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Memorandum

June 9, 2020

From: Assistant Gulf Restoration Manager, *Deepwater Horizon* Gulf Restoration Office
Subject: Compliance with the Coastal Barrier Resources Act



Overview

The proposed project “Large-Scale Barataria Marsh Creation: Upper Barataria Component”, is being evaluated as a potential restoration project to restore natural resources in Louisiana that were injured as a result of the *Deepwater Horizon (DWH)* oil spill. We have reviewed this project in accordance with the Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3501 *et seq.*). We have determined that the proposed project area is not located within a System Unit of the CBRA and the CBRA does not apply (except with respect to the restrictions on Federal flood insurance). The proposed project area is also not located within an Otherwise Protected Area. Therefore, CBRA does not apply and no analysis under CBRA is required.

Background

The Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3501 *et seq.*) encourages the conservation of hurricane prone and biologically rich coastal barriers. No new expenditures or financial assistance may be made available under authority of any Federal law for any purpose within the System Units of the John H. Chafee Coastal Barrier Resources System (CBRS) including: construction or purchase of roads, structures, facilities, or related infrastructure, and most projects to prevent the erosion of or otherwise stabilize any inlet, shoreline, or inshore area. However, the appropriate Federal officer, after consultation with the U.S. Fish and Wildlife Service (Service), may make Federal expenditures and financial assistance available within System Units for activities that meet one of the CBRA’s exceptions (16 U.S.C. 3505). The CBRA imposes no restrictions on actions and projects within the CBRS that are carried out with State, local, or private funding. Any response from the Service to a CBRA consultation request is in the form of an opinion only. The Service has not been granted veto power. **The responsibility for complying with the CBRA and the final decision regarding the expenditure of funds for a particular action or project rests with the Federal funding agency.**

There are two types of units within the CBRS, System Units and Otherwise Protected Areas (OPAs). OPAs are denoted with a “P” at the end of the unit number (e.g., “FL-64P”). Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System Units. The only Federal spending prohibition within OPAs is on Federal flood insurance; other Federal expenditures are permitted. **Consultation with the Service is not needed if the proposed action or project is located within an OPA.** However, agencies providing disaster assistance that is contingent upon a requirement to purchase flood insurance after the fact are advised to disclose the OPA designation and information on the restrictions on Federal flood insurance to the recipient prior to the commitments of funds.

Project Information

The Louisiana Trustee Implementation Group (LA TIG) has evaluated this project as potential restoration project under the draft “*Louisiana Trustee Implementation Group Draft Phase II*

Restoration Plan/Environmental Assessment #3.3: Large Scale Barataria Marsh Creation: Upper Barataria Component (BA-207)”, which was open to public comment through April 20, 2020. If the TIG selects the project, NOAA Fisheries Restoration Center would implement the project.

Conclusion

The Service has reviewed the project information, 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)

If you have questions or concerns regarding this memo, please contact Erin Chandler, Fish and Wildlife Biologist, at 470-361-3153 or erin_chandler@fws.gov.

Additional Resources:

CBRS Mapper: <https://www.fws.gov/cbra/maps/mapper.html>

CBRS shapefile and Web Map Service: <https://www.fws.gov/cbra/maps/Boundaries.html>

CBRA consultations: <https://www.fws.gov/cbra> under “Project Consultations”

CBRS in/out property determinations: <https://www.fws.gov/cbra/Determinations.html>

Ecological Services Field Office contact information: <https://www.fws.gov/offices>