



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Deepwater Horizon Gulf Restoration Office  
341 Greeno Road North, Suite A  
Fairhope, Alabama 36532

In Reply Refer To:  
FWS/RW/DH NRDAR

Memorandum

August 29, 2019

To: Manatee Recovery Coordinator, North Florida Ecological Services Field Office

From: Assistant Gulf Restoration Manager, Deepwater Horizon Gulf Restoration Office

Subject: Notification of Compliance with Marine Mammal Protection Act

## Overview

The Louisiana Trustee Implementation Group (LA TIG) evaluated twenty-three projects to restore natural resources injured as a result of the *Deepwater Horizon (DWH)* oil spill. Twenty-one of the twenty-three projects occur in areas where manatees could be present. Seven of the twenty-three projects have no in-water work. Sixteen of these projects will involve in-water work in areas where West Indian manatee could be present and, as such, consultations under Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.), were initiated (Table 1). The Department of the Interior (DOI) determined that ten of the projects will have no effect on the West Indian manatee due to the lack of suitable habitat in the project area or the inability of manatees to access the project area. We determined that eleven projects may affect, but would not likely adversely affect the West Indian manatee. The Lafayette Ecological Services Field Office concurred with these determinations on July 20, 2018. A brief summary of the projects and ESA consultation, as related to the West Indian manatee, is provided below in Table 1. This memo serves as notification of compliance with the Marine Mammal Protection Act (MMPA).

## Background

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

The Final PDARP/PEIS established Trustee Implementation Groups (TIGs) that develop plans

for, choose, and implement specific restoration actions under the Final PDARP/PEIS. The Louisiana Trustee Implementation Group (TIG) includes five Louisiana state trustee agencies and four federal trustee agencies: the Louisiana Coastal Protection and Restoration Authority (CPRA); the Louisiana Department of Natural Resources (LDNR); the Louisiana Department of Environmental Quality (LDEQ); the Louisiana Oil Spill Coordinator's Office (LOSCO); the Louisiana Department of Wildlife and Fisheries (LDWF); the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); the United States Department of the Interior (USDO I), represented by the United States Fish and Wildlife Service (USFWS) and National Park Service (NPS); the United States Department of Agriculture (USDA); and the United States Environmental Protection Agency (EPA).

The LA TIG has evaluated these projects as potential restoration projects under the draft Louisiana Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #4: Nutrient Reduction (Nonpoint Source) and Recreational Use, which was released for public review and comment on April 20, 2018. The final plan was released in July 2018. The LA TIG partners will implement the projects.

#### Marine Mammal Protection Act (MMPA) Project Compliance Information

Sixteen projects in the LA RP/EA include in-water work in areas where West Indian manatee could be present and as such, consultation under Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), was initiated. Table 1 includes a general description of in-water work and conservation measures for each project.

Because take of manatees, incidental or otherwise, is not presently authorized under the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*), each consultation where manatees could be affected includes conservation measures to ensure potential effects to manatees are avoided or minimized to an insignificant and discountable level. This consultation considered the likelihood of manatee presence and the potential adverse effects of the projects to the manatee. While manatees are not likely to be present at the site locations, they could be transiting the project areas. Therefore, conservation measures for manatee were incorporated into the consultation because in-water work would occur where manatees could be present. In general, where in-water work will occur and manatees could be present, the Trustees will implement the Service's "Standard Manatee Conditions for In-Water Work" dated 2011 or other conservation measures specific to the project (Table 1). The Trustees will also implement NOAA's "Sea Turtle and Small-tooth Sawfish Construction Conditions" dated 2006 for two projects, as described in Table 1.

#### Conclusion

DOI anticipates eleven of the twenty-one projects may affect, but would not likely adversely affect the West Indian manatee, and ten of the twenty-one projects would have no effect on the West Indian manatee. A brief summary of the projects and ESA consultation, as related to the West Indian manatee, is provided in Table 1 below.

DOI believes the procedures contained within these consultations constitute appropriate and responsible steps to promote compliance with MMPA prohibitions on take by requiring the activities to achieve a standard of No Effect or May Affect, Not Likely to Adversely Affect for

manatees. As such, we do not anticipate any take, incidental or otherwise, under the ESA or MMPA for West Indian manatee as a result of the implementation of these projects.

In addition, the National Marine Fisheries Service (NMFS) also coordinated with the Trustees under MMPA in order to protect other species of marine mammals that could be present in project areas. NMFS may require additional avoidance measures to protect dolphins or other marine mammals at the project sites. While we have not attempted to catalogue avoidance and minimization measures from NMFS, we believe any additional measures they require will further avoid impacts to manatees should they be present at these project areas.

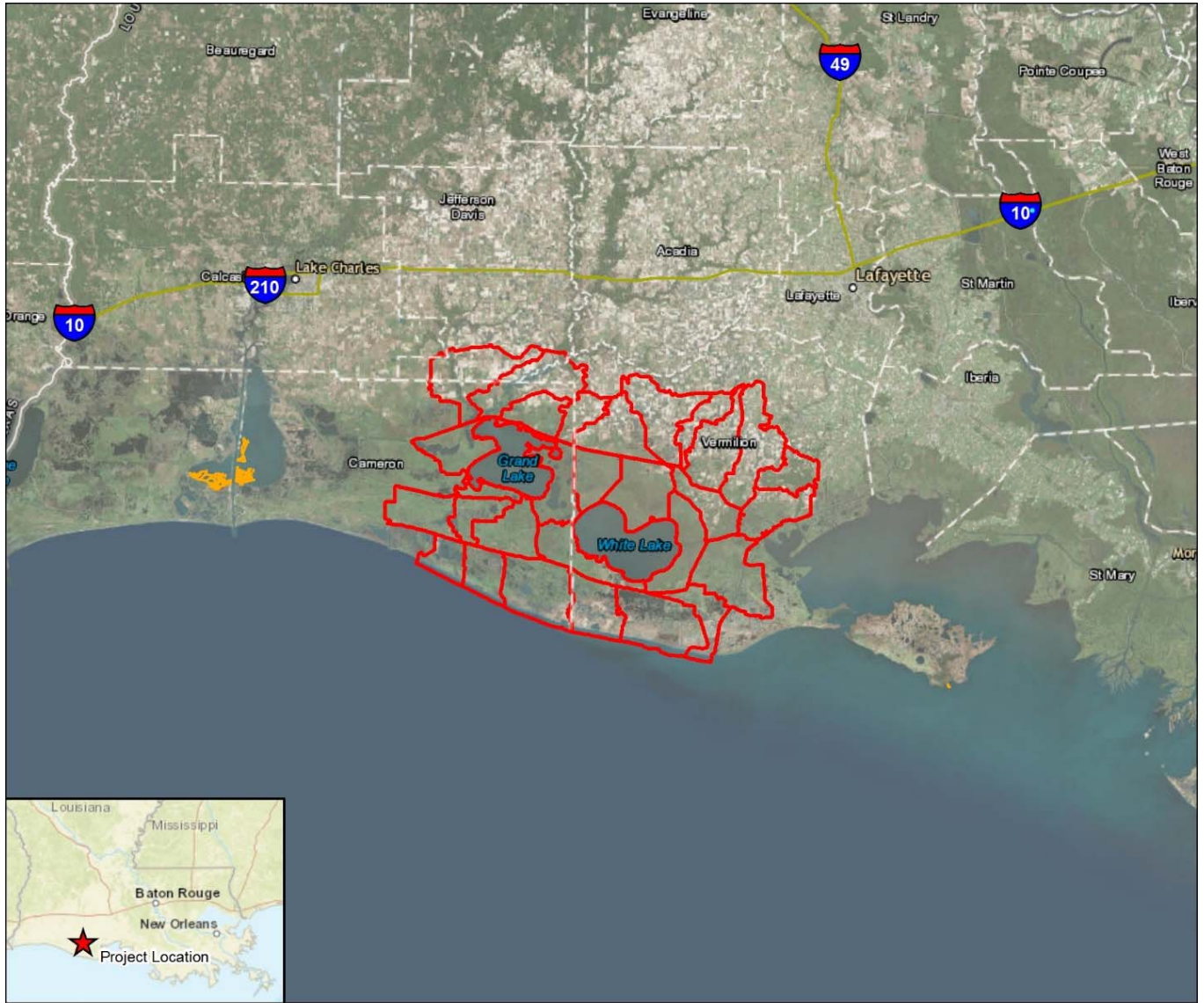
If modifications are made to any of these projects in a manner that may affect the manatee or its habitat; if additional information involving potential effects to the manatee or other listed species not previously considered becomes available; or if in the unlikely event that the take of a manatee occurs during the project, consultation will be reinitiated.

If you have any questions or concerns regarding this response, please immediately contact Erin Chandler, Fish and Wildlife Biologist, at 404-309-5713, or [erin\\_chandler@fws.gov](mailto:erin_chandler@fws.gov).

Attachments (24)

- Maps of project locations (Figures 1 - 23)
- Summary of Project Information and ESA Determinations (Table 1)

Figure 1. Nutrient Reduction - Winter Water Holdings on Cropland proposed project area in Vermillion and Cameron Parishes, LA.



Path: S:\Project\48078 - CPSA\MAPS\REPORT MAPS\Biotic\Map\Biotic Winter Water Holding Vermillon Biotic.mxd





<p><b>WINTER WATER HOLDING ON CROPLAND IN VERMILION AND CAMERON PARISHES PLUS AG BMPS BIOTIC MAP</b></p>	<p> Proposed Alternative</p> <p> Oysters</p>	<p><b>1:1,500,000</b></p> <p>Created By: JS Project Number: 48078 Date: 4/23/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>  
--	--	--

Figure 2. Pass-A-Loutre WMA Crevasse Access proposed project area in Plaquemines Parish, LA.



Figure 3. Rockefeller Piers and Rockefeller Signage proposed project area in Cameron Parish, LA.

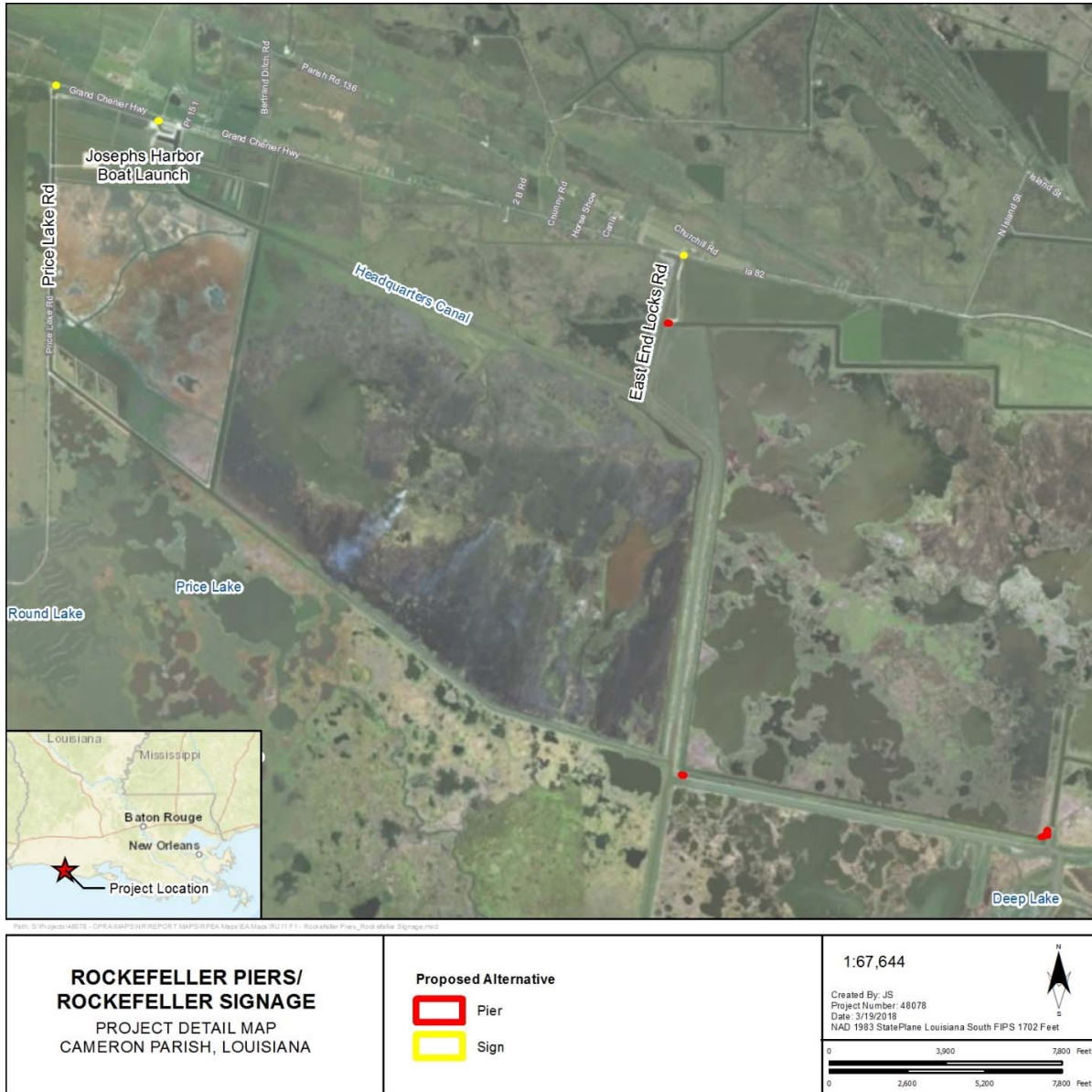


Figure 4. Wharf Phase I proposed project area in Jefferson Parish, LA.



Figure 5. The Wetlands Center proposed project area in Jefferson Parish, LA.

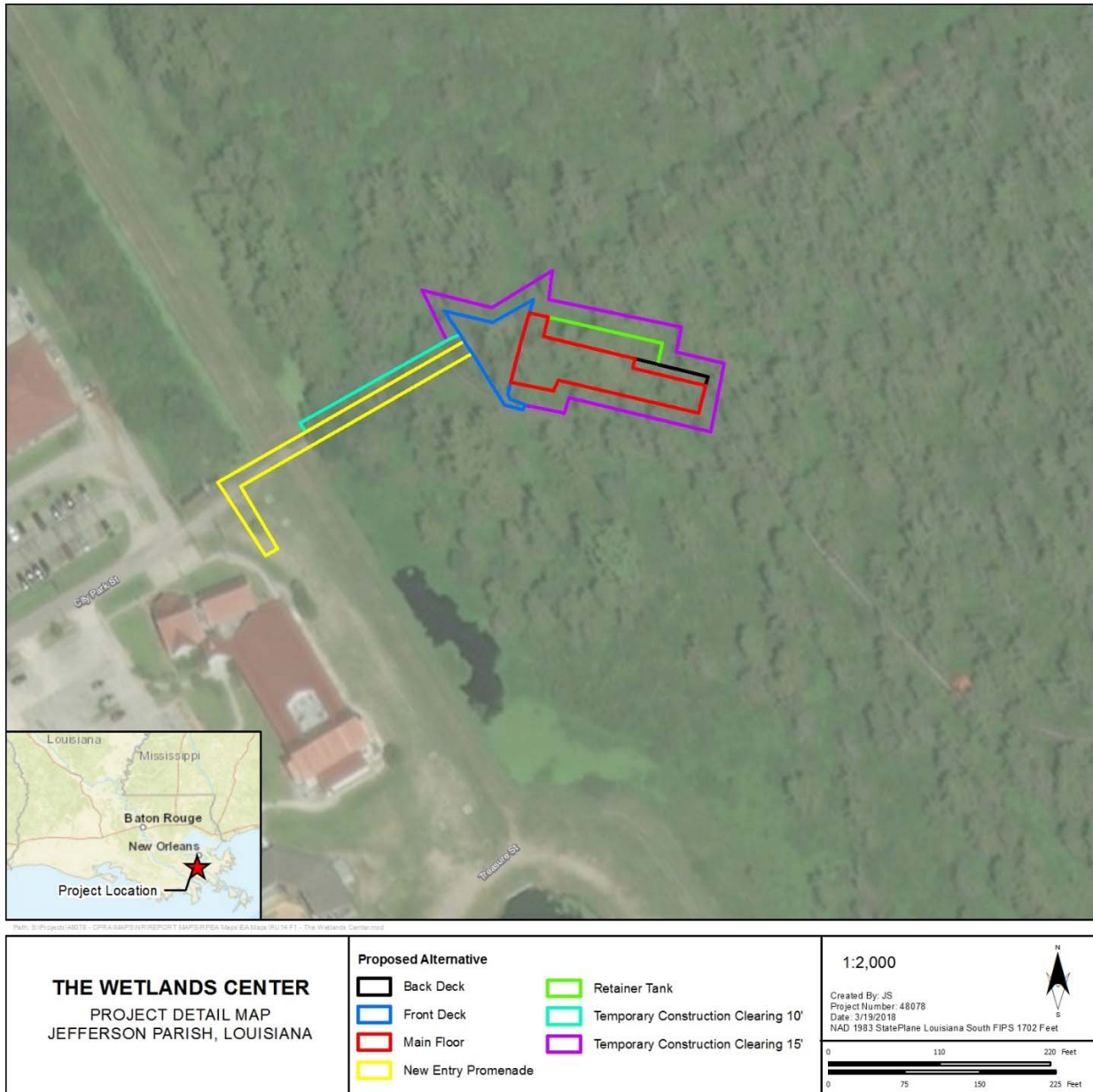




Figure 6. St. Bernard State Park proposed project action area in St. Bernard Parish, LA.



Figure 7. Sam Houston Jones State Park proposed project action area in Calcasieu Parish, LA.

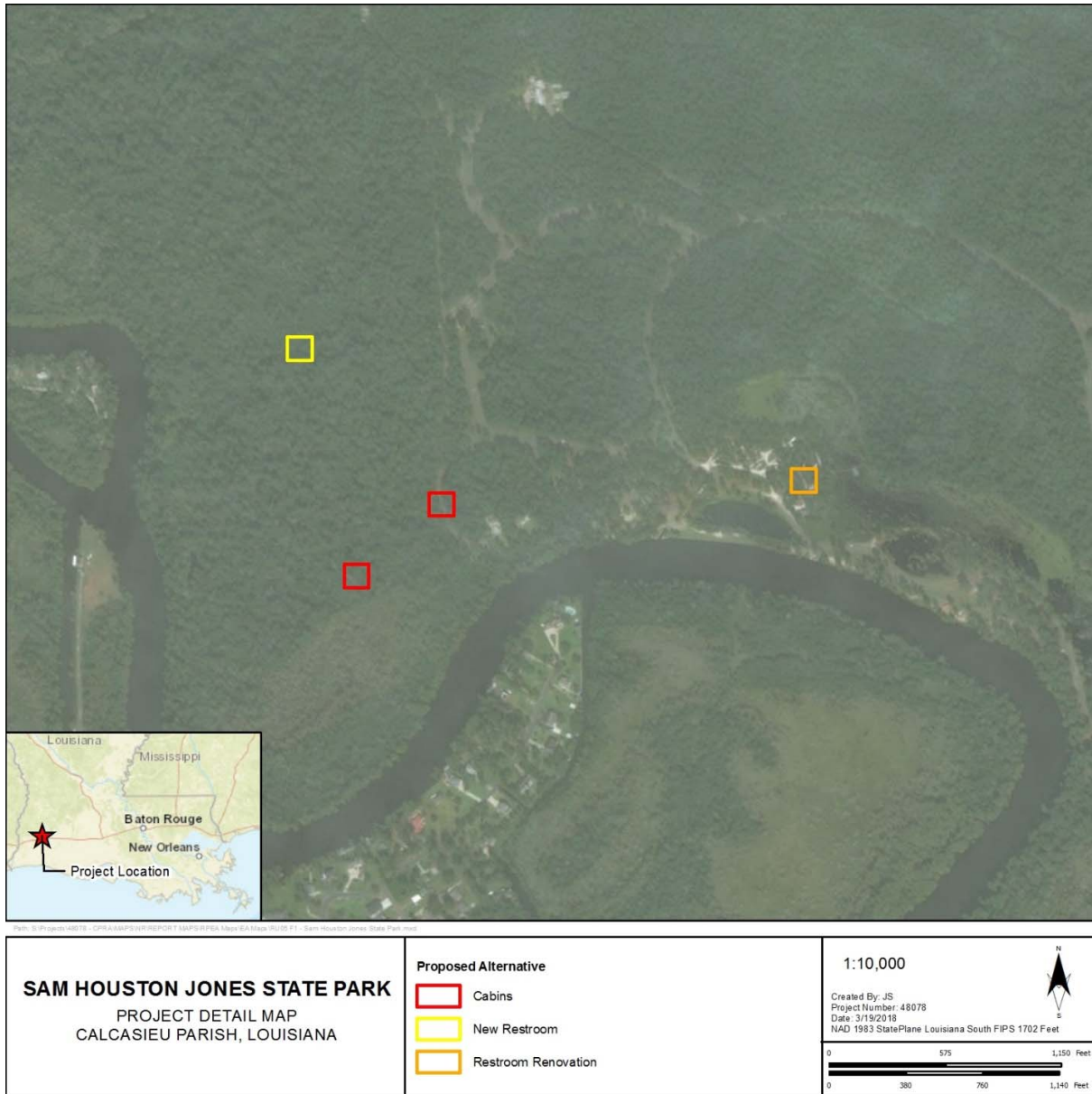


Figure 8. Pass-a-Loutre WMA Campgrounds proposed project action area in Plaquemines Parish, LA.




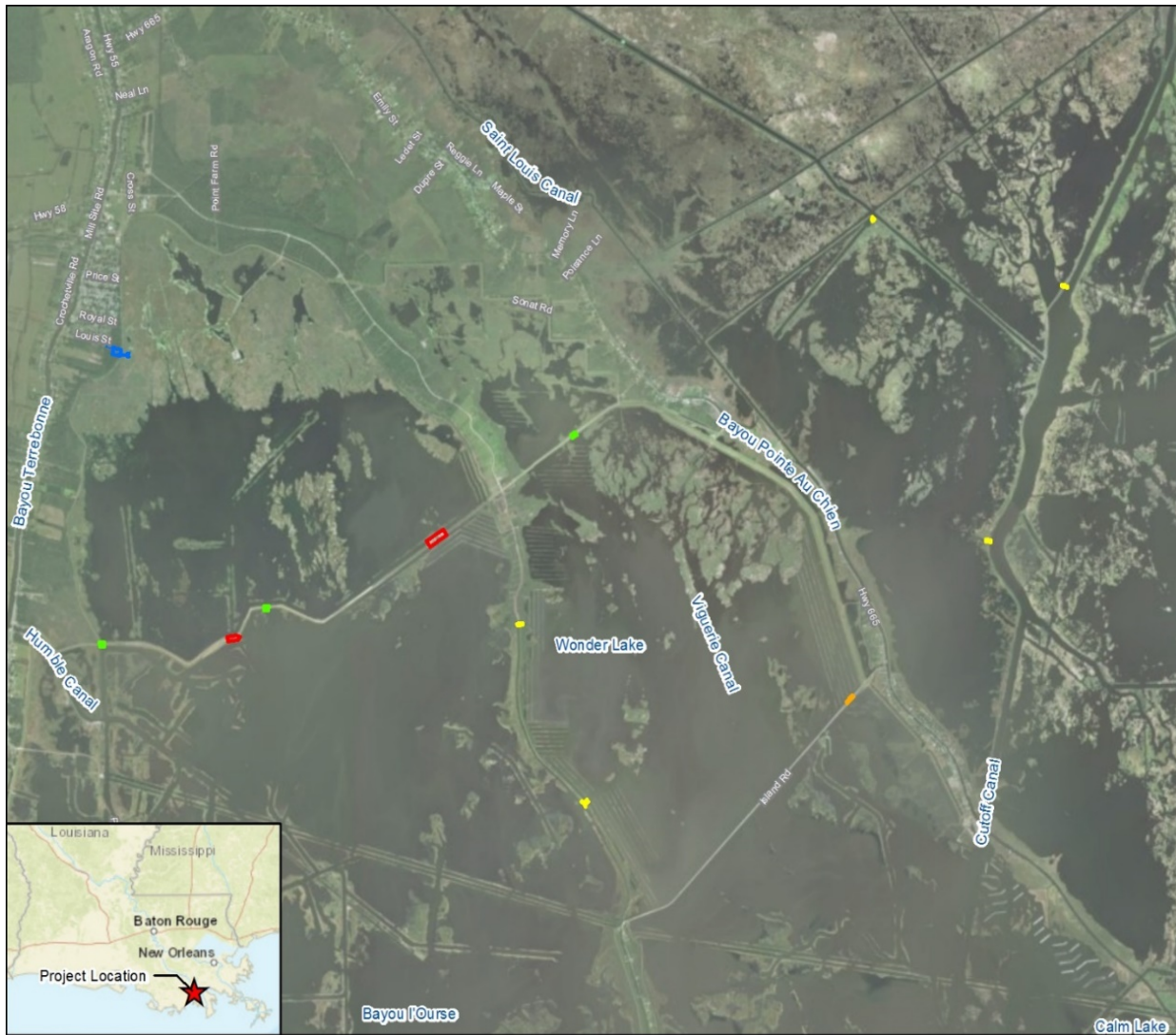
<p><b>PAL WMA CAMPGROUNDS</b> PROJECT DETAIL MAP PLAQUEMINES PARISH, LOUISIANA</p>	<p> Proposed Alternative</p>	<p>1:72,000</p> <p>Created By: JS Project Number: 48078 Date: 3/19/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p> <p>0 4,300 8,200 Feet 0 2,750 5,500 8,250 Feet</p>
--	---	---

Figure 9. Montegut S1/S2 Access/PAC Fishing Piers proposed project action area in Terrebonne Parish, LA.



<p><b>POINTE-AUX-CHENES RECREATIONAL USE ENHANCEMENT</b></p> <p>PROJECT DETAIL MAP TERREBONNE PARISH, LOUISIANA</p>	<p><b>Proposed Alternative</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px solid red; margin-right: 5px;"></span> Access Improvement</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px solid green; margin-right: 5px;"></span> Pirogue Pullover</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px solid yellow; margin-right: 5px;"></span> Fishing Pier</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px solid orange; margin-right: 5px;"></span> Island Road Boat Launch</li> <li><span style="display: inline-block; width: 15px; height: 15px; border: 2px solid blue; margin-right: 5px;"></span> Pirogue Launch</li> </ul>	<p>1:85,000</p> <p>Created By: JS Project Number: 48078 Date: 3/19/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>	
	<p>0 4,900 9,800 Feet</p> <p>0 3,250 6,500 9,750 Feet</p>		

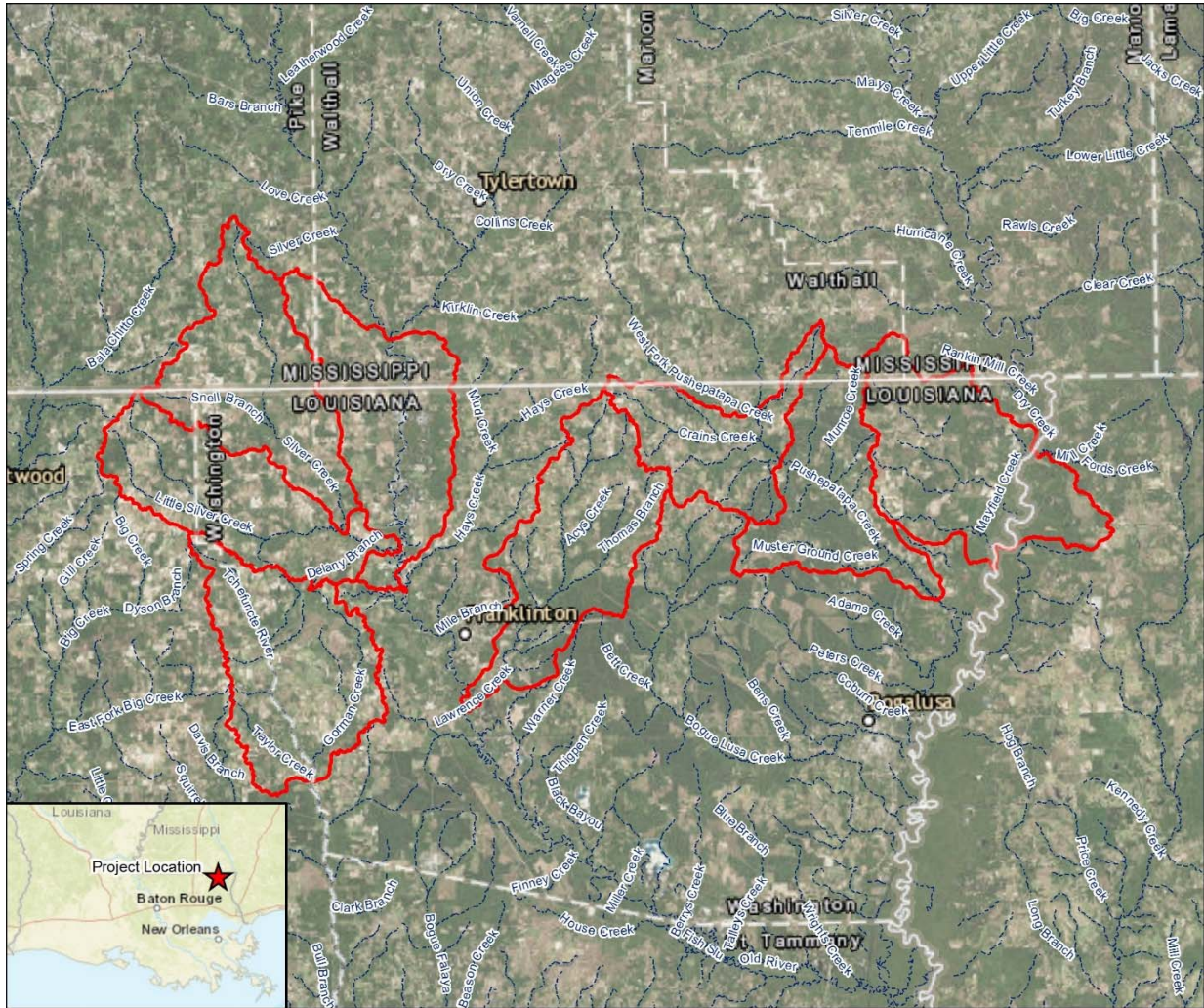
Figure 10. Nutrient Reduction on Cropland and Grazing Lands proposed project action area in Bayou Folse, LA.



Path: S:\Projects\48078 - CROPLAND AND GRAZING LANDS IN BAYOU FOLSE Map\Map\Map\Bayou Folse Project Detail.mxd

<p>NUTRIENT REDUCTION ON CROPLAND AND GRAZING LANDS IN BAYOU FOLSE PROJECT DETAIL MAP</p>	<p> HUC 12 Boundary - Proposed Alternative</p>	<p>1:500,000</p> <p>Created By: JS Project Number: 48078 Date: 4/5/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>  
---	---	--

Figure 11. Nutrient Reduction on Dairy Farms proposed project action area in Washington Parish, LA.



Map 2: Project Action Area, HUC 12 Boundary, and Proposed Alternative. MapScale: 1:500,000. Project Detail Map.


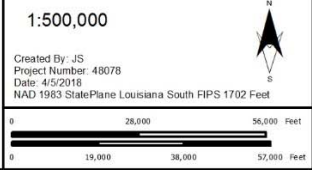
<p>NUTRIENT REDUCTION ON DAIRY FARMS IN WASHINGTON PARISH PROJECT DETAIL MAP</p>	<p> HUC 12 Boundary - Proposed Alternative</p>	<p>1:500,000</p> <p>Created By: JS Project Number: 48078 Date: 4/5/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>  <p>0 28,000 56,000 Feet 0 19,000 38,000 57,000 Feet</p>
--	---	--

Figure 12. Nutrient Reduction on Dairy Farms proposed project action area in St. Helena and Tangipahoa Parishes, LA.

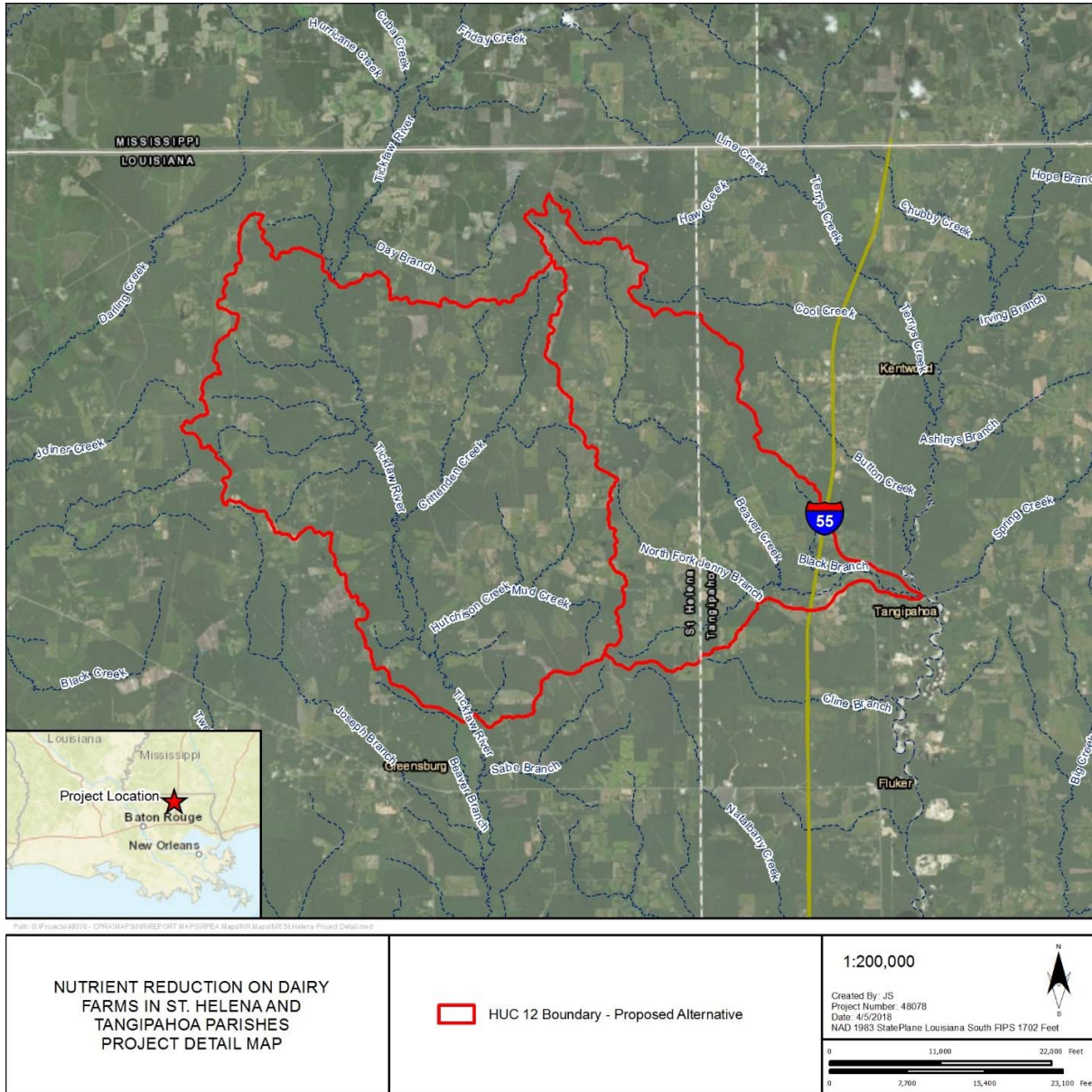


Figure 13. Middle Pearl proposed project action area in St. Tammany Parish, LA.

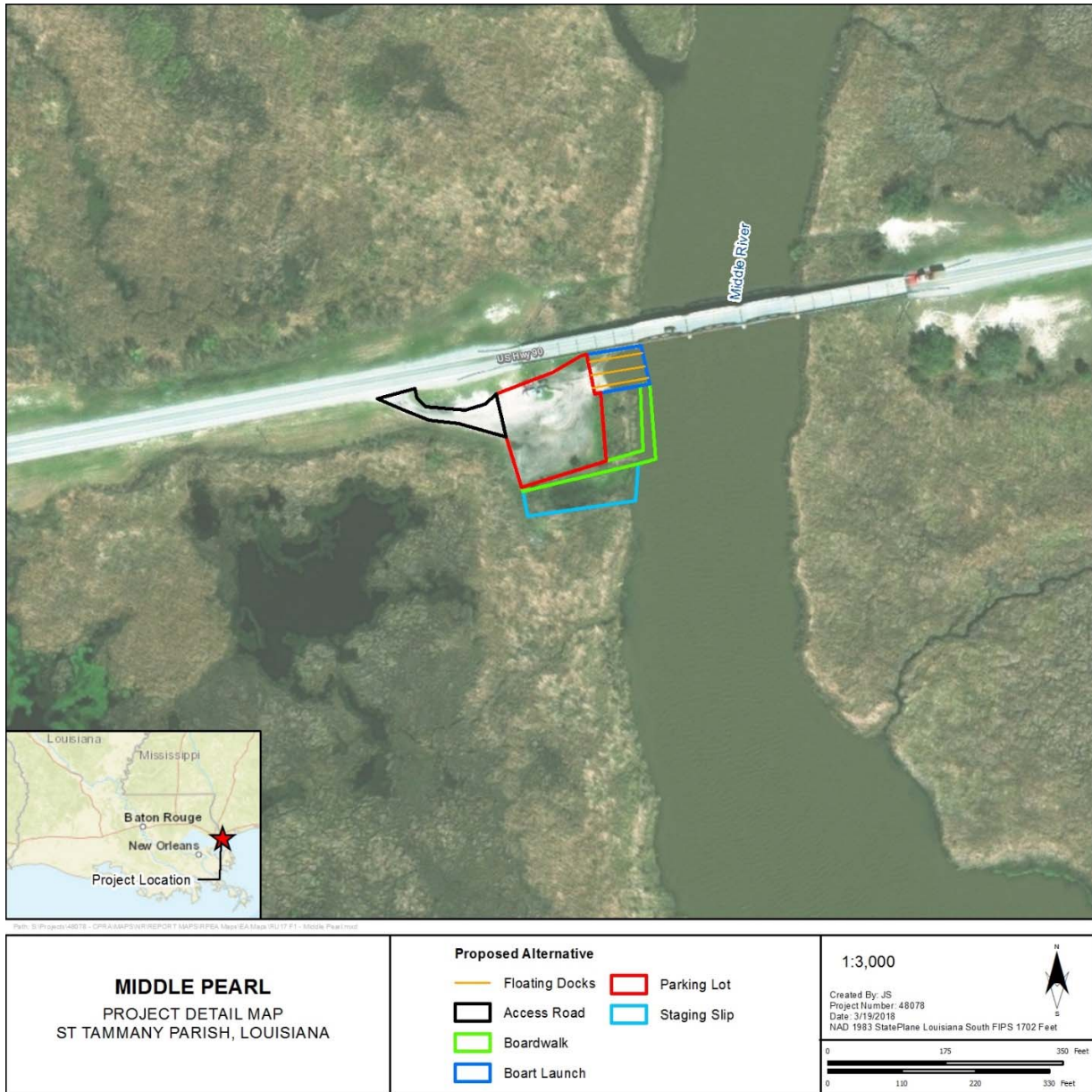
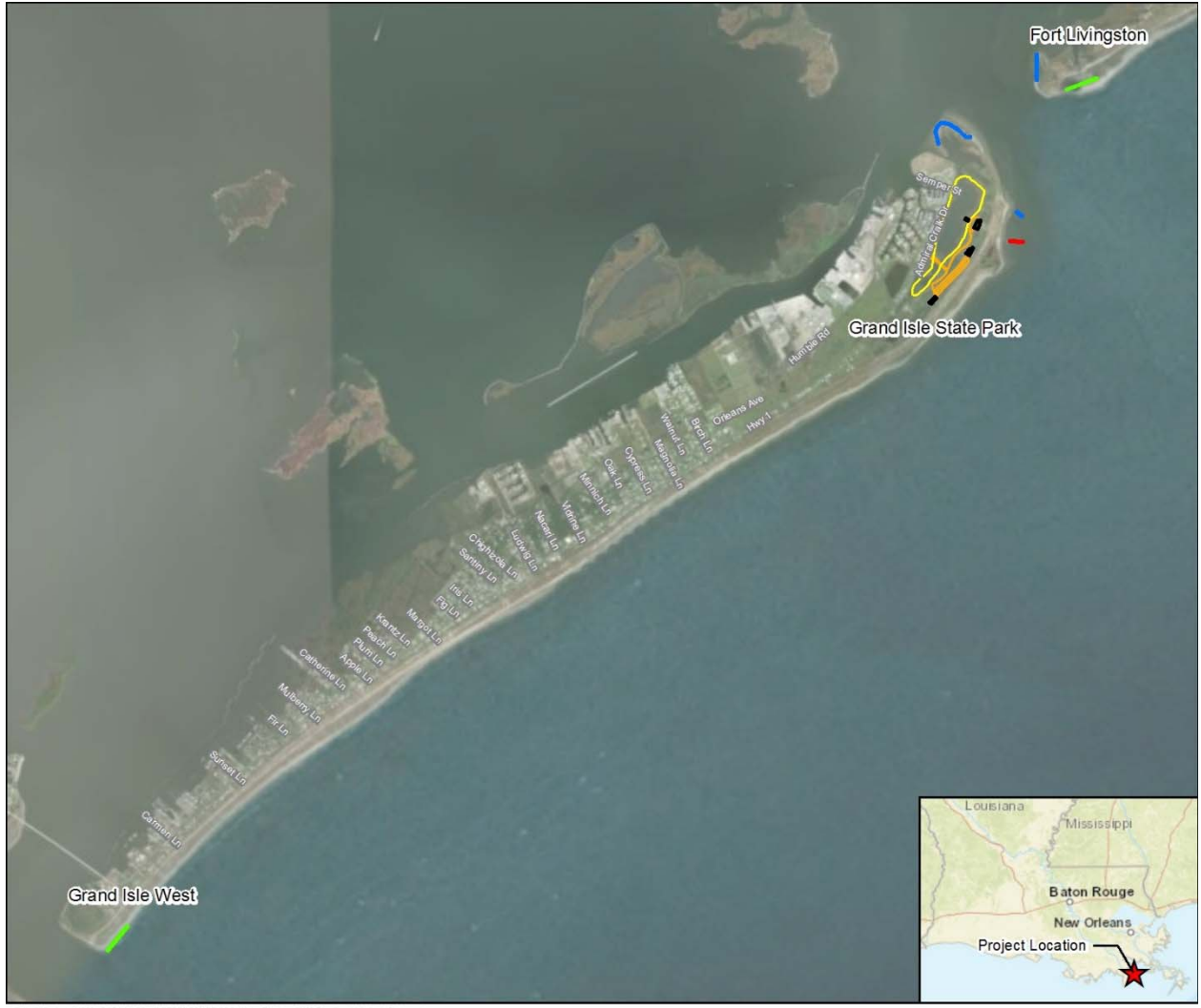




Figure 14. Grand Isle State Park proposed project action area in Jefferson Parish, LA.



Path: S:\Projects\48078 - CIPRA\GIS\REPORT\MAPSERIES\Map\EA\State\PLSD\F1 - Grand Isle State Park.mxd

<p><b>GRAND ISLE STATE PARK</b> PROJECT DETAIL MAP JEFFERSON PARISH, LOUISIANA</p>	<p><b>Proposed Alternative</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 20px; height: 2px; background-color: yellow; margin-right: 5px;"></span> Road</li> <li><span style="display: inline-block; width: 20px; height: 2px; background-color: yellow; border: 1px solid black; margin-right: 5px;"></span> Trail</li> <li><span style="display: inline-block; width: 20px; height: 2px; background-color: red; border: 1px solid black; margin-right: 5px;"></span> Fishing Pier</li> <li><span style="display: inline-block; width: 20px; height: 2px; background-color: green; border: 1px solid black; margin-right: 5px;"></span> Groin</li> <li><span style="display: inline-block; width: 20px; height: 15px; border: 2px solid blue; margin-right: 5px;"></span> Rock Jetty</li> <li><span style="display: inline-block; width: 20px; height: 15px; border: 2px solid black; margin-right: 5px;"></span> Parking Lot</li> </ul>	<p>1:70,000</p> <p>Created By: JS Project Number: 48078 Date: 3/19/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>
--	--	--

Figure 15. Improvements to Grand Avoille Boat Launch proposed project action area in St. Mary Parish, LA.



Figure 16. Des Allemands Boat Launch proposed project action area in St. Charles Parish, LA.

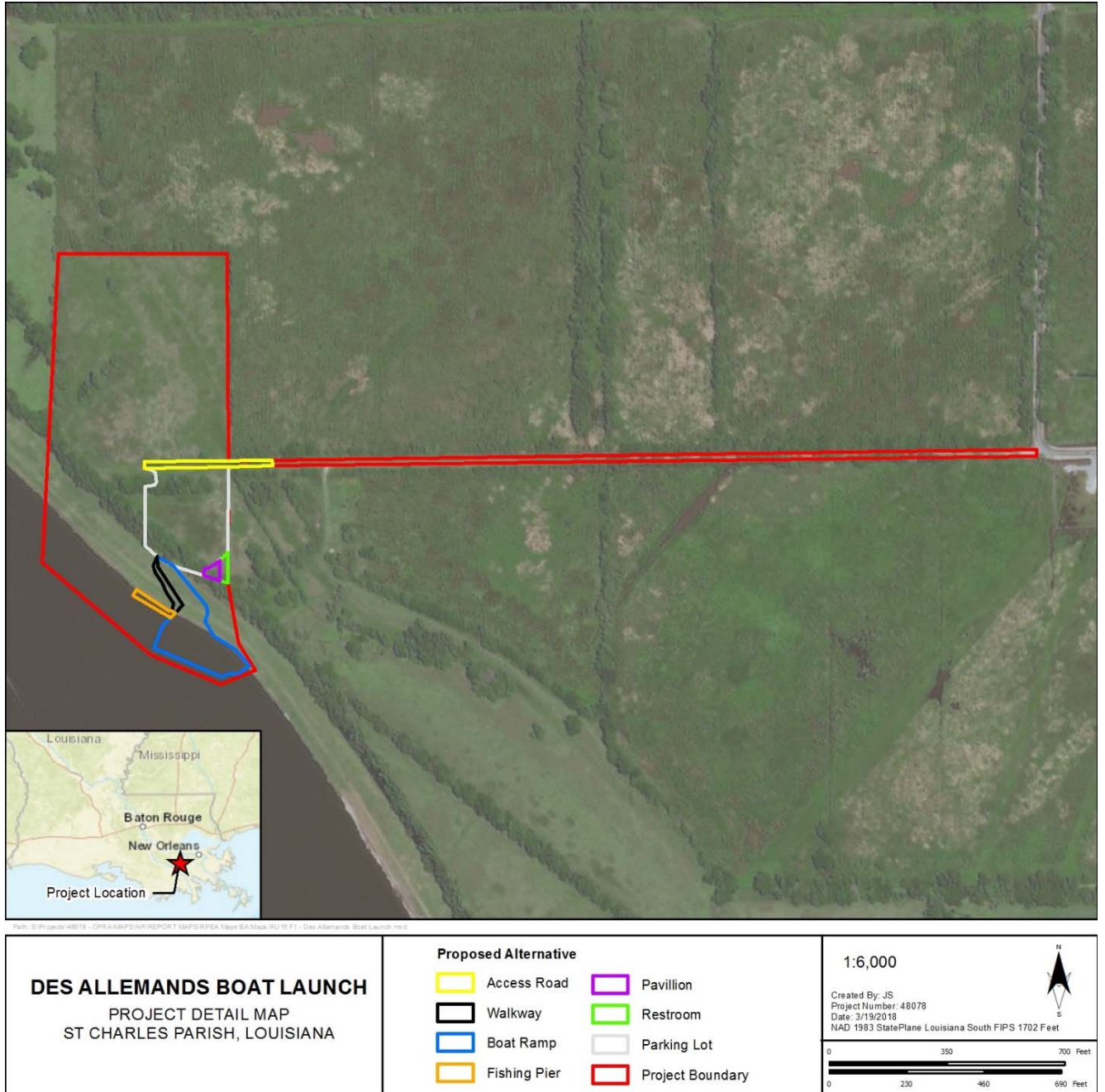


Figure 17. Cypremort Point State Park proposed project action area in St. Mary Parish, LA.

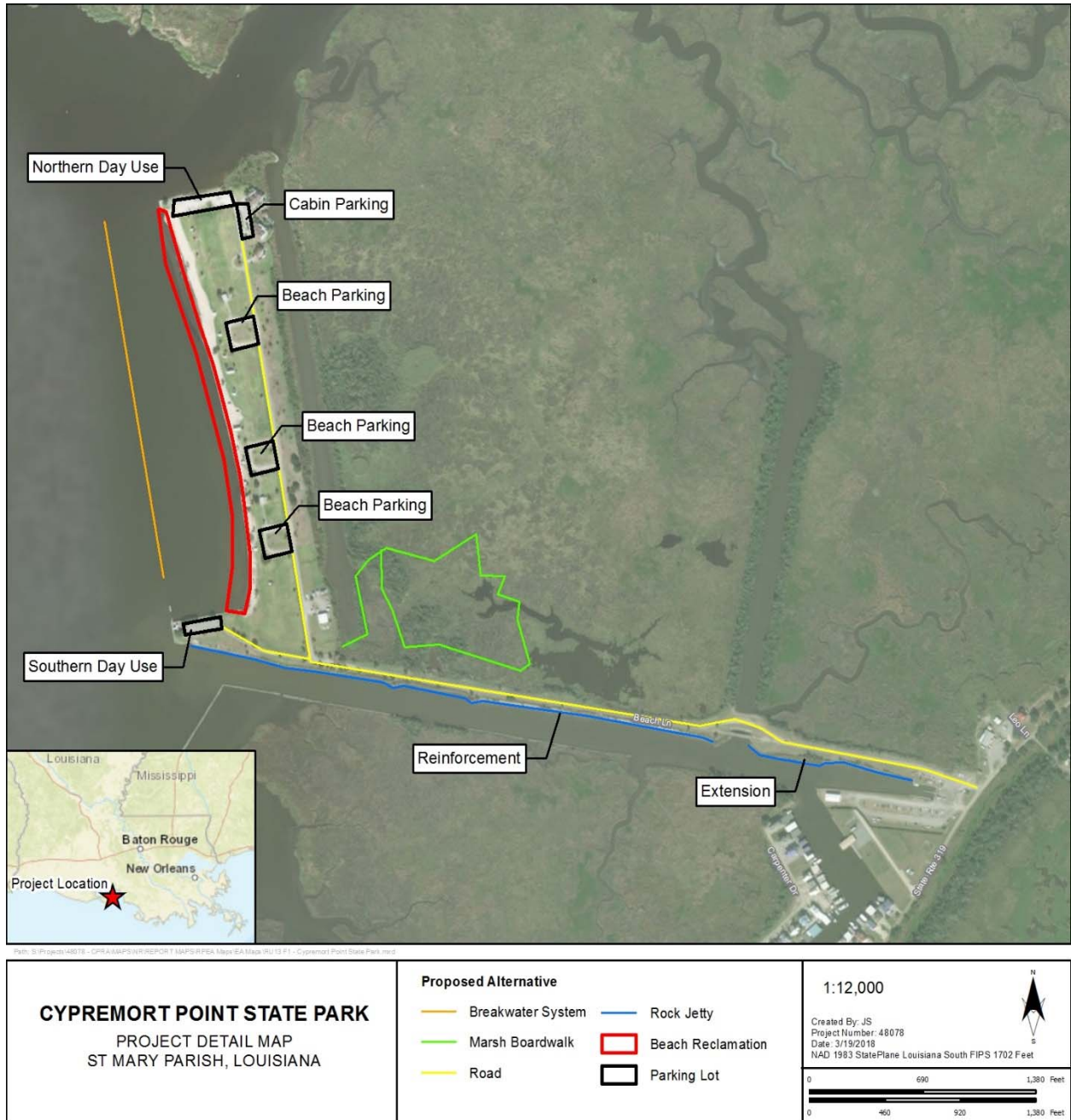


Figure 18. Chitimacha Tribe of Louisiana proposed project action area in St. Mary Parish, LA.

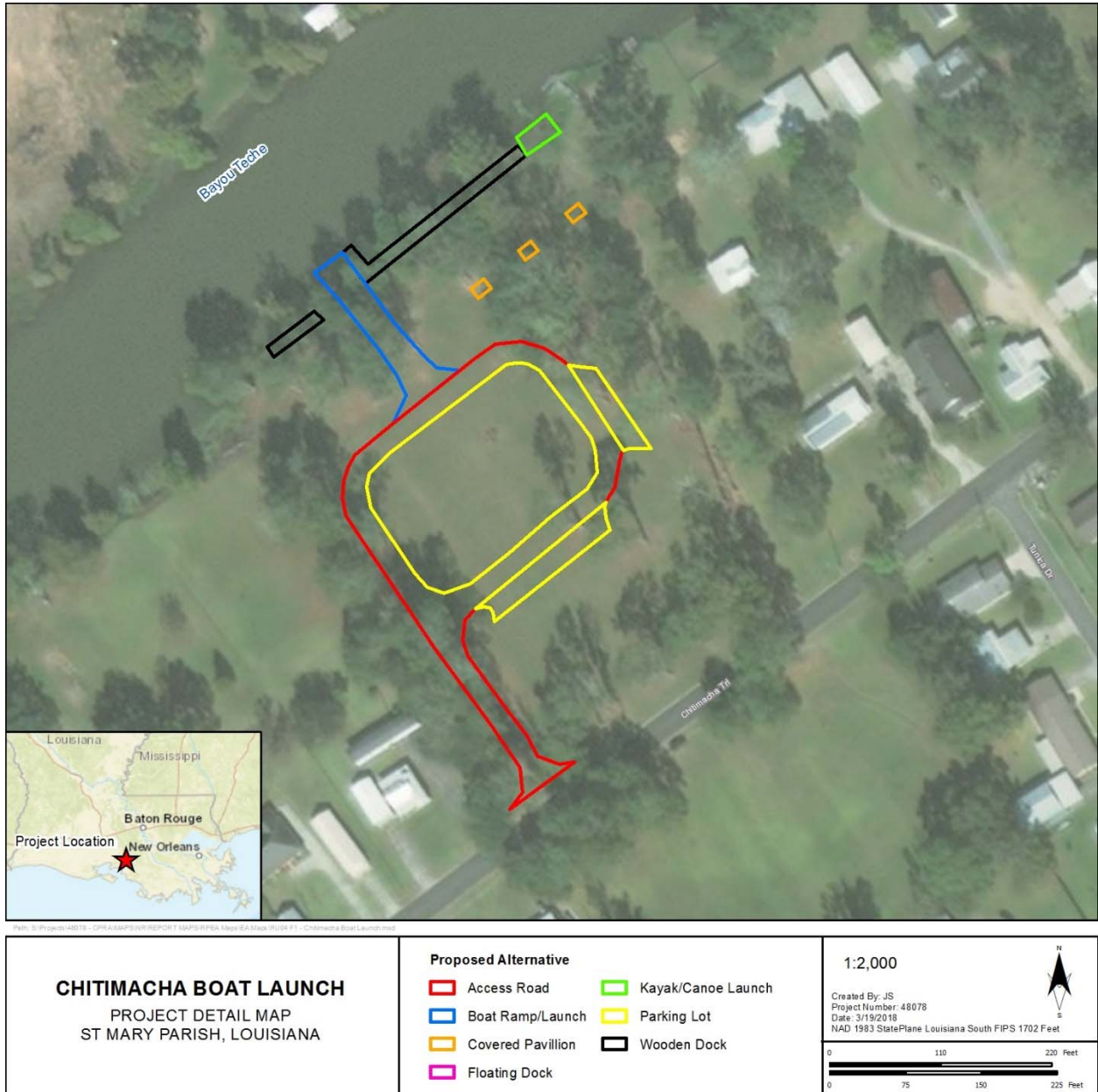


Figure 19. Belle Chasse proposed project action area in Plaquemines Parish, LA.



Figure 20. Bayou Segnette State Park proposed project action area in Jefferson Parish, LA.



Figure 21. Recreational Use Improvements at Barataria Preserve (Jean Lafitte) proposed project action area in Jefferson Parish, LA.





Figure 22. Atchafalaya Delta WMA Campgrounds proposed project action area in St. Mary Parish, LA.



Path: S:\Projects\48078 - CRR\GIS\PROJECT\REPORT\MAPS\FINAL Map\EA-15066-RU-10-F1 - AD WMA Campgrounds.mxd



<p><b>AD WMA CAMPGROUNDS</b> PROJECT DETAIL MAP ST MARY PARISH, LOUISIANA</p>	<p><b>Proposed Alternative</b></p> <ul style="list-style-type: none"> <li><span style="color: red;">—</span> Bulkhead</li> <li><span style="color: yellow;">—</span> Rock Jetty</li> </ul>	<p>1:6,000</p> <p>Created By: JS Project Number: 48078 Date: 3/19/2018 NAD 1983 StatePlane Louisiana South FIPS 1702 Feet</p>  
---	--	---

Figure 23. Atchafalaya Delta WMA Access proposed project action area in St. Mary Parish, LA.



Table 1. Summary of in-water work and conservation measures to protect the West Indian manatee for three projects included in the LA TIG RP/EA. Projects will not proceed with implementation until compliance with all relevant laws is achieved.

*NE* = No Effect; *NLAA* = May Affect, Not Likely to Adversely Affect; *S* = Standard Manatee Conditions for In-Water Work, dated 2011; *SS* = Sea Turtle and Small-tooth Sawfish Construction Conditions, dated 2006; *M* = NMFS Measures for Reducing Entrapment Risk to Protected Species; *V* = NMFS Vessel Strike Avoidance Measures and Reporting for Mariners (including searching area for marine mammals)

Proposed Project	In-Water Work	ESA Determination for Manatee	Conservation Measures for Manatee	Field Office Concurrence
NR -Winter Water Holdings on Cropland In Vermillion and Cameron Parishes plus Agricultural Best Management Practices	Upland project, no in-water work proposed.	NE	N/A	July 20, 2018
Pass-A-Loutre WMA Crevasse Access	Construction of 5 new crevasses via dredging to increase recreational access to WMA. Dredges will be barge mounted bucket-style or hydraulic dredges.	NLAA	S, SS, M	July 20, 2018
Rockefeller Piers and Rockefeller Signage	Construction of 560 feet of new fishing and observation piers. In-water work occurs in an area that is inaccessible to manatees due to water control structures.	NE	N/A	July 20, 2018
WHARF Phase 1	Construction of a boardwalk and four fishing piers along an existing freshwater canal. Includes driving timber pilings for the 1,200-foot-long boardwalk and four fishing piers.	NLAA	S	July 20, 2018
The Wetlands Center	Construction of an elevated boardwalk over a shallow wetland area. No suitable habitat for manatees occurs within project area.	NE	N/A	July 20, 2018
St. Bernard State Park	Upland project, no in-water work proposed.	NE	N/A	July 20, 2018

Sam Houston Jones State Park	Upland project, no in-water work proposed.	--	N/A	July 20, 2018
Pass-a-Loutre WMA Campgrounds	Installation of five boat docks, two bulkheads and dredging of shallow area to improve boater access to WMA. Includes driving piles from a floating vessel/barge mounted hammer system.	NLAA	S, SS, M, V	July 20, 2018
Montegut S1/S2 Access/PAC Fishing Piers	Construction of three new vehicle pullovers, 6 small wooden piers adjacent to pullovers, new boat launch, 3 fishing piers, and 20 new docks sited along existing water control structures. Includes driving of piles via barge-mounted impact hammer system.	NLAA	S, SS, M, V	July 20, 2018
NR on Cropland and Grazing Lands in Bayou Folsé	Upland project, no in-water work proposed.	NE	N/A	July 20, 2018
NR on Dairy Farms in Washington Parish	Upland project, no in-water work proposed.	--	N/A	July 20, 2018
NR on Dairy Farms in St. Helena and Tangipahoa Parishes	Upland project, no in-water work proposed.	NE	N/A	July 20, 2018
Middle Pearl	Construction of a boat launch ramp, floating docks, staging slip, and boardwalks. Includes driving timber piles using a hammer pile (vibratory hammers are not typically used on timber piles) with standard equipment (crane, boom, set of leads, pile hammer, helmet, pile gate, and pile monkey). Equipment may be staged either onshore or on a barge in the waterway.	NLAA	S, M, V	July 20, 2018
Grand Isle State Park	Extending existing fish pier and rock jetties. Includes driving of timber pilings for the fishing pier extension (approximately 6,400 square feet; 0.06 acre), as well as the laying of rocks/boulders for the rock jetties and rock groin extensions (approximately 201,500 square feet, including gaps	NLAA	S, SS, M, V	July 20, 2018

	between the groins; 4.63 acres), totaling approximately 205,900 square feet (4.72 acres) of overwater area.			
Improvements to Grand Avoille Boat Launch in St. Mary Parish	Construction of a boat ramp, boat launch ramp, and wooden docks. Includes driving of piles using a hammer pile system either from a floating barge or from shore. Includes removal of broken concrete and riprap from the water and minor grading for new ramp. In-water work occurs in a drainage area that does not contain suitable habitat for manatees.	NE	N/A	July 20, 2018
Des Allemands Boat Launch in St. Charles Parish	Construction of a boat ramp, boat launch, docks, and wooden fishing pier. Includes driving of piles using a hammer pile system either from a floating barge or from shore. Includes removal of broken concrete and riprap from the water and minor grading for new ramp. In-water work occurs in an area that does not contain suitable habitat for manatees.	NE	N/A	July 20, 2018
Cypremort Point State Park	Construction of a wooden boardwalk in a marsh area, repairs and upgrades to rock jetties and breakwaters, including extending the existing rock jetties. Includes transport and deposition of rock for jetty expansion. No dredging is anticipated, but project will include installation of timber piles by hammer pile system either from a floating barge or from the shoreline.	NLAA	S, SS, M, V	July 20, 2018
Chitimacha Tribe of Louisiana	Construction of a new boat ramp, paved parking lot, one square floating dock, and two wooden docks. Includes driving timber piles using an impact hammer pile staged from either a floating barge or from the shoreline.	NLAA	S	July 20, 2018
Belle Chasse	Enhancement/replacement of an existing boat ramp. Installation of a pre-cast concrete ramp to replace an existing boat launch.	NLAA	S	July 20, 2018

Bayou Segnette State Park	Upland project, no in-water work proposed.	NE	N/A	July 20, 2018
Recreational Use Improvements at Barataria Preserve in Jefferson Parish - Jean Lafitte National Historic Park and Preserve	Enhancement of an existing elevated boardwalk over a shallow wetland area. No suitable habitat for manatees occurs within project area.	NE	N/A	July 20, 2018
Atchafalaya Delta WMA Campgrounds	Installation of two jetties and a new bulkhead at WMA campgrounds. Will include dredging for bulkhead backfill and driving of bulkhead during installation.	NLAA	S, SS, M, V	July 20, 2018
Atchafalaya Delta WMA Access	Dredging of Breaux Pass and Cul-de-sac Pass to enhance recreational access to the interior marsh. A floating bucket dredge will be used to excavate and dredge materials, which will be placed along the banks of each pass.	NLAA	S, SS, M, V	July 20, 2018