



# 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/R4/DH NRDAR

Memorandum

August 16, 2021

To: Patricia Kelly, Panama City Ecological Services Field Office, Panama City, FL

From: Chief, Planning and Compliance Branch, Deepwater Horizon Gulf Restoration Office

Subject: Coastal Barrier Resources Act Consistency Determination Request for Implementation Juvenile Gulf Sturgeon – Gulf-wide Population Dynamics and Habitat Use

The Department of the Interior (DOI) Deepwater Horizon Gulf Restoration Office is working through various environmental compliance consultations on post-settlement proposed restoration alternatives. We are now working on the Coastal Barrier Resources Act consistency determination for the following project: Implementation Juvenile Gulf Sturgeon – Gulf-wide Population Dynamics and Habitat Use.

We used the Coastal Barrier Resources System mapper – Beta (<https://www.fws.gov/cbra/maps/mapper.html> [accessed August 16, 2021]) to determine if the proposed actions are located within an Otherwise Protected Area (OPA) or within a System Unit (CBRS). Please refer to Table 1 for a list of Unit Numbers and consistency determination.

We have incorporated the Inter-Agency Consultation Template and U.S. Fish and Wildlife Service Response Template below.

## Project Location

The actions or projects are located in coastal Florida and include activities that may partially occur within a Unit of the Coastal Barrier Resources System (CBRS). The project will take place in the following counties/parishes: in Florida, Dixie, Escambia, Franklin, Santa Rosa, and Walton; in Mississippi, Jackson; and in Louisiana, St. Tammany; and in the following river systems: Pearl, Pascagoula, Escambia, Yellow, Choctawhatchee, Apalachicola, and Suwannee.

## Description of the Proposed Action or Project

The proposed project is designed to restore natural resources injured by the Deepwater Horizon oil spill. No construction would occur as part of this proposed project. This Monitoring and Adaptive Management (MAM) activity will examine juvenile Gulf sturgeon (*Acipenser oxyrinchus desotoi*) habitat use and preference in estuaries in the northern Gulf of Mexico to: (1) better understand baseline status and conditions, (2) identify and prioritize habitats most in need

of restoration, and (3) provide a framework for monitoring the results of restoration in an adaptive management context. Data will be collected on habitat use as well as trends in juvenile recruitment, growth, survival, genetics, and kinship across the following river systems: Pearl, Pascagoula, Escambia, Yellow, Choctawhatchee, Apalachicola, and Suwannee. All captured fish will have PIT tag inserted and fin rays and DNA samples collected. Field sampling methods include traditional tagging approaches, surgically implanting VEMCO acoustic transmitters, and collecting fin rays. This activity will help determine effective strategies for estuarine restoration to benefit Gulf sturgeon and evaluating regional restoration outcomes. The scientific capture, handling, sampling of tissues for Gulf Sturgeon is addressed via Section 10(a)1(A) permits issued to contractors. Gulf sturgeon critical habitat will not be affected from these activities.

Applicable Exception(s) under 16 U.S.C. 3505(a)

***Specific Exceptions***

- 16 U.S.C. 3505(a)(6)(A): **Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats**, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

Justification for Exception(s)

The proposed action is potentially within System Units FL-70, FL-78, FL-81, FL-82, FL-83, P20, P24, P25, and P31. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves no construction and consists primarily of surveys and scientific research. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for “Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.” The purposes of CBRA are “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts...” 16 U.S.C. §3501(b). This project is designed to benefit natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption discussed above.

Contact Information

Please provide response via email to the following:

Michael Barron  
 Environmental Compliance Coordinator  
 Deepwater Horizon Gulf Restoration Office  
 Tel: 251-421-703  
[michael\\_barron@fws.gov](mailto:michael_barron@fws.gov)

**U.S. Fish and Wildlife Service Response**

Below is the Service's response to **AGENCY NAME'S** request for a consultation under the CBRA for **ACTION/PROJECT NAME**. This response represents the Service's opinion. **The final decision regarding the expenditure of funds for this action or project rests with the Federal funding agency.** **AGENCY NAME** has fulfilled its obligation to consult with the Service under the CBRA for this particular action or project within the CBRS. Please note that any new commitment of Federal funds associated with this action or project, or change in the project design and/or scope, is subject to the CBRA's consultation requirement.

The Service has reviewed the information provided by **AGENCY NAME**, and believes the referenced action/project is:

- Not located within a System Unit of the CBRS and the CBRA does not apply (except with respect to the restrictions on Federal flood insurance)
- Located within a System Unit of the CBRS and meets the exception(s) to the CBRA selected above
- Located within a System Unit of the CBRS and meets different exception(s) than the one(s) selected above (see additional information/comments below)
- Located within a System Unit of the CBRS and does not meet an exception to the CBRA (see additional information/comments below)
- Due to many competing priorities, the Service is unable to provide an opinion on the applicability of the CBRA's exceptions to this action/project at this time. The **AGENCY NAME** may elect to proceed with the action/project if it has determined that the action/project is allowable under the CBRA. Please note that any new commitment of Federal funds associated with this action/project or a related future project is subject to the CBRA's consultation requirement.

Additional Information/Comments

*Include any additional information/comments.*

This response does not constitute consultation for any project pursuant to section 7 of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) or comments afforded by the Fish and Wildlife Coordination Act (48 Stat. 401; 16 U.S.C. 661 *et seq.*); nor does it preclude comment on any forthcoming environmental documents pursuant to the National Environmental Policy Act (83 Stat. 852; 42 U.S.C. 4321 *et seq.*).

**SERVICE FIELD OFFICE SIGNATURE**



**NAME AND TITLE**

U.S. Fish and Wildlife Service  
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Stationed at field office in Panama City, FL  
1601 Balboa Avenue, Florida 32405  
Phone: 850-769-0552 x 45228

**DATE**

Patricia Kelly, Regions 2 & 4 CBRA Coordinator

August 31, 2021

Date

Table 1. Proposed Project and Location Relative to CBRS Units and OPA Units

<b>Proposed Project</b>	<b>CBRA Consistency Determination</b>
<p><b>Implementation Juvenile Gulf Sturgeon – Gulf-wide Population Dynamics and Habitat Use</b></p>	<p>Programmatic activities include the following Florida counties: Dixie, Escambia, Franklin, Santa Rosa, Walton. Potential actions could occur within the following CBRS units and OPAs:            CBRS Units: FL-89, FL-90, FL-94, FL-96, FL-97, FL-98, FL-99, FL-100, FL-101, FL-102, P26, P27A, P28, P31A, P32.            OPA Units: FL-90P, FL-91P, FL-91P, FL-95P, FL-98P, FL-103P, P32P.</p> <p>Programmatic activities include the following Mississippi counties: Jackson. Potential actions could occur within the following CBRS units and OPAs:            CBRS Units: MS-02, R01, R01A, R02            OPA Units: MS-01P.</p> <p>Programmatic activities include the following Louisiana parishes: St. Tammany. Potential actions could occur within the following CBRS units and OPAs:            CBRS Units: LA-02.            OPA Units: None.</p>