will apply herbicide in accordance with the direction and guidance provided on the appropriate U.S. Environmental Protection Agency (EPA) labels and state statutes during land-based activities.</p> <p>Herbicides should not be applied within 60 feet of any endangered or threatened plant species (or plant species of concern), unless analysis indicates herbicide use is the best way to protect the species from invasive weeds or promote the species, and application methods are selective to the target plants being treated.</p>
<p>Prescribed Burn</p>	<p>Planning and implementation of prescribed burns should include measures to provide protection for known occurrences of threatened, endangered, sensitive, and locally rare species that are susceptible to damage or extirpation from fire injury.</p>
<p>All Restoration Measures</p>	<p>Erosion control measures should be applied in all ground-disturbing activities to reduce movement of bare soil and minimize direct delivery of sediment to streams or other water-bodies (including estuarine systems). Appropriate erosion control measures (installing water diversion, revegetation, mulch, silt fences, etc.) should be implemented as promptly as practical.</p> <p>Planning and implementation of road repair and culvert placement, fire break construction, and other ground disturbing projects should include measures to provide protection for threatened, endangered, sensitive, and locally rare species that are susceptible to damage or extirpation from ground disturbance. These are referred to as “species sensitive to soil disturbance and species sensitive to recreational traffic.”</p> <p>Provide all individuals working on restoration activities associated with the project with information in support of general awareness of and means to avoid impacts to protected species and their habitats present at the specific project site.</p>

In Reply Refer To:

Date

Memorandum

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

From: Field Supervisor, [Field Office Name]

Subject: Informal Consultation and Conference for the Proposed [project name], [project location]

This memorandum acknowledges our receipt of your memorandum on [month day], 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 [month day], 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 are checked and additional comments are added.

Species-specific surveys were conducted and 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) are insignificant or discountable. Comments: _____

Critical habitat is not present on site and does not occur within the vicinity of the proposed project. Comments: _____

Appropriate avoidance and minimization measures have been included within the project description to ensure PCEs and/or critical habitat will not be adversely modified or destroyed. 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 [Field Office lead] at [###-###-####] or email [first_last@fws.gov].