

# 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>Additional 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(s)</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>Project Type #2, if helpful</i>	
<i>VII. TIG</i>		<i>Restoration Plan</i>	

#### B. Project Location

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

**C. Existing Compliance Documentation**

**NEPA Documents**

Are there any existing draft or final NEPA analyses (not PDARP/PEIS) that cover all or part of this project? Yes      No

Examples:

- USACE programmatic NEPA analysis
- USACE Clean Water Act individual permit for the project
- NEPA analysis provided by a federal agency that gave approval, funding or authorization

**Permits**

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)? Yes      No

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)? Yes      No

If yes to any question above, please provide details in the text box (i.e. link to the NEPA document, or name of the document, year, lead federal agency, POC, copy of the permit or permit application, etc.). This is needed to check for consistency of the project scope across different sources and to facilitate the NEPA analysis. If you do not have a link, email the documents to the TIG representative for the Trustee designated as lead federal agency for the restoration plan.

Any documentation or information provided will be very helpful in moving your project forward.

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

**D. Description of Action Area**

*Attach a separate map delineating where the action will occur and where critical habitat, if any, is located. Map or describe all areas that may be directly or indirectly affected by the action. Provide a description of the existing environment (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). If CH is not designated in the area, then map or describe any suitable habitat in the 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>

## E. 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: What are you trying to accomplish and how with this project? Describe in detail the construction equipment and methods\*\* needed; long term vs. short term impacts; duration of short term 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.***

- III. *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. *If applicable, 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](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 (ft<sup>2</sup>) to be dredged, volume of material (yd<sup>3</sup>) 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)).*

## F. 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](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).

<b>SPECIES and/or CRITICAL HABITAT</b>	<b>CH UNIT (if applicable)</b>	<b>LOCATION (sea turtles and Gulf sturgeon only)</b>	<b>DETERMINATION (see definitions below)</b>
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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. 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.

**Critical Habitat No Destruction** = When the proposed action will not diminish the value of critical habitat.

**Critical Habitat Destruction or Adverse Modification** = Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.



## G. 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).

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## H. Effects of the proposed project to the species and habitats

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, and cumulative impacts and 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, and cumulative impacts and 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.*

## I. 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.)*

## J. 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?                      NO                      YES

Is your activity likely to impact the quality (e.g., salinity, temperature) of marine or estuarine waters?                      NO                      YES

II. If Yes, describe activities further using checkboxes. 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 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. See the NOAA Acoustic Guidance for more information: <http://www.nmfs.noaa.gov/pr/acoustics/faq.htm>

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

## K. 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](mailto:permitsR2MB@fws.gov)

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

## L. 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 are present and impacts to individuals or habitat 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

### M. Migratory Birds

Continuation page if needed.

//.	<u>SPECIES/SPECIES GROUP</u>	<u>BEHAVIOR</u>	<u>SPECIES/HABITAT IMPACTS and CONSERVATION MEASURES TO MINIMIZE IMPACTS</u>

### N. Best Practices

Chapter 6 of the PDARP included an important appendix (6.A) of best practices, see information starting on page 6-173. [http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6\\_Environmental-Consequences\\_508.pdf](http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6_Environmental-Consequences_508.pdf)  
Use the box below to indicate which practices you'll be using in your project.

## O. Submitting the BE Form

### **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

# 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.

**Are you using this form to request approval for use of NMFS PDCs for this project?**                      Yes                      No

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](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

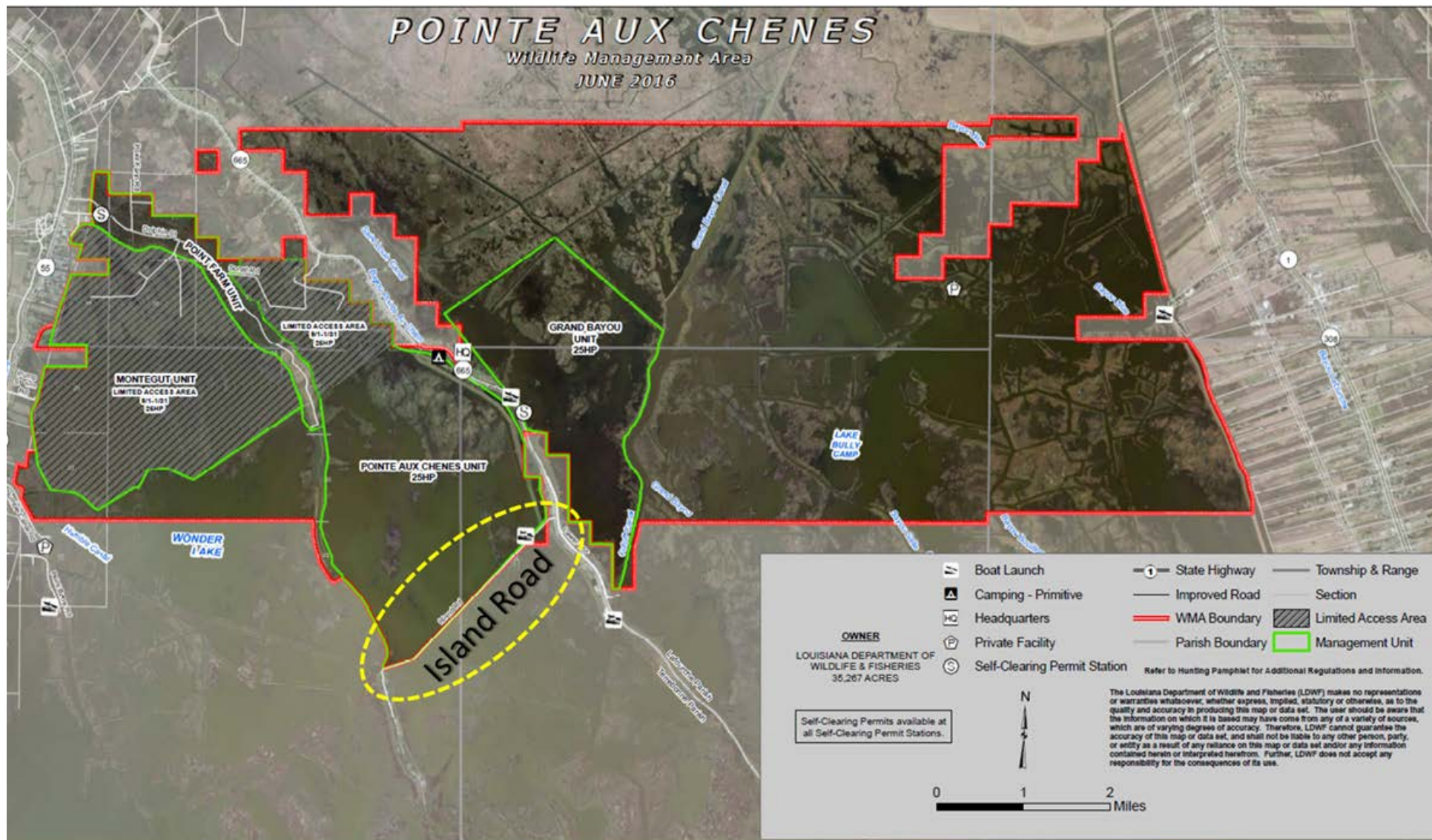
No

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

Name of person(s) completing this form:

Date form completed:

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



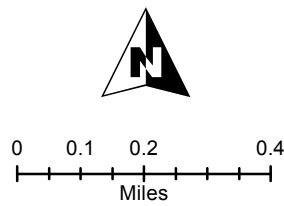
# Island Road Fishing Pier Project

## Southern Border of Pointe-aux-Chenes Unit



**Legend**

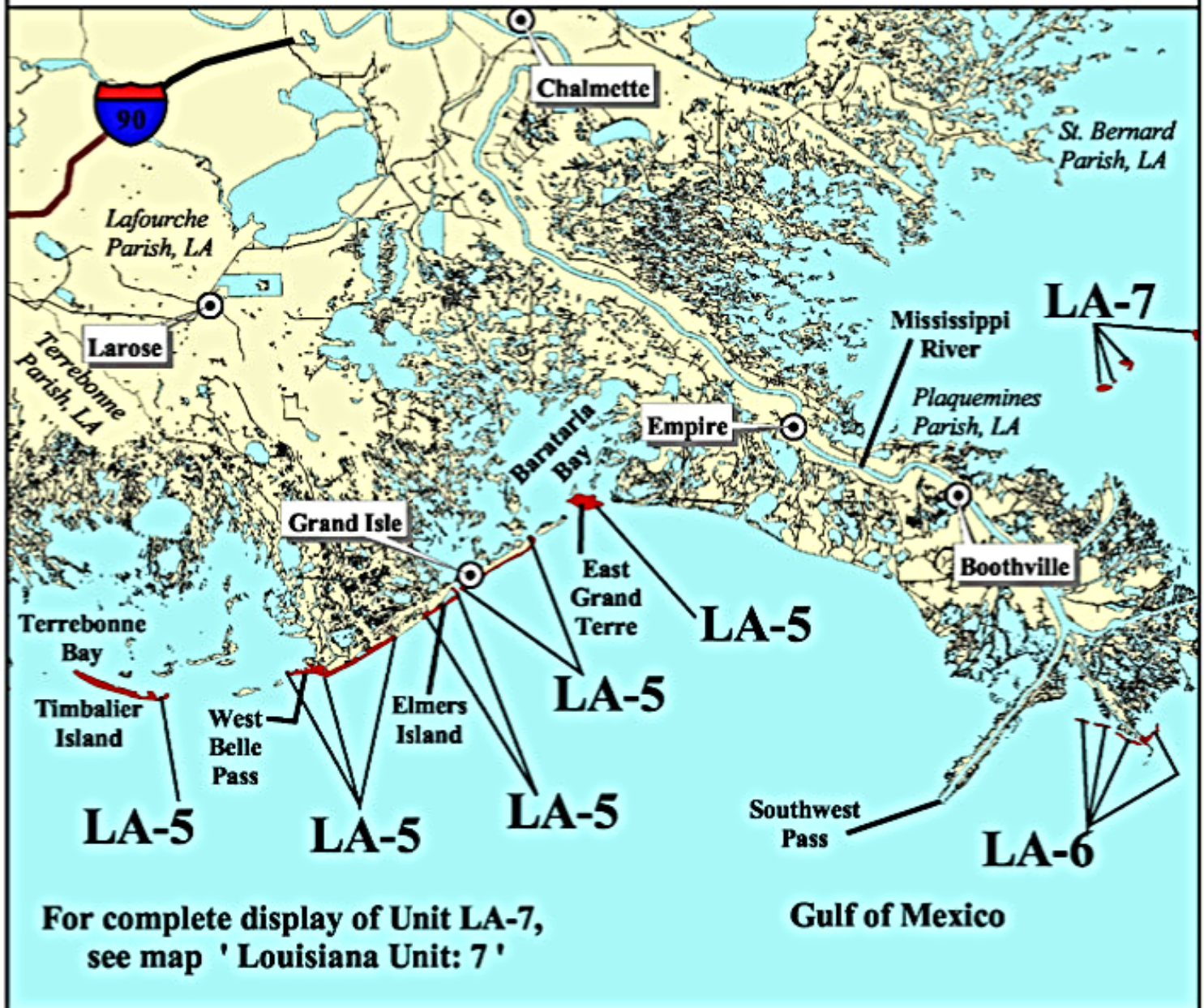
- Pier
- Parking Lot



**Figure 3-4  
Island Road Piers  
Project Plan**



# General locations of the designated critical habitat for the Wintering Piping Plover.



## General Area



## Distance: Miles



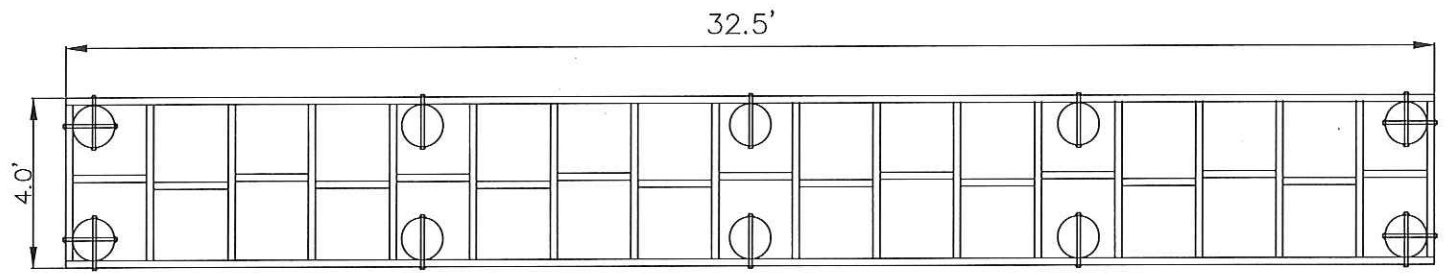
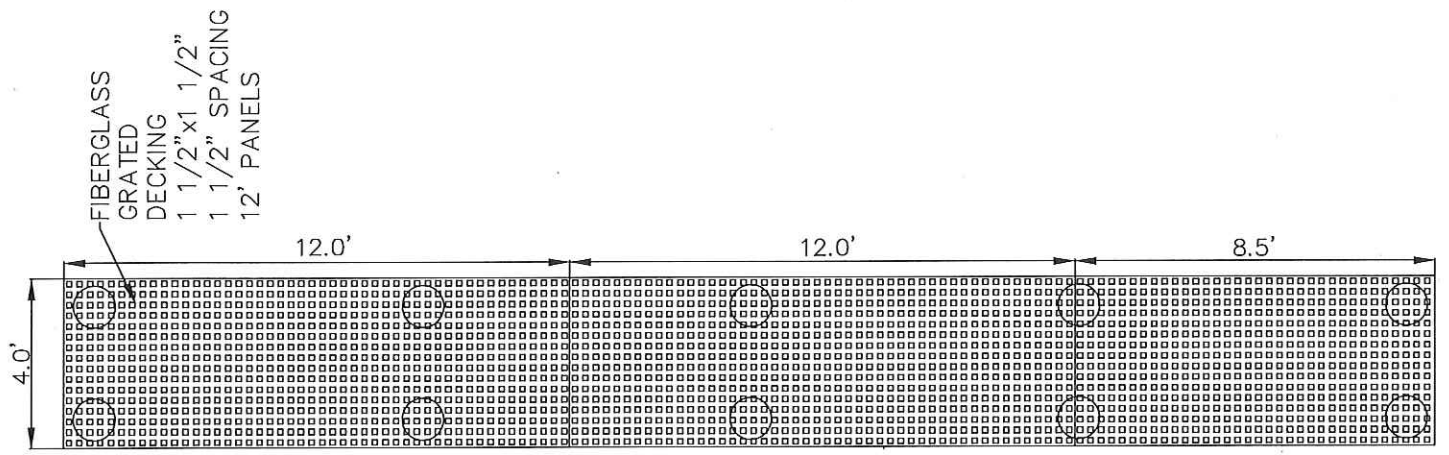
## Legend

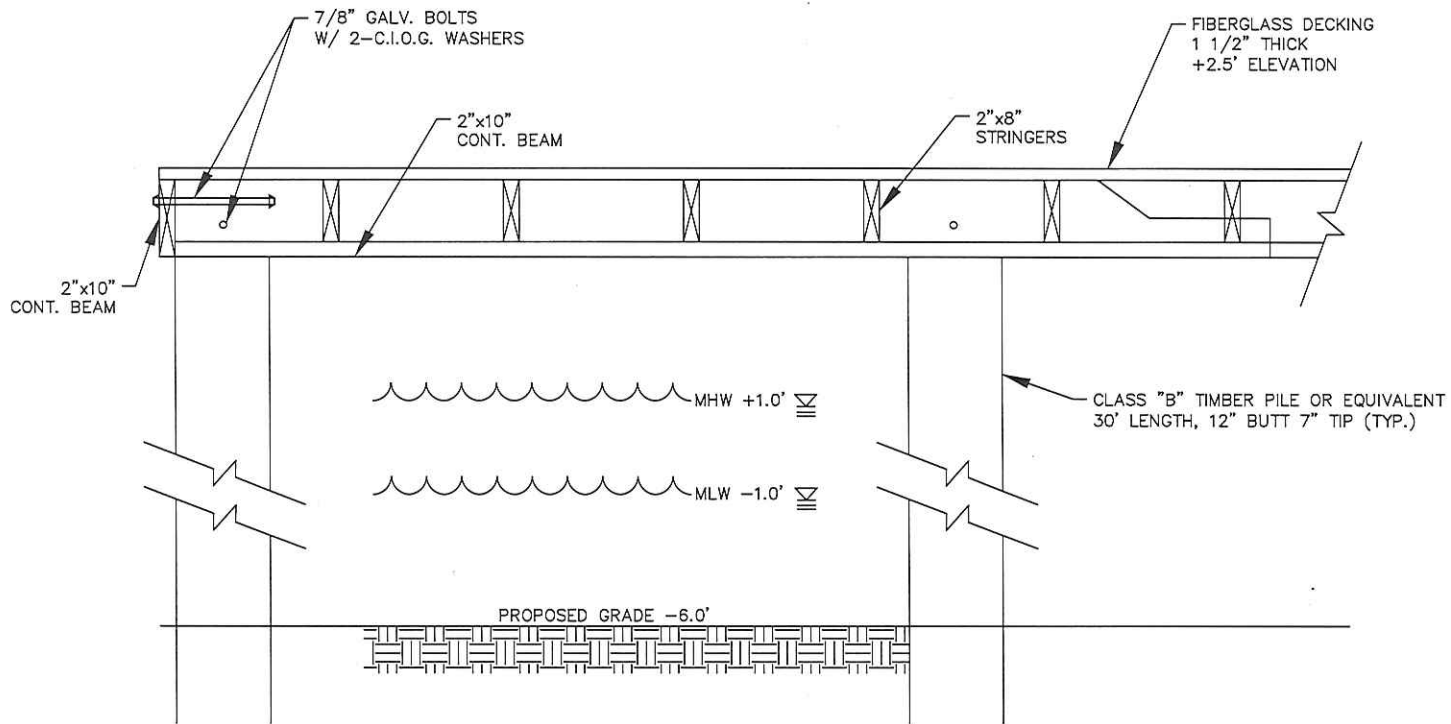
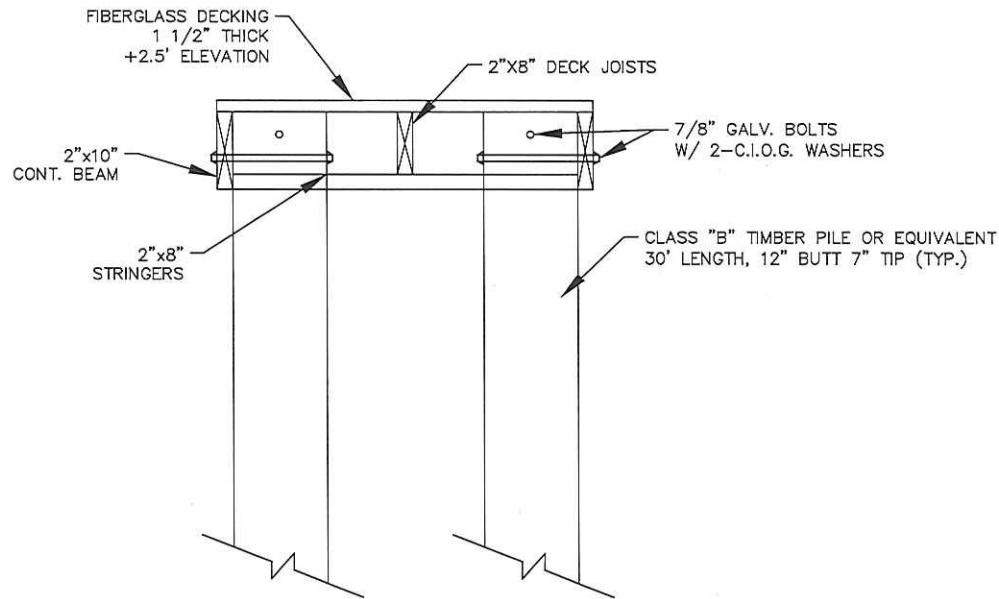
- City / Town
- Major Road / Highway
- Land
- Critical Habitat

**Use Constraints:** This map is intended to be used as a guide to identify the general areas where Wintering Piping Plover critical habitat has been designated. Included within the designation of critical habitat are all land areas to the mean lower low water. Refer to the narrative unit descriptions as the precise legal definition of critical habitat.

# Louisiana Units: 5 and 6

**Some locations have been slightly enlarged for display purposes only.**





## **Best Management Practices – Pointe-aux-Chenes Island Road Project**

### **A.1.1 Birds**

#### **A.1.1.2 Migratory Birds**

Use care to avoid birds when operating machinery or vehicles near birds.

During the project design phase, coordinate with the USFWS and the state trust resource agency to site and design projects to avoid or minimize impacts to migratory bird nesting habitats or important feeding/loafing areas.

Avoid working in migratory bird nesting habitats during breeding, nesting, and fledging (approximately mid-February through late August). If project 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.

Avoid driving over the natural organic material (“wrack”) line or areas of dense seaweed, as these habitats may contain hatchlings and chicks that are difficult to see.

Install pointy, white piling caps on exposed pilings to prevent bird roosting on piers, docks, and marinas.

#### **A.1.7 Invasive Species**

Develop and implement a Hazard Analysis and Critical Control Points (HACCP) plan to prevent and control invasive species. Use (ASTM E2590–08) or other version of HACCP or other similar planning tool.

Implement an Integrated Pest Management (IPM) approach to facility design, sanitation, and maintenance to prevent and control invasive and pest species.

Inspect sites, staging, and buffer areas for common invasive species prior to the onset of work. Map any invasive species detected and note qualitative or quantitative measures regarding abundance. Implement a control plan, if necessary, to ensure these species do not increase in distribution or abundance at a site due to project implementation. Inspect sites periodically to identify and control new colonies/individuals of an invasive species not previously observed prior to construction.

Prior to bringing any equipment (including personal gear, machinery, vehicles, or vessels) to the work site, inspect each item for mud or soil, seeds, and vegetation. If present, clean the equipment, vehicles, or personal gear until they are free from mud, soil, seeds, and vegetation. Inspect the equipment, vehicles, and personal gear each time they are being prepared to go to a site or prior to transferring between sites to avoid spreading exotic, nuisance species.



Place and maintain predator-proof waste receptacles in strategic locations during project implementation to prevent an increase in predator abundance. For projects designed to enhance or increase visitor use, maintain predator-proof waste receptacles for the life of the project.

Have the appropriate state agency inspect any equipment or construction materials for invasive species prior to use.

Inspect and certify propagated or transplanted vegetation as pest and disease free prior to planting in restoration project areas.

## **A.1.8 General Construction Measures**

### **A.1.8.1 Guidelines**

*Bubble Curtain Specifications for Pile Driving*, as contained in the Florida Statewide Programmatic Opinion on page 270.

### **A.1.8.2 Piling Installation**

Push pilings into soft, bottom substrate to reduce noise from installation; do not drive and hammer pilings into bottom substrate unless necessary for proper construction.

### **A.1.8.3 Protected Species**

Provide all individuals working on a 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.

Survey for other at-risk or imperilled species. If found on site, contact the USFWS and state trust resource agency to determine if avoidance or minimization measures or a Candidate Conservation Agreement with Assurances may be appropriate.

### **A.1.8.4 Site Maintenance and Conduct**

Use the nearest, existing staging, access and egress areas, travel corridors, pathways, and roadways (including those provided by the state, local governments, land managers, trustee, or private property owner, with proper permissions) and do not create new staging areas, access (except dune walkovers) or egress, or travel corridors through dune habitats.

Minimize construction noise to the maximum extent practicable when working near protected species and their habitats.

Maintain or improve all lighting regimes. Methods include working during daylight hours only, prohibiting lighting on dune walkovers, and using wildlife-friendly lighting where lighting is necessary for human safety.

Post signs at kiosks, ramps, and piers to provide visitors with information to avoid and minimize impacts to protected species and their habitats while recreating. Develop signs in coordination with NMFS, USFWS, and the local state trust resource agency.

Supply and maintain containers for waste fishing gear to avoid fish and wildlife entanglement.

#### **A.1.8.5 Land and Vegetation Protection**

Develop and implement an erosion control plan to minimize erosion during and after construction and where possible use vegetative buffers (100 feet or greater), revegetate with native species or annual grasses, and conduct work during dry seasons.

Develop and implement a spill prevention and response plan, including conducting daily inspections of all construction and related equipment to ensure there are no leaks of antifreeze, hydraulic fluid, or other substances and cleaning and sealing all equipment that would be used in the water to rid it of chemical residue. Develop a contract stipulation to disallow use of any leaking equipment or vehicles.

Prohibit use of hazardous materials, such as lead paint, creosote, pentachlorophenol, and other wood preservatives during construction in, over or adjacent to, sensitive sites during construction and routine maintenance.

Where landscaping is necessary or desired, use native plants from local sources. If non-native species must be used, ensure they are noninvasive and use them in container plantings.

#### **A.1.8.6 Wetland and Aquatic Resource Protection**

Complete an engineering design and post-construction inspection for projects where geomorphic elevations are restored in wetlands, marshes, and shallow water habitats to ensure the success of the restoration project. Manage elevation of fill material to ensure projected consolidation rates are accomplished and that habitat suitable for wetland and marsh vegetation is developed.

Avoid and minimize, to the maximum extent practicable, placement of dredged or fill material in wetlands and other aquatic resources.

Design construction equipment corridors to avoid and minimize impacts to wetlands and other aquatic resources to the maximum extent practicable.

To the maximum extent possible, implement the placement of sediment to minimize impacts to existing vegetation or burrowing organisms.

Place protective warning signs and buoys around at-risk habitats for infrastructure projects that could increase recreational uses in SAV or oyster areas.

Only use suitable borrow sites (i.e., those that do not contain *Sargassum*, SAV, or oysters) as dredging sites for sediment. Obtain sediments by beneficially using dredged material from navigation channels or by accessing material from approved offshore borrow areas. Sediments must closely match the chemical and physical characteristics of sediment at the restoration site. Additionally, use target borrow areas within reasonable proximity to suitable sites for sediment placement.

When local conditions indicate the likely presence of contaminated soils and sediments, test soil samples for contaminant levels and take precautions to avoid disturbance of, or provide for proper

disposal of, contaminated soils and sediments. Evaluate methods prior to dredging to reduce the potential for impacts from turbidity or tarballs.

Perform maintenance of generators, cranes, and any other stationary equipment operated within 150 feet of any natural or wetland area, as necessary, to prevent leaks and spills from entering the water.

Designate a vehicle staging area removed from any natural surface water resource or wetland to perform fueling, maintenance, and storage of construction vehicles and equipment. Inspect vehicles and equipment daily prior to leaving the storage area to ensure that no petroleum or oil products are leaking.

Upon completion of construction activities, restore all disturbed areas as necessary to allow habitat functions to return. Create and manage public access developments to enhance recreational experience and educational awareness to minimize effects to habitat within wetland and shallow water areas and to the long-term health of related biological communities.

Use silt fencing where appropriate to reduce increased turbidity and siltation in the project vicinity. This would apply to both on land and in water work.

Continue oyster and clam shell recycling programs to provide natural material for creating additional oyster reefs.

Make all efforts to reduce the peak sound level and exposure levels of fish to reduce the potential impact of sound on fish present in the project areas.

Use a vibratory hammer whenever possible to reduce peak sound pressure levels in the aquatic environment.

Use sound attenuation devices where practicable for pulse noise (impact hammers) to reduce peak sound pressure levels in the aquatic environment.

Stipulate the timing of activities to avoid impacts to spawning fish and eggs/larvae.

Use best practices to reduce turbidity, such as turbidity blankets, to reduce the potential impact of turbidity on finfish.

### **A.2.1 Project Design Criteria for ESA-listed species**

Project Design Criteria (PDC) are being developed by NMFS to provide technical assistance and avoid or reduce adverse impacts to ESA-listed and protected species. PDCs may be developed for the following and/or additional restoration approaches:

- Artificial reefs.
- Debris removal.
- Fishing piers.
- Living shorelines.

- Marsh restoration.
- Nonfishing piers.
- Oyster restoration.

Detailed descriptions can be found under the “Southeast Regional Office Guidance” on the following webpage: [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/guidance\\_docs/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html).

### **A.2.2 Best Practices for Essential Fish Habitat Under MSFCMA**

At time of publication, practices to avoid and minimize effects to Essential Fish Habitat were under development. Please check the following webpage for EFH best practices that may be developed: [http://sero.nmfs.noaa.gov/habitat\\_conservation/efh/guidance\\_docs/index.html](http://sero.nmfs.noaa.gov/habitat_conservation/efh/guidance_docs/index.html).



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT  
7400 LEAKE AVENUE  
NEW ORLEANS, LOUISIANA 70118

27 October 2017

REPLY TO  
ATTENTION OF:

Operations Division  
Central Evaluation Section

SUBJECT: MVN-2017-01209-CC

Louisiana Department of Wildlife and Fisheries  
2000 Quail Drive  
Baton Rouge, Louisiana 70808  
Attn: Kyle Balkum

Mr. Balkum,

The proposed work, to construct and maintain ten fishing piers and five parking areas for public use, located in Section 18, Township 19 South, and Range 20 East, in the Pointe-aux-Chene Wildlife Management Area, along Island Road, near Isle de Jean Charles Louisiana, in Terrebonne Parish.

This office has determined that your project, as shown in the attached drawings, is authorized by **General Permit-21** provided that all conditions of the permit are met.

In addition to the standard GP-21 conditions, the following special conditions are being made a part of this authorization.

1. The permittee is aware that all necessary local, state and parish approvals must be obtained prior to the commencement of work at the project site.
2. The permittee shall limit the placement of rock rip rap material to areas essential to the project. The remainder of the project site shall be left in its natural state. If the authorized project requires any additional work not expressly permitted herein, or impacts any wetlands (or "other waters of the US") other than the areas indicated on the attached drawings, the permittee must apply for an amendment to this authorization prior to commencement of work.
3. The permittee shall assure that all material used during construction shall be pollutant free in accordance with the EPA Guidelines for Discharge of Dredged or Fill Material, found in 40 CFR 230.
4. Any alterations or modifications to the authorized plans resulting from project review by the local government must be submitted to the Corps for re-evaluation, prior to commencement of work.

5. The permittee shall adhere to the enclosed Standard Manatee Conditions for In-Water Activities as per the Standard Local Operating Procedure for Endangered Species in Louisiana (SLOPES), dated October 22, 2014, between the U.S. Army Corps of Engineers, New Orleans and U.S. Fish and Wildlife Service, Ecological Services Office.

6. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

7. The use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

8. Permittee must install and maintain, at permittee's expense, any safety lights, signs and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on the authorized facilities.

9. If the authorized project, or future maintenance work, involves the use of floating construction equipment (barge mounted cranes, barge mounted pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.) in the waterway, you are advised to notify the U.S. Coast Guard so that a Notice to Mariners, if required, may be prepared. Notification, with a copy of your permit approval and drawings, should be mailed to the Commander (dpw), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, Louisiana 70130, about 1 month before you plan to start work. Telephone inquiries can be directed to the Eighth Coast Guard District, Waterways Management, at (504) 671-2107.

This approval to perform work is valid for **5 years** from the date of this letter.

Permittee is aware that this office may reevaluate its decision on this permit at any time the circumstances warrant.

Should you have any further questions concerning this matter, please call Glenn Dobson of this office at (504) 862-1588.

Sincerely,

for Martin S. Mayer  
Chief, Regulatory Branch

Enclosure



REPLY TO  
ATTENTION OF:

## DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P. O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

Operations Division  
Regulatory Branch

### DEPARTMENT OF THE ARMY GENERAL PERMIT

Authorization No. : (General Permit) NOD-21

Effective Date: January 21, 1983

Proposed Expiration Date: October 31, 2017

Under authorization granted by applicable sections of Parts 320 through 330 of Title 33, Code of Federal Regulations, and delegated authority from the Commander, US Army Corps of Engineer, the District Engineer at New Orleans has determined that it is in the public interest to issue a general permit for the Louisiana Department of Wildlife and Fisheries (LWF) to conduct the following on state wildlife management area (WMAs) and refuges within the boundaries of the New Orleans District in Louisiana.

a. Perform work and install structures in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 USC 403).

b. Deposit dredged and/or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 USC 1344).

This general permit does not authorize dams in navigable waters of the United States pursuant to Section 9 of the Rivers and Harbors Act of March 3, 1899 (33 USC 401) or transportation of dredged material for ocean disposal pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act (33 USC 1413).

This general permit authorizes LWF to perform work on property adjacent to and no greater than 1,000 feet from the boundary of a state WMA or refuge that is intended to benefit, the environment through preservation or enhancement (e.g., bank stabilization activities to preserve refuge habitat.)

This general permit is subject to applicable conditions of the standard Department of the Army permit form (ENG Form 1721). A copy of the form is attached as enclosure 3.

In addition to the standard permit conditions listed in (ENG Form 1721), this general permit is subject to the additional conditions:

a. This general permit may be revised, suspended, modified or revoked by the District Engineer any time such actions are found to be in the public interest.

b. This general permit does not authorize work or structures that may potentially cause, in the District Engineer's opinion, an unreasonable interference with navigation, substantial alternation of surface hydrological patterns or degradation of habit, degradation of water quality, or work that would result in considerable wetland dredging or fills. The District Engineer reserves the right to withhold approval under this general permit authorization for specific activities and require an individual permit application to be processed in a normal manner.

c. To perform work or install structures under authority of this general permit, LWF must:

(1) Provide to the US Fish & Wildlife Service (FWS), National Marine Fisheries Service (NWFS), and US Environmental Protection Agency (EPA), for review and comment a completed permit application form signed by the Refuge Manager, Acting Refuge Manager, or other person authorized in writing by the Refuge Manager along with a location map; and drawings with sufficient information to clearly establish and describe the location, nature, and extent of the proposed activities prior to submitting an application to the Corps. Results of any separate coordination with FWS, NWFS, and EPA must be included with the application package (see condition e, below). To be considered complete, the application must also include a mitigation plan which provides full compensation for unavoidable project impacts on wetlands, if applicable.

(2) Work is not to begin prior to receiving written notice from this district office. This notice, depending upon location and nature of the proposed activities and mitigation plan (if applicable), will normally be provided within 10 working days after receiving a complete application.

d. Road fills must have culverts no smaller than 24 inches in diameter installed and maintained through the fills at least every 500 feet. Inverts of culverts may not be higher than natural grade of adjacent wetland areas.

e. The installation of new water control structures, levees, or other water management devices will be considered for authorization under this general permit on a case-by-case basis, but in general will be subject to the following:

(1) The structure design, location and operation (if applicable) must be coordinated with the FWS, NMFS, and EPA prior to submittal of the application. Recommendations made by these agencies must be incorporated into design criteria to the maximum extent practicable. All comments/recommendations received by LWF and, if applicable, a discussion explaining why recommendations were not incorporated must accompany the permit application in order for it to be considered complete. The District Engineer, upon review of the specific activity and comments by the federal agencies, will determine whether the activity can be authorized under this general permit or whether evaluation as an individual permit application is required.

(2) Structures authorized under this general permit may not obstruct navigation in natural bayous or in man-made waterways which are utilized by the boating public, and must have working safety lights and signs as prescribed by the US Coast Guard, through regulations or otherwise.

(3) Decisions to authorize the installation of new water control structures, levees or other water management devices under this general permit will be made based on the extent of impact caused by the structures. Consideration will be given to whether the structures would be used for water level drawdown or result in the creation of new impoundments or semi-impoundments.



f. Water control structures installed under authority of this general permit are limited to gated or ungated culverts and weirs. Crests of weirs and culverts shall be at least 6 inches lower in elevation than adjacent wetlands.

g. Modifications to existing water control structures are authorized under this general permit provided such structures allow access by marine organisms to the maximum extent practicable.

h. LWF shall contact the owners of pipelines crossing refuges and WMAs prior to performing work or installing structures in the immediate vicinity of pipelines.

i. Issuance of this general permit does not relieve LWF from obtaining any required state or local permits or licenses before commencing work on any project authorized by this general permit.

j. If cultural resources are discovered during operations authorized by this general permit, work shall be suspended and notification given to the State Historic Preservation Officer. Work may not be resumed until satisfactory arrangements are made for the protection, preservation, collection and/or cataloging of these resources.

k. Any work near a mainline flood protection or hurricane protection levee or in navigation channels constructed and/or maintained with federal funds will be reviewed by this district to assess impacts on flood control features and general navigation. Work near a flood protection levee may also require a permit from the local levee district.

l. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alterations,

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

Pete J. Serio  
Chief, Regulatory Branch  
for  
Edward R. Fleming  
Colonel, US Army  
District Commander



## STANDARD MANATEE CONDITIONS FOR IN-WATER ACTIVITIES

During in-water work in areas that potentially support manatees all personnel associated with the project should be instructed about the potential presence of manatees, manatee speed zones, and the need to avoid collisions with and injury to manatees. All personnel should be advised that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. Additionally, personnel should be instructed not to attempt to feed or otherwise interact with the animal, although passively taking pictures or video would be acceptable.

All on-site personnel are responsible for observing water-related activities for the presence of manatee(s). We recommend the following to minimize potential impacts to manatees in areas of their potential presence:

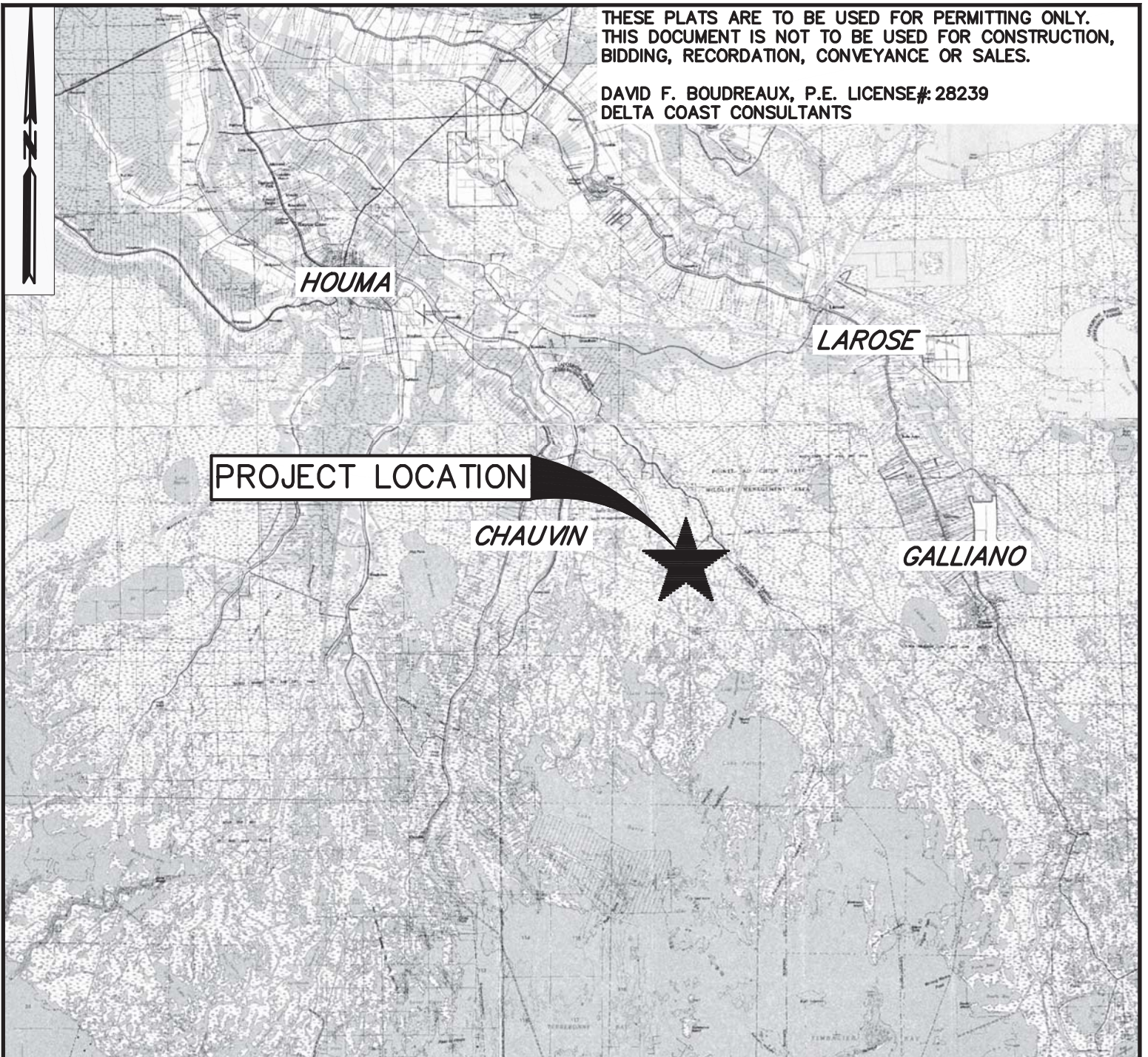
- All work, equipment, and vessel operation should cease if a manatee is spotted within a 50-foot radius (buffer zone) of the active work area. Once the manatee has left the buffer zone on its own accord (manatees must not be herded or harassed into leaving), or after 30 minutes have passed without additional sightings of manatee(s) in the buffer zone, in-water work can resume under careful observation for manatee(s).
- If a manatee(s) is sighted in or near the project area, all vessels associated with the project should operate at “no wake/idle” speeds within the construction area and at all times while in waters where the draft of the vessel provides less than a four-foot clearance from the bottom. Vessels should follow routes of deep water whenever possible.
- If used, siltation or turbidity barriers should be properly secured, made of material in which manatees cannot become entangled, and be monitored to avoid manatee entrapment or impeding their movement.
- Temporary signs concerning manatees should be posted prior to and during all in-water project activities and removed upon completion. Each vessel involved in construction activities should display at the vessel control station or in a prominent location, visible to all employees operating the vessel, a temporary sign at least 8½ " X 11" reading language similar to the following: “CAUTION BOATERS: MANATEE AREA/ IDLE SPEED IS REQUIRED IN CONSTRUCTION AREA AND WHERE THERE IS LESS THAN FOUR FOOT BOTTOM CLEARANCE WHEN MANATEE IS PRESENT”. A second temporary sign measuring 8½ " X 11" should be posted at a location prominently visible to all personnel engaged in water-related activities and should read language similar to the following: “CAUTION: MANATEE AREA/ EQUIPMENT MUST BE SHUTDOWN IMMEDIATELY IF A MANATEE COMES WITHIN 50 FEET OF OPERATION”.
- Collisions with, injury to, or sightings of manatees should be immediately reported to the Service’s Louisiana Ecological Services Office (337/291-3100) and the Louisiana



Department of Wildlife and Fisheries, Natural Heritage Program (225/765-2821). Please provide the nature of the call (i.e., report of an incident, manatee sighting, etc.); time of incident/sighting; and the approximate location, including the latitude and longitude coordinates, if possible.

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DAVID F. BOUDREAU, P.E. LICENSE#: 28239  
DELTA COAST CONSULTANTS



OVERALL VICINITY MAP

SCALE: 1" = 6 MILES

PROPOSED FISHING PIERS AND PARKING  
TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA



**DELTA COAST  
CONSULTANTS, LLC**

4924 HWY 311 - HOUMA, LA 70360  
PHONE: 985-655-3100 [www.deltacoastllc.com](http://www.deltacoastllc.com)

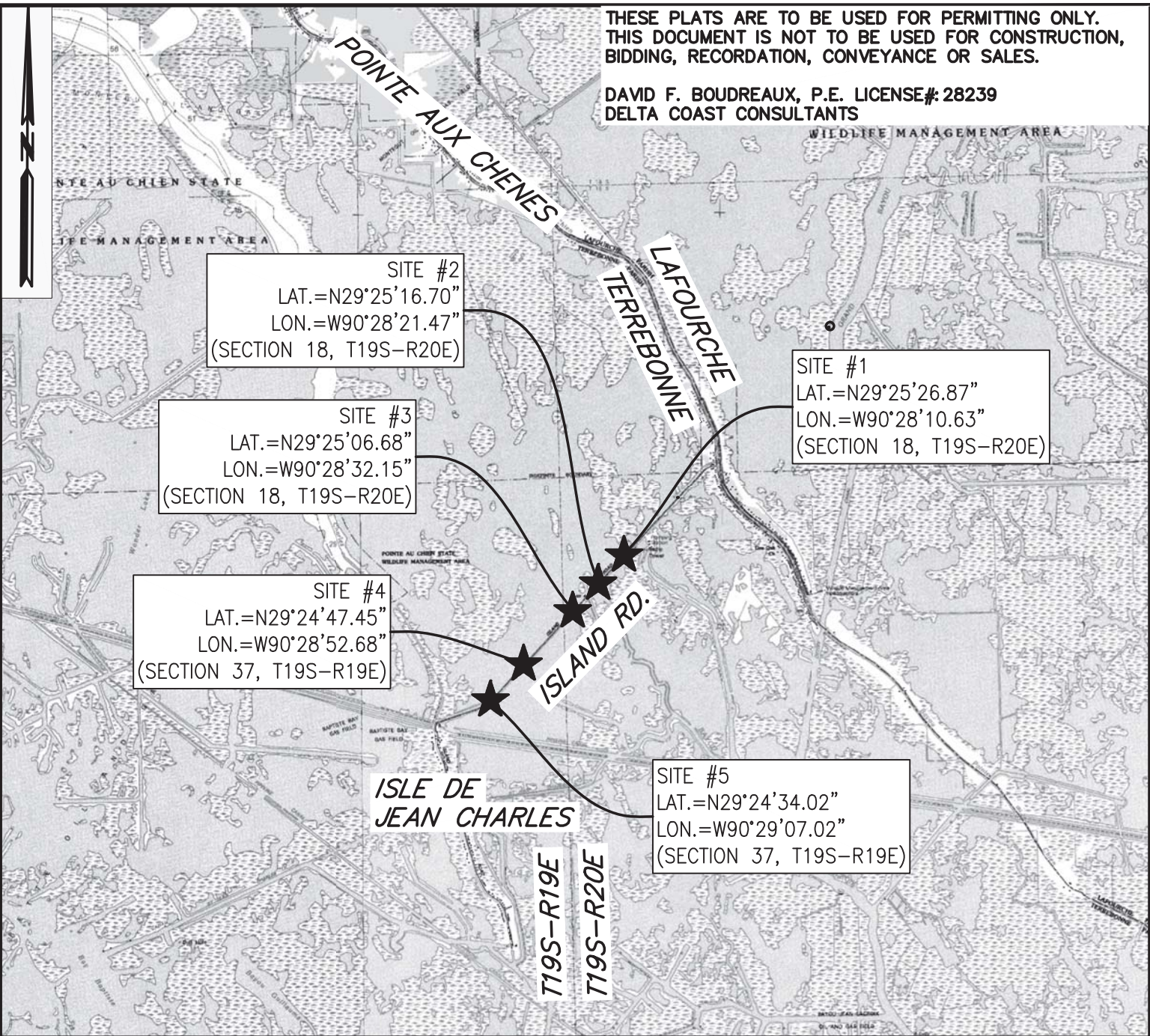
APPLICANT: LOUISIANA DEPARTMENT  
OF WILDLIFE AND FISHERIES

DATE: 08/25/17

PAGE 1 OF 6

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DELTA COAST CONSULTANTS



### SITE LOCATION MAP

SCALE: 1" = 2,000'

PROPOSED FISHING PIERS AND PARKING  
TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA



**DELTA COAST**  
CONSULTANTS, LLC

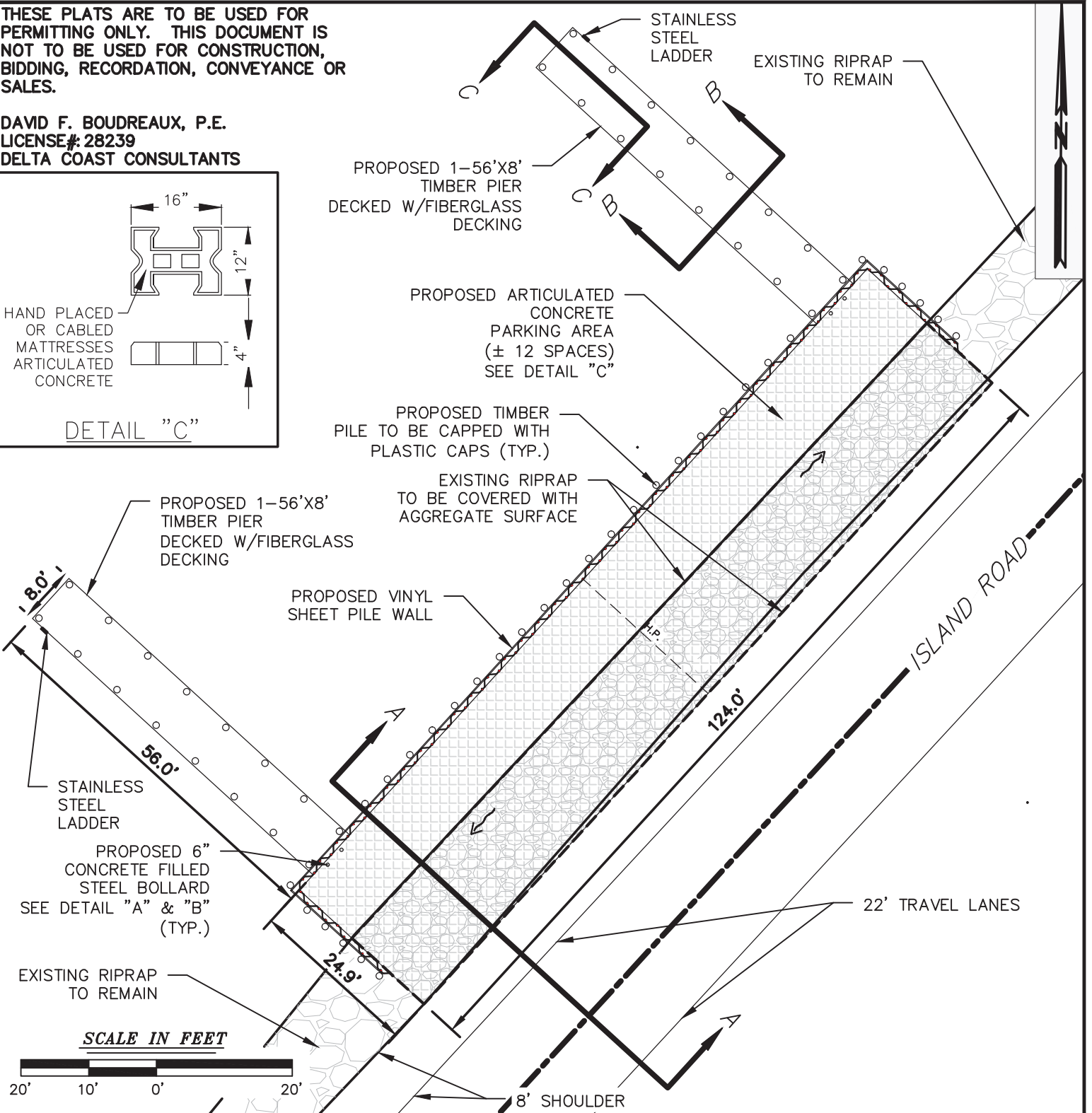
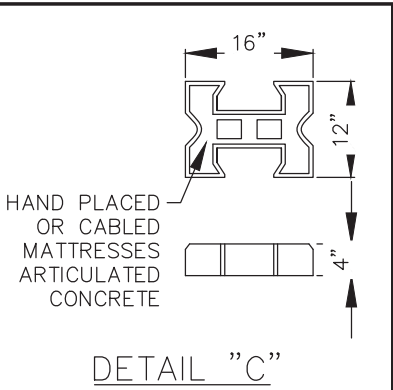
4924 HWY 311 - HOUMA, LA 70360  
PHONE: 985-655-3100 www.deltacoastllc.com

**APPLICANT:** LOUISIANA DEPARTMENT  
OF WILDLIFE AND FISHERIES

DATE: 08/25/17  
PAGE 2 OF 6

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DAVID F. BOUDREAU, P.E.  
 LICENSE # 28239  
 DELTA COAST CONSULTANTS



PROPOSED FISHING PIERS AND PARKING (TYPICAL PLAN VIEW)  
 ALL 5 SITES TO BE LAID OUT/DESIGNED IN THE SAME FASHION  
 TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
 SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
 POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA

  
**DELTA COAST**  
 CONSULTANTS, LLC  
 4924 HWY 311 - HOUMA, LA 70360  
 PHONE: 985-655-3100 www.deltacoastllc.com

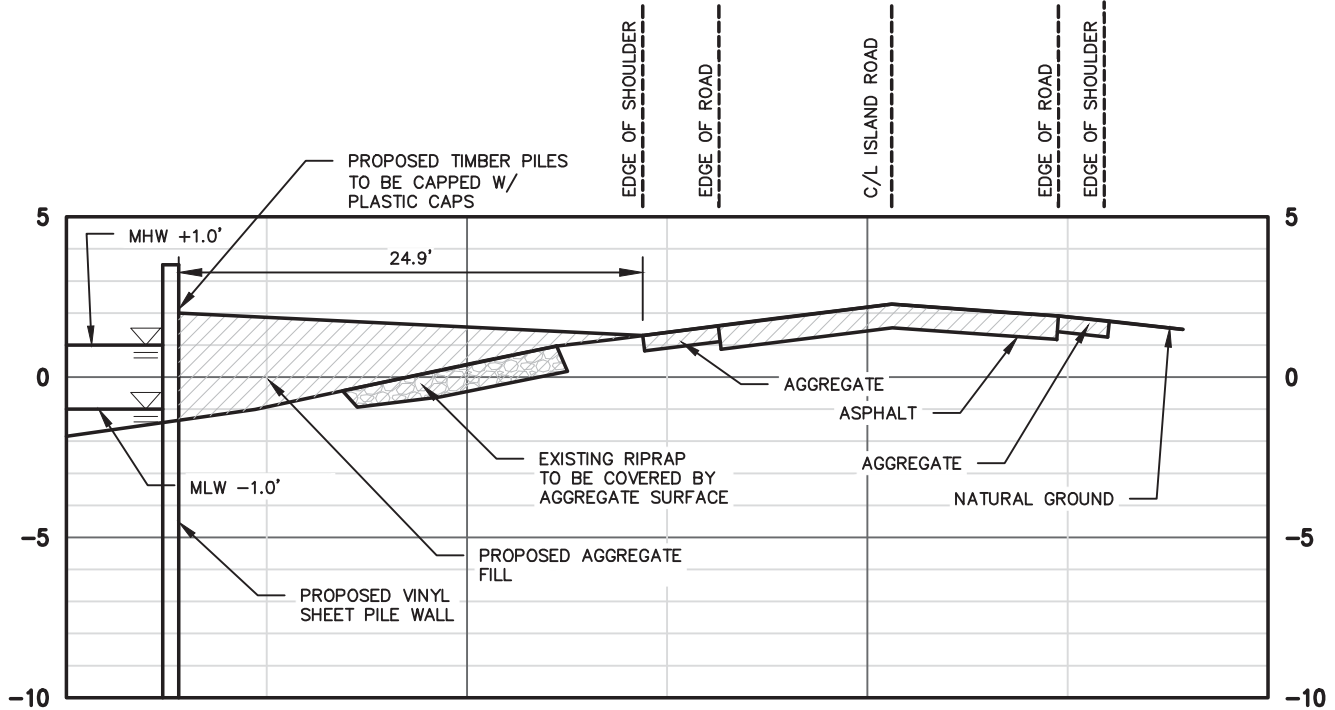
APPLICANT: LOUISIANA DEPARTMENT OF  
 WILDLIFE AND FISHERIES

DATE: 8/25/17  
 SHEET 3 OF 6

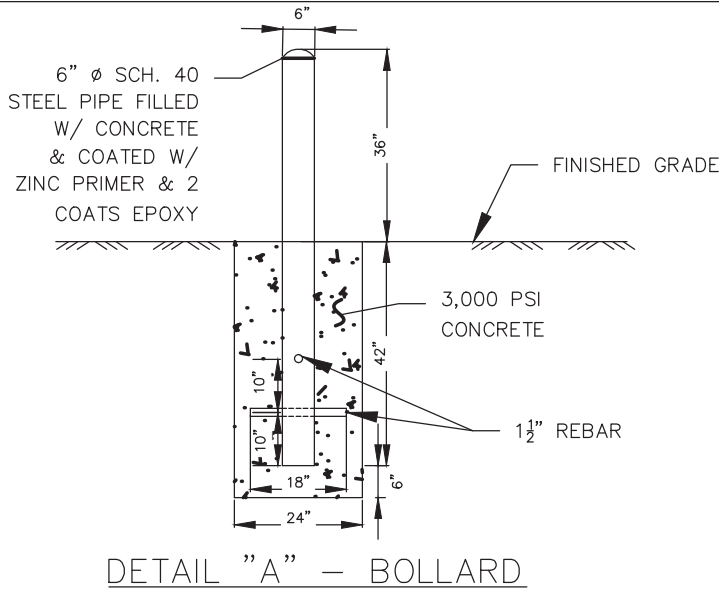
**EQUIPMENT LIST:**  
 1-EXCAVATOR  
 1-BULLDOZER  
 1-PILE DRIVING RIG  
 PERSONNEL VEHICLES

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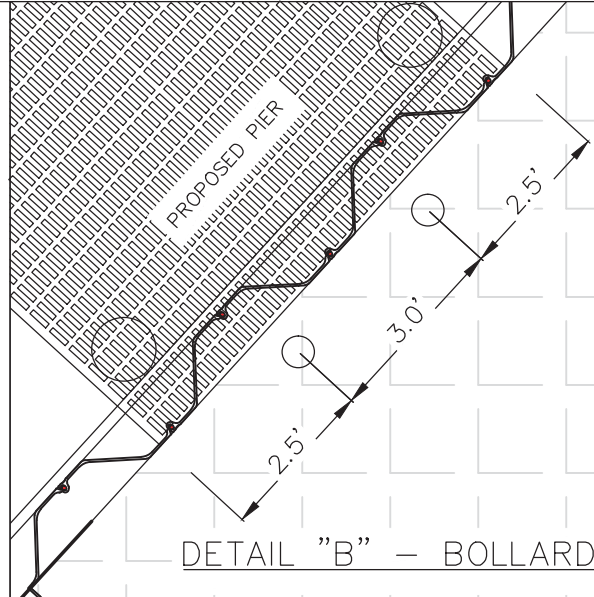
DAVID F. BOUDREAU, P.E. LICENSE#: 28239  
 DELTA COAST CONSULTANTS



**CROSS-SECTION A-A  
 (N.T.S.)**

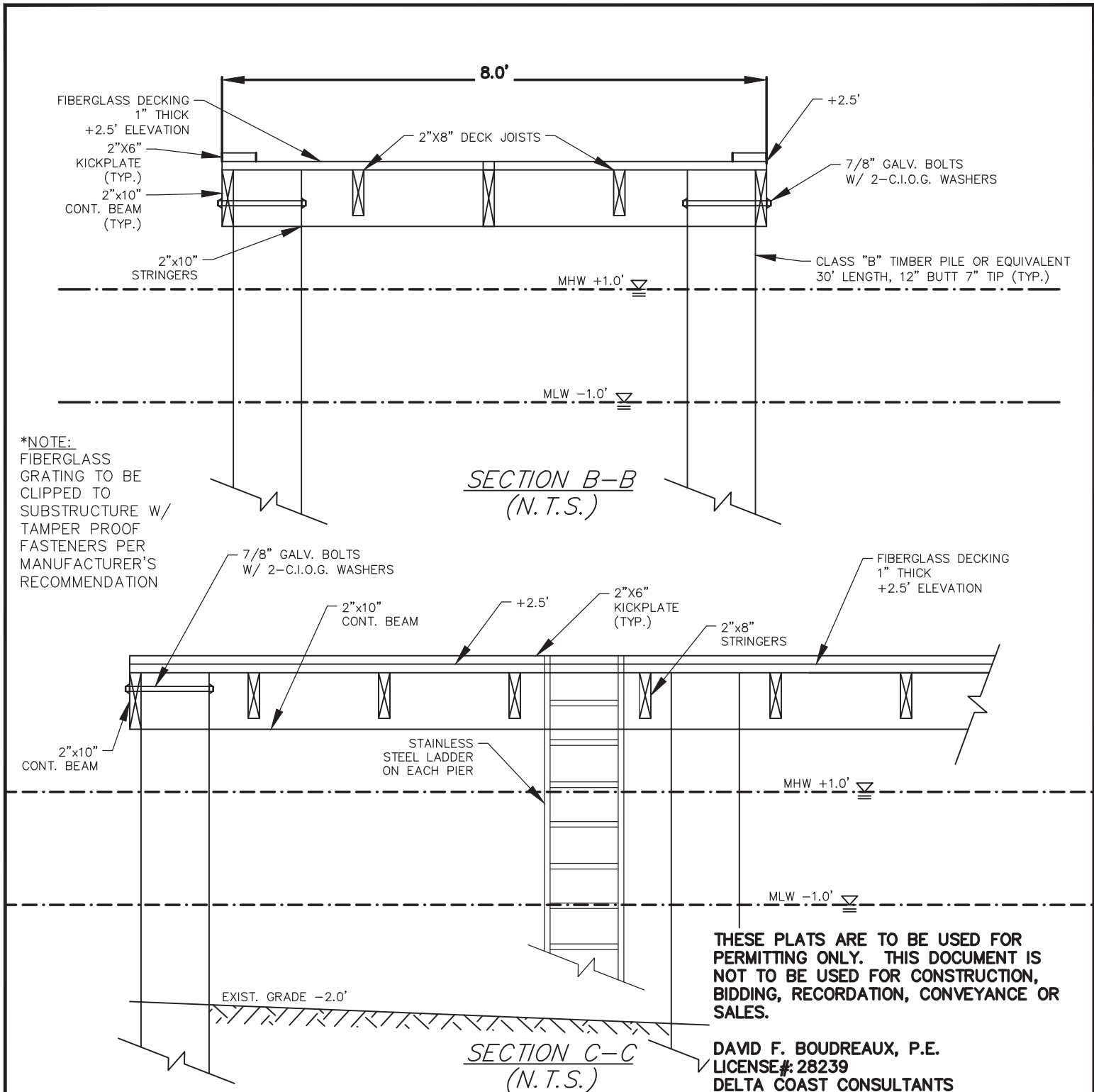


**DETAIL "A" - BOLLARD**



**DETAIL "B" - BOLLARD**

**CROSS-SECTION A-A (TYPICAL SECTION)  
 PROPOSED FISHING PIERS AND PARKING  
 TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
 SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
 POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA**



**CROSS-SECTION B-B & C-C  
PROPOSED FISHING PIERS AND PARKING  
TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA**



**APPLICANT: LOUISIANA DEPARTMENT OF  
WILDLIFE AND FISHERIES**

DATE: 8/25/17  
SHEET 5 OF 6



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DAVID F. BOUDREAU, P.E. LICENSE#: 28239  
DELTA COAST CONSULTANTS

**NOTES:**

1. ALL STRUCTURES, FACILITIES, WELLS AND PIPELINES/FLOWLINES OCCURRING IN OPEN WATER AREAS OR IN OILFIELD CANALS OR SLIPS SHALL BE REMOVED WITHIN 120 DAYS OF ABANDONMENT OF THE FACILITIES FOR THE HEREIN PERMITTED USE, UNLESS PRIOR WRITTEN APPROVAL TO LEAVE SUCH STRUCTURES IN PLACE IS RECEIVED FROM THE COASTAL MANAGEMENT DIVISION. THIS CONDITION DOES NOT PRECLUDE THE NECESSITY FOR REVISING THE CURRENT PERMIT OR OBTAINING A SEPARATE COASTAL USE PERMIT, SHOULD ONE BE REQUIRED, FOR SUCH REMOVAL ACTIVITIES.
2. AS-BUILT DRAWINGS SHALL BE SUBMITTED WITHIN 30 DAYS OF COMPLETION OF THIS PROJECT TO THE LOUISIANA DEPARTMENT OF NATURAL RESOURCES, COASTAL MANAGEMENT DIVISION, P.O. BOX 44487, BATON ROUGE, LA. 70804-4487.
3. STRUCTURES WILL BE MARKED/LIGHTED IN ACCORDANCE WITH U.S. COAST GUARD REGULATIONS.
4. IN ORDER TO ENSURE THE SAFETY OF ALL PARTIES, THE PERMITTEE SHALL CONTACT THE LOUISIANA ONE-CALL SYSTEM (1-800-272-3020) A MINIMUM OF 48 HOURS PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION (DIGGING, DREDGING, JETTING, ETC.) OR DEMOLITION ACTIVITY.

**QUANTITIES**

SITE	HAULED IN MATERIAL PLACED ON WATERBOTTOMS	LIMESTONE
1	275 C.Y.	80 C.Y.
2	275 C.Y.	80 C.Y.
3	275 C.Y.	80 C.Y.
4	275 C.Y.	80 C.Y.
5	275 C.Y. (0.85 AC)	80 C.Y. (0.25 AC)

NOTES AND QUANTITIES  
PROPOSED FISHING PIERS AND PARKING  
TO BE INSTALLED ON THE WEST SIDE OF ISLAND RD. LOCATED IN  
SEC. 18, T19S-R20E & SEC. 37, T19S-R19E  
POINTE-AUX-CHENES, TERREBONNE PARISH, LOUISIANA



**DELTA COAST  
CONSULTANTS, LLC**

4924 HWY 311 - HOUMA, LA 70360  
PHONE: 985-655-3100 www.deltacoastllc.com

**APPLICANT:** LOUISIANA DEPARTMENT OF  
WILDLIFE AND FISHERIES

DATE: 8/25/17

SHEET 6 OF 6

# 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>Additional 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.</i>	<i>Implementing Trustee(s)</i>		
<i>II.</i>	<i>Contact Person</i>	<i>III. Phone</i>	<i>Email</i>
<i>IV.</i>	<i>Project Name and ID# (Official name of project and ID number assigned by Trustees in DIVER)</i>		
<i>V.</i>	<i>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.</i>	<i>Project Type #1</i>	<i>Project Type #2, if helpful</i>	
<i>VII.</i>	<i>TIG</i>	<i>Restoration Plan</i>	

#### B. Project Location

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

**C. Existing Compliance Documentation**

**NEPA Documents**

Are there any existing draft or final NEPA analyses (not PDARP/PEIS) that cover all or part of this project? Yes      No

Examples:

- USACE programmatic NEPA analysis
- USACE Clean Water Act individual permit for the project
- NEPA analysis provided by a federal agency that gave approval, funding or authorization

**Permits**

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)? Yes      No

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)? Yes      No

If yes to any question above, please provide details in the text box (i.e. link to the NEPA document, or name of the document, year, lead federal agency, POC, copy of the permit or permit application, etc.). This is needed to check for consistency of the project scope across different sources and to facilitate the NEPA analysis. If you do not have a link, email the documents to the TIG representative for the Trustee designated as lead federal agency for the restoration plan.

Any documentation or information provided will be very helpful in moving your project forward.

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

**D. Description of Action Area**

*Attach a separate map delineating where the action will occur and where critical habitat, if any, is located. Map or describe all areas that may be directly or indirectly affected by the action. Provide a description of the existing environment (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). If CH is not designated in the area, then map or describe any suitable habitat in the 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>

**E. 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: What are you trying to accomplish and how with this project? Describe in detail the construction equipment and methods\*\* needed; long term vs. short term impacts; duration of short term 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.***

- III. *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. *If applicable, 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](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 (ft<sup>2</sup>) to be dredged, volume of material (yd<sup>3</sup>) 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)).*



## F. 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](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).

<b>SPECIES and/or CRITICAL HABITAT</b>	<b>CH UNIT (if applicable)</b>	<b>LOCATION (sea turtles and Gulf sturgeon only)</b>	<b>DETERMINATION (see definitions below)</b>
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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. 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.

**Critical Habitat No Destruction** = When the proposed action will not diminish the value of critical habitat.

**Critical Habitat Destruction or Adverse Modification** = Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

## G. 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).

<b>SPECIES and/or CRITICAL HABITAT</b>	<b>CH UNIT (if applicable)</b>	<b>LOCATION (sea turtles and Gulf sturgeon only)</b>	<b>DETERMINATION (see definitions below)</b>
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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.

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. 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.

**Critical Habitat No Destruction** = When the proposed action will not diminish the value of critical habitat.

**Critical Habitat Destruction or Adverse Modification** = Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

## H. Effects of the proposed project to the species and habitats

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, and cumulative impacts and 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, and cumulative impacts and 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.*

## I. 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.)*

## J. 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?                      NO                      YES

Is your activity likely to impact the quality (e.g., salinity, temperature) of marine or estuarine waters?                      NO                      YES

II. If Yes, describe activities further using checkboxes. 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 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. See the NOAA Acoustic Guidance for more information: <http://www.nmfs.noaa.gov/pr/acoustics/faq.htm>

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

## K. 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](mailto:permitsR2MB@fws.gov)

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

## L. 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 are present and impacts to individuals or habitat 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.*

<u>Species/Species Group</u>	<u>Behavior</u>	<u>Species/Habitat Impacts and Conservation Measures to Minimize Impacts</u>

### M. Migratory Birds

Continuation page if needed.

//.	<u>SPECIES/SPECIES GROUP</u>	<u>BEHAVIOR</u>	<u>SPECIES/HABITAT IMPACTS and CONSERVATION MEASURES TO MINIMIZE IMPACTS</u>

### N. Best Practices

Chapter 6 of the PDARP included an important appendix (6.A) of best practices, see information starting on page 6-173. [http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6\\_Environmental-Consequences\\_508.pdf](http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6_Environmental-Consequences_508.pdf)  
Use the box below to indicate which practices you'll be using in your project.

## O. Submitting the BE Form

### **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



# 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.

**Are you using this form to request approval for use of NMFS PDCs for this project?**                      Yes                      No

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](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(s) completing this form:

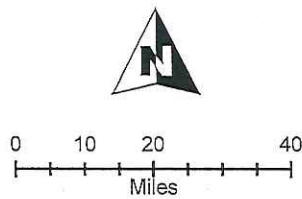
Date form completed:

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



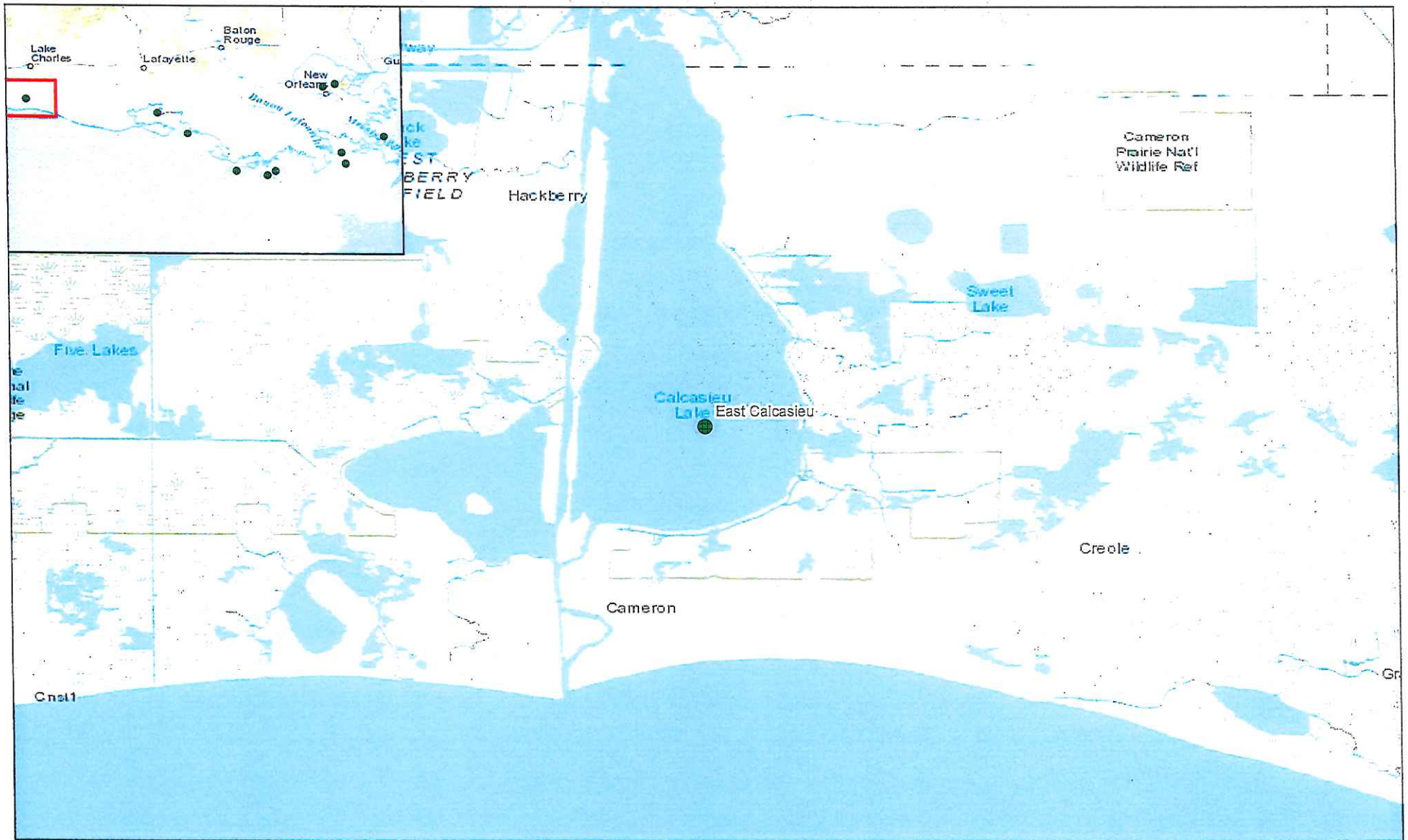
Legend

-  Inshore reefs
-  Nearshore reefs



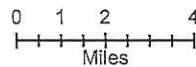
Inshore and Nearshore Artificial Reefs





**Legend**

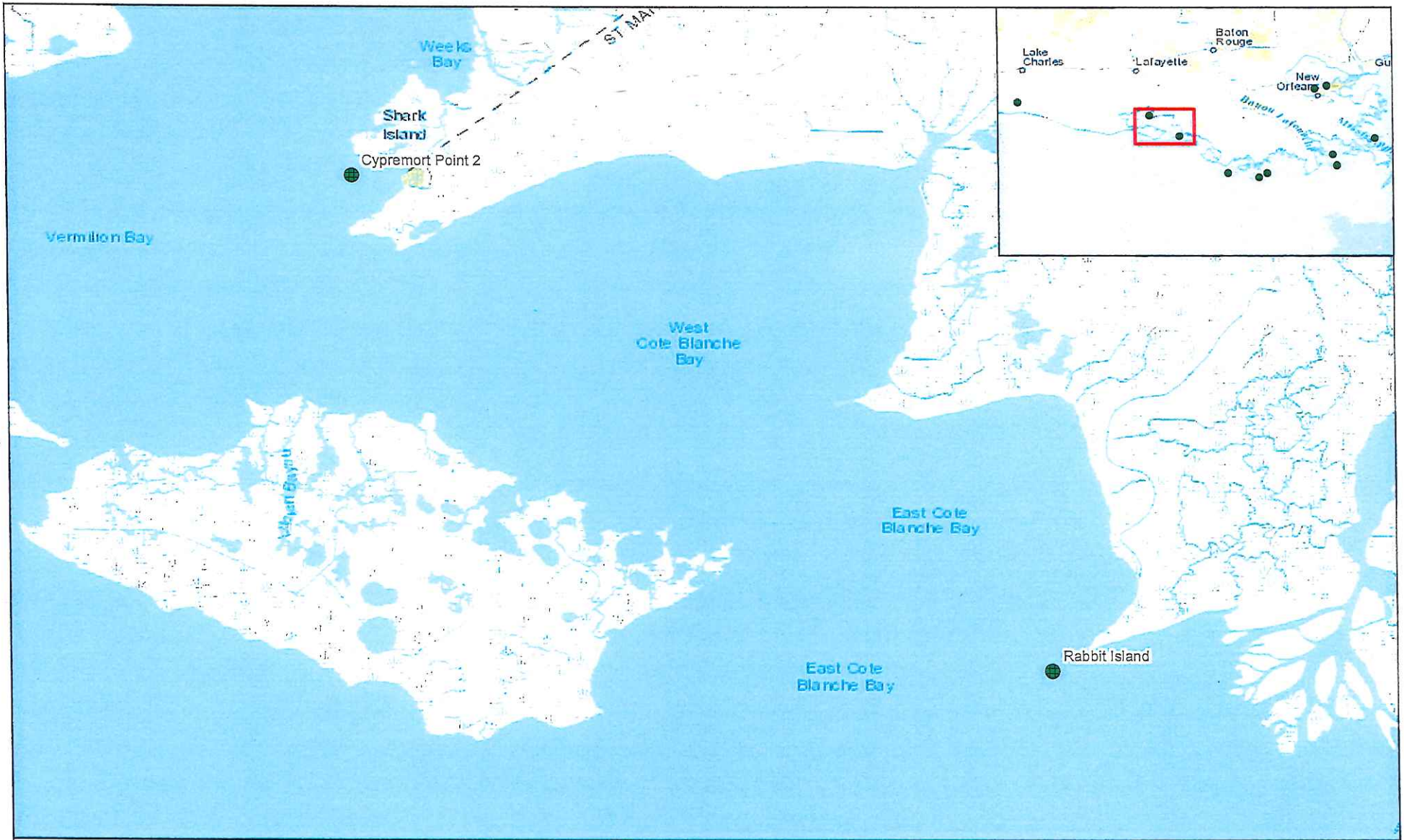
- Statewide Artificial Reef Enhancement



**Artificial Reef Enhancement Projects**

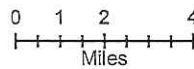
East Calcasieu





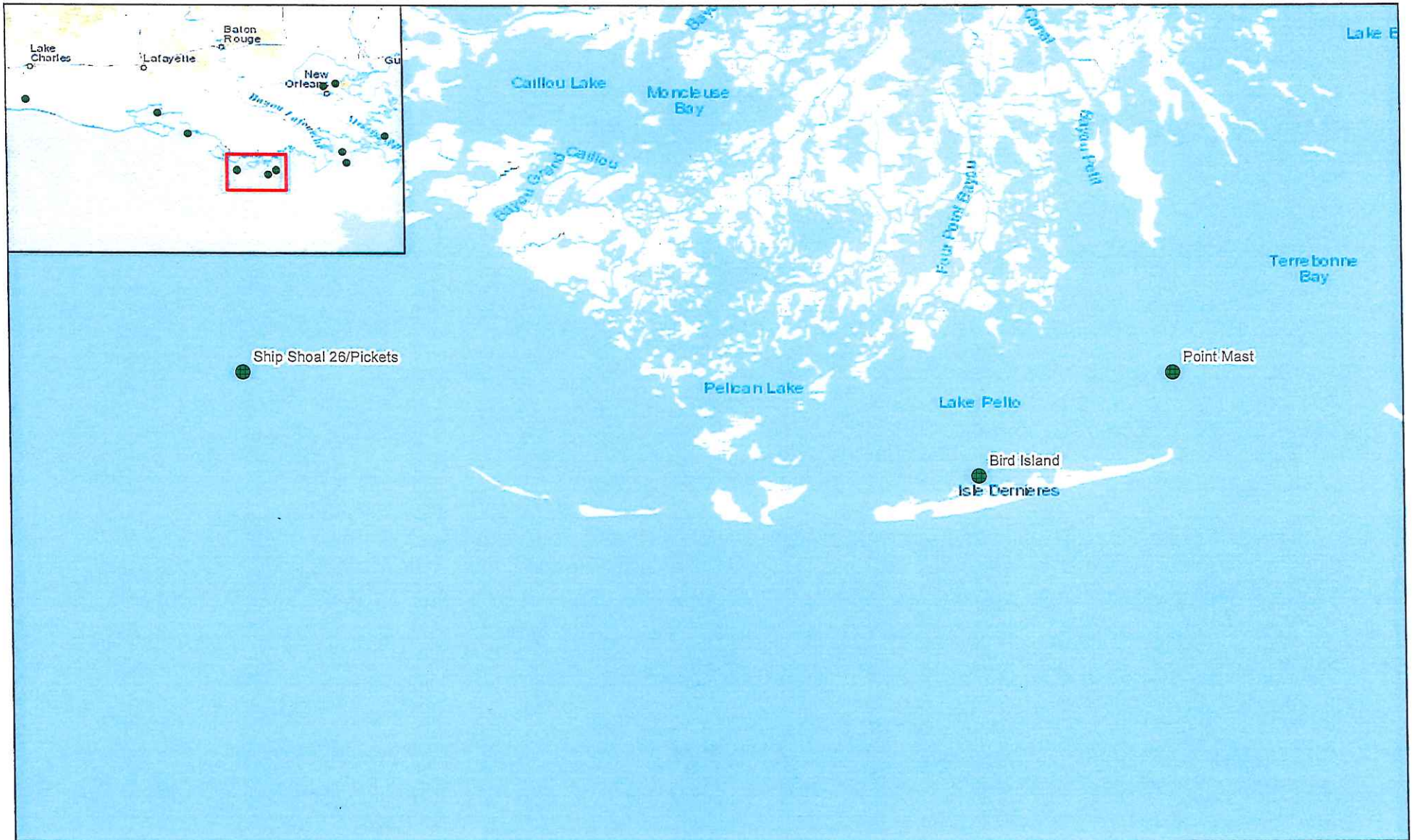
**Legend**

- Statewide Artificial Reef Enhancement



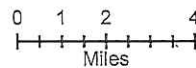
**Artificial Reef Enhancement Projects**  
Cypremort Point 2/Rabbit Island





**Legend**

- Statewide Artificial Reef Enhancement



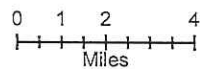
**Artificial Reef Enhancement Projects**  
 Ship Shoal 26/Pickets/Bird Island/PointMast





**Legend**

- Statewide Artificial Reef Enhancement



**Artificial Reef Enhancement Projects**

West End/Lake Front

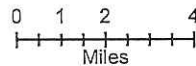






**Legend**

- Statewide Artificial Reef Enhancement



**Artificial Reef Enhancement Projects**  
 Independence Island/Grand Isle 9/California Point



Table 1: Water Quality of Affected Water Bodies

Artificial Reef/Type	Water Quality Basin	Sub segment Basin No.	Water Body Type	Designated Use (met)	Designated Use (not met)	Cause of Impairment
East Calcasieu/Inshore	Calcasieu River Basin	LA030402_00	Estuary	PCR, SCR, FWP, OYS	--	--
Cypremont Point/Inshore	Vermilion-Teche River Basin	LA061104_00	Estuary	PCR, SCR, FWP	OYS	Fecal coliform
Rabbit Island/Inshore	Vermilion-Teche River Basin	LA061001_00	Estuary	PCR, SCR, FWP	OYS	Fecal coliform
Ship Shoal 26-Pickets/Nearshore	Vermilion-Teche River Basin	LA061002-00	Estuary	FWP	PCR, SCR, OYS	Fecal coliform
Bird Island/Inshore	Vermillion-Teche River Basin	LA120802_00	Estuary	PCR, SCR, FWP, OYS	--	--
Point Mast/Inshore	Vermillion-Teche River Basin	LA120803_00	Estuary	PCR, SCR, FWP, OYS	--	--
West End/Inshore	Lake Pontchartrain Basin	LA041002_00	Estuary	PCR, SCR, FWP, OYS	--	--
Lake Front/Inshore	Lake Pontchartrain Basin	LA041002_00	Estuary	PCR, SCR, FWP, OYS	--	--
Independence Island/Inshore	Barataria Basin	LA021102_00	Estuary	PCR, SCR, OYS	FWP	Mercury in fish tissues
Grand Isle 9/Nearshore	Barataria Basin	LA021102_00	Estuary	PCR, SCR, OYS	FWP	Dissolved oxygen
California Point/Inshore	Lake Pontchartrain	LA042202_00	Estuary	PCR, SCR, FWP, OYS	--	--

PCR – Primary Contact Recreation

SCR – Secondary Contact Recreation

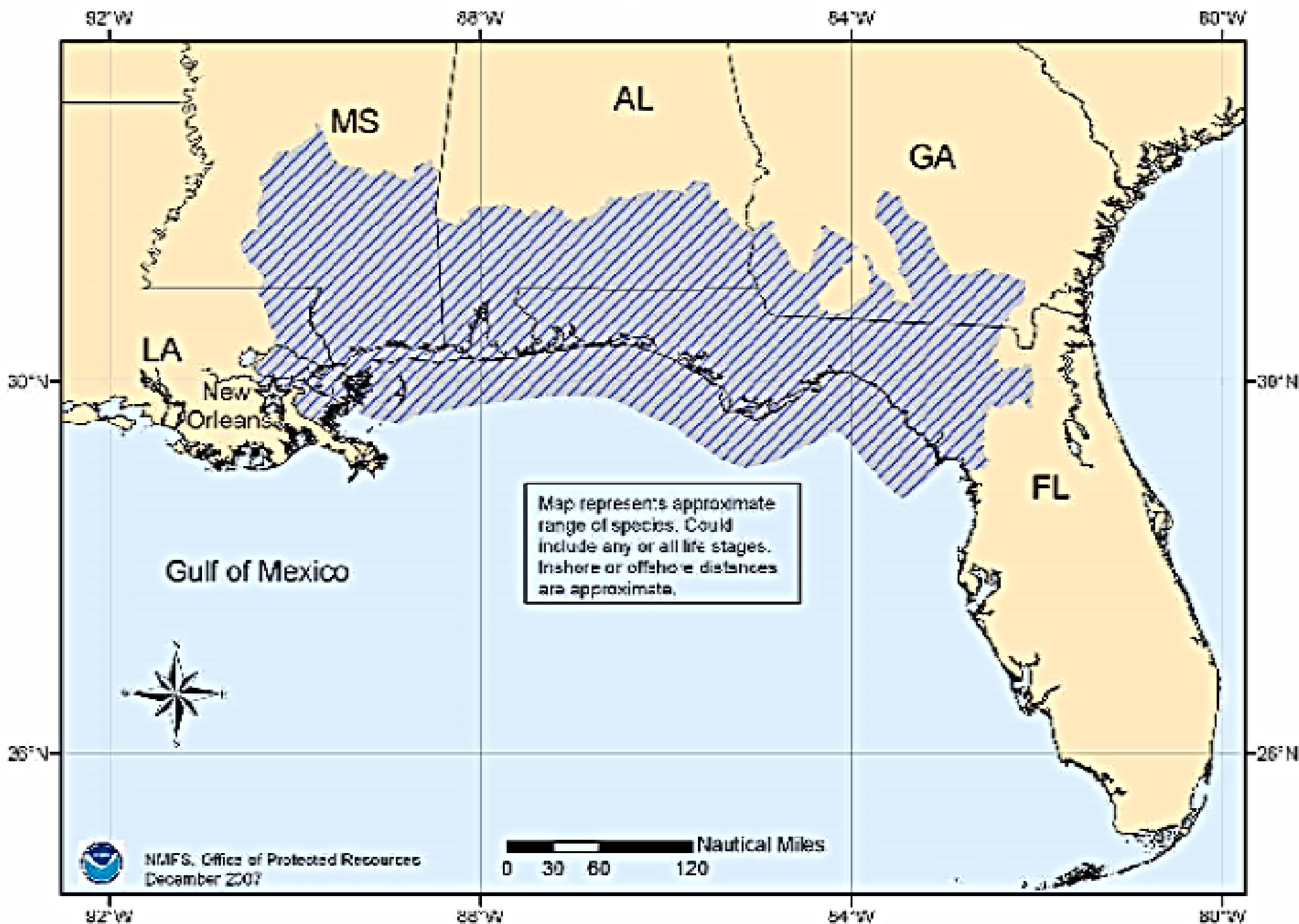
FWP – Fish and Wildlife Propagation

OYS – Oyster Propagation

**Table 2 - Summary of Artificial Reef Locations, Physical Properties, Permit Information**

Artificial Reef/Type	Location	Reef Area (ac)	Est. New Material (ac)	Water Depth (ft)	Substrate Type	Existing Reef Material	Permit(s) on Record	Permit Information
East Calcasieu/Inshore	Calcasieu Lake, Cameron Parish, approximately 9 miles south east of Hackberry.	87	2-5	8	Mud	Concrete pilings and crushed concrete.	MVN 2016-01549-WKK OCM C20130222	Expires March 6, 2022
Cypremort Point/Inshore	Vermillion Bay, St Mary Parish, approximately 1.5 miles northwest of Cypremort Point State Park.	50	2-5	7	Mud	Crushed concrete.	CZM C20130222 MOD 11 MVN 2013-01165-WOO OCM C20080544	Expires May 8, 2022
Rabbit Island/Inshore	Cote Blanche Bay, Terrebonne Parish, approximately 5 miles south west of Burns Point Park.	50	5-10	10	Mud	Shell.	OCM CZ20130222 MOD 14 MVN 1997-3388-WB	Expires May 25, 2022
Ship Shoal 26-Pickets/Nearshore	Gulf of Mexico, Terrebonne Parish, approximately 22 miles southwest of Cocodrie	187	5-10	9	Mud	Limestone.	MVN 2014-1083-WB	Expires April 30, 2022
Bird Island/Inshore	Terrebonne Parish, approximately 14 miles south west of Cocodrie	69	5-10	9	Mud	Limestone.	COE WO-20-010-1987 C20130222 MOD 10 MVN 2009-1539-WB	Expires June 21, 2022
Point Mast/Inshore	Lake Pelto, Terrebonne Parish, approximately 20 miles south of Dulac.	50	5-10	9	Mud	Limestone.	MVN 2009-01629-CO	Expires July 18, 2022
West End/Inshore	Lake Pontchartrain, Orleans Parish, less than 1 mile south of the future West End boat launch.	10	2-5	10	Mud	Crushed concrete and limestone.	MVN 2016-00188 ES	Expires March 25, 2021
Lake Front/Inshore	Lake Pontchartrain, Orleans Parish, approximately 5 miles northeast of New Orleans.	4	1-2	13	Mud	Limestone.	OCM C20130222 MOD 12 MVN EF-20-010-0596 MVN 2001-00596-EV	Expires September 26, 2022
Independence Island/Inshore	Barataria Bay, Jefferson Parish, approximately 6 miles northeast of Grand Isle.	50	2-5	9	Mud	Limestone.	OCRM C20080544 MVN 2010-1106-E11	Expires August 31, 2018
Grand Isle 9/Nearshore	Gulf of Mexico, Jefferson Parish, approximately 7 miles southeast of Grand Isle.	665	5-10	50	Mud/sand	Oil /gas structures	OCM C20130222 MOD 16 MVN 2009-2747	Permit has been submitted
California Point/Inshore	Breton Sound, Plaquemines Parish, approximately 13 miles east of Port Sulfur.	50	2-5	10	Mud	Crushed concrete	CZM C20130222 MOD 15 OCRM C20080544 MVN 2011-3331-EPP	Expires May 31, 2020

# Gulf Sturgeon Range





## **Best Management Practices – Artificial Reefs Enhancements Project**

### **A.1.1 Birds**

#### **A.1.1.2 Migratory Birds**

Use care to avoid birds when operating machinery or vehicles near birds.

During the project design phase, coordinate with the USFWS and the state trust resource agency to site and design projects to avoid or minimize impacts to migratory bird nesting habitats or important feeding/loafing areas.

Avoid working in migratory bird nesting habitats during breeding, nesting, and fledging (approximately mid-February through late August). If project 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.

Avoid driving over the natural organic material (“wrack”) line or areas of dense seaweed, as these habitats may contain hatchlings and chicks that are difficult to see.

Install pointy, white piling caps on exposed pilings to prevent bird roosting on piers, docks, and marinas.

### **A.1.2 Mammals**

#### **A.1.2.2. Manatee**

In Louisiana, follow the most recent version of the *Standard Manatee Conditions*.

#### **A.1.2.3 Bottlenose Dolphin**

For projects with any in-water construction activities, dredging, or wetland/barrier island creation and nourishment, follow the most current version of the NMFS Southeast Region’s *Measures for Reducing Entrapment Risk to Protected Species* for projects that enhance recreational fishing opportunities (e.g., fishing pier enhancement/development), visibly post the NMFS Southeast Region’s *Dolphin-Friendly Fishing Tips* sign and other applicable protected species educational signs.

For projects that enhance recreational and commercial vessel based activities, follow NMFS’s *Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines*.

#### **A.1.2.4 Other Marine Mammals**

To reduce the risk associated with vessel strikes of protected species or related disturbance, follow the most current version of NMFS Southeast Region's *Vessel Strike Avoidance Measures and Reporting for Mariners*, revised February 2008.

#### **A.1.4 Tortoises/Turtles**

##### **A.1.4.2 Sea Turtle**

In Water Implement the following guidelines: NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* (revised March 23, 2006), NMFS's *Measures for Reducing Entrapment Risk to Protected Species* (revised May 22, 2012) and NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* (revised February 2008).

#### **A.1.5 Fish**

##### **A.1.5.1 Gulf Sturgeon**

Avoid work in riverine critical habitats when Gulf sturgeon are likely to be present (April to October). Do not dredge in spawning areas when Gulf sturgeon are likely to be present.

During project implementation, maintain riparian buffers of at least 100 feet around critical habitat.

Operate dredge equipment in a manner to avoid risks to Gulf sturgeon (e.g., disengage pumps when the cutter head is not in the substrate; avoid pumping water from the bottom of the water column).

Implement NMFS's *Sea Turtle and Smalltooth Construction Conditions* (revised March 23, 2006) and NMFS's *Measures for Reducing Entrapment Risk to Protected Species* (revised May 22, 2012), as they are protective of Gulf sturgeon as well.

#### **A.1.8 General Construction Measures**

##### **A.1.8.1 Guidelines**

*Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*, U.S. Army Corps of Engineers/NMFS, August 2001.

*Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's Seagrass (Halophila johnsonii)*, NMFS/U.S. Army Corps of Engineers, October 2002.

*National Artificial Reef Plan (as Amended): Guidelines for Siting, Construction, Development, and Assessment of Artificial Reefs*, NOAA, February 2007.

*Guidelines for Marine Artificial Reef Materials*, GSMFC, January 2004.

*Assessment and Mitigation of Marine Explosives: Guidance for Protected Species in the Southeast U.S.*, NMFS, February 2008.

##### **A.1.8.3 Protected Species**

Provide all individuals working on a 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.

Survey for other at-risk or imperilled species. If found on site, contact the USFWS and state trust resource agency to determine if avoidance or minimization measures or a Candidate Conservation Agreement with Assurances may be appropriate.

#### **A.1.8.4 Site Maintenance and Conduct**

Use the nearest, existing staging, access and egress areas, travel corridors, pathways, and roadways (including those provided by the state, local governments, land managers, trustee, or private property owner, with proper permissions) and do not create new staging areas, access or egress, or travel corridors through sensitive habitats.

Minimize construction noise to the maximum extent practicable when working near protected species and their habitats.

Develop and implement a spill prevention and response plan, including conducting daily inspections of all construction and related equipment to ensure there are no leaks of antifreeze, hydraulic fluid, or other substances and cleaning and sealing all equipment that would be used in the water to rid it of chemical residue. Develop a contract stipulation to disallow use of any leaking equipment or vehicles.

#### **A.1.8.6 Wetland and Aquatic Resource Protection**

Avoid and minimize, to the maximum extent practicable, placement of dredged or fill material in wetlands and other aquatic resources.

Design construction equipment corridors to avoid and minimize impacts to wetlands and other aquatic resources to the maximum extent practicable.

Place protective warning signs and buoys around at-risk habitats for infrastructure projects that could increase recreational uses in SAV or oyster areas.

Only use suitable borrow sites (i.e., those that do not contain *Sargassum*, SAV, or oysters) as dredging sites for sediment. Obtain sediments by beneficially using dredged material from navigation channels or by accessing material from approved offshore borrow areas. Sediments must closely match the chemical and physical characteristics of sediment at the restoration site. Additionally, use target borrow areas within reasonable proximity to suitable sites for sediment placement.

Perform maintenance of generators, cranes, and any other stationary equipment operated within 150 feet of any natural or wetland area, as necessary, to prevent leaks and spills from entering the water.

Ensure shells to be introduced for reef creation are subjected to depuration in a secure open air area for a period of not less than 6 months.

Make all efforts to reduce the peak sound level and exposure levels of fish to reduce the potential impact of sound on fish present in the project areas.



Stipulate the timing of activities to avoid impacts to spawning fish and eggs/larvae.

Use best practices to reduce turbidity, such as turbidity blankets, to reduce the potential impact of turbidity on finfish.

### **A.2.1 Project Design Criteria for ESA-listed species**

Project Design Criteria (PDC) are being developed by NMFS to provide technical assistance and avoid or reduce adverse impacts to ESA-listed and protected species. PDCs may be developed for the following and/or additional restoration approaches:

- Artificial reefs.
- Debris removal.
- Fishing piers.
- Living shorelines.
- Marsh restoration.
- Nonfishing piers.
- Oyster restoration.

Detailed descriptions can be found under the “Southeast Regional Office Guidance” on the following webpage: [http://sero.nmfs.noaa.gov/protected\\_resources/section\\_7/guidance\\_docs/index.html](http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html).

### **A.2.2 Best Practices for Essential Fish Habitat Under MSFCMA**

At time of publication, practices to avoid and minimize effects to Essential Fish Habitat were under development. Please check the following webpage for EFH best practices that may be developed:

[http://sero.nmfs.noaa.gov/habitat\\_conservation/efh/guidance\\_docs/index.html](http://sero.nmfs.noaa.gov/habitat_conservation/efh/guidance_docs/index.html).

## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [http://www.myfwc.com/WILDLIFEHABITATS/manatee\\_sign\\_vendors.htm](http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm). Questions concerning these signs can be forwarded to the email address listed above.

# CAUTION: MANATEE HABITAT

All project vessels

**IDLE SPEED / NO WAKE**

When a manatee is within 50 feet of work  
all in-water activities must

**SHUT DOWN**

Report any collision with or injury to a manatee:



**Wildlife Alert:**

**1-888-404-FWCC(3922)**

cell \*FWC or #FWC

# 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>Additional 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.</i>	<i>Implementing Trustee(s)</i>		
<i>II.</i>	<i>Contact Person</i>	<i>III. Phone</i>	<i>Email</i>
<i>IV.</i>	<i>Project Name and ID# (Official name of project and ID number assigned by Trustees in DIVER)</i>		
<i>V.</i>	<i>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.</i>	<i>Project Type #1</i>	<i>Project Type #2, if helpful</i>	
<i>VII.</i>	<i>TIG</i>	<i>Restoration Plan</i>	

#### B. Project Location

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

**C. Existing Compliance Documentation**

**NEPA Documents**

Are there any existing draft or final NEPA analyses (not PDARP/PEIS) that cover all or part of this project? Yes      No

Examples:

- USACE programmatic NEPA analysis
- USACE Clean Water Act individual permit for the project
- NEPA analysis provided by a federal agency that gave approval, funding or authorization

**Permits**

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)? Yes      No

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)? Yes      No

If yes to any question above, please provide details in the text box (i.e. link to the NEPA document, or name of the document, year, lead federal agency, POC, copy of the permit or permit application, etc.). This is needed to check for consistency of the project scope across different sources and to facilitate the NEPA analysis. If you do not have a link, email the documents to the TIG representative for the Trustee designated as lead federal agency for the restoration plan.

Any documentation or information provided will be very helpful in moving your project forward.

Name of Person Completing this Form:

Name of Project Lead:

Date Form Completed:

Date Form Updated:

**D. Description of Action Area**

*Attach a separate map delineating where the action will occur and where critical habitat, if any, is located. Map or describe all areas that may be directly or indirectly affected by the action. Provide a description of the existing environment (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). If CH is not designated in the area, then map or describe any suitable habitat in the 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>

**E. 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: What are you trying to accomplish and how with this project? Describe in detail the construction equipment and methods\*\* needed; long term vs. short term impacts; duration of short term 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.***



- III. *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. *If applicable, 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](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 (ft<sup>2</sup>) to be dredged, volume of material (yd<sup>3</sup>) 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)).*

## F. 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](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. 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.

**Critical Habitat No Destruction** = When the proposed action will not diminish the value of critical habitat.

**Critical Habitat Destruction or Adverse Modification** = Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

## G. 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)
------------------------------------	----------------------------	--	--

LA-5

### 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. 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.

**Critical Habitat No Destruction** = When the proposed action will not diminish the value of critical habitat.

**Critical Habitat Destruction or Adverse Modification** = Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

## H. Effects of the proposed project to the species and habitats

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, and cumulative impacts and 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, and cumulative impacts and 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.*

## I. 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.)*

## J. 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?                      NO                      YES

Is your activity likely to impact the quality (e.g., salinity, temperature) of marine or estuarine waters?                      NO                      YES

II. If Yes, describe activities further using checkboxes. 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 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. See the NOAA Acoustic Guidance for more information: <http://www.nmfs.noaa.gov/pr/acoustics/faq.htm>

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

## K. 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](mailto:permitsR2MB@fws.gov)

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

## L. 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 are present and impacts to individuals or habitat 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.*

<u>Species/Species Group</u>	<u>Behavior</u>	<u>Species/Habitat Impacts and Conservation Measures to Minimize Impacts</u>



### M. Migratory Birds

Continuation page if needed.

//.	<u>SPECIES/SPECIES GROUP</u>	<u>BEHAVIOR</u>	<u>SPECIES/HABITAT IMPACTS and CONSERVATION MEASURES TO MINIMIZE IMPACTS</u>

### N. Best Practices

Chapter 6 of the PDARP included an important appendix (6.A) of best practices, see information starting on page 6-173. [http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6\\_Environmental-Consequences\\_508.pdf](http://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/Chapter-6_Environmental-Consequences_508.pdf)  
Use the box below to indicate which practices you'll be using in your project.

## O. Submitting the BE Form

### **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

# Endangered Species Act Programmatic Biological Opinion

## *Deepwater Horizon Oil Spill Restoration*

### National Marine Fisheries Service

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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.

**Are you using this form to request approval for use of NMFS PDCs for this project?**                      Yes                      No

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](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

<b>Construction of Living Shorelines</b>	Yes	No
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<b>Marsh Creation and Enhancement</b>	Yes	No
---------------------------------------	-----	----

**Construction of Non-Fishing Piers**

Yes

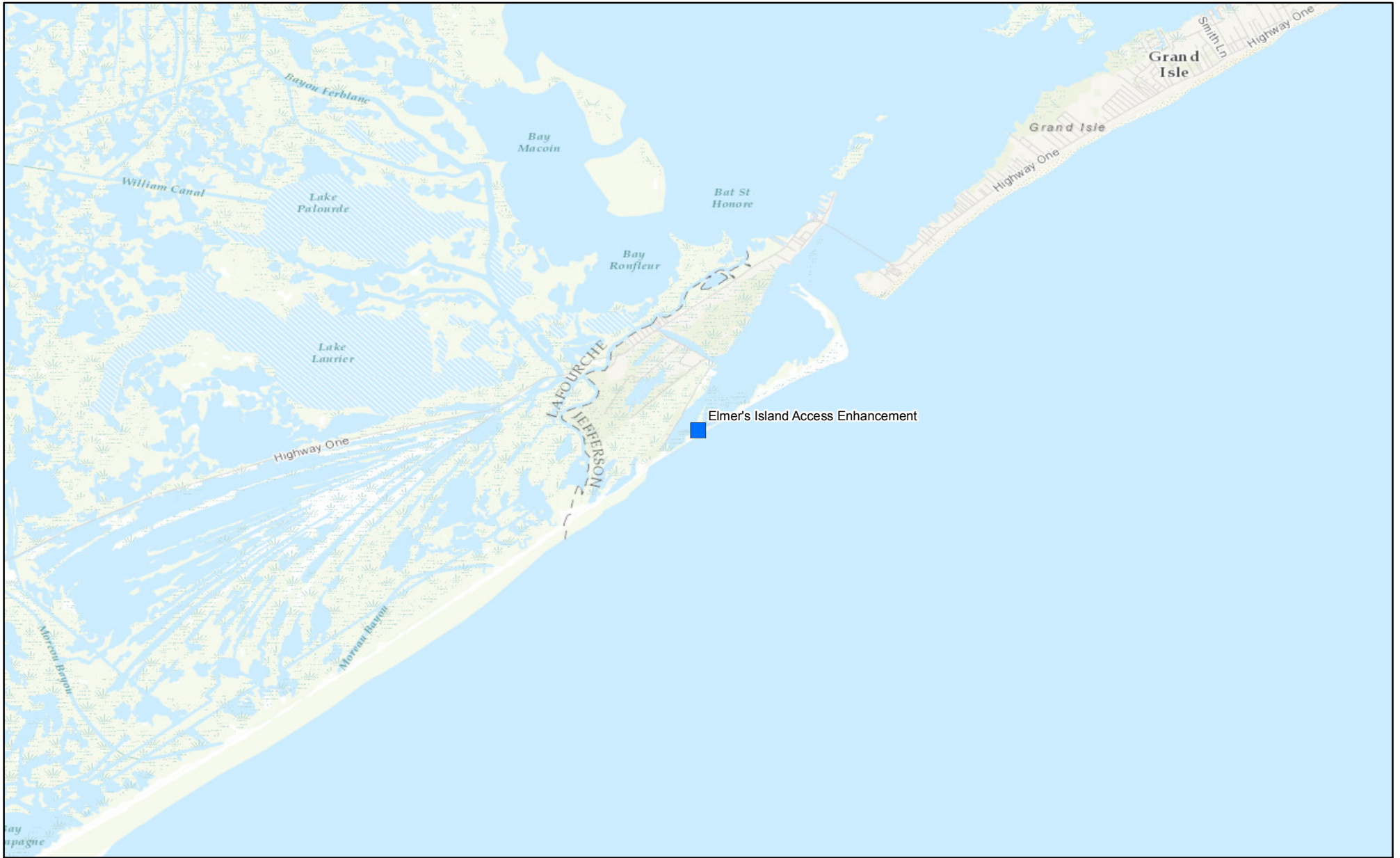
No

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

Name of person(s) completing this form:

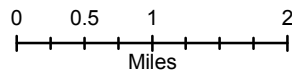
Date form completed:

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



**Legend**

- Elmer's Island Access Enhancement



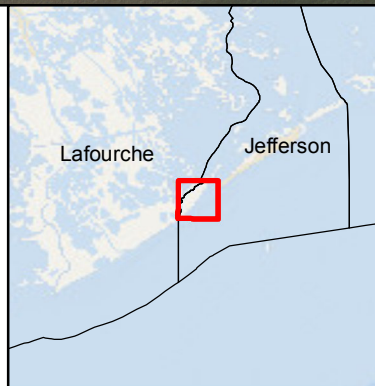
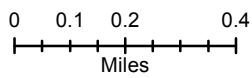
**Elmer's Island Access Enhancement**





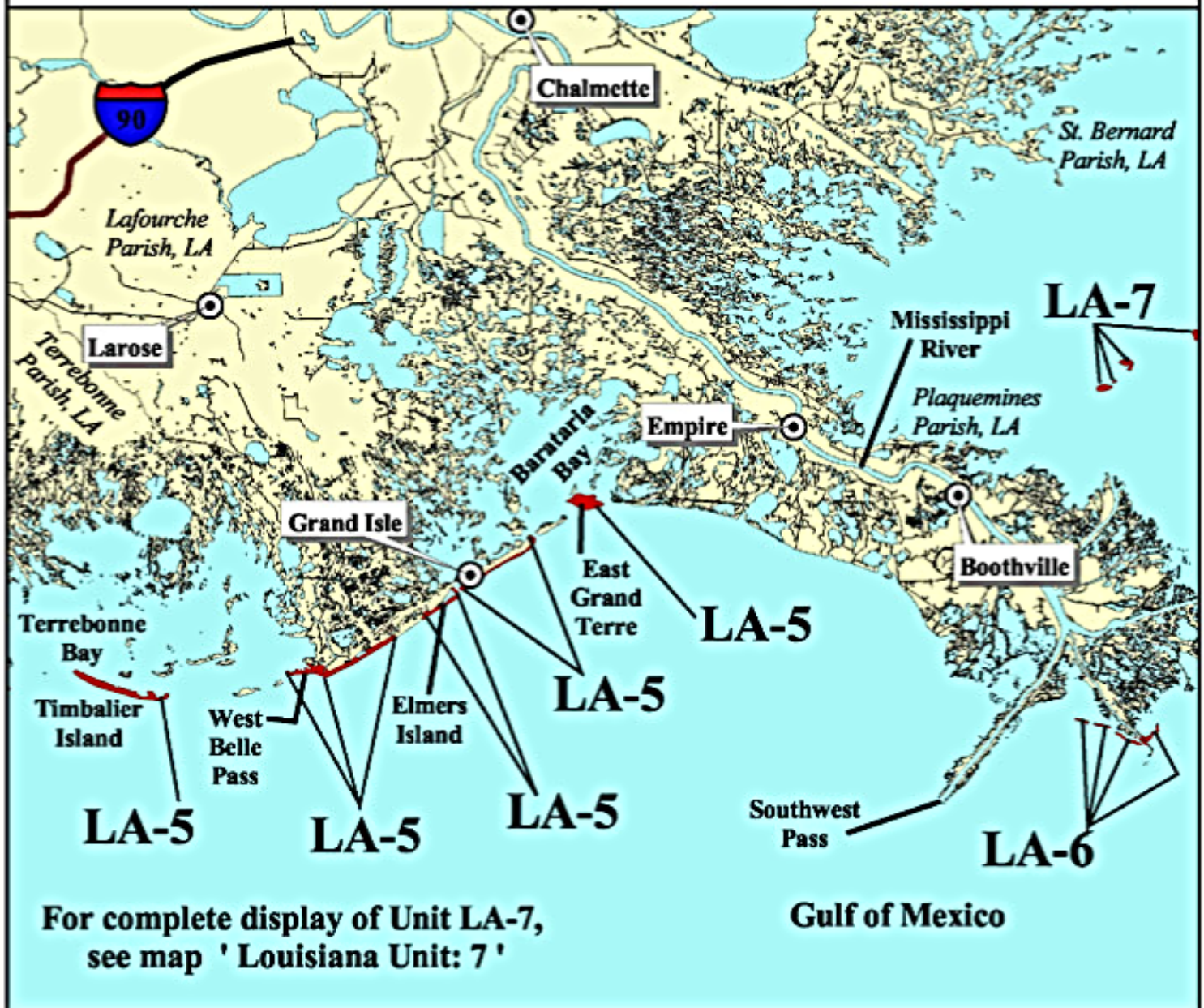
**Legend**

- Culvert
- Beach Shuttle Service Path
- Walking Trail
- Washout Repair
- Boat Launch
- Parking Area
- Observation Deck



**Figure 2-4  
Alternative C Beach  
Shuttle Service**

# General locations of the designated critical habitat for the Wintering Piping Plover.



## General Area



## Distance: Miles



## Legend

- City / Town
- Major Road / Highway
- Land
- Critical Habitat

**Use Constraints:** This map is intended to be used as a guide to identify the general areas where Wintering Piping Plover critical habitat has been designated. Included within the designation of critical habitat are all land areas to the mean lower low water. Refer to the narrative unit descriptions as the precise legal definition of critical habitat.

# Louisiana Units: 5 and 6

**Some locations have been slightly enlarged for display purposes only.**



## **PDARP Chapter 6-Appendix A Best Management Practices – Elmer’s Island**

### **A.1.1 Birds**

#### **A.1.1.2 Migratory Birds**

Use care to avoid birds when operating machinery or vehicles near birds.

During the project design phase, coordinate with the USFWS and the state trust resource agency to site and design projects to avoid or minimize impacts to migratory bird nesting habitats or important feeding/loafing areas.

Avoid working in migratory bird nesting habitats during breeding, nesting, and fledging (approximately mid-February through late August). If project 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.

Avoid driving over the natural organic material (“wrack”) line or areas of dense seaweed, as these habitats may contain hatchlings and chicks that are difficult to see.

Install pointy, white piling caps on exposed pilings to prevent bird roosting on piers, docks, and marinas.

#### **A.1.1.3 Piping Plover and Red Knot**

Provide all individuals working on a 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.

Avoid working in designated critical habitat when piping plovers are present (approximately late July through mid-May) or important wintering sites for red knots when they are present (contact USFWS for red knot timeframes and habitats) to the maximum extent practicable. If work must be conducted when people are present, avoid working near concentrations of individuals or post avoidance areas to minimize disturbance.

For projects that result in large-scale habitat changes, coordinate early with USFWS to enhance or protect habitat features preferred by the species (inlet shoals, lagoons, washover fans, ephemeral pools, baysides, and mud flats). Do not remove sand from intertidal, sand, or mud flats.

Use dredged material to enhance adjacent emerged and submerged shoals and bayside habitats within and adjacent to project areas.

Minimize vegetation planting in preferred habitats and avoid removal of wrack year-around along the shoreline.

During recreational use, enforce leash or “no pet” policies in critical or important habitats.

## **A.1.2 Mammals**

### **A.1.2.3 Bottlenose Dolphin**

For projects with any in-water construction activities, dredging, or wetland/barrier island creation and nourishment, follow the most current version of the NMFS Southeast Region’s *Measures for Reducing Entrapment Risk to Protected Species* for projects that enhance recreational fishing opportunities (e.g., fishing pier enhancement/development), visibly post the NMFS Southeast Region’s *Dolphin-Friendly Fishing Tips* sign and other applicable protected species educational signs.

For projects that enhance recreational and commercial vessel based activities, follow NMFS’s *Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines*.

## **A.1.4 Tortoises/Turtles**

### **A.1.4.2 Sea Turtle**

In Water Implement the following guidelines: NMFS’s *Sea Turtle and Smalltooth Sawfish Construction Conditions* (revised March 23, 2006), NMFS’s *Measures for Reducing Entrapment Risk to Protected Species* (revised May 22, 2012) and NMFS’s *Vessel Strike Avoidance Measures and Reporting for Mariners* (revised February 2008).

## **A.1.7 Invasive Species**

Develop and implement a Hazard Analysis and Critical Control Points (HACCP) plan to prevent and control invasive species. Use (ASTM E2590–08) or other version of HACCP or other similar planning tool.

Implement an Integrated Pest Management (IPM) approach to facility design, sanitation, and maintenance to prevent and control invasive and pest species.

Inspect sites, staging, and buffer areas for common invasive species prior to the onset of work. Map any invasive species detected and note qualitative or quantitative measures regarding abundance. Implement a control plan, if necessary, to ensure these species do not increase in distribution or abundance at a site due to project implementation. Inspect sites periodically to identify and control new colonies/individuals of an invasive species not previously observed prior to construction.

Prior to bringing any equipment (including personal gear, machinery, vehicles, or vessels) to the work site, inspect each item for mud or soil, seeds, and vegetation. If present, clean the equipment, vehicles, or personal gear until they are free from mud, soil, seeds, and vegetation. Inspect the equipment, vehicles, and personal gear each time they are being prepared to go to a site or prior to transferring between sites to avoid spreading exotic, nuisance species.

Place and maintain predator-proof waste receptacles in strategic locations during project implementation to prevent an increase in predator abundance. For projects designed to enhance or increase visitor use, maintain predator-proof waste receptacles for the life of the project.

Have the appropriate state agency inspect any equipment or construction materials for invasive species prior to use.

Inspect and certify propagated or transplanted vegetation as pest and disease free prior to planting in restoration project areas.

## **A.1.8 General Construction Measures**

### **A.1.8.1 Guidelines**

*Bubble Curtain Specifications for Pile Driving*, as contained in the Florida Statewide Programmatic Opinion on page 270.

### **A.1.8.2 Piling Installation**

Push pilings into soft, bottom substrate to reduce noise from installation; do not drive and hammer pilings into bottom substrate unless necessary for proper construction.

### **A.1.8.3 Protected Species**

Provide all individuals working on a 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.

Survey for other at-risk or imperilled species. If found on site, contact the USFWS and state trust resource agency to determine if avoidance or minimization measures or a Candidate Conservation Agreement with Assurances may be appropriate.

### **A.1.8.4 Site Maintenance and Conduct**

Use the nearest, existing staging, access and egress areas, travel corridors, pathways, and roadways (including those provided by the state, local governments, land managers, trustee, or private property owner, with proper permissions) and do not create new staging areas, access (except dune walkovers) or egress, or travel corridors through dune habitats.

Limit driving on the beach for construction to the minimum necessary within the designated travel corridor—established just above or just below the primary “wrack” line. Avoid driving on the upper beach whenever possible, and never drive over any dunes or beach vegetation.

Minimize construction noise to the maximum extent practicable when working near protected species and their habitats.

Maintain or improve all lighting regimes. Methods include working during daylight hours only, prohibiting lighting on dune walkovers, and using wildlife-friendly lighting where lighting is necessary for human safety.

Post signs at kiosks, ramps, and piers to provide visitors with information to avoid and minimize impacts to protected species and their habitats while recreating. Develop signs in coordination with NMFS, USFWS, and the local state trust resource agency.

Supply and maintain containers for waste fishing gear to avoid fish and wildlife entanglement.

#### **A.1.8.5 Land and Vegetation Protection**

Develop and implement an erosion control plan to minimize erosion during and after construction and where possible use vegetative buffers (100 feet or greater), revegetate with native species or annual grasses, and conduct work during dry seasons.

Develop and implement a spill prevention and response plan, including conducting daily inspections of all construction and related equipment to ensure there are no leaks of antifreeze, hydraulic fluid, or other substances and cleaning and sealing all equipment that would be used in the water to rid it of chemical residue. Develop a contract stipulation to disallow use of any leaking equipment or vehicles.

Prohibit use of hazardous materials, such as lead paint, creosote, pentachlorophenol, and other wood preservatives during construction in, over or adjacent to, sensitive sites during construction and routine maintenance.

Where landscaping is necessary or desired, use native plants from local sources. If non-native species must be used, ensure they are noninvasive and use them in container plantings.

#### **A.1.8.6 Wetland and Aquatic Resource Protection**

Complete an engineering design and post-construction inspection for projects where geomorphic elevations are restored in wetlands, marshes, and shallow water habitats to ensure the success of the restoration project. Manage elevation of fill material to ensure projected consolidation rates are accomplished and that habitat suitable for wetland and marsh vegetation is developed.

Avoid and minimize, to the maximum extent practicable, placement of dredged or fill material in wetlands and other aquatic resources.

Design construction equipment corridors to avoid and minimize impacts to wetlands and other aquatic resources to the maximum extent practicable.

To the maximum extent possible, implement the placement of sediment to minimize impacts to existing vegetation or burrowing organisms.

Place protective warning signs and buoys around at-risk habitats for infrastructure projects that could increase recreational uses in SAV or oyster areas.

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.

Only use suitable borrow sites (i.e., those that do not contain *Sargassum*, SAV, or oysters) as dredging sites for sediment. Obtain sediments by beneficially using dredged material from navigation channels or by accessing material from approved offshore borrow areas. Sediments must closely match the chemical and physical characteristics of sediment at the restoration site. Additionally, use target borrow areas within reasonable proximity to suitable sites for sediment placement.

When local conditions indicate the likely presence of contaminated soils and sediments, test soil samples for contaminant levels and take precautions to avoid disturbance of, or provide for proper disposal of, contaminated soils and sediments. Evaluate methods prior to dredging to reduce the potential for impacts from turbidity or tarballs.

Perform maintenance of generators, cranes, and any other stationary equipment operated within 150 feet of any natural or wetland area, as necessary, to prevent leaks and spills from entering the water.

Designate a vehicle staging area removed from any natural surface water resource or wetland to perform fueling, maintenance, and storage of construction vehicles and equipment. Inspect vehicles and equipment daily prior to leaving the storage area to ensure that no petroleum or oil products are leaking.

Upon completion of construction activities, restore all disturbed areas as necessary to allow habitat functions to return. Create and manage public access developments to enhance recreational experience and educational awareness to minimize effects to habitat within wetland and shallow water areas and to the long-term health of related biological communities.

Incorporate containment levees for fill cells for projects using marsh creation or other barrier island restoration. Remove these containment levees after construction to allow for the restoration of natural tidal exchange.

Use silt fencing where appropriate to reduce increased turbidity and siltation in the project vicinity. This would apply to both on land and in water work.

Continue oyster and clam shell recycling programs to provide natural material for creating additional oyster reefs.

Make all efforts to reduce the peak sound level and exposure levels of fish to reduce the potential impact of sound on fish present in the project areas.

Use a vibratory hammer whenever possible to reduce peak sound pressure levels in the aquatic environment.

Use sound attenuation devices where practicable for pulse noise (impact hammers) to reduce peak sound pressure levels in the aquatic environment.

Stipulate the timing of activities to avoid impacts to spawning fish and eggs/larvae.

Use best practices to reduce turbidity, such as turbidity blankets, to reduce the potential impact of turbidity on finfish.

## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or in Vero Beach (1-772-562-3909) for south Florida, and emailed to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com).
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [http://www.myfwc.com/WILDLIFEHABITATS/manatee\\_sign\\_vendors.htm](http://www.myfwc.com/WILDLIFEHABITATS/manatee_sign_vendors.htm). Questions concerning these signs can be forwarded to the email address listed above.

# CAUTION: MANATEE HABITAT

All project vessels

**IDLE SPEED / NO WAKE**

When a manatee is within 50 feet of work  
all in-water activities must

**SHUT DOWN**

Report any collision with or injury to a manatee:



**Wildlife Alert:**

**1-888-404-FWCC(3922)**

cell \*FWC or #FWC

## Elmer's Island Beach Shuttle Service Best Management Practices

**Controlled Operations/Path.** Controlled driving could be allowed only in the area above the water's edge or on or adjacent to the wet sand. Under this BMP, driving would be strictly prohibited near or on the dune habitat. This policy would minimize impacts to foraging, loafing, and nesting birds and other wildlife that use these areas. This policy also would protect dune vegetation and minimize impacts (e.g., increased erosion, reduce dune stability).

Studies have shown that vehicle access has minimal impacts on species that occupy the intertidal zone (Leatherman and Godfrey 1979; Godfrey et al. 1980). Samples taken inside, and outside vehicle tracks showed that crab and clam species were not damaged and could be protected by burrows as shallow as 5 cm (Walcott and Walcott 1984). Another study found no significant differences between damage to intertidal macrofaunal species at low-intensity use (5 passes) versus high-intensity use (50 passes) and concluded that the intertidal animals appeared to be safe from damage by vehicles, even at high intensity, provided they were buried and the sand was reasonably compact (van der Merwe and van der Merwe 1991). The New Zealand Department of Conservation (1999) recommended that impacts to intertidal fauna could generally be avoided by driving on wet, compacted sand, seaward of the drift/wrack line during daylight hours (Stephenson 1999).

Through the monitoring and adaptive management of this project, shuttles would be outfitted with GPS units, so that tracks can be plotted along with stop (drop-off/pick-up) locations to better illustrate the shuttle service footprint and relative areas of utilization. This information would be included as part of the monitoring reports. Likewise, shuttle operators would be advised to minimize impacts by driving only on the wet sand and avoiding the wrack line when possible. Adherence to these BMPs would be a requirement for any contractor operating the shuttle service, and the contract award/revocation would be contingent on these conditions.

Depending on the time of the year and the corresponding need for the service, the number of shuttles operating at any one time will vary, but no more than four vehicles would be used at any one time. When multiple shuttles are in service, efforts would be made to operate in caravans to minimize the frequency of shuttle service impacts to birds and other wildlife present.

In addition, LDWF reserves the right to suspend the shuttle service at any time for any reason, including unfavorable driving conditions. For example, LDWF can temporarily suspend shuttle operations during a high-water event, where the water is pushed against dune habitat. In this scenario, the shuttles would have to drive on the dunes, which is not allowed, due to high water. In this instance, the shuttle service would be suspended until appropriate driving conditions return. In addition, shuttle service could be suspended or altered due to other conditions as deemed appropriate by LDWF (e.g., minimizing impacts to wildlife, etc.).

**Shuttle Vehicle Requirements.** The shuttle service could only be allowed to use multi-passenger UTV/ATV style vehicles or four-wheel drive vehicles customized for carrying multiple passengers in an effort to reduce the number of shuttles and trips. One trailer per vehicle would be attached for carrying additional gear. Operational protocols would reflect the following BMPs and other pertinent guidelines



set forth during the planning stage and over time through adaptive management. Additional restrictions on vehicles could include the following:

- Weight limitations
- Tire restrictions/requirements – Reducing tire pressure and using four-wheel drive reduces ruts on the sand, minimizing damage to intertidal species and to the beach
- Limited operating hours – Elmer’s Island is open during daytime hours (closed at night); operating vehicles strictly during the day would reduce impacts to the nocturnal wildlife that use the beach
- Speed limits – Driving slowly would allow the operator/driver to notice any animals within the vehicles line of travel

**Contractual Requirements.** The shuttle service would be contracted to an independent third party, subject to the standard terms and conditions of Louisiana state contracts. Maintaining the contract would depend upon complying with all terms and conditions. LDWF would be responsible for monitoring the terms of the contract, adhering to all policies and restrictions. State contracts can span from 1 to 3 years (maximum); thus, every iterative contract would evaluate the successful implementation of the shuttle service and would be adaptively managed to provide the best recreational access opportunities while minimizing negative impacts to the environment and natural resources that occur on Elmer’s Island.

**State Oversight.** Per the management plan and the BMPs, LDWF would continually monitor Elmer’s Island Refuge for nesting birds, sea turtle nests, and other protected resources. LDWF would inform the shuttle operators of any issues, so that they can adhere to the LDWF management plan and all state and federal laws. The LDWF enforcement division has agents monitoring Elmer’s Island Refuge, who have the ability to enforce state and federal laws if needed.

**Beach Raking.** Beach raking (i.e., the removal of drift/wrack) is prohibited without permission from LDWF, as such activity would destroy habitat and could adversely impact the beach profile through mechanical disturbance. This restriction helps prevent loss of foraging habitat for birds and loss of cover habitat for smaller animals such as invertebrates.

**Emergency Management.** The shuttle service would not be responsible for public safety measures at Elmer’s Island. Visitors to Elmer’s Island would be responsible for their own health and safety. Emergency services can be obtained through 911 phone calls. Likewise, the shuttle service may be halted due to unsafe environmental conditions (localized weather systems with lightning) or other emergency closures.

**Personnel Training.** All shuttle operators and employees would be trained in the BMPs as a condition of the contract. LDWF would continue to follow the Elmer’s Island management plan to protect nesting shorebirds. Sea turtle nesting has not been documented on Elmer’s Island; some false crawls have been observed by LDWF biologists. All shuttle operators and employees would be required to meet with wildlife personnel to learn what sea turtle tracks/crawls look like and would be required to call the Louisiana sea turtle strandings coordinator if a sighting occurred. BMPs would be initiated if a turtle is

sighted (e.g., all vehicles must stop until nesting is completed and the turtle has returned to water). Contractors would be required to alert LDWF to any marine mammal or sea turtle stranding.

**Signage.** Signage could be posted to inform the public of environmental issues and include phone numbers to call to report any issues. There also could be signage stating where the public could report disturbance to nesting birds or sea turtles.

**Litter Abatement.** This plan provides funding for litter abatement, scheduled weekly during the summer seasons.