



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Deepwater Horizon Gulf Restoration Office
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Fairhope, Alabama 36532



In Reply Refer To:
FWS/R4/DH NRDAR

Memorandum

June 2, 2020

To: Field Supervisor, Ecological Services Office, Lafayette, LA

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

Subject: Informal Consultation Request for Three Restoration Projects in Louisiana

Overview

Projects are currently being evaluated as potential restoration projects to restore natural resources in Louisiana that were injured as a result of the *Deepwater Horizon (DWH)* oil spill. We have reviewed four projects in accordance with Section 7 of the ESA. One of these projects, “Increasing capacity and expanding partnerships to fill gaps in capabilities and coverage along the Louisiana coastline for marine mammal stranding response” is covered by an existing biological opinion and therefore was not further evaluated for ESA. For the remaining three projects, we have made a May Affect, Not Likely to Adversely Affect determination. We are requesting concurrence on these determinations. A list and brief description of the projects is provided in Table 1 below. Species determinations are summarized in Table 2 below.

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), 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 three projects as potential restoration projects under the *Louisiana Trustee Implementation Group Final Restoration Plan and Environmental Assessment #6: Restore and Conserve Wetlands, Coastal, and Nearshore Habitats*, which was open to public comment through April 20, 2020. If the LA TIG selects the projects, NOAA would implement the projects. A brief description of each project is provided in Table 1 below.

These facts lead us to the conclusion that consultation under Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.S 1531 *et seq.*), is required for the proposed projects and we wish to engage in such consultation. We have reviewed each of the projects for potential impacts to listed, candidate, and proposed species, and designated and proposed critical habitats in accordance with Section 7 of the ESA. Potential effects, conservation measures, and justifications for our determinations are presented in the attached Biological Evaluation (BE) forms. Our determinations are summarized in Table 2 below.

Within the BE form, we have also reviewed the proposed projects for impacts to bald eagles in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and we determined take would be avoided.

This letter requests your concurrence with our determinations for these projects.

To facilitate your response, should you concur with our determination, we have attached a template response letter. If you have questions or concerns regarding this request, please contact Erin Chandler, Fish and Wildlife Biologist, at 470-361-3153 or erin_chandler@fws.gov.

Attachments (4)

- BE form including project maps (3)
- Template response letter

Table 1. Brief descriptions of three projects in LA TIG RP/EA #5.

Proposed Projects	Brief Description
<p>Brood Reef Oyster Restoration Project</p>	<p>The objective of the brood reef oyster restoration project is to construct a network of spawning stock oyster reefs to increase spawning oyster populations and offset impacts resulting from exposure to <i>Deepwater Horizon (DWH)</i> oil, dispersant, and response activities.</p> <p>The goal of this alternative is to develop a network of brood reefs that will serve as spawning stock to improve and maintain oyster production on Louisiana’s POSG and POSR. Reef material, when placed in oyster spawning areas, provides a substrate for free floating oyster larvae to attach and grow. Brood reefs are composed of both cultch material (e.g., limestone rock, oyster shell, or fossilized oyster shell) that is clean and free of contaminants, and non-harvestable vertical artificial reef material (e.g., reef balls, boulders) , which provide substrate to support dense populations of oysters.</p> <p>One planned component of the brood reef project would establish four reefs: two in the Lake Machais/Mozambique Point area and two in the Petit Pass/Bay Boudreaux area. Enhancing the existing oyster resources with structurally complex brood reefs would provide resiliency and benefit the local systems by providing a source of larvae for surrounding areas.</p> <p>In addition to the planned component described above, this alternative would include a programmatic component. Potential sites for additional brood reefs would be located in Chandeleur Sound and on any other state managed POSG or POSR in Louisiana.</p>
<p>Hatchery-based Oyster Restoration</p>	<p>The goal of this project is to support multiple hatchery-based and hatchery-reliant projects that would help to replenish Louisiana’s natural oyster populations lost due to the <i>DWH</i> oil spill response and related freshwater releases. The proposed project includes (1) providing supplemental funding to support 10 years of operations at an existing and currently operating hatchery; and (2) providing larvae and seed resources for POSG restoration and water-based oyster culture.</p> <p>The deployment of hatchery-produced oysters to areas with low oyster abundance is a technique described in the <i>DWH</i> PDARP/PEIS Strategic Framework (<i>DWH</i> NRDA Trustees, 2017a). Oyster larvae produced by the hatchery would be placed into tanks and induced to set on oyster shell or other cultch material. Oyster shell would be provided through a partnership with the Coalition to Restore Coastal Louisiana’s Oyster Shell Recycling Program. Shells collected from the recycling program are stored in Buras, Louisiana where they are dried for a minimum of six months before being transported to the hatchery for setting purposes. Once developed, live oyster spat would be transported for deployment onto POSG or POSR in need of rehabilitation. The</p>

	<p>hatchery estimates production of at least 500 million diploid oyster larvae per year, of which a minimum of 25 percent would be dedicated for use in oyster restoration activities within areas protected from harvest (i.e., brood and artificial reefs, or living shorelines). Deployment location and monitoring would vary based on oyster population needs and the amount and type of available spat, but placement would be on a POSG or POSR with suitable oyster habitat (i.e., existing shell substrate). Hatchery-raised oysters would potentially be deployed on approximately one acre of POSG/POSR per year, based on hatchery output and planting density. Deployments will be conducted using an LDWF vessel and personnel, with bags of product spread by hand while vessel slowly idles in a circle.</p> <p>Hatchery production would be monitored annually with a goal of producing 500 million diploid oyster larvae per year. Deposition of hatchery-produced oysters would be monitored to confirm that 25 percent of diploid oyster larvae produced annually are allocated to oyster restoration activities on areas protected from harvest. At select deployment sites, the number of spat deployed would be monitored to evaluate success of hatchery-raised oyster deployment. Production monitoring will be reported annually for 10 years following initial project execution.</p>
Cultch Plant Project	<p>This alternative would entail placing cultch at several Louisiana locations with relic reefs. Targeted sites include one on POSG in the Grand Banks area of Mississippi Sound, one on the Caillou Lake (also known locally as Sister Lake) POSR in Terrebonne Parish, and would programmatically plan for inclusion of additional cultch plants within the Biloxi Marsh Complex in St. Bernard Parish and also within the footprints of other POSGs or POSRs in the future. Where opportunities exist, cultch material will be placed as close to the shoreline as possible to promote restoration of shallow water fringing oyster reefs.</p> <p>Constructing cultch plants entails placing cultch material (e.g., limestone rock, oyster shell, or fossilized oyster shell) that is clean and free of contaminants. When placed in suitable oyster habitat, cultch provides a substrate for free floating oyster larvae to attach and grow, which in time results in mature productive oyster reef. The cultch plants would initially be closed to harvest for a minimum of two years. After year two, if performance criteria are met, the implementing Trustee would consider whether potential corrective actions are necessary or if the cultch plant may be open to harvest.</p>

Table 2. Summary of ESA determinations for three proposed projects in LA TIG RP/EA #5.
 (NE = No Effect, NLAA = May Affect, Not Likely to Adversely Affect)

ESA Species under USFWS jurisdiction	Status	Brood Reef Oyster Restoration Project	Hatchery-based Oyster Restoration	Cultch Plant Project
West Indian Manatee	Endangered	NLAA	NLAA	NLAA
Pallid sturgeon	Endangered	NE	--	NE
Piping plover	Threatened	NE	NLAA	NE
Red knot	Threatened	NE	--	NE
-- indicates the species or critical habitat does not occur in the project area				