



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 30, 2021

To: Memorandum to File

From: Michael Barron, Deepwater Horizon Gulf Restoration Office

Subject: Regulatory Compliance Determinations for Restoration Projects Proposed in the Region Wide Trustee Implementation Group's Restoration Plan #1: Birds, Marine Mammals, Oysters, and Sea Turtles

Under the Endangered Species Act (ESA) Section 7(a)(2), each Federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species, or destroy/adversely modify designated critical habitat. If a Federal agency determines that a Federal action will have no effect on ESA-listed species or designated critical habitat, then the Federal agency is not required to consult with the US Fish and Wildlife Service (USFWS) for purposes of ESA. This memo does not include any information or effects determinations for protected species under the jurisdiction of the National Marine Fisheries Service.

Based on our review of the project materials provided, the compliance determinations of 17 projects proposed for implementation in the *Region Wide Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #1: Birds, Marine Mammals, Oysters, and Sea Turtles* are indicated below:

Project Title	ESA (USFWS)	MMPA (USFWS)	BGEPA (USFWS)	MBTA (USFWS)
B: Conservation and Enhancement of Nesting and Foraging Birds, Component 1: Chandeleur Islands, LA	R-SC	R-SC	NA	NT
B: Conservation and Enhancement of Nesting and Foraging Habitat for Birds, Component 2: Pilot Town	NE	NA	NT	NT
B: Conservation and Enhancement of Nesting and Foraging Birds, Component 3: San Antonio Bay Island, TX	R-SC	R-SC	NA	NT
B: Conservation and Enhancement of Nesting and Foraging Birds, Component 4: Matagorda Bay Bird Island (Chester Island), TX	R-SC	R-SC	NA	NT
B: Conservation and Enhancement of Nesting and Foraging Birds, Component 5: Round Island, MS	R-SC	NE	NA	NT
MM: Reducing Injury and Mortality of Bottlenose Dolphins by Utilizing Fishery Surveys, Social Science, and Collaborative Problem Solving	NA	NA	NA	NT
MM: Voluntary Modifications to Commercial Shrimp Lazy Lines to Reduce Dolphin Entanglements	NE	NE	NA	NT
MM: Enhance Marine Mammal Stranding Network Diagnostic Capabilities and Consistency across the Gulf of Mexico	NA	NA	NA	NT
O: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs, Component 1: Texas	R-SC	R-SC	NA	NT
O: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs, Component 2: Louisiana	R-SC	R-SC	NA	NT

O: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs, Component 3: Mississippi	C	C	C	C
O: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs, Component 4: Alabama	R-SC	R-SC	NA	NT
O: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs, Component 5: Florida	R-SC	R-SC	NA	NT
ST: Regionwide Enhancements to the Sea Turtle Stranding and Salvage Network, Component 1: Enhancing Response, Coordination, and Preparedness in the Gulf of Mexico	NA	NA	NA	NT
ST: Regionwide Enhancements to the Sea Turtle Stranding and Salvage Network, Component 2: Texas Rehabilitation Facility	NE	NA	NA	NT
ST: Reducing Sea Turtle Bycatch at Recreational Fishing Sites	NA	NA	NT	NT
ST: Pilot implementation of Automatic Identification System (AIS) in the GOM Inshore Fishery to Inform Efforts to Reduce Sea Turtle Bycatch.	NE	NE	NA	NT

R-SC – Required-Separate Consultation; NA – Not Applicable; NT – No Take; NE – No Effect; C- Covered by Existing Consultation

Should any project be modified in a way that could adversely impact species or habitats, this determination will be reevaluated as appropriate.

If you have questions or concerns regarding this action, please contact Michael Barron, Fish and Wildlife Biologist, at 251-421-7030 or michael_barron@fws.gov.

Attachments (17)

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Louisiana

Contact Name: Maury Chatellier Phone: 2245-342-6504 Email: maury.chatellier@la.gov

Project Name: Conservation and Enhancement of Nesting and Foraging Birds, Component 1:
Chandeleur Islands, LA

DIVER ID# NA TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

Please see embedded PDF for additional project details.



Chandeleur Islands
ED Exemplar_202006

C. Project Location

I. State and County/Parish of action area

St Bernard Parish and Plaquemines Parish, Louisiana

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

29.792614°, -88.877708°

D. 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:

-TIG Restoration Plan/EA or EIS (draft or final)

-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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Annie Howard

Name of Project Lead: Maury Chatellier

Date Form Completed: 10/1/2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then 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 applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The Chandeleur Islands are located between the Gulf of Mexico and Chandeleur Sound in southeast Louisiana.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

0 miles

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.

NA

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.

There are seagrasses and other marine vegetation located behind the island chain.

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.

There are black mangroves on the Chandeleur Islands.



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. Click here to enter text.

N/A- Additional information regarding the existing environment will be collected during E&D.

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.).

N/A- Additional information regarding the existing environment will be collected during E&D.

g. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

Click here to enter text.

h. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

According to the websoil survey, the soil type on the Chandeleur Islands is Felicity loamy fine sand, 0 to 3 percent slopes, very frequently flooded.

i. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

NA

j. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

The Gulf of Mexico Fishery Management Council delineated Essential Fish Habitat (EFH) for federally managed species in coastal Louisiana. The project area is within Eco-Region 3, and is likely to contain a variety of estuarine and marine habitat types designated as EFH including: open water, emergent saline and brackish marsh, submerged aquatic grass beds, sand/shell bottom, and mud/soft bottom. The National Marine Fishery Service (NMFS) also manages highly migratory species (e.g., sharks) for which EFH is identified by geographical area rather than habitat type.

Fifteen species with designated EFH are likely to be within Project Area, including shrimp (three species), fish (four species), and sharks (eight species). The following table lists the federally managed species found within the Chandeleur Island Project Area. No Habitat Areas of Particular Concern (HAPC) or EFH Areas Protected from Fishing (EFHA) were identified within the Project Area.

Table 1. Federally Managed Species

Common Name	Scientific Name
REEF FISH	
Gray (mangrove) snapper	<i>Lutjanus griseus</i>
Lane snapper	<i>Lutjanus synagris</i>
MACKERELS	
Spanish mackerel	<i>Scomberomorus maculatus</i>
SHRIMP	
Brown shrimp	<i>Farfantepenaeus aztecus</i>
Pink shrimp	<i>Farfantepenaeus duorarum</i>
White shrimp	<i>Litopenaeus setiferus</i>
SHARKS	
Atlantic sharpnose shark	<i>Rhizoprionodon terraenovae</i>
Blacktip shark	<i>Carcharhinus limbatus</i>
Bull shark	<i>Carcharhinus leucas</i>
Finetooth shark	<i>Carcharhinus isodon</i>
Scalloped hammerhead shark	<i>Sphyrna lewini</i>
Hammerhead shark	<i>Sphyrna mokarran</i>
Spinner shark	<i>Carcharhinus brevipinna</i>
Blacknose shark	<i>Carcharhinus acronotus</i>
RED DRUM	
Red drum	<i>Sciaenops ocellatus</i>

F. Project Description

1. Describe the Proposed Action/Project Objectives: 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.

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.

No construction would occur as part of this proposed project. This is an engineering and design project.

Activities in the project area may include:

- Bathymetric and topographic surveys of access channels, dredging areas, and fill areas
- Magnetometer surveys
- Geotechnical data collection, including borings and/or cone penetrometer tests, possibly in both dredging and fill areas
- Other geophysical surveys

- Possible probing to confirm pipeline locations/depth of cover
- Possible cultural resources surveys
- Oyster surveys, assessments, and appraisals
- Nesting surveys (birds and sea turtles)
- Please see additional PDF embedded above for more examples.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

E+D is estimated to take 2-3 years.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

NA

Construction: 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.)

iii. *Use of "Dock Construction Guidelines"?*

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 (sq ft)?*

NA

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

1. <i>Method of pile installation</i>	NA
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2. <i>Material type of piles used</i>	NA
3. <i>Size (width) of piles/sheets</i>	NA
4. <i>Total number of piles/sheets</i>	NA
5. <i>Number of strikes for each single pile</i>	NA
6. <i>Number of strikes per hour (for a single pile)</i>	NA
7. <i>Expected number of piles to be driven each day</i>	NA
8. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	NA
9. <i>Expected number of sequential days spent pile driving</i>	NA
10. <i>Whether pile driving occurring in-water or on land</i>	NA
11. <i>Depth of water where piles will be driven</i>	NA

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 (sqft) beneath the boats that will be shaded.)*

NA

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.)*

NA

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.*

NA

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

NA

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.)*

NA

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, long term*

maintenance plan (periodic clean-up of lost fishing gear/debris)), 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.

NA

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)).*

NA

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. *List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.*

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Loggerhead Sea Turtle CH		Marine	No Effect	
Green Sea Turtle (T)		Marine	No Effect	
Kemp's Ridley Sea Turtle (E)		Marine	No Effect	
Hawksbill Sea Turtle (E)		Marine	No Effect	
Leatherback Sea Turtle (E)		Marine	No Effect	

Giant Manta Ray		Choose an item.	No Effect	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
West Indian Manatee		Choose an item.	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Piping Plover		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Hawksbill Sea Turtle		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Leatherback Sea Turtle		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle CH		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Red Knot		Terrestrial	May Affect, Likely to Adversely Affect	Choose an item.
Piping Plover CH		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

This project would not include any construction activities and would be limited to data collection and monitoring needed for the engineering and design of the proposed project. Project planning, feasibility studies, design engineering studies, and permitting activities are intended to support the development of projects to propose in more detail in subsequent restoration plans. Some preliminary phases of project planning may cause direct, short-term, minor impacts through associated fieldwork (e.g., including drilling into soil or sediment with an augur, drill rig, or other tools to remove surface, subsurface, or core samples). These impacts would be very minor and localized to the project site given how small such areas are in relation to an overall project area.

Temporary impacts to the biological and physical environment also could include short-term, temporary disturbance of habitats and species; minor emissions from vehicles; and minor disturbance to terrestrial, estuarine, and marine environments. Permits for E&D activities will be secured when necessary. In cases where the appropriate permit or other environmental review has been secured (e.g., for photographing, handling, or disturbing listed species) or determined to be unnecessary (e.g., certain minor, temporary disturbance of marine mammals that does not constitute harassment), minor impacts to certain protected and managed resources also could occur and be considered minor.

II. 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.

Project-planning actions for this project fall within the scope of the analysis in the PDARP/PEIS. The use of airboats, marsh buggies, augers and other equipment for bathymetric surveys, gathering elevation data, soil strength and compaction data may cause short-term, temporary impacts. Adherence to permit conditions and other requirements would minimize any adverse impacts.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

NA

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

Adherence to permit conditions and other requirements would minimize any adverse impacts.

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.

Adherence to permit conditions and other requirements would minimize any adverse impacts..

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

See Section F above.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ³
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.
 Click [here](#) to enter text.

L. 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

Bald eagles are not in project area according to IPAC database

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

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Alabama Department of Conservation and Natural Resources,
Department of the Interior (DOI)

Contact Name: Ashley Mills Phone: 812-756-2712 Email: ashley_mills@fws.gov

Project Name: Conservation and Enhancement of Nesting and Foraging Habitat for Birds,

Component 2: Pilot Town

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Baldwin County, AL – Pilot Town tract

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

Pilot Town tract: 30.234444, 87.965; Sections 1 & 2, Township 9 South, Range 1 East Baldwin County, Alabama. Located on the north side of State Highway 180 Gulf Shores, Alabama.



Figure 1. Location of Pilot Town tract (red arrow) in coastal Alabama.

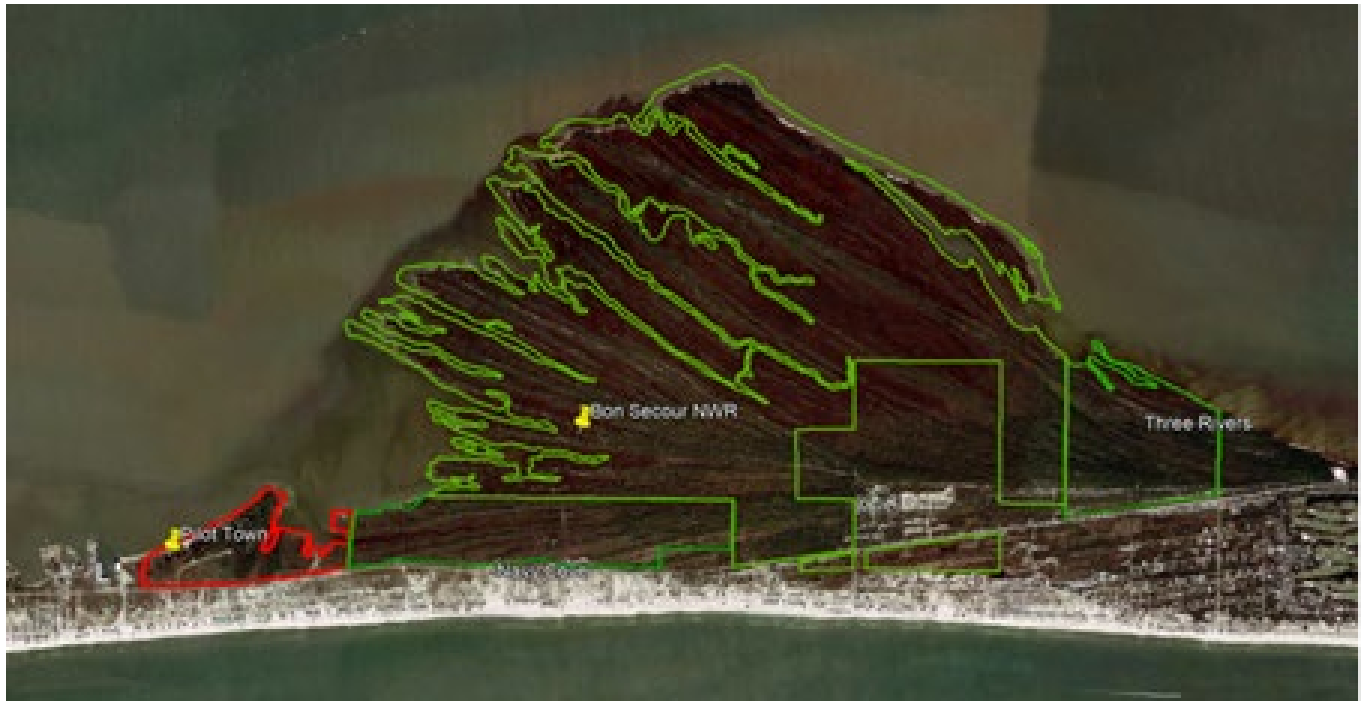


Figure 2. Pilot Town tract (outlined in red) relative to Bon Secour National Wildlife Refuge and recent Navy Cove and Three Rivers acquisitions (outlined in green).

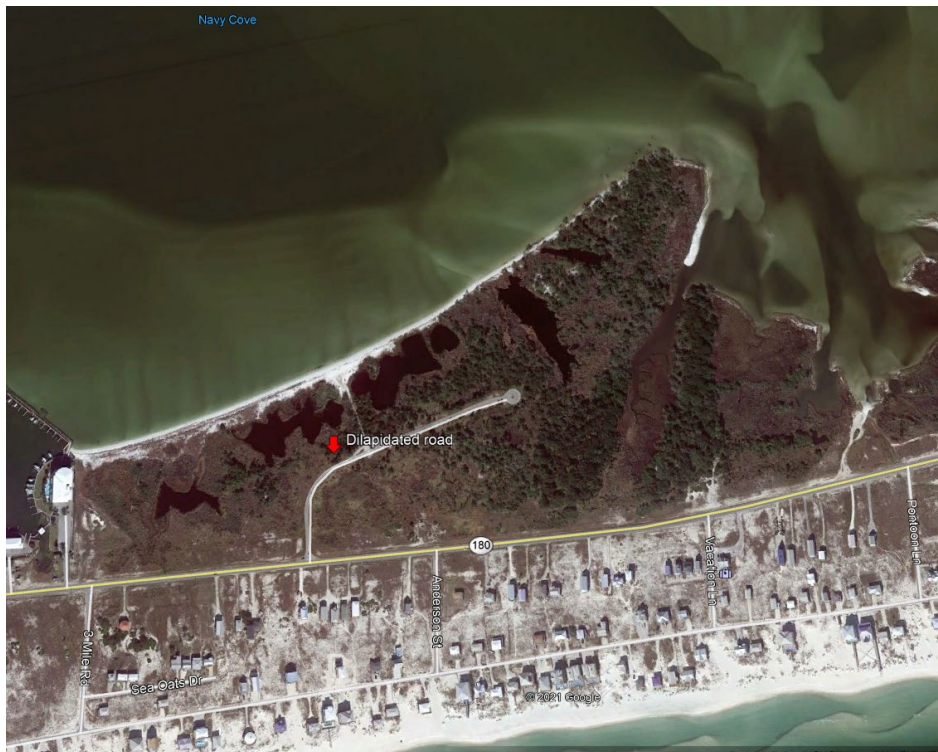


Figure 3: Location of dilapidated road

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: [Click or tap here to enter](#)

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: [Click or tap here to enter](#)

text.

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.

Bon Secour National Wildlife Refuge Comprehensive Conservation Plan (CCP) includes an integrated EA and FONSI.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Ashley Mills

Name of Project Lead: [Click here to enter text.](#)

Date Form Completed: October 16, 2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

k. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Pilot Town tract is adjacent to St. Andrews Bay (southern Mobile Bay).

The project is terrestrial and the action area is above the mean high tide line. We anticipate no impacts to these waterbodies.

Does the project area include a river or estuary?

YES NO

But please see previous question re Waterbody.

*If yes, please approximate the navigable distance from the project location to the marine environment.
Click or tap here to enter text.*

l. 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.

Pilot Town tract includes an asphalt but dilapidated road, some conduit, and some plumbing previously installed in anticipation of a housing development.

m. 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.

N/A

n. **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.

N/A

o. **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. Click [here](#) to enter text.

N/A

p. **Uplands**

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Pilot Town tract: Habitats include sandy shrub scrub, beach, coastal marsh, and several brackish inland lagoons.

q. **Marine Mammals**

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

Click here to enter text.

r. **Soils and Sediments**

If applicable. Indicate topography, soil type, substrate type.

Sandy soils

s. **Land Use**

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Pilot Town tract: The area has been occupied by various cultures for several thousand years. Native American use and occupation is evident, but requires further documentation. Pilot

Town was established early in the 19th century as a communal town on the Fort Morgan Peninsula. The settlement got its name from the bar pilots who guided sea-going vessels past the sand bars of Mobile Bay. Pilot Town was destroyed in a 1906 hurricane. More recently, in anticipation of a housing development, an asphalt road was built (now dilapidated) and some conduit and plumbing was installed. Currently the habitat is relatively undisturbed except for one small area where the public uses the road to access a boat ramp and kayak/canoe launch.

t. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

Tidal wetlands to be protected by project implementation consist of EFH for a variety of Federally managed fishery species such as Penaeid shrimp, gray snapper, lane snapper and red drum. Project implementation will not affect EFH for any Federally managed fishery species.

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

This project component includes land acquisition of one tract within the acquisition boundary of the Bon Secour National Wildlife Refuge (BSNWR): the Pilot Town tract. This project component may also include some ground-disturbing activities on the Pilot Town tract.

Pilot Town is approximately 99 acres of relatively undisturbed habitat along St. Andrews Bay (southern Mobile Bay) on the Fort Morgan peninsula, adjacent to the Little Point Clear Unit of the Bon Secour National Wildlife Refuge (BSNWR) (Figures 1 and 2). The Nature Conservancy (TNC) has negotiated an option to purchase the property. The acquisition would be completed by TNC and conveyed to the United States Fish and Wildlife Service (USFWS) for incorporation into the BSNWR, who will preserve, protect and manage the property after project completion. Habitats include a mosaic of mesic hammock, sandy shrub scrub, beach, coastal marsh, and several brackish inland lagoons. The Pilot Town Tract has a dilapidated asphalt road, conduit, and plumbing previously installed in anticipation of a housing development. This project component may also fund removal of part (approximately 750 feet) of the dilapidated road on the property, installation of a gate and fencing to manage public access, and chemical and

mechanical treatment of invasive plant species (especially Chinese tallow [*Triadica sebifera*]). These activities will help return the property to its natural state for bird habitat conservation. Staging of equipment and materials for the project would take place on the existing asphalt and in a nearby, existing parking area. No new staging areas or access roads would be created. Only previously disturbed areas would be used for parking, turnarounds, etc.

No in-water work will take place as part of this project. Minor upland work will happen at the Pilot Town tract to remove road as described above.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

Click here to enter text.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. *Use of "Dock Construction Guidelines"?*

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 (sq ft)?*

Click or tap here to enter text.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

12. <i>Method of pile installation</i>	
13. <i>Material type of piles used</i>	
14. <i>Size (width) of piles/sheets</i>	
15. <i>Total number of piles/sheets</i>	
16. <i>Number of strikes for each single pile</i>	
17. <i>Number of strikes per hour (for a single pile)</i>	
18. <i>Expected number of piles to be driven each day</i>	
19. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	
20. <i>Expected number of sequential days spent pile driving</i>	
21. <i>Whether pile driving occurring in-water or on land</i>	
22. <i>Depth of water where piles will be driven</i>	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.*

Click here to enter text.

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

Pilot Town tract: Work may include some ground disturbance by heavy equipment in the terrestrial environment to remove part of the dilapidated road as well as some digging by smaller equipment to install a gate and install fencing to manage public access.

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.)*

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

N/A

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)).*

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
--	--------------------------------	--	---	--

Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Loggerhead Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Kemp's Ridley		Terrestrial	No Effect	Species does not occur within action area
Piping Plover		Choose an item.	No Effect	Species does not occur within action area
Piping Plover CH		Choose an item.	No Effect	No suitable habitat in action area
Red Knot		Choose an item.	No Effect	Species does not occur within action area
Wood Stork		Choose an item.	No Effect	No suitable habitat in action area

Eastern Black Rail		Choose an item.	No Effect	No suitable habitat in action area
Alabama Beach Mouse		Choose an item.	No Effect	No suitable habitat in action area
Alabama Beach Mouse CH		Choose an item.	No Effect	No suitable habitat in action area
Alabama Red-bellied Turtle			No Effect	No suitable habitat in action area
Eastern Inidigo snake		Choose and item.	No Effect	No suitable habitat in action area
Gopher Tortoise		Choose an item.	No Effect	No suitable habitat in action area

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Pilot Town tract: Species could include piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), Eastern black rail (*Laterallus jamaicensis jamaicensis*), wood stork (*Mycteria americana*), Alabama beach mouse (*Peromyscus polionotus ammobates*), Alabama red-bellied turtle (*Pseudemys alabamensis*), Eastern indigo snake (*Drymarchon corais couperi*) and gopher tortoise (*Gopherus polyphemus*), but there is no suitable habitat for these species in the project area.

Land acquisition will prevent development and protect habitat, benefitting species that utilize this habitat and the adjacent property managed by BSNWR. The ground-disturbing activities to remove part of the paved road, install a gate, and install fencing would occur within the existing road bed which is not suitable habitat for any of the species that may be encountered. There will be no actions taken along the beach area where piping plover and wintering red knot may be found foraging. Work areas where Alabama red-bellied turtle could be present will be surveyed prior to work taking place. If any of these species are found, work will cease until the animals have moved out of the area.

Treatment for invasive species will adhere to the existing biological evaluation (see attached) and the refuge's Comprehensive Conservation Plan.

Ultimately, these actions will provide long-term benefits to these species.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

<input type="checkbox"/>	USFWS Standard Manatee In Water Conditions
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions⁴
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species¹

⁴ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html



Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

See above for conservation measures.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

The proposed action area does not contain any suitable habitat for any listed species.

See below for map for Alabama beach mouse critical habitat. Road removal will not impact any physical or biological features of the critical habitat for Alabama beach mouse.



Figure 5: Alabama Beach Mouse CH (green)

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.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ⁵
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ⁶
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

⁵ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

⁶ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

If YES, the following conservation measures should be implemented:

5. 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).
6. 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.
7. 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.
8. 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
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Michael Barron, Department of the Interior

Email: michael_barron@fws.gov

Phone: 251-421-7030

**Attachment 1: 04EA1000-2014-I-0200 Bon Secour NWR Habitat Restoration Intra-Service Section 7 Biological Evaluation
Full Consultation Report**

Consultation Title: Bon Secour NWR Habitat Restoration Intra-Service Section 7 Biological Evaluation

ARRA Fund: No ARRA funding

Consultation Description: Bon Secour NWR Habitat Restoration Intra-Service Section 7 Biological Evaluation; 12-30-2015 Event, Intra-Service Section 7 Biological Evaluation, Bon Secour National Wildlife Refuge Habitat Restoration, Amended; 06-27-2016 Event, Bon Secour NWR Habitat Restoration, Pesticide, Intra-Service Section 7, Amendment 2 (proposes triclopyr aka Trycera for Chinese tallow and cogongrass)

Consultation Type: Informal Consultation

Consultation Complexity: Standard

Action/Work Types:

- Forestry - Pesticide Use
- Forestry - Weed Control / Vegetation
- Management

Invasive Plant Control

Land Management Plans - National Wildlife Refuge

Species:

- Alabama beach mouse (*Peromyscus polionotus* ammobates) [A08Y, V01] (E) [Wherever found]
 - Gopher tortoise (*Gopherus polyphemus*) [C044, V01] (T) [West of Mobile and Tombig]
 - Green sea turtle (*Chelonia mydas*) [C00S, V01] (RT) [FL, Mexico nesting pops.]
 - Kemp's ridley sea turtle (*Lepidochelys kempii*) [C00O, V01] (E) [Wherever found]
 - Loggerhead sea turtle (*Caretta caretta*) [C00U, V01] (RT) [Wherever found]
- Migratory Birds Trust Resources
- Piping Plover (*Charadrius melodus*) [B079, V02] (T) [[Atlantic Coast and North]
- Red knot (*Calidris canutus rufa*) [B0DM, V01] (T) [Wherever found]

Staff Lead: Dan Everson

Staff:

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Lead Agency: Fish and Wildlife Service

Supporting Agencies: *None entered*

No further Service work performed: *None entered*

First Contact Date: 01/07/2014

Date of Correspondence: 06/20/2016

Start Date: 06/27/2016

Days until Due: Concluded

Due Date: 07/27/2016

Conclusion Date: 07/06/2016

Bundles

Bundle(s): *None entered*

SuperBundle(s): SuperBundles

None entered Contacts

Contacts
None entered

Consultants
None entered

Location

Location Description:

Within Coastal Zone?:

Within Flood Plain/Zone?: No

Latitude: No

Longitude: 30.262222

Datum: -87.758210

Latitude: NAD83

Longitude: *None entered*

Datum: *None entered*

UTM East (meters): *None entered*

UTM North (meters): *None entered*

UTM Zone: *None entered*

Datum: *None entered*

State(s): *None entered*

Counties or Equivalent: Alabama

Congressional District(s): Baldwin, AL

Township, Range, Section: AL01

Watersheds: Mobile Bay (03160205)
Ecoregions: Florida Panhandle Watersheds
USGS Quads: Bon Secour Bay (30087-C7)

Details / References

Habitat Types Involved: *None entered*
Recommendations Provided: No
Final Plans/Reports Received: *None entered*
Recommendations Implemented: *None entered*
Terms/Conditions Implemented: *None entered*
Terms/Conditions Implemented: No

Affiliated Office(s):
Permit/Action Type:

Biological Conclusion

Associated w/Fire: Alabama beach mouse (*Peromyscus polionotus ammobates*) [A08Y, V01] (E) [Wherever found]
NLAA - Concurrence Provided
NLAA - Concurrence Provided
Species: *None entered*

Biological Conclusion:

Critical Habitat:

Take:

Species: Gopher tortoise (*Gopherus polyphemus*) [C044, V01] (T) [West of Mobile and Tombig]

Biological Conclusion: Not Yet Determined

Critical Habitat: *None entered*

Take: *None entered*

Species: Green sea turtle (*Chelonia mydas*) [C00S, V01] (RT) [FL, Mexico nesting pops.]

Biological Conclusion: NLAA - Concurrence Provided

Critical Habitat: *None entered*

Take: *None entered*

Species: Kemp's ridley sea turtle (*Lepidochelys kempii*) [C00O, V01] (E) [Wherever found]

Biological Conclusion: NLAA - Concurrence Provided

Critical Habitat: *None entered*

Take: *None entered*

Species: Loggerhead sea turtle (*Caretta caretta*) [C00U, V01] (RT) [Wherever found]

Biological Conclusion: NLAA - Concurrence Provided
Critical Habitat: NLAA - Concurrence Provided
Take: *None entered*
Species: Migratory Birds Trust Resources
Biological Conclusion: Not Yet Determined
Critical Habitat: *None entered*
Take: *None entered*
Species: Piping Plover (*Charadrius melodus*) [B079, V02] (T) [[Atlantic Coast and North]
Biological Conclusion: NLAA - Concurrence Provided
Critical Habitat: NLAA - Concurrence Provided
Take: *None entered*
Species: Red knot (*Calidris canutus rufa*) [B0DM, V01] (T) [Wherever found]
Biological Conclusion: NLAA - Concurrence Provided
Critical Habitat: *None entered*
Take: *None entered*

Events

07/06/2016

04EA1000-2016-E-02207

E-mail Sent

NLAA concurrence sent via email

Species:

- Alabama beach mouse (*Peromyscus polionotus ammobates*) [A08Y, V01] (E) [Wherever found]
- Gopher tortoise (*Gopherus polyphemus*) [C044, V01] (T) [West of Mobile and Tombig]
- Green sea turtle (*Chelonia mydas*) [C00S, V01] (RT) [FL, Mexico nesting pops.]
- Kemp's ridley sea turtle (*Lepidochelys kempii*) [C00O, V01] (E) [Wherever found]
- Loggerhead sea turtle (*Caretta caretta*) [C00U, V01] (RT) [Wherever found] Migratory Birds Trust Resources
- Piping Plover (*Charadrius melodus*) [B079, V02] (T) [[Atlantic Coast and North]
- Red knot (*Calidris canutus rufa*) [B0DM, V01] (T) [Wherever found]

Staff:

- Dianne Ingram
-

07/06/2016
04EA1000-
2016-E-
02206 E-
mail Sent

Concurrence provided.

Species:

- Alabama beach mouse (*Peromyscus polionotus* ammobates) [A08Y, V01] (E) [Wherever found]
- Gopher tortoise (*Gopherus polyphemus*) [C044, V01] (T) [West of Mobile and Tombig]
- Green sea turtle (*Chelonia mydas*) [C00S, V01] (RT) [FL, Mexico nesting pops.]
- Kemp's ridley sea turtle (*Lepidochelys kempii*) [C00O, V01] (E) [Wherever found]
- Loggerhead sea turtle (*Caretta caretta*) [C00U, V01] (RT) [Wherever found]
- Piping Plover (*Charadrius melodus*) [B079, V02] (T) [[Atlantic Coast and North]
- Red knot (*Calidris canutus rufa*) [B0DM, V01] (T) [Wherever found]

Staff:

- Dianne Ingram
-

07/01/2016
04EA1000-
2016-E-
02119 E-
mail
Received

Jackie sent product label for Trycera and confirmed it is approved for use in Alabama.

Species:

- Alabama beach mouse (*Peromyscus polionotus* ammobates) [A08Y, V01] (E) [Wherever found]
- Green sea turtle (*Chelonia mydas*) [C00S, V01] (RT) [FL, Mexico nesting pops.]
- Kemp's ridley sea turtle (*Lepidochelys kempii*) [C00O, V01] (E) [Wherever found]
- Loggerhead sea turtle (*Caretta caretta*) [C00U, V01] (RT) [Wherever found]
- Migratory Birds Trust Resources

Piping Plover (*Charadrius melodus*) [B079, V02] (T)
[[Atlantic Coast and North]
Red knot (*Calidris canutus rufa*) [B0DM, V01] (T)
[Wherever found]

Staff:

- Dianne Ingram

06/27/2016

04EA1000-2016-E-02067

Correspondence Received

06-27-2016 Event, Bon Secour NWR Habitat Restoration, Pesticide, Intra-Service Section 7, Amendment 2

Staff:

- Dianne Ingram

Electronic File(s):

- 06-20-2016Bon Secour NWR email.fpd

12/30/2015

04EA1000-2016-E-00680

Correspondence Received

12-30-2015 Event, Intra-Service Section 7 Biological Evaluation, Bon Secour National Wildlife Refuge Habitat Restoration, Amended.

Staff:

- Dianne Ingram

Electronic File(s):

- 12-19-2013Amended Intra-Service Section 7 forn.fpd

01/07/2014

04EA1000-2014-E-00800

Correspondence Received

Staff:

- Dan Everson

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): [Texas General Land Office \(GLO\)](#), [Texas Parks and Wildlife Department](#), [Texas Commission on Environmental Quality](#)

Contact Name: [Angela Sunley](#) Phone: 512-463-9309 Email: angela.sunley@glo.texas.gov

Project Name: Conservation and Enhancement of Nesting and Foraging Birds, Component 3:
San Antonio Bay Island, TX

DIVER ID# [Click to enter text](#) TIG: [Regionwide TIG](#) [Restoration Plan # 1](#)

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

Phase 1: Consisted of a limited reconnaissance study, which included meeting project stakeholders, desktop data gathering, and a site visit. Details of this phase of work are documented in the Reconnaissance Study Report (HDR, 2016).

Phase 2: An environmental survey and bottom probing assessment of two proposed sites in the vicinity of Seadrift was performed. During this survey, areas of shell were delineated along with estimating areas with firm and soft bottom conditions. Three smaller Priority Areas for additional investigation were established. Details of this phase of work are documented in the Benthic and Bottom Conditions Investigation Report (HDR, 2016).

Phase 3: Field investigations (bathymetric surveying, magnetometer surveying, side-sonar survey) along with oyster dredges were performed to quantify habitat conditions within the proposed Priority Areas. Details of this phase of work are documented in the Field Investigation Report (HDR, 2016).

Phase 4: Complete Alternatives Analyses evaluating 3 sites and 3 construction techniques. Selected Site 1 and preferred construction technique 3. Develop 30% engineering Designs and Estimates of Probable Costs. (HDR, 2016)

Phase 5: Permitting. A marine Archaeology Survey of the preferred location (Site 1) was completed and State Historic Preservation Office Concurrence received (SHPO Concurrence letter, 2018). The project received a COE Nationwide 27 Permit for construction (HDR, 2017 and SWG-2017-00516 Permit Verification letter COE, 2018).

Supporting Documentation

Mid-Coast Bird Rookery Island, Alternatives Analysis, August 2016
COE Nationwide Permit Application, 2017
Marine Archaeology Survey, BOB Hydrographics, 2018
SHPO Concurrence Letter, 2018
COE NWP-27 Verification Letter

C. Project Location

I. State and County/Parish of action area
San Antonio Bay, Calhoun County, Texas

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])
[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]
28.397430° -96.721850° NAVD88

Figure 1: Project Area

D. 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

This project has a COE NWP 27 permit for construction. The permit number is SWG-2017-00516. The permit was issued in April 2018.

In accordance with the National Historic Preservation Act, a marine archaeology survey of the project area was conducted and the project cleared by the State Historic Preservation Office (see survey and SHPO concurrence letter).

Permits

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: SWG-2017-00516

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter text.

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.

Attached copy of Permit Application, and Verification Letter SWG-2017-00516

Attached copy of Marine Archaeology Survey and SHPO Concurrence

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

Name of Person Completing this Form: Angela Sunley

Name of Project Lead: Angela Sunley

Date Form Completed: 11/30/2020

Date Form Updated: 8/13/2021



E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

The proposed activity is located north of Victoria Barge Canal and Seadrift Boat Channel within shallow open water with depths ranging between -2 to -3 feet North American Vertical Datum (NAVD). No seagrass is present within or in close proximity to the proposed project site and the proposed location is not located within critical habitat of any federally-listed species. BMPs will be implemented during construction activities to minimize potential impacts to federally-listed endangered West Indian manatees (*Trichechus manatus latirostris*) and sea turtle species. The site is approximately 0.8 miles south of the town Seadrift and adjacent to the Seadrift boat channel and the Victoria Barge Canal. These channels give good water access to the site to

bring material and construction equipment without impacting resources. San Antonio bay is one of the major bay systems on the Texas coast and receives freshwater from the Guadalupe River located 7.6 miles to the NW. San Antonio Bay provides recreational and commercial fishing opportunities. Commercial oyster harvesting is common in the waters of San Antonio Bay. The selected site will not impact recreational fishing or oyster harvest. The sediment at the site is clay and sand with scattered oyster clumps. There are oyster reefs near the site but not within the proposed island footprint. The site was chosen after evaluating three (3) sites in an alternatives analyses (Mid-Coast Bird Rookery Island, Alternatives Analysis, August 2016).

u. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The project is located in open waters of San Antonio Bay with depths ranging from near -2 to -3 feet NAVD.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

The Gulf of Mexico is the nearest marine environment and is approximately 13 miles from the project site. The site is adjacent to a small boat channel and the Victoria Barge Canal. The site and surrounding bay are navigable by small boats

v. 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.

No existing structures are on the site or in the vicinity. Marinas and small boat harbors are located along the City of Seadrift waterfront approximately 1.3 miles to the east. The federally maintained Channel to Seadrift is located within .25 miles to the south and the Channel to Victoria barge canal is located approximately .75 miles to the west. A marine archaeology survey was conducted of the site and the State Historic Preservation Office cleared the action as proposed in the Nationwide Permit 27 request. (see attached State Historic Preservation Office concurrence letter)

w. 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.

No known seagrass or other marine vegetation in the project area. Filed surveys of the site were conducted in 2015 and 2016. Benthic surveys included seagrass, oyster, bathymetry, topography, magnetometer, side-scan sonar, and miniature clamshell dredge (Mid-Coast Bird

Rookery Island, Alternatives Analysis, August 2016)

x. 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.

No mangroves present in the project area.

y. 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. Click [here](#) to enter text.

No corals present in the project area

z. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

No uplands are in the project area.

aa. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

bottlenose dolphins (*Tursiops truncatus*) frequent San Antonio Bay.

West Indian *manatee* are observed on rare occasions in San Antonio Bay.

bb. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

The project area is characterized by shallow bay bottom with soils consisting of clay, sand and shell hash.

cc. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

San Antonio Bay is an open water bay and the proposed rookery island is located on state-

owned submerged lands which are managed by the Texas General Land Office through the State School Land Board . The island will be leased to and managed by Coastal Bend Bay and Estuary Program. Use activities adjacent and surrounding the island include recreational and commercial fishing and marine transportation.

dd. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

The Island is located in the upper reaches of San Antonio Bay near Seadrift, Texas. Intertidal marsh habitats are associated with the shorelines along Seadrift with small islands, sand flats and shoals nearby. In the immediate project footprint, fisheries habitat is composed of shallow water flats, oyster clumps, shell hash, shoals and unconsolidated sediments.

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

This project would complete the engineering and build a rookery island in San Antonio Bay, Texas near the town of Seadrift. The recommended design for the proposed Mid-Coast Bird Rookery Island was developed to capture a full range of desired bird nesting and foraging habitats. The proposed island would measure approximately 920-feet long by 450-feet wide, and would have a total footprint of approximately 8.0 acres, including 4.0 acres of habitat above the shoreline and 1.0 acre of submerged reef habitat (See **link below**, Permit Drawings, Sheets 1 – 4 of the Permit Application). The island would be oriented NW-SE based on predominant wind direction from the southeast. The island will slope from +3.5 feet to +4.5 feet at the southeast end to +1.0 feet to +2.5 feet NAVD at the northwest end, where the island transitions to a shoreline and shallow lagoon for shorebird habitat. In order to stabilize the perimeter of the rookery island, the proposed island would include shoreline protection to protect it from wave erosion. The island would be constructed using a containment berm and rock revetment, similar to the construction method used by USACE to construct Evia Island in Galveston Bay, Texas. In-situ sediment from the center of the proposed rookery island footprint would be excavated and sidecast around the proposed perimeter to create a containment berm with a crest elevation of approximately +6.5 feet NAVD (temporarily) and a crest-width of approximately 5 feet. The containment berm would contain loose sediments and reduce potential fill/impacts to surrounding natural resources. Once the containment berm is constructed, the outside of the berms would be armored with revetment type shoreline

protection. The revetment would be constructed with a 2:1 slope and the crest of the final containment berms would be reduced so that the top of the rock is at +6.0 feet NAVD (See **Attachment A**, Permit Drawings, Sheets 6 of 6 of the Permit Application). A 5-foot wide toe would be constructed at the base of the revetment. The toe would be constructed to an elevation of approximately +2.5 feet above the bay bottom. The containment berm and revetment shoreline protection will not encapsulate the island entirely. An approximately 120-foot wide shallow water beach opening would be included at the northwestern side of the island. A reef would be constructed on the northwestern side of the island at the beach opening. The reef would be constructed with graded riprap to an elevation of approximately -1.0 foot NAVD (See **Attachment A**, Permit Drawings, Sheets 3 and 4 of 4 of the Permit Application). The reef would reduce wave energy into the beach, provide oyster reef habitat, and provide foraging habitat for several bird species.

Fill material for placement inside the berm will be provided from an upland source. Material to create the berm will come from onsite material described in II.f below

Additional supporting documents are available at:

https://dwh.nmfs.noaa.gov/rw/pl/WA_pl/RP1_L/06_Env_Compliance/06_01_BE_Forms/BE.for.ms-Birds.projects/Completed/Supporting%20Docs_San%20Antonio%20Bay%20Bird%20Island

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

Final Engineering and Construction are expected to take approximately 2 years from the time funds become available.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

Does this project include in-water work?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Does this project include terrestrial construction?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Does this project include construction of an overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will wildlife observation be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Shoreline protection/sediment management structures will be constructed with the use of marine barges to transport rock material and construction equipment such as excavators to place the rock material into the structure configurations.

Construction: 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.)

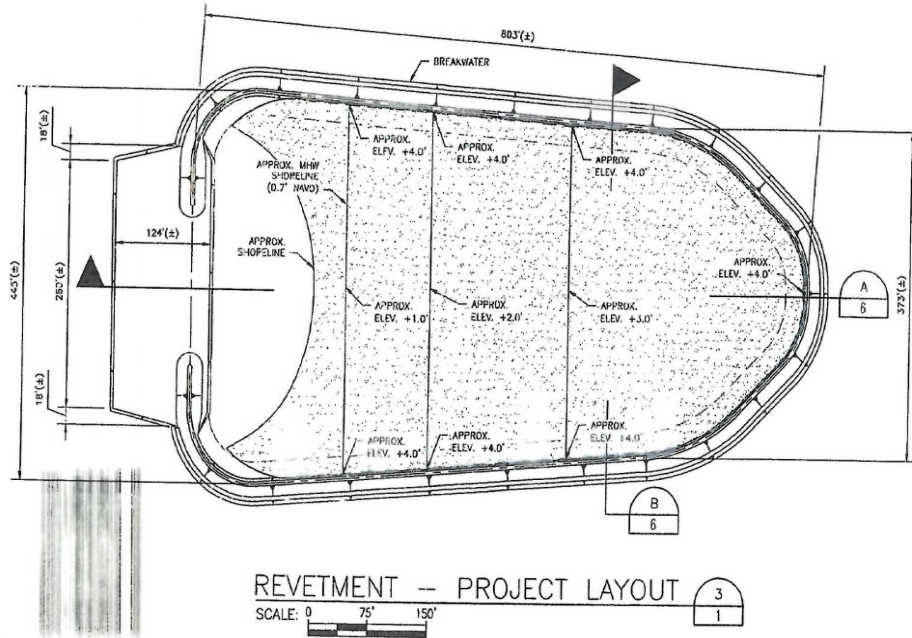
iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

The island would be constructed using a containment berm and rock revetment, similar to the construction method used by USACE to construct Evia Island in Galveston Bay, Texas. In-situ sediment from the center of the proposed rookery island footprint would be excavated using aquatic marsh hoes and side cast, around the proposed perimeter to create a containment berm with a crest elevation of approximately +6.5 feet NAVD (temporarily) and a crest-width of approximately 5 feet. The containment berm would contain loose sediments and reduce potential fill/impacts to surrounding natural resources. Once the containment berm is constructed, the outside of the berms would be armored with revetment type shoreline protection. The revetment would be constructed with a 2:1 slope and the crest of the final containment berms would be reduced so that the top of the rock is at +6.0 feet NAVD (See Permit Drawings, Sheets 6 of 6 of the Permit Application). A 5-foot wide toe would be constructed at the base of the revetment. The toe would be constructed to an elevation of approximately +2.5 feet above the bay bottom.

The containment berm and revetment shoreline protection will not encapsulate the island entirely. An approximately 120-foot wide shallow water beach opening would be included at the northwestern side of the island. A reef would be constructed on the northwestern side of the island at the beach opening. The reef would be constructed with graded riprap to an elevation of approximately -1.0 feet NAVD (See Permit Drawings, Sheets 3 and 4 of 4 of the Permit Application). The reef would reduce wave energy into the beach, provide oyster reef habitat, and provide foraging habitat for several bird species. Fill material for placement within the containment berm would be provided from an outside source. The location of the fill material will be identified during final engineering. Equipment, fill, and rock would be transported to the site via existing channels on barges. No new channels or dredging to access the site will be required. This is an example of the construction method used at numerous bird rookery islands:



b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

23. <i>Method of pile installation</i>	
24. <i>Material type of piles used</i>	
25. <i>Size (width) of piles/sheets</i>	
26. <i>Total number of piles/sheets</i>	
27. <i>Number of strikes for each single pile</i>	
28. <i>Number of strikes per hour (for a single pile)</i>	
29. <i>Expected number of piles to be driven each day</i>	
30. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	
31. <i>Expected number of sequential days spent pile driving</i>	
32. <i>Whether pile driving occurring in-water or on land</i>	
33. <i>Depth of water where piles will be driven</i>	

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 (sqft) beneath the boats that will be shaded.)*

Click here to enter text.

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.)*

Click here to enter text.

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.

The berms around the island would be armored with revetment type shoreline protection. The revetment would be constructed with a 2:1 and the crest of the final containment berms would be reduced so that the top of the rock is at +6.0 feet NAVD (See **Attachment A**, Permit Drawings, Sheets 6 of 6 of the Permit Application). A 5-foot wide toe would be constructed at the base of the revetment. The toe would be constructed to an elevation of approximately +2.5 feet above the bay bottom. The rock would be transported to the site by barge, and placed with track hoes.

f. Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

In-situ sediment from the center of the proposed rookery island footprint would be excavated using aquatic marsh hoes and side cast, around the proposed perimeter to create a containment berm with a crest elevation of approximately +6.5 feet NAVD (temporarily) and a crest-width of approximately 5 feet. The containment berm would contain loose sediments and reduce potential fill/impacts to surrounding natural resources (See COE Nationwide Permit Application, 2017). The middle of the island will be filled with material that is transported or pumped from an existing upland disposal area in the vicinity. No other dredging or digging will be conducted for this project.

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.)

Click here to enter text.

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

An approximately 120-foot wide shallow water beach opening would be included at the northwestern side of the island. A reef would be constructed on the northwestern side of the island at the beach opening. The reef would be constructed with graded riprap to an elevation of approximately -1.0 feet NAVD (See **Attachment A**, Permit Drawings, Sheets 3 and 4 of 4 of the Permit Application). The reef

would reduce wave energy into the beach, provide oyster reef habitat, and provide foraging habitat for several bird species.

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)).*

The created island will not be accessible by the public by foot; however, the rock shoreline protection and created reef habitat would enhance the area for fishery resources. Recreational fishing from local boaters could occasionally contribute to lost fishing line on the rocks creating the potential for entanglement of aquatic species and birds. To minimize this possibly the site will be posted with signs warning of the hazard.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. *List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.*

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

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Hawksbill Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.

Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Leatherback Sea Turtle (E)		Marine	No Effect	Species does not occur within action area
Smalltooth Sawfish (E)		Choose an item.	No Effect	Species does not occur within action area
Giant Manta Ray		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Green Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Loggerhead Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Kemp's Ridley		Terrestrial	No Effect	No suitable habitat in action area
Hawksbill Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Leatherback Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Red Knot		Terrestrial	No Effect	No suitable habitat in action area
Piping Plover		Terrestrial	No Effect	No suitable habitat in action area
West Indian Manatee		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Whooping Crane		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Northern Aplomado Falcon		Choose an item.	No Effect	No suitable habitat in action area

Eastern Black Rail		Choose an item.	No Effect	Species does not occur within action area
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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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Northern Aplomado Falcon:

No Effect. Although this species occurs in the County there is no habitat for the species at the project site.

Piping Plover:

No Effect. There is no habitat near the project site for this species

Red Knot:

No Effect. There is no habitat near the project site for this species

Eastern Black Rail

No Effect. Eastern Black Rails do not occur at the project site.

Whooping Cranes:

The project is not likely to adversely affect this species. Construction activities may occur when the species is present along the Texas coastline. Whooping cranes spend the winter months in Texas. Whooping cranes can fly into construction equipment at night or during inclement weather; therefore, contractors will be required to lower all construction equipment reaching heights of 15' or greater (e.g. lattice boom crawler crane) during nighttime hours and periods of low visibility to prevent any potential interference with whooping crane individuals, should they be traveling at lower altitudes in the vicinity of the Project. Note that this requirement would only be applicable when whooping cranes are present along the Texas Gulf Coast (approximately late October through March).

West Indian Manatee:

The project is not likely to adversely affect this species. West Indian Manatees are rarely seen on the Texas coast. All construction personnel will be notified of the potential presence of West Indian Manatee in the water and reminded of the criminal and civil penalties associated with harassing, injuring, or killing West Indian Manatees. All workers will be educated that there could be West Indian manatees in the water and will be advised to look for manatees and, if observed, wait until manatees leave the area to put equipment in the water. Care will be taken when using equipment in the water to ensure that no harm is caused to any West Indian Manatee that may be nearby. Should a West Indian Manatee come within 50 feet of the project area during construction activities, work would immediately cease until the West Indian Manatee has moved away from the project area on its own. Construction noise will be kept to the minimum feasible.

Green Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no beach habitat. Green Sea Turtles do occur in San Antonio Bay but not generally in the upper reaches of the bay where the project is located. Significant freshwater inflow from the Guadalupe River limits sea turtle use of the upper bay. However, during periods of drought and low flow, sea turtles may be in the water during construction activities including excavation of island building material. Methods used to remove material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass in the area and impacts to oyster reef habitats have been avoided. Green sea turtles are specialist feeders that target sponges and seagrass or macroalgae. Substrate at the proposed dredging sites consists of unvegetated unconsolidated bottom with scattered oyster clumps

and shell. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks shoreline protection or artificial reef.

Hawksbill Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no beach habitat. Hawksbill Sea Turtles rarely occur in San Antonio Bay and has not been documented in the upper reaches of the bay where the project is located. Significant freshwater inflow from the Guadalupe River limits sea turtle use of the upper bay. However, during periods of drought and low flow, sea turtles may be in the water during construction activities including excavation of island building material. Methods used to remove material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass in the area and impacts to oyster reef habitats have been avoided. Hawksbill sea turtles are specialist feeders that target sponges and seagrass or macroalgae. Substrate at the proposed dredging sites consists of unvegetated unconsolidated bottom with scattered oyster clumps and shell. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks shoreline protection or artificial reef.

Kemp's Ridley Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no beach habitat. Kemp's Ridley Sea Turtles do occur in San Antonio Bay but not generally in the upper reaches of the bay where the project is located. Significant freshwater inflow from the Guadalupe River limits sea turtle use of the upper bay. However, during periods of drought and low flow, sea turtles may be in the water during construction activities including excavation of island building material. Methods used to remove material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term and the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass in the area and impacts to oyster reef habitats have been avoided. Green sea turtles are specialist feeders that target sponges and seagrass or macroalgae. Substrate at the proposed dredging sites consists of unvegetated unconsolidated bottom with scattered oyster clumps and shell. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks

shoreline protection or artificial reef. The effects due to loss of foraging habitat on Kemp's ridley sea turtles are insignificant.

Loggerhead Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no beach habitat. This species is rarely seen in San Antonio Bay. Significant freshwater inflow from the Guadalupe River limits sea turtle use of the upper bay. However, during periods of drought and low flow, sea turtles may be in the water during construction activities including excavation of island building material. Methods used to remove material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. The effects due to loss of foraging habitat on loggerhead sea turtles are insignificant. This species is a generalist carnivore, typically preying on benthic mollusks and crustaceans in the nearshore environment. Loggerheads can be found foraging in shallow sandy habitat. However, any impacts to foraging habitat for loggerheads will be temporary and would only affect a small area relative to the foraging habitat available in the nearshore marine environment off Texas. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rock shoreline protection or artificial reef.

Leatherback Sea Turtle:

There will be no effect to this species, it does not occur in upper San Antonio Bay.

Smalltooth Sawfish:

There will be no impacts to this species from this project. This species is considered extirpated in Texas.

II. *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.*

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions⁷ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |

⁷ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html



Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

[Click here to enter text.](#)

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

There is no Critical Habitat for listed species at the project site.

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.

[Click here to enter text.](#)

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input checked="" type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ⁸
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ⁹
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

The following dredging BMPs should be followed to reduce any potential impacts to bottlenose dolphins related to dredging activities:

- Monitor/observe for dolphins during dredging activities following the same protocols used for manatees under the ESA.
- If dolphins come within 50 yards of active dredging and are not just traveling through the area (e.g., remaining

⁸ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

⁹ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

within the 50 yards to forage), dredge operations should not start; or if dredging has already begun, it should cease until the dolphins are beyond the 50-yards and are not likely to re-enter (i.e., are on a dedicated path away from the 50-yard area).

- Avoid trans-versing waterbodies with any floating pipelines from the dredge activities, as these could pose as a perceived barrier to dolphins.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

9. 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).
10. 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.
11. 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.
12. 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

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

M. Request approval for use of NMFS PDCs for this project

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. Check "yes" for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): [Texas General Land Office](#), [Texas Parks and Wildlife Department](#) and [Texas Commission on Environmental Quality](#)

Contact Name: [Angela Sunley](#) Phone: 512-463-9309 Email: Angela.Sunley@glo.texas.gov

Project Name: Conservation and Enhancement of Nesting and Foraging Birds, Component 4:
Matagorda Bay Bird Island (Chester Island), TX

DIVER ID# [Click to enter text](#) TIG: [Regionwide TIG](#) [Restoration Plan # 1](#)

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

A contractor for the Texas General Land Office prepared 30% level designs for beach nourishment templates and sediment management/shoreline protection structures. Upon

completion of 100% design documents, the Texas General Land Office will implement construction which may include the placement of rock groins and breakwaters followed by the placement of beneficial use material sourced from U.S. Corps of Engineers maintenance of the Matagorda Ship Channel (MSC) and the Gulf Intracoastal Waterway (GIWW).

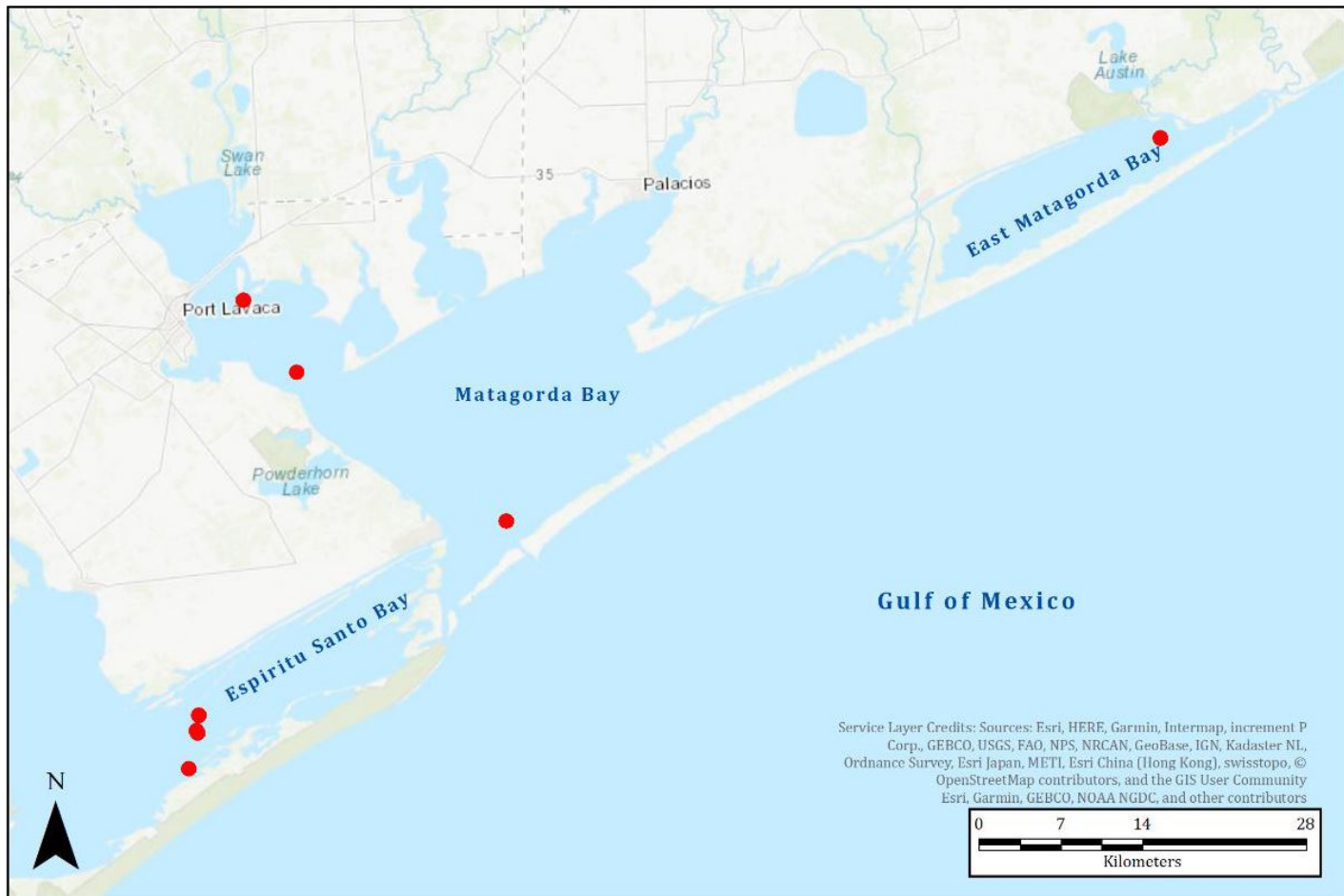
Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area
Matagorda Bay, Matagorda County, Texas



II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

28.452077° -96.346414° NAVD88



D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

NEPA analysis of the placement of dredged material on Chester Island is included in the USACE MSC Feasibility Study and EIS found at:

https://www.swg.usace.army.mil/Portals/26/MSC_Main_Report_for_FINAL_Policy_Review_2019_08_12.pdf

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Angela Sunley

Name of Project Lead: Angela Sunley

Date Form Completed: 09/25/2020

Date Form Updated: 6/8/2021

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

ee. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The project is located in open waters of Matagorda Bay with depths ranging from near 0.00 to approximately 15 feet.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

The project is within Matagorda Bay.

ff. 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.

A small equipment shack is the only building on the southeast side of the island. Shoreline protection in the form of an articulated concrete block mat geotextile tube extends from the northeastern tip and along the southeastern shore approximately 1,240 feet to the southwest.

gg. 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.

No known seagrass or other marine vegetation in the project area.

hh. 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.

No mangroves present in the project area.

ii. 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. Click [here](#) to enter text.

No corals present in the project area

jj. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Uplands on the island consist of unvegetated beach and dune habitat along the edges of the island with scrub-shrub and grassy habitat in the interior portion of the island.

kk. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

bottlenose dolphins (*Tursiops truncatus*) frequent Matagorda Bay.
west Indian manatee (*Trichechus manatus*) are observed on rare occasions in Matagorda Bay.

II. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

The island's maximum elevation ranges from between 10 to 15 feet North American Vertical Datum (NAVD) 88. Soils on the island originated from sediment dredged from the Matagorda Ship Channel (MSC) and Gulf Intracoastal Waterway (GIWW) and ranges from silty sand to fine sand. The surrounding area is characterized by shallow bay bottom with soils consisting of clay, sand and shell hash

mm. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Chester Island is a state-owned colonial waterbird rookery island leased by The Texas General Land Office to Audubon Texas for bird habitat management. Use activities adjacent and surrounding the island include recreational and commercial fishing and marine transportation in the MSC and GIWW. Proximal to the island is the Matagorda Peninsula, which is a coastal barrier spit. Land use activities here include cattle grazing and recreation.

nn. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

The Island is proximal to the large inlet into Matagorda Bay. The MSC provide significant ingress and egress for aquatic organisms in and out of the bay. Intertidal marsh habitats are associated with the bay side of Matagorda Peninsulas. In the immediate project footprint, fisheries habitat is composed of shallow water flats and shoals. Such flats and shoals, when submerged, consist of Essential Fish Habitat for a variety of Federally managed species such as brown shrimp (*Farfantepenaeus aztecus*), white shrimp (*Penaeus setiferus*), gray snapper (*Lutjanus griseus*), lane snapper (*Lutjanus synagris*), and red drum (*Sciaenops ocellatus*). The southern end of the island is adjacent to deeper waters while the northern part of the island is associated with extensive shallow water flats. No seagrasses or oyster beds have been detected in any previous surveys or site visits.

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

Chester Island is a colonial waterbird nesting site in Matagorda Bay. The island hosts around 18,000 pairs of breeding birds each year and benefits from Audubon's stewardship and ongoing monitoring efforts. Enhancing this critical bird habitat will continue to allow the colonial waterbirds to flourish.

Chester Island is a U.S. Army Corps of Engineers (USACE) dredged material placement site that is eroding at a faster rate than the current rate of placement. The primary causes of erosion are high currents near the MSC (MSC) jetties, vessel wakes from the MSC and GIWW (GIWW), high tides, relative sea level rise and strong wind-driven wave forces including impacts from winter storms and tropical cyclones.

This project would slow the erosion of Chester Island by constructing sediment control and shoreline protection measures such as groins and breakwaters along the channel side of the island to protect the island from wave action and to contain future U.S. Army Corps of Engineers dredge material placement events. A restoration plan for Chester Island was finalized in 2017 that includes design templates to rebuild the island with material dredged by USACE from the Matagorda Ship Channel and Gulf Intracoastal Water Way during channel maintenance and recommendations for erosion response structures .

Phase I of the project is funded by Gulf of Mexico Energy Security Act (GOMESA) funds and will be completed in late 2021. Phase I includes the completion of 100% engineering and design for sediment control structures in addition to beach templates. Permitting for the sediment control structures will be conducted during Phase I.

The potential installation of sediment control structures would occur along the high energy shorelines of the island. No vegetative plantings are contemplated as part of this project. The figures below are from the 2014 Conceptual Design Alternative Analysis and shows the siting of structures on the southern half of the island adjacent to the Matagorda Ship Channel.

II. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water

work.)

Bid Solicitation Assistance and Final Engineering are anticipated to take one year from the date funds are made available. Construction is expected to take another year after engineering and permitting.

III. Specific In-Water and/or Terrestrial Construction Methods

Please check yes or no for the following questions related to in-water work and overwater structures

Does this project include in-water work?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Does this project include terrestrial construction?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Does this project include construction of an overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will wildlife observation be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Shoreline protection/sediment management structures will be constructed with the use of marine barges to transport rock material and construction equipment such as excavators to place the rock material into the structure configurations

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

The specific construction methods will be determined when engineering and design are completed. Sediment management/shoreline protection structures will most likely require some excavation to establish a foundation toe below the existing grade. Rock for the structures would be transported to the site using marine barges and offloaded for placement. Excavation and rock placement will be performed with the use of construction such as excavators and drag lines.

Conceptual design for breakwaters is complete – alternative selected:

https://dwh.nmfs.noaa.gov/rw/pl/WA_pl/RP1_L/04_Draft_RP-EA/04_06_Final_Project_Materials/1-Birds/2015March31_Sundown%20Island%20Alternatives%20Analysis_FINAL.pdf?Web=1

Find Chester Island folder with additional docs

https://dwh.nmfs.noaa.gov/rw/pl/WA_pl/RP1_L/04_Draft_RP-EA/04_06_Final_Project_Materials/1-Birds

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

34. Method of pile installation	
35. Material type of piles used	
36. Size (width) of piles/sheets	
37. Total number of piles/sheets	
38. Number of strikes for each single pile	
39. Number of strikes per hour (for a single pile)	
40. Expected number of piles to be driven each day	
41. Expected amount of time needed to drive each pile (minutes of driving activities)	
42. Expected number of sequential days spent pile driving	
43. Whether pile driving occurring in-water or on land	
44. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

Click here to enter text.

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.)*

Click here to enter text.

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.*

The specific construction methods for shoreline armoring will be determined when engineering and design are completed. Sediment management/shoreline protection structures will most likely require some excavation to establish a foundation toe below the existing grade. Rock for the structures would be transported to the site using marine barges and offloaded for placement. Excavation and rock placement will be performed with the use of construction such as excavators and drag lines.

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

Chester Island, previously referred to as Sundown Island, was initially constructed in the early 1960s with fine-grained sandy sediment dredged from MSC. The island has since received periodic re-nourishment with sediment dredged from maintenance events of the MSC and GIWW. The MSC is presently maintained at a depth of 38 feet below mean low water (mlw) and the GIWW is maintained at 12 feet below mlw. The island is a USACE-designated placement area for sediment dredged from both navigation channels (Placement Area No. 3 for the MSC and Placement Area No. 116-A for the GIWW). Cutterhead suction dredges are used for the GIWW while both cutterhead suction and hopper dredges are used to maintain the MSC. USACE periodically collects sediment samples from the MSC and GIWW for chemical analysis for contaminant screening.

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.)

Click here to enter text.

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

Click here to enter text.

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)).

Click here to enter text.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Hawksbill Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp’s Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Giant Manta Ray		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
West Indian Manatee		Marine	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Leatherback Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area

Kemp's Ridley		Terrestrial	No Effect	No suitable habitat in action area
Hawksbill Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Loggerhead Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Green Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Piping Plover		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Red Knot		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Eastern black rail		Choose an item.	No Effect	Choose an item.
Aplomado Falcon		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Whooping Crane		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Northern Aplomado Falcon:

May effect but not likely to adversely affect this species. Construction activities may occur when the species is present along the Texas coastline. However, the project benefits outweigh the temporary disturbance. The project will result in increased habitat for the Northern Aplomado Falcon by protecting the scrub-shrub habitat from further erosion and loss of vegetative cover.

Piping Plover:

May effect but not likely to adversely affect this species. Construction activities may occur when the species is present along the Texas coastline. However, the project benefits outweigh the temporary disturbance. The project will result in increased habitat for the Piping Plover by protecting the sandflats and bayside beach habitats from further erosion.

Red Knot:

May effect but not likely to adversely affect this species. Construction activities may occur when the species is present along the Texas coastline. However, the project benefits outweigh the temporary disturbance. The project will result in increased habitat for the Piping Plover by protecting the sandflats and bayside beach habitats from further erosion.

Black Rail

No Effect. Black Rails do not occur at the project site.

Whooping Cranes:

The project is not likely to adversely affect this species. Construction activities may occur when the species is present along the Texas coastline. Whooping cranes spend the winter months in Texas. Whooping cranes can fly into construction equipment at night or during inclement weather; therefore, contractors will be required to lower all construction equipment reaching heights of 15' or greater (e.g. lattice boom crawler crane) during nighttime hours and periods of low visibility to prevent any potential interference with whooping crane individuals, should they be traveling at lower altitudes in the vicinity of the Project. Note that this requirement would only be applicable when whooping cranes are present along the Texas Gulf Coast (approximately late October through March).

West Indian Manatee:

The project is not likely to adversely affect this species. West Indian Manatees are rarely seen on the Texas coast. All construction personnel will be notified of the potential presence of West Indian Manatee in the water and reminded of the criminal and civil penalties associated with harassing, injuring, or killing West Indian Manatees. All workers will be educated that there could be West Indian manatees in the water and will be advised to look for manatees and, if observed, wait until manatees leave the area to put equipment in the water. Care will be taken when using equipment in the water to ensure that no harm is caused to any West Indian Manatee that may be nearby. Should a West Indian Manatee come within 50 feet of the project area during construction activities, work would immediately cease until the West Indian Manatee has moved away from the project area on its own. Construction noise will be kept to the minimum feasible.

Green Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no gulf-facing beach habitat. Green Sea Turtles do occur in Matagorda Bay but not generally in the area of the bay where the project is located. Methods used to remove material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass in the area due to water depth. Green sea turtles are specialist feeders that target sponges and seagrass or macroalgae. Substrate at the proposed placement sites consists of unvegetated unconsolidated bottom. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks shoreline protection or breakwaters.

Hawksbill Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no gulf-facing beach habitat. Hawksbill Sea Turtles rarely occur in Matagorda Bay. Sea turtles may be in the water during construction activities including placement of the breakwater materials. Methods used to place material will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass because of the depth of water in the area. Hawksbill sea turtles are specialist feeders that target sponges and seagrass or macroalgae. Substrate at the proposed placement sites consists of unvegetated unconsolidated bottom. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks shoreline protection or breakwaters.

Kemp's Ridley Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no gulf-facing beach habitat. Kemp's ridley sea turtles do occur in Matagorda Bay. Sea turtles may be in the water during construction activities including placement of the breakwater materials. Methods used to place the material will be with a track hoe from a barge which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term and the above-referenced guidelines will be followed. Impacts to bay bottom would have minimal impacts to foraging habitat for this species because there is no seagrass in the area due to water depths. Kemp's ridley sea turtles are specialist feeders that target jellyfish, sponges and seagrass or macroalgae. Substrate at the proposed placement sites consists of unvegetated unconsolidated bottom. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rocks shoreline protection or artificial reef. The effects due to loss of foraging habitat on Kemp's ridley sea turtles are insignificant.

Loggerhead Sea Turtle:

This project may affect but is not likely to adversely affect this species. No sea turtle nesting activities are expected to occur here since there is no gulf-facing beach habitat. This species is rarely seen in Matagorda Bay. Sea turtles may be in the water during construction activities including excavation of island building material. Methods used to place breakwater materials will be with a track hoe which would have minimal impacts to sea turtle species. Biological monitors will be utilized to ensure that proper precautions are taken if a sea turtle is observed in or near the project area as per the Sea Turtle and Small Sawtooth Construction Conditions. However, if undetected turtles are in the project area, they may be disturbed by construction work, including small boats and the barge transporting material to the island sites, noise and vibrations from construction. Any disturbance to sea turtles and habitat would be minimal and temporary as project work is short-term, the above-referenced guidelines will be followed. The effects due to loss of foraging habitat on loggerhead sea turtles are insignificant. This species is a generalist carnivore, typically preying on benthic mollusks and crustaceans in the nearshore environment. Loggerheads can be found foraging in shallow sandy habitat. However, any impacts to foraging habitat for loggerheads will be temporary and would only affect a small area relative to the foraging habitat available in the nearshore marine environment off Texas. Entrapment and entanglement is also extremely unlikely. Landing on the island will be prohibited and signs will warn boaters and recreational fisherman about the rock hazard surrounding the island; therefore, there is very little risk of discarded or lost fishing line attaching to the rock shoreline protection or breakwaters.

Leatherback Sea Turtle:

There will be no effect to this species, it does not occur in Matagorda Bay.

Smalltooth Sawfish:

There will be no impacts to this species from this project. This species is considered extirpated in Texas.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁰ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

Click here to enter text.

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.

Click here to enter text.

¹⁰ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input type="checkbox"/>	<input checked="" type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Section F above provides a description of the construction activities

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹¹
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¹¹ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹²
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

13. 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).
14. 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.
15. 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.
16. 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
 Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check "yes" for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
----	-----	----------

¹² Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Oyster Reef Creation and Enhancement |
| <input type="checkbox"/> | <input type="checkbox"/> | Marine Debris Removal |
| <input type="checkbox"/> | <input type="checkbox"/> | Construction of Living Shorelines |
| <input type="checkbox"/> | <input type="checkbox"/> | Marsh Creation and Enhancement |
| <input type="checkbox"/> | <input type="checkbox"/> | Construction of Non-Fishing Piers |

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Michael Barron at michael_barron@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Mississippi Department of Environmental Quality (DEQ)

Contact Name: Valerie Alley Program Management Division Chief

Phone: (601) 961-5182 Email: valley@mdeq.ms.gov

Project Name: Conservation and Enhancement of Nesting and Foraging Birds, Component: 5
Round Island, MS

DIVER ID# [Click to enter text](#) TIG: [Choose an item](#) Restoration Plan # [Regionwide Plan 1](#)

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

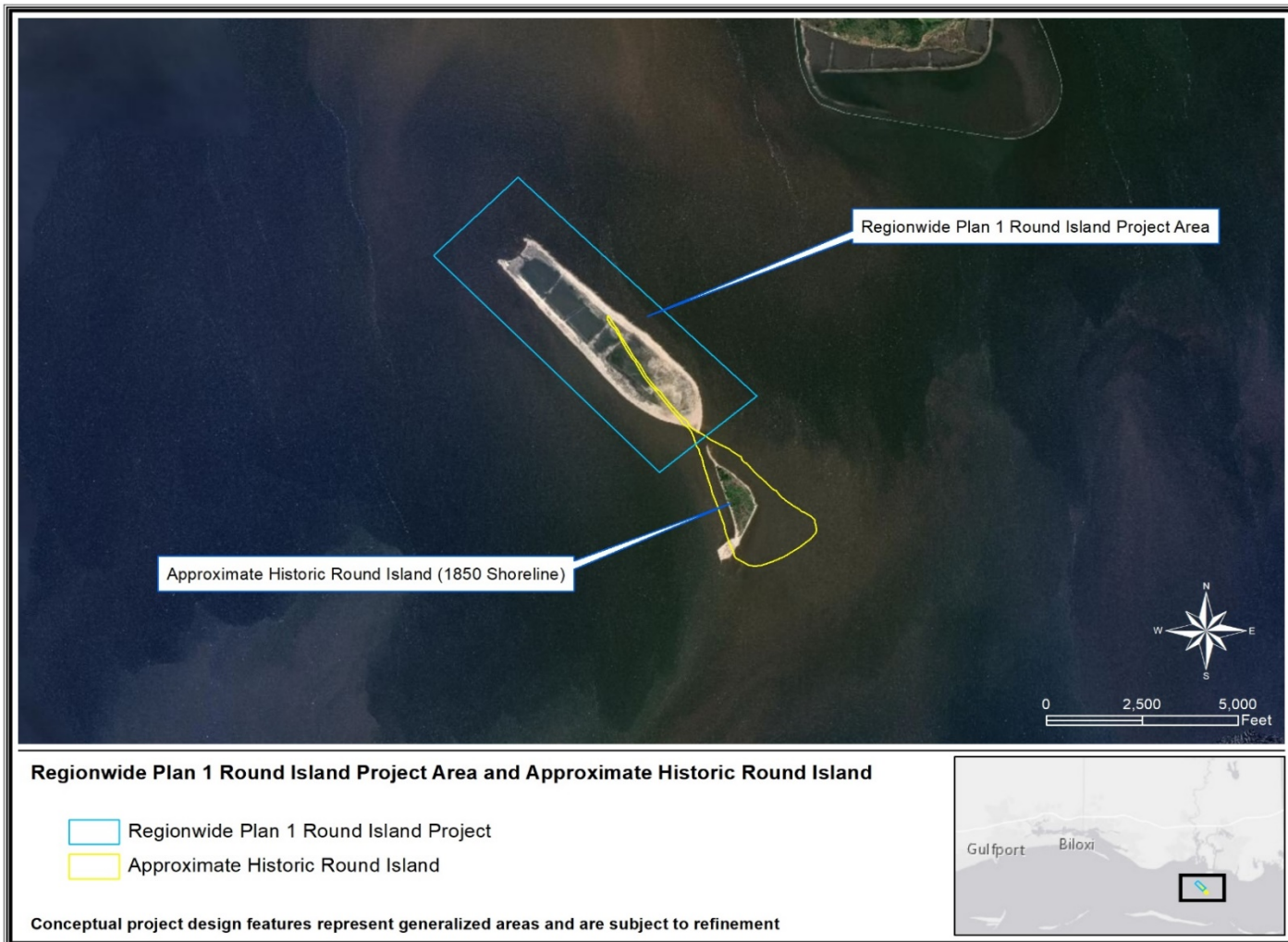
Planning/Conceptual Construction/Implementation Engineering & Design

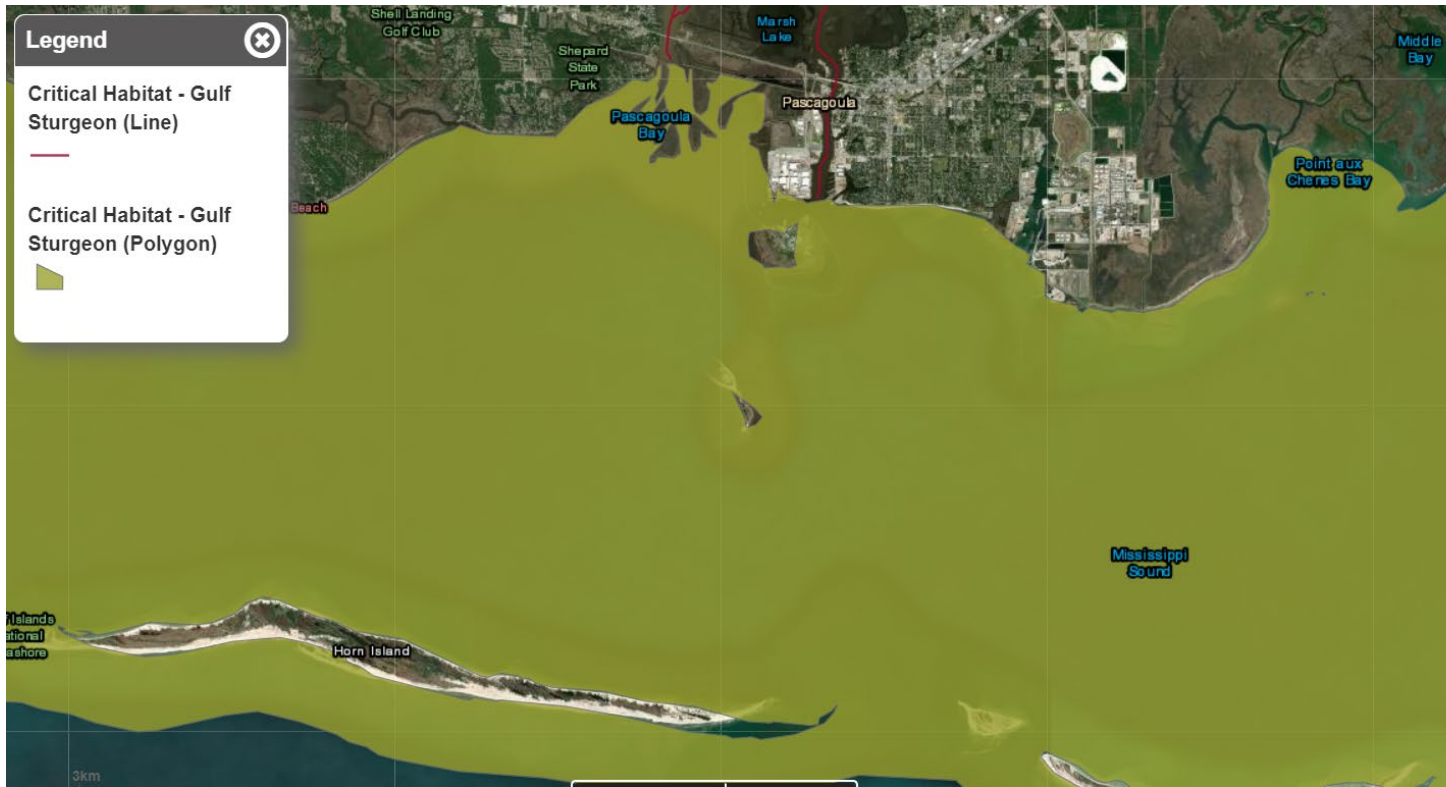
If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

Supporting Documentation

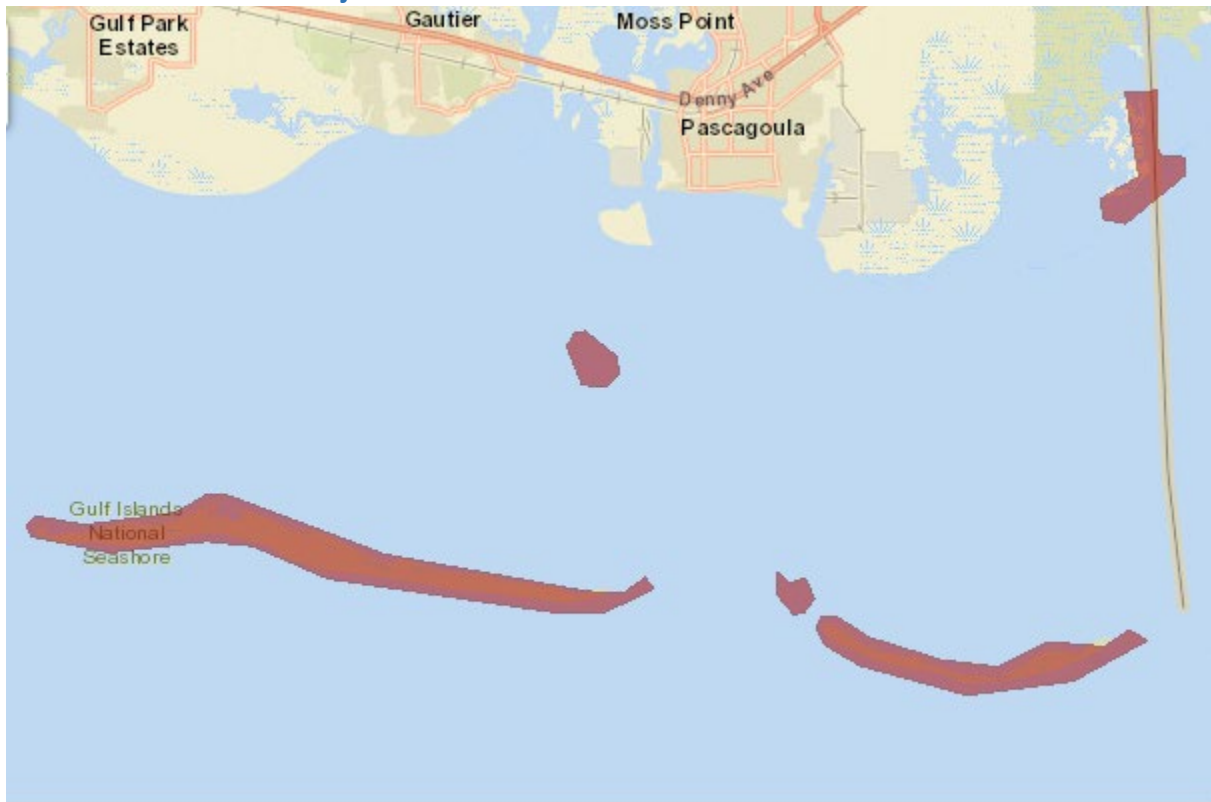
Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid





**Attachment 2:
Critical Habitat in the Project Area**



Attachement 3: Piping Plover Critical Habitat

C. Project Location

I. State and County/Parish of action area
Jackson County, Mississippi See Attachment 1

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83]
[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]
30°18'11.27"N; 88°35'39.72"W

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: There is no dredging or placement of beneficial use anticipated for the current bird habitat project; however, the permits that authorized the creation of Round Island have been provided for reference. See DMR 120147 (issued January 4, 2012); USACE SAM-2011-01590-KMN (February 1, 2013); documents at: https://covingtoncivil.egnyte.com/fl/ZzjhrP1CrP/Round_Island_Bird_Habitat_Project_Information_

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter text.

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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Stephen Parker

Name of Project Lead: Valerie Alley

Date Form Completed: 10-02-20

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

oo. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Mississippi Sound

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Interior marsh on the island is adjacent to the MS Sound; there would be no in-water work associated with this project.

pp. 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.

None in the area.

qq. 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.

N/A.

rr. 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.

There are no mangroves on Round Island.

ss. 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. Click here to enter text.

There are no corals in or near Round Island.

tt. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

The upland areas of the project site represent the higher elevations of the sand berm that was created to contain beneficial use sediment material, which is approximately 14,000 feet in length. The areas of higher elevation on the sand berm could be categorized as dune/beach habitat that has been naturally colonized by several native species including but not limited to yellow nutsedge (*Cyperus esculentus*), eastern baccharis (*Baccharis halimifolia*), fringe-rush (*Fimbristylis spp.*), and saltmarsh morning-glory (*Ipomoea sagittata*) . Some areas of the berm were planted with sea oats to stabilize the structure after construction.

uu. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

Click here to enter text.

w. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

The island berms are composed primarily of sandy materials; Dredge disposal obtained from the East Pascagoula River Channel is in the interior of islands and is composed mainly of unconsolidated sediments.

ww. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

The island was created in 2016-2017 from locally sourced sand and beneficial use sediment obtained from the East Pascagoula River Channel.

xx. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

There is no in-water work in the project area

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

Proposed Habitat Restoration on Round Island:

This proposed project would include the following habitat restoration activities within the “Regionwide Plan 1 Project Area” (hereinafter referred to as Round Island): materials management to create additional habitat on the island, vegetation management to enhance colonial water bird nesting habitat, scrub/shrub habitat creation, predator control and debris removal. Dredging of materials and beneficial use of dredge materials is **not anticipated** as a restoration measure that would be implemented with these project funds. The Trustee could use project funds to apply these habitat restoration activities to any newly created areas on Round Island (See Attachment 1); (See Table 1-Potential Future Restoration).

Table 1: Restoration Measures and Management Activities for Round Island¹³		
Restoration Measures	Area (acres)	Description

¹³ Conceptual project design features represent generalized areas and are subject to refinement.

Colonial Waterbird Nesting Area	20	Devegetation in areas that are potential colonial waterbird nesting sites/currently have appropriate shell hash materials; addition of materials to enhance nesting habitat
Materials Management Area	5	Addition of materials to enhance nesting habitat (20% of Colonial Waterbird Nesting Area)
Vegetation Management (vegetation)	56	Includes management of planted vegetation, and removal of invasive species throughout the vegetated portions of the island including berms within the open water area
Habitat Creation Area (scrub shrub)	12	Includes development of planting plan, grading plan, construction, and planting of scrub shrub on higher elevations to create stopover, loafing, feeding and potential future nesting habitat.
Predator Control	51	
Debris removal	51	
Potential Future Restoration	TBD	In the event that other entities add beneficial use material to the island, creating additional habitats (e.g. shoreline, upland) project funds could be utilized on newly created areas on Round Island, as described above.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Project does not include a fishing pier; there will be no removal of structures.

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

There will be no dock construction.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

45. Method of pile installation	N/A
46. Material type of piles used	N/A
47. Size (width) of piles/sheets	N/A
48. Total number of piles/sheets	N/A
49. Number of strikes for each single pile	N/A
50. Number of strikes per hour (for a single pile)	N/A
51. Expected number of piles to be driven each day	N/A
52. Expected amount of time needed to drive each pile (minutes of driving activities)	N/A
53. Expected number of sequential days spent pile driving	N/A
54. Whether pile driving occurring in-water or on land	N/A
55. Depth of water where piles will be driven	N/A

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 (sqft) beneath the boats that will be shaded.)*

There are no marinas or boat slips associated with this project.

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.)*

There are no boat ramps associated with this 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.*

There is no shoreline armoring associated with this project.

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

There is no dredging associated with this project.

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.)*

There will be no blasting associated with the project.

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

Artificial reefs will not be constructed as a part of this project.

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)).*

There would be no fishery activities associated with this project, that could entangle or capture protected species.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
			Select Most Appropriate	Select Most Appropriate
			Select Most Appropriate	Select Most Appropriate
			Select Most Appropriate	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Red Knot		Terrestrial	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Piping Plover		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle		Terrestrial	No Effect	Species does not occur within action area

Leatherback Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Kemp's Ridley		Terrestrial	No Effect	Species does not occur within action area
Hawksbill Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Loggerhead Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
West Indian Manatee		Marine	No Effect	Species does not occur within action area
Eastern Black Rail		Terrestrial	May Affect, Not Likely to Adversely Affect	Choose an item.
				Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

The project would remove undesirable vegetation to restore some unvegetated sand areas that support nesting by a variety of tern species. These activities would adversely impact scrub-shrub habitats on Round Island, resulting in localized, minor, short-term impacts to bird species using the areas. The project would also replace some scrub-shrub habitats with more desirable vegetation that supports a variety of bird species expected to use Round Island. Protected bird species that potentially use the site are the, Eastern black rail (*Laterallus jamaicensis jamaicensis*), red knot (*Calidris canutus rufa*) and piping plover (*Charadrius melodus*). These species may experience temporary disruption during restoration, leading to minor, short-term impacts. When the restoration is complete, the project would provide long-term, beneficial impacts.

All nuisance species removal will occur during the non-breeding season. Duration is estimated between 4 and 8 weeks. The activity would occur during the non-breeding season. Species may move out of the area in reaction to disturbance caused by equipment movement, vegetation removal, various treatments (mechanical or hand clearing), planting activities, etc. The activities would be temporary and would minimize impacts to species.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

USFWS Standard Manatee In Water Conditions

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁴ |
| <input type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NMFS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

NA

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

Critical habitat will not be affected.

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.

K. 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.

¹⁴ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Is your activity occurring in or on marine or estuarine waters? NO YES

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹⁵
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹⁶
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

¹⁵ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

¹⁶ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

[Click here to enter text.](#)

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

17. 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).
18. 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.
19. 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.
20. 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

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

M. Request approval for use of NMFS PDCs for this project

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. Check "yes" for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

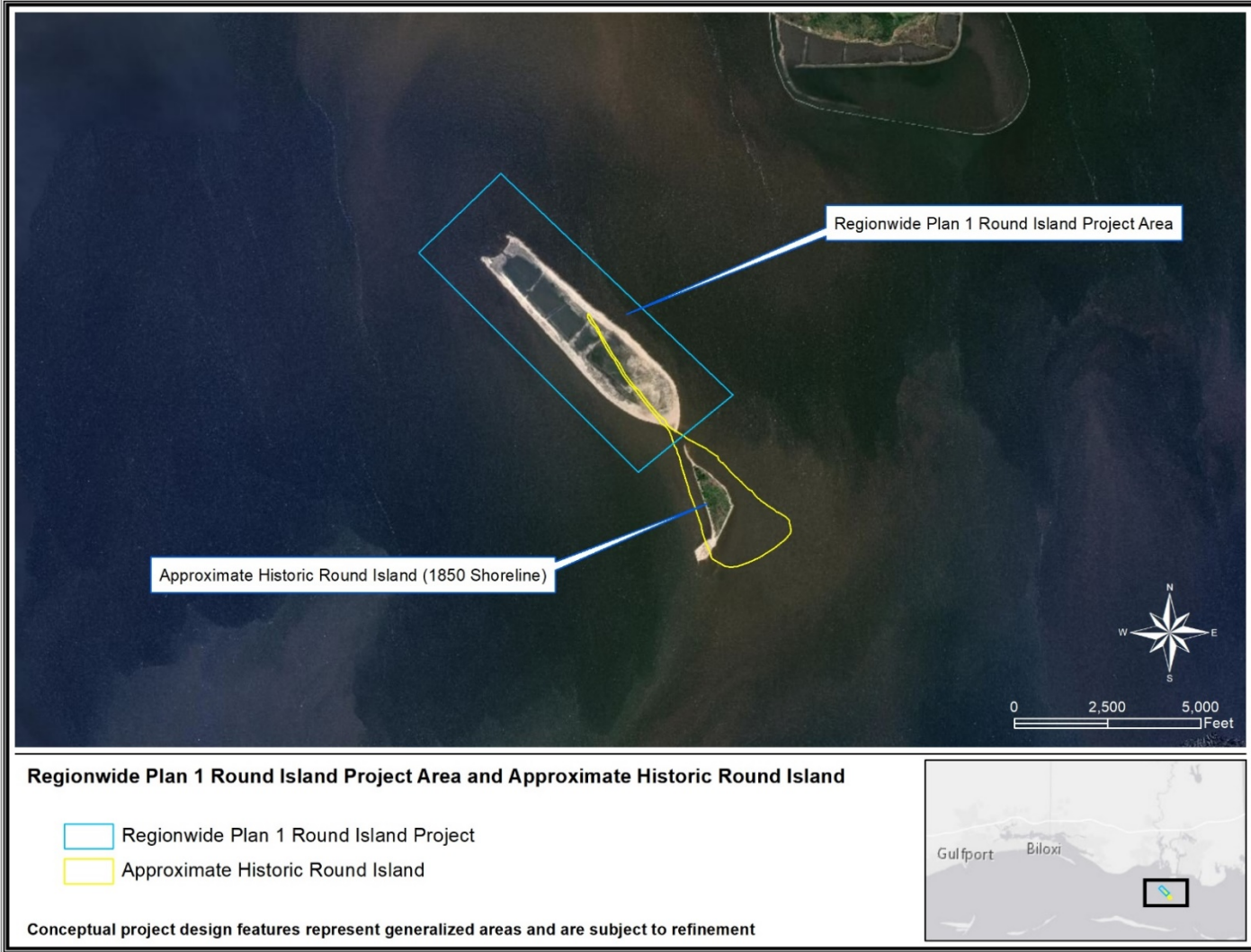
USFWS ESA § 7 Consultation

Michael Barron, Department of the Interior

Email: michael_barron@fws.gov

Phone: 251-421-7030

Attachment A: Maps



Attachment A-1

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA)

Contact Name: Libby Fetherston-Resch Phone: (727) 667-8779 Email: elizabeth.fetherston-resch@noaa.gov

Project Name: Reducing Impacts to Dolphins from Hook and Line Gear and Provisioning through Fishery Surveys, Social Science, and Collaboration

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Activities in this project will be conducted in each of the five Gulf states.

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

There is no specific latitude/longitude specific for this project, but it will focus on engaging with for-hire and private anglers in each of the Gulf states where rod and reel fishing occurs.

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Julia Goss

Name of Project Lead: TBD

Date Form Completed: 9/23/20

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

yy. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

There is no in-water work associated with this project. N/A

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Click or tap here to enter text.

zz. 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.

N/A

aaa. 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.

N/A

bbb. 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.

N/A

ccc. 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. Click here to enter text.

N/A

ddd. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

N/A

eee. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

N/A

fff. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

N/A

ggg. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

N/A

hhh. **Essential Fish Habitat**

If applicable. Describe any designated Essential Fish Habitat within the project area

There is no in-water work proposed in this project

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

This project will not involve construction and no in- or on-water work will be occurring during Phase 1.

The overall goal of this project is to provide benefits to Gulf of Mexico bottlenose dolphins (*Tursiops truncatus truncatus*) by reducing the number of injuries and mortalities due to interactions with rod and reel fishing gear and fishing activities, as well as associated with illegally feeding dolphins. This proposed project includes funding only for Phase 1 of a two-phased project.

Phase 1 would characterize the nature and magnitude of interactions between dolphins and hook-and-line gear through systematic fishery surveys, social science studies and evaluation of stranding data and then use this information to collaboratively identify possible solution(s) to reduce interactions. Phase 1 of the project will include the following activities: 1) conducting systematic fishery surveys of a portion of rod and reel anglers in each Gulf state fishing from piers and vessels (both private and for-hire) in a variety of habitats (e.g., coastal and estuarine); 2) characterizing the rod and reel gear found on stranded bottlenose dolphins and locations of strandings, and comparing those to fishery survey results; 3) conducting human dimension social science studies in hot spot areas identified from the surveys to characterize anglers' attitudes towards dolphins, dolphins' interactions, and their likelihood to take various actions (both preventative and retaliatory) and to identify potential measures to reduce interactions; and 4) identifying potential solution(s) (e.g., gear modifications, fishery practice changes, deterrence measures, etc.) through collaborative workshops developed based on results of the systematic fishery surveys and social science studies.

Phase 2 (not proposed for funding in Regionwide RP1/EA) would collaboratively develop and test the effectiveness of those solution(s), implement identified solution(s), and systematically repeat fisher surveys and social science studies from Phase 1 to evaluate success.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

The anticipated total project duration for Phase 1 is approximately four years.

Phase 1 (approximately years 1-4)

Activity 1: planning for systematic fishery surveys could start in year 1 with surveys completed by year 2. Year 1 would entail planning activities for conducting the surveys, such as developing the survey instrument and completing Paper Reduction Act (PRA) compliance. Surveys would be implemented as soon as the PRA compliance is completed, ideally in Year 1, but could start and end in Year 2.

Activity 2: characterization of rod and reel fishing gear found on stranded dead bottlenose dolphins could start in year 1 as soon as the project is initiated and be completed within Year 1.

Activity 3: social science studies could start and be completed within Year 3, or sooner contingent on completion of the systematic fishery surveys.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

N/A

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

56. Method of pile installation	
57. Material type of piles used	
58. Size (width) of piles/sheets	
59. Total number of piles/sheets	
60. Number of strikes for each single pile	
61. Number of strikes per hour (for a single pile)	
62. Expected number of piles to be driven each day	
63. Expected amount of time needed to drive each pile (minutes of driving activities)	
64. Expected number of sequential days spent pile driving	
65. Whether pile driving occurring in-water or on land	
66. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.*

N/A

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

N/A

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.)

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

N/A

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)).

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	Select Most Appropriate	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Phase 1 includes systematic fishery surveys, social science studies and evaluation of stranding data. There is no in-water work proposed in this phase. Any future phases that involve in-water work that could affect ESA-listed species or habitats would be evaluated at the time it is proposed for funding in an RP.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁷ |
| <input type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |

¹⁷ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html



Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

[Click here to enter text.](#)

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

No critical habitat will be affected

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.

[Click here to enter text.](#)

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹⁸
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹⁹
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

¹⁸ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

¹⁹ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

21. 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).
22. 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.
23. 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.
24. 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
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA)

Contact Name: Libby Fetherston-Resch Phone: (727) 667-8779 Email: elizabeth.fetherston-resch@noaa.gov

Project Name: Voluntary Modifications to Commercial Shrimp Lazy Lines to Reduce Dolphin

Entanglements

DIVER ID# TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Commercial shrimp fishermen claim that bottlenose dolphin (*Tursiops truncatus truncatus*) interaction behavior and frequency of interactions with shrimp trawl gear vary by area. Evaluating gear in multiple areas of the Gulf would allow researchers to evaluate alternative lazy line types accounting for potential fishing and dolphin behavior variables by area and ensuring the selected alternative lazy line type would be successful for use across the Gulf as much as practicable.

Within estuarine and state waters, the following locations listed below would be preferred for in-water gear testing and were identified based on the known commercial shrimp activity and the occurrence of a representative sample of various bottlenose dolphin stocks. Final locations will be selected during planning (Activity 1), but will be within current extent of shrimp fishery locations.

- Galveston, TX: includes the Galveston and West Bay estuarine bottlenose dolphin stocks, and the Western Coastal stock
- Venice, LA: includes the Barataria and Mississippi River Delta estuarine bottlenose dolphin stocks, and the Western and Northern Coastal stocks
- Pascagoula, MS: includes the Mississippi Sound and Mobile Bay estuarine bottlenose dolphins, and the Northern coastal stock
- Panama City, FL: includes the St. Andrew Bay and St. Joseph Bay Stock estuarine stock, and the Northern coastal stock.

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

The locations listed above will be considered for in-water testing, but the final selection will be chosen in Phase 1 of the project.

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

Permits

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

The Gulf of Mexico shrimp fishery is listed as a Category II in the 2020 List of Fisheries under the Marine Mammal Protection Act (MMPA) (see link below). Through its Marine Mammal Authorization Program, the MMPA requires that all Category I and II fisheries be registered with the National Marine Fisheries Service (NMFS) to receive authorization to incidentally kill or injure a marine mammals during the course of their fishing operation.

Therefore, participants in the Gulf of Mexico shrimp fishery are authorized to incidentally take marine mammals during their fishery operations but must report to the National Oceanic and Atmospheric Administration (NOAA) within 48 hours of any marine mammal deaths or injuries, among other things.

<https://www.federalregister.gov/documents/2020/04/16/2020-06908/list-of-fisheries-for-2020>

Any take occurring during gear testing as part of this project would be reported by the fisher on that boat.

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

Name of Person Completing this Form: Julia Goss

Name of Project Lead: TBD

Date Form Completed: 9/23/20

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

iii. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Each of the proposed locations for in-water testing occur in the Northern Gulf of Mexico and are based on known commercial shrimp activity and the occurrence of a representative sample of various bottlenose dolphin stocks. See the Project Location section for additional information

Does the project area include a river or estuary?

YES NO

*If yes, please approximate the navigable distance from the project location to the marine environment.
Click or tap here to enter text.*

jjj. 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.

N/A

kkk. 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.

N/A

lll. 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.

N/A

mmm. **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. Click here to enter text.

N/A

nnn. **Uplands**

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

N/A

ooo. **Marine Mammals**

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES YES

Manatees YES YES

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>

Activities in this project would be conducted in each of the five Gulf states and impact Gulf of Mexico bottlenose dolphins (*Tursiops truncatus truncatus*) and spotted dolphins (*Stenella frontalis*).

ppp. **Soils and Sediments**

If applicable. Indicate topography, soil type, substrate type.

N/A

qqq. **Land Use**

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

N/A

rrr. **Essential Fish Habitat**

If applicable. Describe any designated Essential Fish Habitat within the project area

Testing of experimental shrimping gear to replace lazy lines will likely occur in nearshore and offshore waters designated as Essential Fish Habitat (EFH) for a large number of fishery species managed by the Gulf of Mexico Fishery Management Council and Highly Migratory Species managed by NOAA. Given the as-yet undefined specific location of the testing areas, identification of Federally managed species having EFH in the project area is difficult. Categories of EFH in the project area include drift algae (Sargassum), hard bottom, soft bottom, sand/shell bottom, shelf edge/slope, and pelagic water column. It is unlikely project implementation would have an adverse impact on any category of EFH in the project area.

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

This project will not involve construction activities. This project will implement gear testing in a currently operating fishery. This project will not increase fishing effort, but will use alternative gears on boats that are already operating as they normally would.

The specific activities of this project are designed to reduce the number of dolphin entanglements in lazy lines on commercial shrimp trawl (otter and skimmer) vessels operating within state inshore and coastal waters and thus associated mortality from entanglements. Lazy lines are commonly made from polypropylene material that is considered to be a soft lay line, which allows it to more readily loop and entangle a dolphin. Alternative lazy line materials that may reduce the ability to loop, and thus entangle a dolphin, have been identified through prior research and show promise. Therefore, this project would include researchers and the fishing community cooperatively testing the performance and usability of previously identified alternative lazy line materials. Cooperative testing with the commercial fishing industry would be conducted through establishing vessel contracts during the first phase of the project.

Cooperative testing could occur by NOAA chartering commercial shrimp trawl vessels and/or testing in a portion of the states' shrimp trawl fleet. Sampling locations will take place out of the fishing ports identified in Section C above. All testing will occur within the current extent of shrimp fishery locations. After in-water testing, the project team would identify the preferred lazy line material that decreases the potential for tangling and looping, and thus, for dolphins to become entangled and killed while maintaining successful fishing.

Commercial fishing practices and level of effort will not be altered during this project. The only part of the gear that will be modified is the lazy line, which will be changed to alternative types of lazy line.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

The anticipated total project duration for both phases 1 and 2 is approximately seven years, with approximately three to five years required for the first phase and approximately two to three years for the second phase.

Phase 1 (approximately years 1-5):

- Activity 1: Year 1 of the project would involve the following planning activities-
 - Establishing vessel contracts to charter commercial fishing vessels for research but not alter the nature of commercial fishing practices. The location of gear testing for this project will be determined by the vessels contracted and where they typically fish.
 - Acquiring equipment and gear
 - Identifying and training key personnel
 - Establishing standardized gear monitoring protocols and procedures
 - Establishing standardized data collection protocols and databases

NOTE: If needed, a new BE form would be filled out towards the end of Activity 1 if there are project activities identified that may have adverse effects on protected species habitats. As described now, the project activities of testing alternate gear would not affect any protected resources.

- Activity 2: Years 2-4 of the project would focus on project implementation and data collection by conducting in-water testing aboard contracted commercial shrimp trawl vessels.
- Activity 3: Years 4-5 would include data analysis, reporting and coordination with stakeholders. During stakeholder coordination, including industry representatives, a voluntary/incentivized use program plan would be developed and implemented that considered the outcomes from the in-water testing.

Phase 2 (approximately years 5-7):

- Activity 4: Years 5-7 would involve voluntary implementation of the developed plan, including usability feedback on the different line types distributed to vessels

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

Click or tap here to enter text.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

67. Method of pile installation	
68. Material type of piles used	
69. Size (width) of piles/sheets	
70. Total number of piles/sheets	
71. Number of strikes for each single pile	
72. Number of strikes per hour (for a single pile)	
73. Expected number of piles to be driven each day	
74. Expected amount of time needed to drive each pile (minutes of driving activities)	
75. Expected number of sequential days spent pile driving	
76. Whether pile driving occurring in-water or on land	
77. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.*

N/A

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

N/A

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.)*

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

N/A

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)).*

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Green Sea Turtle (T)		Marine	No Effect	Choose an item.
Loggerhead Sea Turtle		Marine	No Effect	Choose an item.
Leatherback Sea Turtle (E)		Marine	No Effect	Choose an item.
Hawksbill Sea Turtle (E)		Marine	No Effect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Marine	No Effect	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
---------------------------------	-------------------------	---	--	---

West Indian Manatee		Marine	No Effect	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Commercial fishing efforts and fishing operation practices will not be altered during this project. The only part of the gear that will be modified is the lazy line, which will be changed to alternative types of lazy line. Modifying the lazy line will not have any effects on ESA-listed species. However, operation of vessel operations and associated netting activities does have the potential to impact West Indian manatee. Standard conditions for netting in West Indian manatee habitat will be followed (see attached).

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

<input checked="" type="checkbox"/>	USFWS Standard Manatee In Water Conditions
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions²⁰
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species¹
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

No critical habitat will be affected by this project.

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.

²⁰ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>b) In-water construction or demolition</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>d) In-water Explosive detonation</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>e) Aquaculture</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>f) Restoration of barrier islands, levee construction or similar projects</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>g) Fresh-water river diversions</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

Bottlenose dolphin incidental capture/entanglements have been documented in both research and commercial shrimp fishery trawls. Incidental takes of marine mammals are authorized aboard commercial fishing vessels under the MMPA's Marine Mammal Authorization Program, with reporting requirements (see Section D).

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²¹
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ²²
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Incidental take(s) of marine mammals aboard a contracted commercial shrimp trawl vessel is already authorized. However, the following reporting must occur:

1. **Immediately** report any capture/entanglement (live or dead) to the Southeast Region Marine Mammal Stranding Hotline at 1-877-433-8299. If the animal is dead, retain the carcass aboard the vessel, if feasible. Also report the take to Stacey Horstman, NMFS SERO Bottlenose Dolphin Conservation Coordinator (Stacey.Horstman@noaa.gov; 727-551-5780) and Christy Fellas, NOAA Restoration Center, Deepwater Horizon Environmental Compliance (Christina.Fellas@noaa.gov; 727-551-5714).
2. Within 48 hours, report the death or injury per MMPA requirements at: <https://docs.google.com/a/noaa.gov/forms/d/e/1FAIpQLSfKe0moEVK24x1Jbly33A0MRAa2IjZgmAcCVO1hEXghtB3SYA/viewform>

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

25. 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).
26. 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.
27. 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.
28. 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.

²¹ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

²² Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA)

Contact Name: Libby Fetherston-Resch Phone: (727) 667-8779 Email: elizabeth.fetherston-resch@noaa.gov

Project Name: Enhance Marine Mammal Stranding Network Diagnostic Capabilities and Consistency across the Gulf of Mexico

DIVER ID# TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

This project would occur in the coastal regions of the entire U.S. Gulf of Mexico, including Florida (Monroe County through Escambia County), Alabama, Mississippi, Louisiana, and Texas.

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

There is no specific latitude/longitude for this project, but the project is expected to focus on coastal and estuarine stocks of common bottlenose dolphins (*Tursiops truncatus truncatus*), since they are the most common stranding in the Gulf of Mexico.

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

Permits

Have any federal permits been obtained for this project, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: MMPA/ESA

Permit#18786-04

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

text.

Permit Number and Type: Click or tap here to enter

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.

Marine Mammal Health and Stranding Response Program PEIS:

<https://repository.library.noaa.gov/view/noaa/4939>

MMPA/ESA permit 18786-04:

<https://apps.nmfs.noaa.gov/preview/applicationpreview.cfm?ProjectID=18786&view=0100000000>

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

Name of Person Completing this Form: Julia Goss

Name of Project Lead: TBD

Date Form Completed: 9/23/20

Date Form Updated: Click here to enter text.

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

sss. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

This project is focused on activities that could support or enhance MMSN diagnostic capabilities, and consistency across the Gulf of Mexico MMSN. Thus the project will focus on cetaceans that strand along the U.S. coast of the Gulf of Mexico.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment. Click or tap here to enter text.

ttt. 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.

N/A

uuu. 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.

N/A

vvv. 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.

N/A

www. 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. Click here to enter text.

N/A

xxx. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

N/A

yyy. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES YES

Manatees YES YES

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>

On average (based on data from 2005 through 2019), 428 cetaceans (whales or dolphins) strand along the U.S. coast of the Gulf of Mexico each year. This project is anticipated to focus on coastal and estuarine stocks of common bottlenose dolphins (*Tursiops truncatus truncatus*), since they are the most common stranding in the Gulf of Mexico. Other offshore species that strand, especially those that are subject to mass strandings (e.g., short-finned pilot whales and rough-toothed dolphins), may also benefit.

zzz. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

N/A

aaaa. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

N/A

bbbb. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

N/A

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

The project is focused on activities that could support or enhance MMSN diagnostic capabilities and consistency across the Gulf of Mexico MMSN as a whole. This project is scalable based on the duration of activities, and the specific components that are included, which may include:

1) Supporting a NOAA data manager to work with MMSNs in the Gulf of Mexico states to QA/QC stranding data, provide data entry training, and assist with entering and maintaining data in regional marine mammal health and stranding databases (e.g., GulfMAP or CETACEAN).

2) Ensuring data are collected consistently across the Gulf and that important skills are maintained across MMSN organizations. The project will do this by establishing regular (i.e., 3x per year) training sessions (e.g., HAZWOPER, identifying signs of human interaction, necropsy techniques, and data/sample management) to improve and maintain the MMSN's capabilities over time and through personnel turnover.

3) Increasing diagnostic capabilities by establishing contracts with service laboratories to analyze tissue and other diagnostic samples collected from stranded cetaceans across the Gulf of Mexico.

4) Providing MMSN organizations that respond to live stranded animals with hand-held blood analyzer machines (iStat machines and cartridges) to diagnose illness in the field.

5) Funding development to update and improve the Auditory Evoked Potentials (AEP) equipment.

Note that this project will not involve construction or any on the ground work. Response activities are part of the existing MMSN activities.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

Because MMSNs already exist and operate in each of the states along the Gulf coast there would be limited time required for planning, and implementation could begin immediately. The anticipated project duration is five years.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating

hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

N/A

b. Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below

78. Method of pile installation	
79. Material type of piles used	
80. Size (width) of piles/sheets	
81. Total number of piles/sheets	
82. Number of strikes for each single pile	
83. Number of strikes per hour (for a single pile)	
84. Expected number of piles to be driven each day	
85. Expected amount of time needed to drive each pile (minutes of driving activities)	
86. Expected number of sequential days spent pile driving	
87. Whether pile driving occurring in-water or on land	
88. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)

N/A

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.)

N/A

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.*

N/A

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

N/A

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.)*

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

N/A

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)).*

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

		Choose an item.	Choose an item.	Choose an item.
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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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Choose an item.		Choose an item.	Choose an item.	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Since this project only includes training, diagnostics in the lab and data analysis and equipment purchase and distribution, there will be no effects on ESA-listed species or critical habitat.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | |
|---|
| <input type="checkbox"/> USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions²³ |

²³ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

- | |
|---|
| <input type="checkbox"/> NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input type="checkbox"/> NMFS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

There will be no effects on critical habitat.

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.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²⁴
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ²⁵
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

²⁴ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

²⁵ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

29. 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).
30. 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.
31. 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.
32. 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
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Texas Trustees

Contact Name: Angela Sunley Phone: 512-463-9309 Email: Angela.Sunley@glo.texas.gov

Project Name: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs,

Component 1: Texas

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

A contractor for the Texas TIG is preparing 30% level designs for a portion of the intertidal and subtidal oyster reef restoration project to be included as part of the RW project

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

East Galveston Bay, Chambers County, Texas

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

29.486676° -94.682019° NAVD88

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

NEPA analysis for engineering and design available in Texas TIG RPEA #1, October 2017. NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Ray Newby

Name of Project Lead: Ray Newby

Date Form Completed: 09/25/2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then 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 applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The project is located in open waters of East Galveston Bay with the project extending from intertidal/nearshore depths to subtidal depths of -6' msl.,

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

The Gulf of Mexico is the nearest marine environment that is approximately 18 miles from the subtidal reef restoration site and 20 miles from the intertidal reef restoration site.

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.

No known structures in the project area.

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.

No known seagrass or other marine vegetation in the project 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.

No mangroves present in the project 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. Click here to enter text.

No corals present in the project 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.).

Uplands adjacent to the nearshore portion of the project consist of high marsh and coastal prairie.

g. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

bottlenose dolphins (*Tursiops truncatus*)

west Indian manatee (*Trichechus manatus*)

h. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Project site is characterized by shallow bay bottom with soils consisting of clay, sand and shell hash

i. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Land use activities consist of recreational fishing and commercial oyster harvesting

j. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

This project may potentially impact EFH (soft bottoms, sand/shell bottoms) for various life stages of the following federally-managed species: brown shrimp, white shrimp, red drum, gray snapper, lane snapper, Spanish mackerel, hammerhead shark, scalloped hammerhead shark, blacktip shark, bull shark, spinner shark, Atlantic sharpnose shark, lemon shark, and bonnethead shark.

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

The objective of this project is to increase abundance and long-term resiliency of oysters through the creation of a network of subtidal and nearshore reefs linked by larval transport. This project will increase oyster abundance, spawning stock and improve habitat by restoring a network of oyster reefs at multiple sites across habitat and salinity gradients using a variety of substrates and/or reef configurations.

This project will also create a network of high-vertical relief brood reefs which will be linked to commercially harvestable reefs through larval transport, allowing for increased oyster population sustainability and oyster reef resilience. Brood reefs will be built with large, high-relief material that will still permit harvesting based on limited harvest technique(s). Based on the best available science, the reefs will be sited in such a way that larvae produced on the brood reefs will drift toward the commercially harvestable reefs. Restored reef sites will be constructed with the use

of marine barges to transport cultch material and construction equipment such as excavators to place the material into reef configurations.

To increase resilience, reefs will be placed along a salinity gradient based on site conditions. Given the annual variation in salinity, spawning success may vary from year to year within a site. Furthermore, where possible, constructing reefs along an intertidal-subtidal gradient will increase the likelihood of success by restoring the population linkage between nearshore and subtidal reefs that was disrupted by the spill. Reefs will be constructed at a height to keep oysters out of hypoxic bottom waters and where possible, reefs will be constructed on suitable hard substrate that currently does not support oysters. If the restoration site is not naturally colonized by spat, other methods will be used such as remote spat setting or the transfer of adult oysters to the site. The project is anticipated to last 6 years, including planning, implementation, and monitoring.

Please see these additional documents including Corps permit submittals and pre-final designs, in another SP folder:

https://dwh.nmfs.noaa.gov/tx/pl/WA_pl/plan2L1/04_Draft_RP-EA/04_00b_Project%20Source%20Materials/East%20Galveston%20Bay%20Oyster

- 1) PCN for the intertidal reef (titled “East Bay Intertidal Reef NWP 27 PCN_signed_041321”)
- 2) NWP for the intertidal reef, which we just received yesterday (titled “SWG-2021-00250 (Intertidal Reef)”)
- 3) PCN for the subtidal reef (titled “Compiled NWP 27 PCN Subtidal Oyster Reef Package_Printed – FINAL SUBMITTAL - 04142021”)
- 4) Pre-final 100% design (titled “Plan Set_100pct [Pre-Final]”)

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

Engineering design and permitting are anticipated to take one year from the date funds are made available. Construction is expected to take another year after engineering and permitting.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Restored reef sites will be constructed with the use of marine barges to transport cultch material and construction equipment such as excavators to place the material into reef configurations. See links above in Section F.

Construction: 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.)

iii. Use of “Dock Construction Guidelines”?

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 (sq ft)?

Click or tap here to enter text.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

1. Method of pile installation	
2. Material type of piles used	
3. Size (width) of piles/sheets	
4. Total number of piles/sheets	
5. Number of strikes for each single pile	
6. Number of strikes per hour (for a single pile)	
7. Expected number of piles to be driven each day	
8. Expected amount of time needed to drive each pile (minutes of driving activities)	
9. Expected number of sequential days spent pile driving	
10. Whether pile driving occurring in-water or on land	
11. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.

N/A

f. *Dredging or digging* (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

N/A

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.)

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

N/A

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)).

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Hawksbill Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Giant Manta Ray		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Green Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Loggerhead Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
West Indian Manatee			May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Leatherback Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Kemp's Ridley		Terrestrial	No Effect	No suitable habitat in action area
Hawksbill Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.

		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Culch placement can smother benthic resources and convert soft bottom habitats to hard bottom habitats. Placement of culch can also result in short-term, minor adverse impacts to finfish,

shellfish and sea turtles in the water due to injury during cultch placement. Increases in noise and water turbidity could cause mobile organisms to temporarily leave the project area. However, it is likely those organisms would return to the project area once construction activities cease.

The projects could have short-term minor impacts to manatees if they attempt to utilize the project area during construction. However, manatees are a mobile marine species that could avoid the project area during construction, and it is unlikely that the projects would impede transitory routes. If individuals are found within 50 feet of construction areas, construction would be halted until the individual leaves the area of its own volition. Therefore, the project is not likely to adversely affect the species. Sea turtles are another mobile marine taxon that could avoid the disturbance associated with project construction, and project activities would not be likely to impede transitory routes. In addition, nesting activity would be unaffected, as no nesting habitat would be located in the project areas. Furthermore, no designated or proposed critical habitat for sea turtles is found within the proposed project areas. If individual sea turtles do enter construction areas, construction would be halted until they leave the site. Therefore, the projects are not expected to have adverse impacts on sea turtles whose geographic ranges overlap with proposed project areas (i.e., Green, Loggerhead, Kemp's ridley). The projects would also not adversely impact the Hawksbill or Leatherback sea turtles because their ranges do not overlap with the proposed project areas.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

1. ¹ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. *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 to physical and biological features, 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.

Click here to enter text.

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 reinstate this consultation.*

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

All cultch placement activities are expected to result in short-term, minor, adverse impacts to wildlife. For example, noise, the presence of vessels and equipment, and temporary changes in water quality could temporarily disturb dolphins that are using habitat in the vicinity of the project area. However, these highly mobile species would likely be able utilize other habitat during project construction. Boat operators associated with the projects would also follow NOAA NMFS Southeast Region's 'Vessel Strike Avoidance Measures and Reporting for Mariners', which also would minimize potential harm. The combination of the mobility of dolphins, the implementation of BMPs, and the short duration of construction activities suggest that the projects are unlikely to have adverse effects to dolphins.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ³
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.
 Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

2. 2 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html
 3. 3 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration
Email: Christina.Fellas@noaa.gov
Phone: 727-551-5714

USFWS ESA § 7 Consultation
Erin Chandler, Department of the Interior
Email: Erin_Chandler@fws.gov
Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Louisiana Department of Wildlife and Fisheries

Contact Name: Brady Carter Phone: 985-594-4130 Email: bcarter@wlf.la.gov

Project Name: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs,

Component 2: Louisiana

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # RP #1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

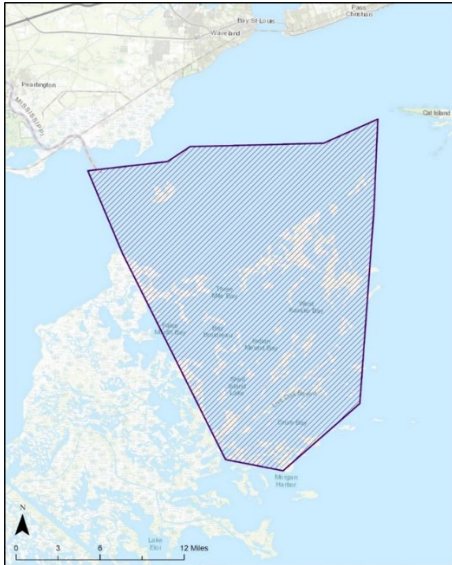
Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Biloxi Marsh/Mississippi Sound Area of St. Bernard Parish, LA



II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

Specific locations for project elements TBD when planning steps included in Regionwide RP#1

Oyster project are completed and/or timeline for funding established.

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: [Click or tap here to enter](#)

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

text.

Permit Number and Type: [Click or tap here to enter text.](#)

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, Point of Contact, 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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021.

LATIG RP/EA#5 LCMR: Oysters and Marine Mammals contains [Enhancing Oyster Recovery Using Brood Reefs](#) project, which this project will be a continuation of.

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

Name of Person Completing this Form: Brady Carter

Name of Project Lead: Brady Carter

Date Form Completed: 09/30/20

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

k. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The project would be located in open water areas of Mississippi Sound and within Biloxi Marsh on Louisiana's Public Oyster Seed Grounds. The Biloxi emergent marsh is mostly saline habitat with some interior brackish marsh area. The saline marsh is dominated by needlegrass rush (*Juncus roemerianus*) and smooth cordgrass (*Spartina alterniflora*). Salinity ranges seasonally from oligohaline to polyhaline, with the average salinity categorized as mesohaline. The project area may extend from intertidal/nearshore depths to subtidal depths of -5 feet mean sea level (msl).

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Depending on sites selected, Gulf of Mexico would be closest marine environment and would be between 20-30nm away.

l. 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.

There are no existing structures in the project area.

m. 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.

There is no known seagrass or marine vegetation within the identified project areas

n. 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.

No mangroves within project areas, although black mangroves may be found on shorelines in close proximity.

o. 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. Click here to enter text.

There are no corals within the project areas.

p. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

There are no uplands within the project area.

q. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO
Whales YES NO
Manatees YES NO

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>

bottlenose dolphins (*Tursiops truncatus*)
West Indian manatee (*Trichechus manatus*)

r. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

In coastal Louisiana, the surficial sediments are predominantly silty clays, clayey silts, and silty sand. However, selected project locations would be situated on relic reefs and areas of firm substrate capable of supporting reef material. Surveys and groundtruthing would be conducted in the project areas to identify the sediment type and confirm suitability for the reef material, once planning phase of project is initiated by the Regionwide TIG.

s. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

The project areas are located in open water.

t. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

Projects occurring in Louisiana's estuarine waters in eco-region 3 (i.e., east of the Mississippi River) may potentially impact EFH for various life stages of the following federally-managed species: shrimp (brown (*Farfantepenaeus aztecus*), white (*Penaeus setiferus*) and pink shrimp (*Penaeus duorarum*)), red drum (*Sciaenops ocellatus*), gray snapper (*Lutjanus griseus*), lane snapper (*Lutjanus synagris*), Spanish mackerel (*Scomberomorus maculatus*), Hammerhead shark (*Sphyrna mokarran*), Scalloped hammerhead shark (*Sphyrna lewin*), Blacktip shark (*Carcharhinus limbatus*), Bull shark (*Carcharhinus leucas*), spinner shark (*Carcharhinus brevipinna*), Atlantic sharpnose shark (*Rhizoprionodon terraenovae*), Blacknose shark (*Carcharhinus acronotus*), and Finetooth shark (*Carcharhinus isodon*).

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

The objective of this project is to increase abundance and long-term resiliency of oysters through the creation of a network of subtidal and nearshore reefs linked by larval transport. This project will increase oyster abundance, spawning stock and improve habitat by restoring a network of oyster reefs at multiple sites across habitat and salinity gradients using a variety of substrates and/or reef configurations.

This project will also create a network of high-vertical relief brood reefs which will be linked to commercially harvestable reefs through larval transport, allowing for increased oyster population sustainability and oyster reef resilience. Brood reefs will be built with large, high-relief material interspersed with smaller cultch material. Based on the best available science, the reefs will be sited in such a way that larvae produced on the brood reefs will drift toward the commercially harvestable reefs. Restored reef sites will be constructed with the use of marine barges to transport cultch material and construction equipment such as excavators to place the material into reef configurations.

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. To prohibit sea turtles from tunneling into open void of reef balls, if used; Reef balls fabricated with open-bottoms would have floors constructed of solid concrete, or cage/gate material having mesh length of 5" or less (measured across flat sides) and secured using stainless steel fasteners, attached prior to deployment. If pyramid type structures are used, design would follow appropriate guidelines. Areas suitable for brood reef restoration typically have good spat production and appropriate bottom composition (i.e., hard substrate) to allow for expansion but are limited in vertical relief. 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.

To increase resilience, reefs will be placed along a salinity gradient based on site conditions. Given the annual variation in salinity, spawning success should vary among years within a site.

Furthermore, where possible, constructing reefs along an intertidal-subtidal gradient increase the likelihood of restoring the population linkage between nearshore and subtidal reefs that was disrupted by the spill. Reefs will be constructed to a height of between 6” – 1.5’ to keep oysters out of hypoxic bottom waters and where possible, reefs will be constructed on suitable hard substrate that currently do not support oysters. If the restoration site is not naturally colonized by spat, other methods will be used such as remote spat setting or the transfer of adult oysters to the site. The project is anticipated to last 7 years, including planning, implementation, and monitoring.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

NA

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. *Use of “Dock Construction Guidelines”?*

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 (sq ft)?*

N/A

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

12. Method of pile installation	
13. Material type of piles used	
14. Size (width) of piles/sheets	
15. Total number of piles/sheets	
16. Number of strikes for each single pile	
17. Number of strikes per hour (for a single pile)	
18. Expected number of piles to be driven each day	
19. Expected amount of time needed to drive each pile (minutes of driving activities)	
20. Expected number of sequential days spent pile driving	
21. Whether pile driving occurring in-water or on land	
22. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.*

N/A

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

N/A

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.)*

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

N/A

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)).

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Gulf Sturgeon (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Gianta Manta Ray		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
West Indian Manatee		Marine	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

The construction of the brood reefs would result in short-term, minor, adverse impacts on protected species, Critical Habitat, and Essential Fish Habitat. Temporary disturbances would result from an increase in water turbidity, increased underwater noise, and human activity during brood reef construction and monitoring, which could contribute to temporary disturbance or displacement of marine and estuarine fauna. Potential impacts could include injury or mortality of less mobile benthic species during brood reef deployment. However, the affected protected species are mobile and would likely avoid the area for the duration of in-water work, avoiding injury or mortality. Following brood reef placement, turbidity and noise would return to baseline levels. The project would result in long-term, beneficial impacts for protected species because oyster reefs provide habitat for epibenthic fauna, mobile invertebrates, and fish. Increased oyster production and connectivity would also benefit higher trophic species.

II. 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.

The proposed project sites may be located in an area where the West Indian manatee may occur and one site (Petit Pass) is within critical habitat for Gulf sturgeon. West Indian manatees are primarily found in calm waters where seagrass is present, and brood reef sites were selected to avoid seagrass beds. Thus, this species is unlikely to be adversely affected by the project. Water quality best management practices (BMPs) would be employed to avoid and minimize impacts to water quality and benthic environments. While it is unlikely for Gulf sturgeon to inhabit the brood reef sites, time-of-year restrictions would be put in place within the documented range of the species to prevent work when the species is most likely to be present in estuarine waters (September to February). Any Gulf sturgeon within the vicinity would likely move to nearby suitable habitat.

The project sites may be located where foraging sea turtles could occur. Sea turtles also are commonly found where seagrass is present, and brood reef sites were selected to avoid seagrass

beds. Overall, it is not expected that brood reef construction would appreciably increase risks to sea turtles. Given the minor potential effects on sea turtles, only work window for Gulf sturgeon would be followed, where appropriate.

All materials used to construct, and monitor, the reef would be chosen to avoid entanglement or entrapment risk to ESA-listed species. Additionally, heavy working equipment will be placed on mats and floating turbidity curtains will be used to mitigate increases in water turbidity. Potential short-term impacts will be limited with the implementation of the BMPs referenced below.

If a spill occurs onsite, response efforts and outcome will be reported to NMFS along with as built drawings and photos at the completion of the project. Additionally, any interactions with, or sightings of stranded, entangled, dead or injured sea turtles, Gulf sturgeon, sawfish, or marine mammals will be immediately reported to NMFS.

***Frequently Recommended BMPs:** This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:*

- | |
|--|
| <input checked="" type="checkbox"/> USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions⁴ |
| <input checked="" type="checkbox"/> NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

In order to avoid or minimize adverse effects to listed species, other protected species, common wildlife, and their habitats, areas identified as biologically sensitive such as natural reefs, seagrass beds, bivalve beds, or live bottoms were not considered for brood reef sites. A buffer would be established between biologically sensitive areas and brood reefs to protect the sensitive areas from potential adverse impacts.

For the in-water work, the project would implement measures from NMFS's Sea Turtle and Smalltooth Sawfish Construction Conditions (2006), NMFS's Measures for Reducing Entrapment Risk to Protected Species (2012), NMFS's Vessel Strike Avoidance Measures and Reporting for Mariners (2008), and USFWS and USACE's Standard Manatee Conditions for In-water Work (2011). These measures would minimize the potential for impacts to the West Indian manatee, Gulf sturgeon, and sea turtles. Construction BMPs, in addition to other avoidance and mitigation measures as required by state and federal regulatory agencies, would minimize water quality impacts that could affect aquatic habitat.

4. ⁴ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Any applicable conservation measures to minimize or avoid adverse effects on manatees and sturgeon would be incorporated into the project plans during the Engineering and Design phase. Ongoing technical coordination with NMFS and USFWS would continue to occur for the project related to potential impacts to protected species in accordance with Section 7 of the ESA.

BMPs cited for oysters in the Final Programmatic Damage Assessment and Restoration Plan (PDARP) and Final Programmatic Environmental Impact Statement (PEIS) would be incorporated into the proposed project (*DWH* NRDA Trustees, 2016; Leonard & Macfarlane, 2011).

Continued coordination with USFWS will occur during final design to establish necessary avoidance and mitigation measures.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

The proposed brood reef sites are located in areas of existing reef, which would reduce habitat conversion; however, the proposed brood reefs could convert small areas of soft bottom habitat (<10% per project description above), which could be potentially suitable habitat for Gulf sturgeon, into oyster reef habitat. The relatively small footprint of these projects would minimize adverse modification to Critical Habitat, and protected species populations would occupy suitable habitats nearby. While BMPs, including certain equipment and installation methods that maximize accurate material placement, shall be implemented, any local Gulf sturgeon are likely to move to nearby, undisturbed suitable habitats. Sturgeon forage in soft substrates and the reefs will be located on relic reefs and areas of firm substrate capable of supporting reef material.

The 4 essential features present in Unit 8 include:

1. Abundant prey items, such as amphipods, lancelets, polychaetes, gastropods, ghost shrimp, isopods, mollusks and/or crustaceans, within estuarine and marine habitats and substrates for subadult and adult life stages;
2. Water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;
3. Sediment quality, including texture and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages;

4. Safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (e.g., an unobstructed river or a dammed river that still allows for passage).

This project may have minor effects on water quality and prey items during construction, but no long term effects are expected. The other essential features would not be affected by the propose project.

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 reinstate this consultation.

BMPs from the PDARP would be incorporated into the proposed project (DWH NRDA Trustees, 2016; Leonard & Macfarlane, 2011) and the BMPs indicated above in checkboxes. Any applicable measures will be incorporated into the project plans during the Engineering and Design phase. Continued coordination with NOAA and USFWS will occur during final design to establish necessary avoidance and mitigation measures.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

Project construction includes the placement of clean brood reef materials on areas of existing shell substrate or relic reef locations. Noise and the presence of vessels and equipment, could cause temporary changes in water quality and temporarily disturb dolphins that are using habitat in the vicinity of the project area. However, these highly mobile species would likely be able utilize other habitat during project construction. Boat operators associated with the projects would also follow NOAA NMFS Southeast Region's 'Vessel Strike Avoidance Measures and Reporting for Mariners', which also would minimize potential harm. The combination of the mobility of dolphins, the implementation of BMPs, and the short duration of construction activities suggest that the projects are unlikely to have adverse effects to dolphins.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ⁵
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ⁶
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click

BMPs to help prevent dolphin entanglements in any ropes/lines that are used to hang the tiles/cages:

- Any in-water lines be stiff, taut, and non-looping. Examples are heavy metal chains or cables that do not readily loop and tangle;
- Enclose flexible in-water lines, such as nylon rope, in PVC pipe or a plastic or rubber sleeve to add rigidity and prevent the line from looping or tangling;
- avoid excess line in the water.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

5. 5 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

6. 6 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

If YES, the following conservation measures should be implemented:

5. 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).
6. 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.
7. 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.
8. 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
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

FINAL PDC checklist is attached to this BE form

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons

USFWS: Michael Barron at michael_barron@fws.gov

NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Mississippi Department of Environmental Quality

Contact Name: Valerie Alley, Program Management Division Chief

Phone: 601 961-5182 Email: valley@mdeq.ms.gov

Project Name: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs,

Component 3: Mississippi

DIVER ID# [Click to enter text](#) TIG: [Regionwide TIG](#) Restoration Plan # [Regionwide Plan 1](#)

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If “Engineering & Design” was selected, please describe the level of design that has been completed and is available for review:

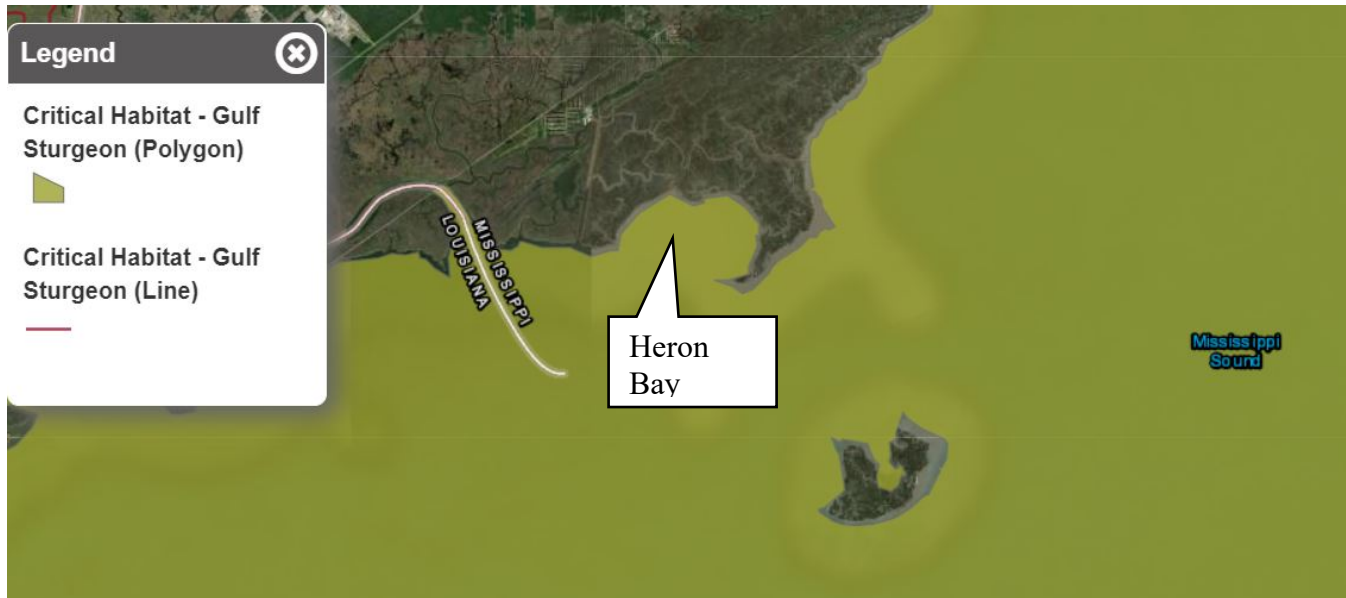
[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid





C. Project Location

I. State and County/Parish of action area

Hancock County, Mississippi

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

30°11'03.27"N; 89°28'36.86"W

D. 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:

-TIG Restoration Plan/EA or EIS (draft or final)

- 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 Permit Number and Type: Click or tap here to enter text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES NO Permit Number and Type: Click or tap here to enter text.

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.

<https://www.fws.gov/doiddata/dwh-ar-documents/3104/DWH-ARZ005014.pdf>

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Alane Young

Name of Project Lead: Valerie Alley

Date Form Completed: 10-02-20

Date Form Updated: Click here to enter text.

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

The action area (Heron Bay) falls within the 20,909-acre Hancock County Marsh Preserve. This complex is part of the Pearl River estuary in the western Mississippi Sound and managed by Mississippi Department of Marine Resources (MDMR) as part of the Mississippi Coastal Preserves Program. Recreational use of the bay includes recreational fishing and the adjacent Mississippi Sound is utilized by commercial seafood harvesters (oysters, crabs and finfish).

u. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Heron Bay is an estuarine, mud bottom, small bay and is part of an interconnected landscape of tidal creeks, bayous, and salt marsh that serve as the drainage area for the East Pearl River. The bay encompasses approximately 1,086 acres and is surrounded on three sides by estuarine emergent marsh that is dominated by smooth cordgrass (*Spartina alterniflora*), needlegrass rush (*Juncus roemerianus*), and common reed (*Phragmites australis*). The southern portion of the bay is open to the Mississippi Sound which exposes the marsh edge to wave energy from predominately southeasterly winds. Much of the bay exhibits a scarp that experiences an undercutting of the marsh platform from wave action and results in chunks of sediment and vegetation braking off of the marsh edge. Salinity ranges seasonally from oligohaline to mesohaline. Available water quality data within Heron Bay were evaluated and indicate that issues are primarily related to fecal coliform from the La France Camp Trenaise channel to the west of Heron Bay. Fecal coliform does not negatively affect shellfish growth or mortality; and is only related to public health issues if the shellfish are consumed; however, oysters that would grow as a result of the project are not intended for public consumption and are located within a Restricted Harvest Zone. Water depth in Heron Bay ranges from approximately -1.3 to -4.9 feet Mean Lower Low Water (MLLW).

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Adjacent

v. 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.

No existing structures are located in the action area.

w. 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.

A survey of submerged aquatic vegetation was conducted on June 17, 2013 to provide an assessment of species presence within the water body prior to the 2016 construction of the 46-acres subtidal reef which is part of the Hancock County Marsh Living Shoreline project. Submerged Aquatic Vegetation (SAV) presence was primarily documented in very shallow waters along the fringe of the marsh edge growing on submerged marsh terraces. Sparse amounts of widgeongrass *Ruppia maritima* were found growing in a matrix of mud and relict plant rhizomes. Additionally, small mats of dead *Ruppia* were observed in the marsh vegetation adjacent to the shoreline where tides had deposited them, although the origin of these mats is unknown. It is not unexpected to find occurrences of *Ruppia* in this area. The species prolifically disseminates seed and can survive in a range of salinity zones as well as areas with poor light penetration.

x. 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.

There are no mangroves in the action area.

y. 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. Click here to enter text.

There are no corals in the action area.

z. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

There are no uplands in the action area, all work will be done in the subtidal and possibly intertidal portions of Heron Bay.

aa. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO
 Whales YES NO
 Manatees YES NO

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>

Atlantic bottlenose dolphin (*Tursiops truncatus*) and West Indian manatee (*Trichechus manatus manatus*)

bb. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Varying thicknesses (0.3 feet to >2 feet) of soft mud or silt, underlain by hard mud, shell or shell hash.

cc. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Heron Bay is located within the 20,909-acre Hancock County Marsh Preserve and is managed by Mississippi Department of Marine Resources (MDMR) as part of the Mississippi Coastal Preserves Program.

dd. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

- No Habitat Areas of Particular Concern (HAPC) were identified at the project site.
- No EFH Areas Protected from Fishing (EFHA) were identified at the project site.
- The following EFH Species/Management Units exist at the project location:

Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
Red Drum (<i>Sciaenops ocellatus</i>)	Postlarvae, juveniles, sub-adults	Gulf of Mexico	Red Drum Fishery
Gray snapper (<i>Lutjanus griseus</i>), lane snapper (<i>Lutjanus synagris</i>)	Postlarvae, juveniles	Gulf of Mexico	Reef Fish Fishery
Spanish mackerel (<i>Scomberomorus maculatus</i>)	juveniles	Gulf of Mexico	Coastal Migratory Pelagic Resources (Mackerels)
Shrimp (brown (<i>Farfantepenaeus aztecus</i>), white (<i>Penaeus setiferus</i>) and pink shrimp (<i>Penaeus duorarum</i>)	Postlarvae, juveniles, sub-adults	Gulf of Mexico	Shrimp Fishery

Bull Shark (<i>Carcharhinus leucas</i>)	Juvenile/Adult	Secretarial	Amendment 10 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan :Essential Fish Habitat (HMS FMP: EFH)
Spinner Shark (<i>Carcharhinus brevipinna</i>)	Neonate	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
Blacktip Shark (Gulf of Mexico Stock) (<i>Carcharhinus limbatus</i>)	Juvenile/Adult	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH
Atlantic Sharpnose Shark (Gulf of Mexico Stock) (<i>Rhizoprionodon terraenovae</i>)	Juvenile/Adult/Neonate	Secretarial	Amendment 10 to the 2006 Consolidated HMS FMP: EFH

F. Project Description

1. Describe the Proposed Action/Project Objectives: 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.

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.

The proposed project includes the creation of a high-vertical relief 30 – 50 acre brood reef located in close proximity to the existing subtidal reef that was created under the NRDA Phase III Early Restoration Hancock County Marsh Living Shoreline Project in Heron Bay. This project will provide opportunity for larval transport between the two reefs in Heron Bay as well as the commercially harvested oyster reefs located in the western Mississippi Sound and in Louisiana waters. If the 30 – 50 acre reef does not receive a natural spatset (larvae set on a hard substrate), hatchery spat or adult oysters may be transplanted to the reef as part of this project. The project is anticipated to last 7 years, including planning, implementation, and monitoring.

Oyster restoration measures for cultch placement are summarized in the table below, which also includes the frequency and the duration of impact for restoration measures and exemplar cultch deployment activities.

Exemplar Cultch	General Description of Cultch Thickness and Distribution Protocols	Frequency/Duration
Cultch Deployment on existing oyster reefs	Approximately 1 inch up to several feet deployed by clamshell bucket or high-pressure water jet in selected areas ranging in depth from 0 to -10 feet MLLW. Distribution of cultch in undulating mound and intermound areas or as an evenly distributed reef bed.	one to several weeks depending on size of deployment
Cultch Deployment on Suitable substrate-not colonized*	Approximately 1 inch up to several feet in selected areas ranging in depth from 0 to 10 feet MLLW. Siting would depend on bathymetry, salinity, substrate suitability and other factors. Deployment by clamshell bucket or high-pressure water jet. Distribution of cultch in undulating mound and intermound areas or as an evenly distributed reef bed.	one to several weeks depending on size of deployment
Cultch Deployment on soft bottom substrate/buried hard substrate**	Approximately 6 inches to several feet in selected areas ranging in depth from 0 to -10 feet MLLW. Siting would depend on depth to suitable substrate, bathymetry, salinity, and other factors. Deployment by clamshell bucket or high-pressure water jet. Distribution of cultch in undulating mound and intermound areas or as an evenly distributed reef bed.	one to several weeks depending on size of deployment
Deployment of Spat Inoculated Cultch/Substrate	Technique to enhance oyster colonization on a new cultch placement, an existing reef, or a developing reef. Deployment thickness varies by type of material and application. Deployment methods would vary depending on materials; placement by hand or using methods for discrete placement of inoculated materials, by clam shell bucket or similar device, or other methods.	Varies

*Defined as firm mud, existing oyster reefs, or other hard bottom substrates that are required to support oysters

** This is intended to describe suitable hard substrates which may now have a thin veneer of soft sediments; this is not the

preferable or intended substrate for cultch placement, but cultch material targeted for hard substrates **may** spill over into these areas, and will make up less than 10% of the total placement areas. The project will be implemented over a 10-year timeframe. While target areas have been identified, final selection of the cultch placement locations may be anywhere inside the project area and will be based on factors including but not limited to substrate suitability, salinity, and bathymetry, and other considerations. The subtidal reef habitat would be constructed using appropriate cultch material (limestone, crushed concrete, oyster shells, fossilized oyster shells, and other suitable cultch material or a combination thereof) to be determined during final design. The cultch materials would be stockpiled at an existing upland staging area, which has water access to the project area. The cultch materials would be inspected at the existing upland staging area prior to being loaded onto a barge to ensure the materials are clean and free of all debris, including but not limited to, trash, steel reinforcement, and asphalt. Mechanical equipment would be utilized to load the materials onto shallow draft barges or shallow draft self-powered marine vessels. The material would be deployed using a high-pressure water jet or using a clam-shell bucket mounted on a crane or a long-armed track hoe located on a separate equipment barge. The cultch material would be deployed generally in water depths ranging from 0 to -10 MLLW. The cultch material thickness would range from <1 foot to up to several feet, depending on site conditions.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

The project is anticipated to last 7 years, including planning, implementation, and monitoring.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Click or tap here to enter text.

Construction: 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.)

iii. Use of “Dock Construction Guidelines”?

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 (sq.ft)?

Click or tap here to enter text.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

23. Method of pile installation	
24. Material type of piles used	
25. Size (width) of piles/sheets	
26. Total number of piles/sheets	
27. Number of strikes for each single pile	
28. Number of strikes per hour (for a single pile)	
29. Expected number of piles to be driven each day	
30. Expected amount of time needed to drive each pile (minutes of driving activities)	
31. Expected number of sequential days spent pile driving	
32. Whether pile driving occurring in-water or on land	
33. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

Click here to enter text.

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.)*

Click here to enter text.

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.*

Click here to enter text.

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

Click here to enter text.

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.)*

Click here to enter text.

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

Click here to enter text.

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)).*

Click here to enter text.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Gulf Sturgeon CH	Unit 8	Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Leatherback Sea Turtle (E)		Marine	No Effect	Species does not occur within action area
Hawksbill Sea Turtle (E)		Marine	No Effect	Species does not occur within action area
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Gulf Sturgeon (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
West Indian Manatee		Marine	May Affect, Not Likely to Adversely Affect	No suitable habitat in action area
Choose an item.		Choose an item.	Select Most Appropriate	No suitable habitat in action area
Choose an item.		Choose an item.	Select Most Appropriate	No suitable habitat in action area
Choose an item.		Choose an item.	Select Most Appropriate	No suitable habitat in action area
Choose an item.		Choose an item.	Select Most Appropriate	No suitable habitat in action area
		Choose an item.	Select Most Appropriate	No suitable habitat in action area
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.

		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Oyster restoration in MS, specifically Heron Bay, was the subject of an ESA consultation with NMFS during MS TIG RP#2. The proposed action includes the same methodologies for oyster restoration in the same action area, thus it fits within the existing analysis (SERO-2020-00674 signed 7/15/2020) and further consultation is not required with NMFS.

This project was previously analyzed under Mississippi TIG Restoration Plan #2: Oyster Spawning Reefs in Mississippi. ESA and MMPA consultations with USFWS were completed (March 27, 2021). Therefore, this project is covered by those USFWS consultations as long as the project does not exceed the project parameters and adheres to all conservation measures detailed in that consultation; in particular, all West Indian manatee measures. No further consultation is required.

II. 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 reinstate this consultation.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions⁷ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NMFS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

The proposed action fits within an existing ESA consultation with NMFS (see details

7. ⁷ Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

above).

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 reinstate this consultation.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

Noise, the presence of vessels and equipment, and temporary changes in water quality could temporarily disturb dolphins that are using habitat in the vicinity of the project area. However, these highly mobile species would likely be able utilize other habitat during project construction. Boat operators associated with the projects would also follow NOAA NMFS Southeast Region's 'Vessel Strike Avoidance Measures and Reporting for Mariners', which also would minimize potential harm. The combination of the mobility of dolphins, the implementation of BMPs, and the short duration of construction activities suggest that the projects are unlikely to have adverse effects to dolphins.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ⁸
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ⁹
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

9. 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).
10. 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.
11. 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.
12. 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

8. 8 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

9. 9 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Michael Barron, Department of the Interior

Email: michael_barron@fws.gov

Phone: 251-421-7030

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Alabama Department of Conservation and Natural Resources

Contact Name: Kelly Swindle Phone: 251-621-1216 Email: kelly.swindle@dcnr.alabama.gov

Project Name: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs,

Component 4: Alabama

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # Restoration
Plan/Environmental Assessment 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If “Engineering & Design” was selected, please describe the level of design that has been completed and is available for review:

Engineering and Design has not commenced.

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Mid-Lower Mobile Bay, Mobile County, Alabama

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

Approximate locations: Brookley Reef 30.60002° N 88.0418° W; Hollinger's Island Reefs

30.52773° N 88.04412°W; Denton Reef 30.40903°N 88.06483° W; Buoy Reef 30.3271°N

88.1117°W



Figure 1 Proposed project area for Alabama oyster reef locations

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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 Permit Number and Type: USACE Section 404
Nationwide Permit SAM-2012-1009-DEM.

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES NO Permit Number and Type:

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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Bethany Kraft

Name of Project Lead: Kelly Swindle

Date Form Completed: 09.28.2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

ee. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Lower and Mid Portions of the western shore of Mobile Bay. The Alabama waters where the project is proposed are predominantly estuarine, receiving freshwater inputs from the Mobile-Tensaw Delta via Mobile Bay, and marine inputs from the Gulf of Mexico.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

The Gulf of Mexico is the nearest marine environment that is approximately 7.7 miles from the southernmost bound of the project and approximately 24 miles from the northern boundary of the project.

ff. 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.

All sites within the action area would be located in open water away from existing structures.

gg. 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.

Seagrasses (e.g., shoal grass, turtle grass, widgeon grass) and other Submerged Aquatic Vegetation (SAV) species (e.g., Eurasian milfoil, southern naiad, water stargrass, etc.) occur in portions of Mobile Bay. The most recent SAV inventory of Mobile Bay was completed in 2015. Based on the findings of the final SAV inventory report, no SAV is present in the action area.

hh. 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.

NA

ii. 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. Click here to enter text.

NA

jj. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

NA

kk. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES No

Manatees YES YES

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>

Common Bottlenose Dolphin (*Tursiops truncatus*)

West Indian Manatee (*Trichechus manatus*)

ll. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Substrates in the project area consist of sand/shell bottom and mud/soft bottom.

NA

mm. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

NA

nn. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

The Gulf of Mexico Fishery Management Council delineated Essential Fish Habitat (EFH) for federally managed species in coastal Alabama. The project area is within Eco-Region 3, and is likely to contain a variety of estuarine and marine habitat types designated as EFH including: open water, sand/shell bottom, and mud/soft bottom. The National Marine Fishery Service (NMFS) also manages highly migratory species (e.g., sharks) for which EFH is identified by geographical area rather than habitat type. Fifteen species with designated EFH are likely to be within Project Area, including shrimp (brown (*Farfantepenaeus aztecus*), white (*Penaeus setiferus*) and pink shrimp(*Penaeus duorarum*)), fish (gray snapper (*Lutjanus griseus*), lane snapper(*Lutjanus synagris*), red drum (*Sciaenops ocellatus*) and Spanish mackerel (*Scomberomorus maculatus*)), and sharks (Atlantic sharpnose shark (*Rhizoprionodon terraenovae*), Blacktip shark (*Carcharhinus limbatus*), Bull shark(*Carcharhinus leucas*), Finetooth shark (*Carcharhinus isodon*), Scalloped hammerhead shark (*Sphyrna lewin*), Hammerhead shark (*Sphyrna*

mokarran), and Blacknose shark (*Carcharhinus acronotu*)). No Habitat Areas of Particular Concern (HAPC) or EFH Areas Protected from Fishing (EFHA) were identified within the Project Area.

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

The objective of this project is to increase abundance and long-term resiliency of oysters through the creation of a network of subtidal and nearshore reefs linked by larval transport. This project will increase oyster abundance, spawning stock and improve habitat by restoring a network of oyster reefs at multiple sites across habitat and salinity gradients using a variety of substrates and/or reef configurations.

This project will also create a network of high-vertical relief brood reefs which will be linked to commercially harvestable reefs through larval transport, allowing for increased oyster population sustainability and oyster reef resilience. Brood reefs will be built with large, high-relief material that will still permit harvesting based on limited harvest technique(s). Based on the best available science, the reefs will be sited in such a way that larvae produced on the brood reefs will drift toward the commercially harvestable reefs. The project will construct up to 30 acres of new oyster reefs. Cultch materials may include natural oyster shell or an alternative substrate such as crushed limestone. Oyster shell cultch would be seasoned prior to deployment to minimize adverse impacts to water quality. Limestone cultch is generally free of fine particulates and does not typically require washing or aging prior to deployment. ADCNR typically uses #3 (1.5 – 3 inches) or #4 (1 – 2.5 inches) aggregate limestone for cultch planting. The specific type, size, and depth of cultch material will be selected based on existing substrate type, localized wave action, and other site-specific characteristics as well as resource availability. It is anticipated that contractor(s) selected to construct the new reefs will transport cultch by push boat and barge to the site and deploy the material off the deck, placing it into reef configurations using skid steers, excavator shovels, or high-pressure water hoses.

To increase resilience, reefs will be placed along a salinity gradient based on site conditions. Given the annual variation in salinity, spawning success may vary from year to year within a site. Furthermore, where possible, constructing reefs along an intertidal-subtidal gradient will increase the likelihood of restoring the population linkage between reefs that were disrupted by the spill. Reefs will be constructed at a height to keep oysters out of hypoxic bottom waters

and where possible, reefs will be constructed on suitable hard substrate that currently do not support oysters. Water depth in the action area generally ranges from approximately 7 – 12 feet. If the restoration site is not naturally colonized by spat, other methods will be used such as remote spat setting or the transfer of adult oysters to the site. The project is anticipated to last 7 years, including planning, implementation, and monitoring.

Short Term Impacts: Short term impacts would include noise, temporary increases in turbidity, and visual disturbances associated with construction of reef areas.

Long Term Impacts: Long term impacts would include potentially increased oyster abundance and recruitment in Alabama waters.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

The proposed project would last for a total duration of approximately seven years. Planning and permitting is expected to take place in Years 1 and 2, construction in years 3 and 4, and monitoring in years 5-7. .

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

NA

Construction: 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.)

iii. *Use of “Dock Construction Guidelines”?*

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 (sq.ft)?*

Site selection and pre-deployment monitoring may include the use of side scan imaging, hand dredging, cane pole sounding, and/or SCUBA quadrat sampling. Baseline data will include an estimate of juvenile and adult oyster density as well as existing cultch prior to construction. Restored reef sites will be constructed with the use of marine barges to transport cultch material and construction equipment such as excavators to place the material into reef configurations. Construction will include a contractor acquiring, transporting, and deploying cultch material on areas and in configurations as determined by Alabama Marine Resources Division staff. It is anticipated selected contractor(s) will transport cultch by push boat and barge to the site and deploy the material off the deck using skid steers, excavator shovels, or high pressure water hoses. High pressure water hoses may only be used to distribute shell onto control plots. Side scanning of reef areas will be performed after cultch deployment. Post-deployment monitoring of sites may include the use of hand dredging, cane pole sounding, and/or SCUBA quadrat sampling.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

34. <i>Method of pile installation</i>	
35. <i>Material type of piles used</i>	
36. <i>Size (width) of piles/sheets</i>	
37. <i>Total number of piles/sheets</i>	
38. <i>Number of strikes for each single pile</i>	
39. <i>Number of strikes per hour (for a single pile)</i>	
40. <i>Expected number of piles to be driven each day</i>	
41. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	
42. <i>Expected number of sequential days spent pile driving</i>	
43. <i>Whether pile driving occurring in-water or on land</i>	
44. <i>Depth of water where piles will be driven</i>	

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 (sqft) beneath the boats that will be shaded.)*

NA

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.)*

NA

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.

None

f. Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

None

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.)

None

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

None

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)).

None

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Kemp's Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Gulf Sturgeon (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
West Indian Manatee		Choose an item.	May Affect, Not Likely to Adversely Affect	Select Most Appropriate
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Culch placement can smother benthic resources and convert soft bottom habitats to hard bottom habitats. Placement of culch can also result in short-term, minor adverse impacts to finfish, shellfish and sea turtles due to injury during culch placement. Increases in noise and water turbidity could cause mobile organisms to temporarily leave the project area. However, it is likely those organisms would return to the project area once construction activities cease.

The projects could have short-term minor impacts to manatees if they attempt to utilize the project area during construction. However, manatees are a mobile marine species that could avoid the project area during construction, and it is unlikely that the projects would impede

transitory routes. If individuals are found within 50 feet of construction areas, construction would be halted until the individual leaves the area of its own volition. Therefore, the project is not likely to adversely affect the species. Sea turtles are another mobile marine taxon that could avoid the disturbance associated with project construction, and project activities would not be likely to impede transitory routes. There would be no impacts to nesting sea turtles because the project would occur entirely in open water and would not affect any terrestrial habitats. Furthermore, no designated or proposed critical habitat for sea turtles is found within the proposed project areas. If individual sea turtles do enter construction areas, construction would be halted until they leave the site. Therefore, the projects are not expected to have adverse impacts on sea turtles whose geographic ranges overlap with proposed project areas (i.e., Loggerhead, Kemp's ridley).

This area is located outside of Gulf sturgeon critical habitat, however if individual Gulf sturgeon enter the project area during construction, short-term, minor impacts could result. However, sturgeon are mobile marine species and would likely avoid project activities, suggesting that transitory routes would not be impeded.

II. *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.*

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁰ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

10. 10 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

I. 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 to physical and biological features, 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.

Project area does not contain critical habitat for any species.

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.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

See Section I above

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹¹
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹²
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Best practices that would be implemented to avoid or minimize impacts from the proposed project include: USFWS Standard Manatee Conditions

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

- 13. 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).
- 14. 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.
- 15. 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.
- 16. 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.

11. 11 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

12. 12 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration
Email: Christina.Fellas@noaa.gov
Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior
Email: Erin_Chandler@fws.gov
Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Michael Barron at michael_barron@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Florida Fish and Wildlife Conservation Commission (FWC)

Contact Name: Gareth Leonard Phone: 850-617-9452 Email: Gareth.leonard@myfwc.com

Project Name: Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs,

Component 5: Florida

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

None. Specific restoration site(s) will be identified during the planning stage utilizing info from the habitat suitability analysis and mapping work that the FL TIG will be performing over the next couple of years.

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

This project will be implemented in Suwannee Sound (offshore of Dixie and Levy Counties) between Horseshoe Point (29.436309° N, -83.295980° W) and Cedar Key (29.126662° N, -83.056350° W; Figure 1). Specific restoration site(s) will be identified during the planning stage utilizing info from the habitat suitability analysis and mapping work that the FL TIG will be performing over the next couple of years.

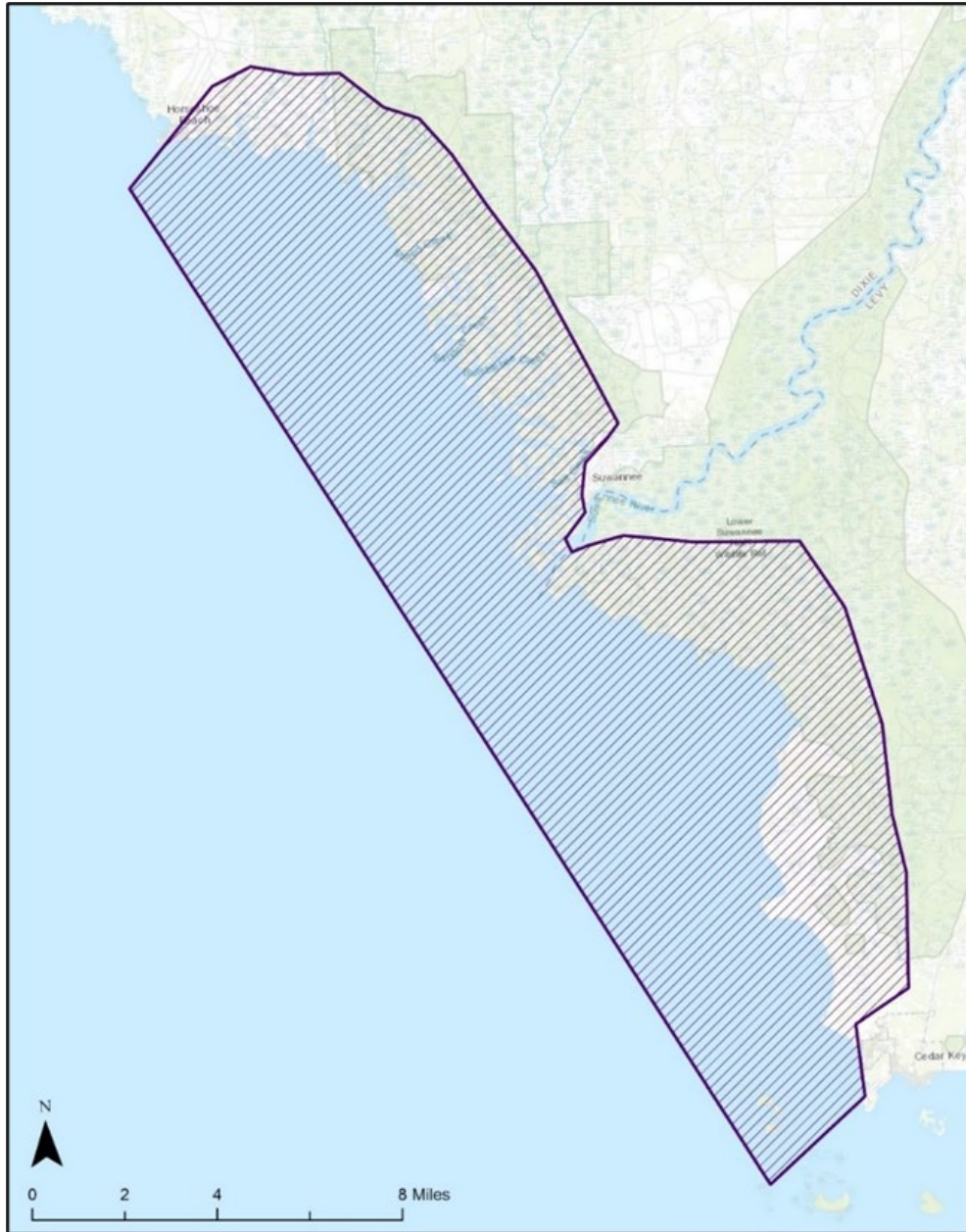


Figure 2: Proposed project area for Florida oyster reef locations

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

The overall project area is located between Horseshoe Point (29.436309° N, -83.295980° W) and Cedar Key (29.126662°N, -83.056350°W).

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

Draft RW TIG RP1 (released early 2021) will include a NEPA analysis for this project.

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

Name of Person Completing this Form: Ryan Gandy/Amy Raker

Name of Project Lead: Ryan Gandy/Amy Raker

Date Form Completed: 9/28/20

Date Form Updated: 6/9/21

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

oo. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The project area is Suwannee Sound between Horseshoe Point and Cedar Key. The project area includes estuarine salt marsh and the estuarine apron of the Suwannee River (Figure 1 and Figure 2).



Figure 3: Salt marsh habitat in and around the vicinity of the project area.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

The region where the project will be located has three main areas of navigable marked channels comprising Horseshoe Beach outer range marker (approx. 29.403814° N, -83.312385° W), Suwannee River mouth (approx. 29.263988° N, -83.176876° W), Northwest Channel of Cedar Key (approx. 29.138597° N, -83.097828° W) and main channel of Cedar Key (approx. 29.058730° N, -83.076458° W). Waters outside the channels and shoreward of these range markers have numerous submerged hazards, unmarked shallow creeks, shoals, and reefs.

pp. 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.

N/A

qq. 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.

Seagrass is present in the offshore extent of the project region of Suwannee Sound (Figure 3). Restoration will be inshore of these seagrasses. Restoration sites will not be placed on seagrass. More information, including GIS layers, can be found at: <https://geodata.myfwc.com/datasets/seagrass-habitat-in-florida?geometry=-104.695%2C24.093%2C-62.881%2C30.908>.

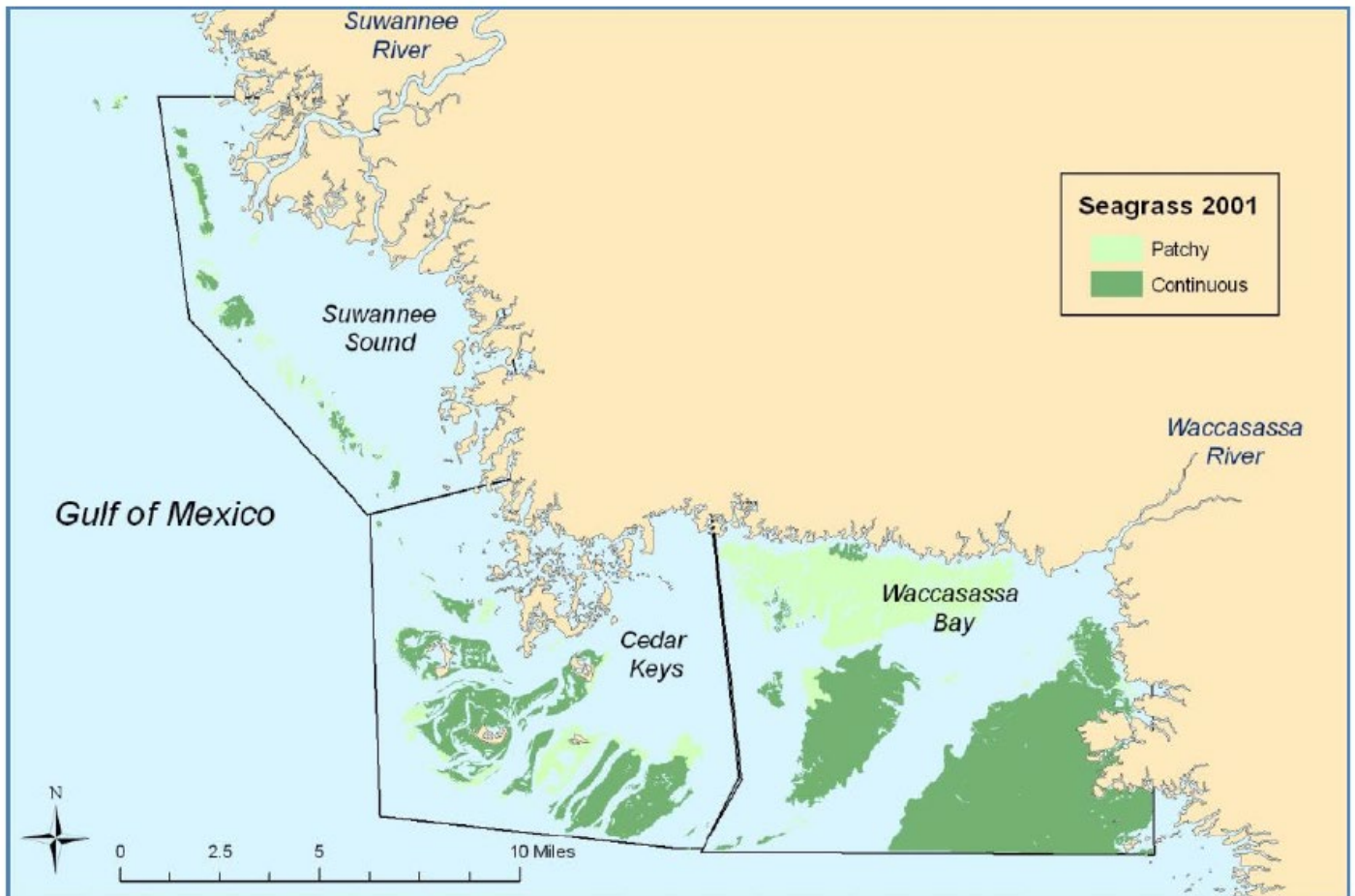


Figure 4: Seagrass extent in and around Suwannee Sound.

rr. 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.

Mangroves are present in southern end of the Suwannee Sound around Cedar Key (Figure 4). Restoration will not interfere with mangroves. More information, including GIS layers, can be found at: <https://geodata.myfwc.com/datasets/salt-marshes-in-florida>.

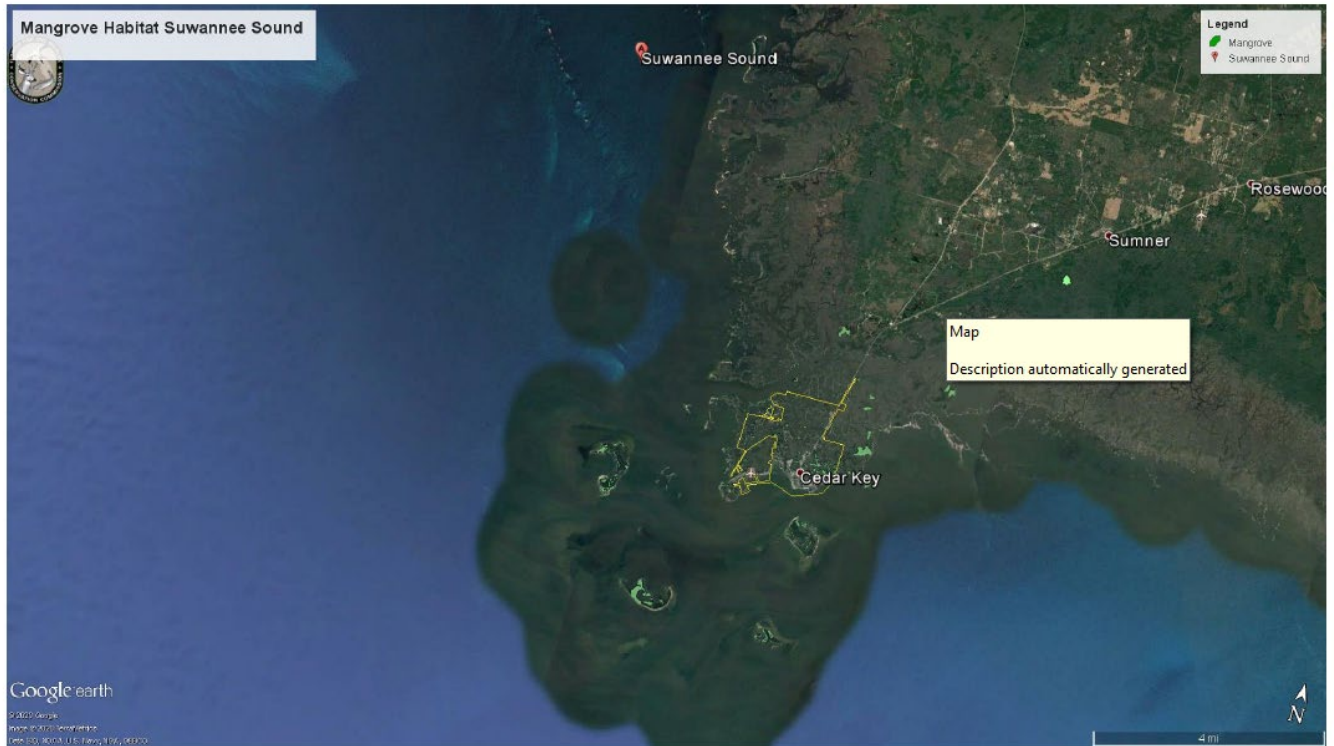


Figure 5: Extent of mangroves in the vicinity of Suwannee Sound.

ss. 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. Click here to enter text.

N/A

tt. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

N/A

uu. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

The project area is in the vicinity of the Northern Gulf of Mexico Continental Shelf, Gulf of Mexico Eastern Coastal, and Gulf of Mexico Northern Coastal stocks of bottlenose dolphins (*Tursiops truncatus*). West Indian manatees (*Trichechus manatus latirostris*) also have the potential to occur within the proposed project area.

w. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Substrate varies across the project area but is largely comprised of sand, mud, silt, clay, limestone, and shell.

ww. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

N/A

Click or tap here to enter text.

xx. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

The project area includes designated Essential Fish Habitat (EFH) for gray snapper (*Lutjanus griseus*), lane snapper (*Lutjanus synagris*), red drum (*Sciaenops ocellatus*), white (*Penaeus setiferus*) and pink shrimp (*P. duorarum*), scalloped hammerhead shark (*Sphyrna lewin*), nurse shark (*Ginglymostoma cirratum*), blacktip shark (*Carcharhinus limbatus*), bull shark (*Carcharhinus leucas*), Atlantic sharp-nosed shark (*Rhizoprionodon terraenovae*), and lemon shark (*Negaprion brevirostris*). More information at:

www.habitat.noaa.gov/application/efhmapper/index.html.

F. Project Description

1. Describe the Proposed Action/Project Objectives: 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.

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.

Project objective(s) and target species:

The objective of this project is to increase oyster abundance and resilience through creation of a network of brood and sink reefs linked by larval transport over a range of habitats (intertidal to subtidal) and salinities. Within each selected location, if applicable:

- Increase oyster abundance and habitat in brood (protected) and sink (harvested or protected) areas;
- Establish a network of oyster reefs at multiple sites across habitat gradients;
- Establish a network of oyster reefs at multiple sites across salinity gradients; and
- Restore using a variety of substrates and/or reef configurations.

Project description:

This project will create a network of high-vertical relief brood (protected) reefs which will be linked to sink (harvest or protected) reefs through larval transport, allowing for increased oyster population sustainability and oyster reef resilience. Brood reefs will be built with large, high-relief material; sink reefs will be constructed of cultch that will either permit or discourage harvesting based on the state's management goals. Based on the best available science, the reefs will be sited in such a way that larvae produced on the brood reefs be transported to the sink reefs. To increase resilience, reefs will be placed along a salinity gradient based on local conditions. Given the annual variation in salinity, spawning success may vary from year to year within a site. Constructing reefs over a range of salinities will increase the likelihood that at least some reefs should be successful in each year. Furthermore, where possible, constructing reefs along an intertidal-subtidal gradient may restore the population linkage between these habitats. Reefs will be constructed at a height to keep oysters out of hypoxic bottom waters. Where possible, reefs will be constructed on suitable hard substrate that does not currently support oysters.

The project involves the construction of approximately 30 to 40 acres of oyster reef by planting oyster cultch material (defined below) by barge or small shallow draft vessel. Reef size acreage will be based on the final height of built reefs. Building taller reefs will decrease the acreage and building shorter reefs will increase the acreage. We estimate that average height will be 1 foot above the surrounding bottom. Cultch materials that are suitable for oyster reef restoration include 1) fossilized oyster shell, 2) recycled oyster shell, or 3) crushed limestone. In Florida, the material size will be like other restoration activities in the area where materials range in size, 3 inch minimum dimension up to 18-36 inch maximum dimension. Those dimensions are an overall size of flatter aggregate that increases rugosity. But the height of the restored reefs (brood and sink) will not exceed the average of 1 foot above the substrate. These materials have proven successful in ongoing restoration activities at the Lone Cabbage restoration site by the University of Florida with funding from the National Fish and Wildlife Foundation. Cultch material shall be clean and reasonably free from soil, quarry fines, and containing no refuse.

Fossilized oyster shell is defined as fossil shell material mined from ancient oyster beds, with a calcium carbonate fraction of at least 90% and Mohs hardness 3 – 4. By weight, at least 85% of the fossil shell material must be between 0.75 and 1.5 inches in size (#4 crushed limestone). The average dry bulk density must be between 85-170 lbs. per cubic foot. Prior to stockpiling and/or loading, the cultch shall be screened to remove excess small particles, non-aggregate materials,

sediment, and/or off-grade material. By weight, these excess materials cannot exceed 5% of the delivered fossilized oyster shell cultch material.

Recycled oyster shell is defined as shucked, clean oyster shell ranging from 1.5 to 3 inches in size that has been aged a minimum of 30 days. By weight, at least 85% of the oyster shell must be between 3 and 6 inches in size. Prior to stockpiling and/or loading, the oyster shell material must be triple washed to remove small particles, non-aggregate materials, sediment, and/or off-grade materials. By weight, these excess materials cannot exceed 5% of the delivered oyster shell cultch material.

Crushed limestone is defined as high-grade limestone, crushed into solid, angular aggregates with moderate to low rugosity and Mohs hardness 3 – 4. By weight, at least 85% of the crushed limestone material must be between 0.75 and 1.5 inches in size (#4 crushed limestone). The average dry bulk density must be between 85-175 lbs. per cubic foot. The calcium carbonate fraction must be at least 90%, and the clay fraction must be less than 5%. Prior to stockpiling and/or loading, the cultch shall be screened to remove excess small particles, non-aggregate materials, sediment, and/or off-grade material. By weight, these excess materials cannot exceed 5% of the delivered crushed limestone cultch material.

In Florida, reefs may open to harvest after a certain number of years and/or after certain performance criteria are met, as determined by FWC. All data collation, analysis, and working group activities would occur at existing research and office facilities. United States Army Corps of Engineers and Florida Department of Environmental Protection permits will be necessary for restoration activities. This activity is expected to provide short- and long-term beneficial impacts to oysters by increasing oyster abundance and resilience.

II. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)

Years 1-2: Planning and permitting

During the first one to two years of the project, we will use existing bottom mapping, water quality data, habitat suitability indices, and larval transport models to identify appropriate locations for brood and sink reefs. Pre-construction oyster surveys will be conducted.

Engineering and design, environmental compliance consultations, and permitting will also be conducted

Years 3-4: Construction

In Years 3-4, reefs will be constructed according to the engineering plans developed in Years 1-2. Post-construction surveys will be performed immediately after construction to ensure that they were built to specifications.

Years 5-7: Monitoring

Oyster reefs will be monitored for abundance, density, size distribution, and larval settlement in accordance with an approved and finalized project MAM plan.

III. Specific In-Water and/or Terrestrial Construction Methods

Please check yes or no for the following questions related to in-water work and overwater structures

Does this project include in-water work?	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
Does this project include terrestrial construction?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Does this project include construction of an overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will wildlife observation be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

N/A

b. Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below

45. Method of pile installation	N/A
46. Material type of piles used	N/A
47. Size (width) of piles/sheets	N/A
48. Total number of piles/sheets	N/A
49. Number of strikes for each single pile	N/A
50. Number of strikes per hour (for a single pile)	N/A
51. Expected number of piles to be driven each day	N/A
52. Expected amount of time needed to drive each pile (minutes of driving activities)	N/A
53. Expected number of sequential days spent pile driving	N/A
54. Whether pile driving occurring in-water or on land	N/A
55. Depth of water where piles will be driven	N/A

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 (sqft) beneath the boats that will be shaded.)

N/A

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.)

N/A

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.

N/A

f. Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

N/A

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.)

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

N/A

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)).

The corners of each area for cultch planting will be demarcated by buoys. Buoys will be no smaller than 15” round orange anchor buoys with a minimum of 3/8 polypropylene rope attached to a 25-pound concrete anchor. The length of rope is calculated as the water depth plus 15% to account for tidal range. Buoys will be deployed immediately prior to the start of cultch planting and removed immediately after when the state surveys the contractors work. The duration of buoy and rope deployment is brief and is not anticipated to cause a fouling hazard for marine life.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Loggerhead Sea Turtle		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Gulf Sturgeon CH	Unit 14	Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Giant Manta Ray (T)		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Gulf Sturgeon (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item. West Indian Manatee		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

West Indian manatees, sea turtles, manta rays, and/or Gulf sturgeon may be present in the project area. The proposed field operations have the potential to result in temporary disturbances associated with vessel use, including increased underwater noise and human activity, which could contribute to temporary disturbance or displacement of the protected species listed above, as well as the increased chances of vessel strikes. However, the affected species are mobile and would likely avoid the area for the duration of in-water work, avoiding injury or mortality. If individuals did enter construction areas, activities would halt until they leave the site. Noise would return to baseline levels immediately following in-water work.

Furthermore, applicable BMPs, would be employed to avoid and minimize impacts to the protected species (see next section). The duration of in-water work would be short-term (specifics on duration of project activities will be better understood/available following identification of type and location of oyster reefs to be constructed). In addition, sea turtle nesting habitat would not be impacted by this project (not

located in the proposed project area). Taking all of this into account, this project may affect but is not likely to adversely affect these species.

II. 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.

This project will adhere to the ESA Framework Programmatic BO completed by NMFS for “Oyster reef creation and enhancement” (https://media.fisheries.noaa.gov/dam-migration/pdarp_appendix_a.pdf). The entities implementing in-water project activities will adhere to all NMFS and FWC permit requirements, including conservation measures to reduce and minimize impacts on protected species. The entities will conduct monitoring according to the BO, specifically project construction monitoring from PDC No. 2 (see link above), as-built project completion drawings and photos, and any interactions with protected species in PDC No. 4 (see link above). All interactions with, or sightings of stranded, entangled, dead or injured sea turtles, Gulf sturgeon, sawfish, or marine mammals will be reported according to specifications in the BO.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input checked="" type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹³ |
| <input checked="" type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input checked="" type="checkbox"/> | NMFS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

This project will adhere to the ESA Framework Programmatic BO completed by NMFS for “Oyster reef creation and enhancement” (https://media.fisheries.noaa.gov/dam-migration/pdarp_appendix_a.pdf).

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

I. 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

13. 13 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

cumulative impacts to physical and biological features, 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.

The proposed project area overlaps with Gulf sturgeon critical habitat (Suwannee Sound, Unit 14; Figure 4). Specific restoration sites would be identified using findings from a separate habitat suitability analysis and mapping work, however would likely be comprised of multiple, intertidal sites in Suwannee Sound between Horseshoe Point and Cedar Key.

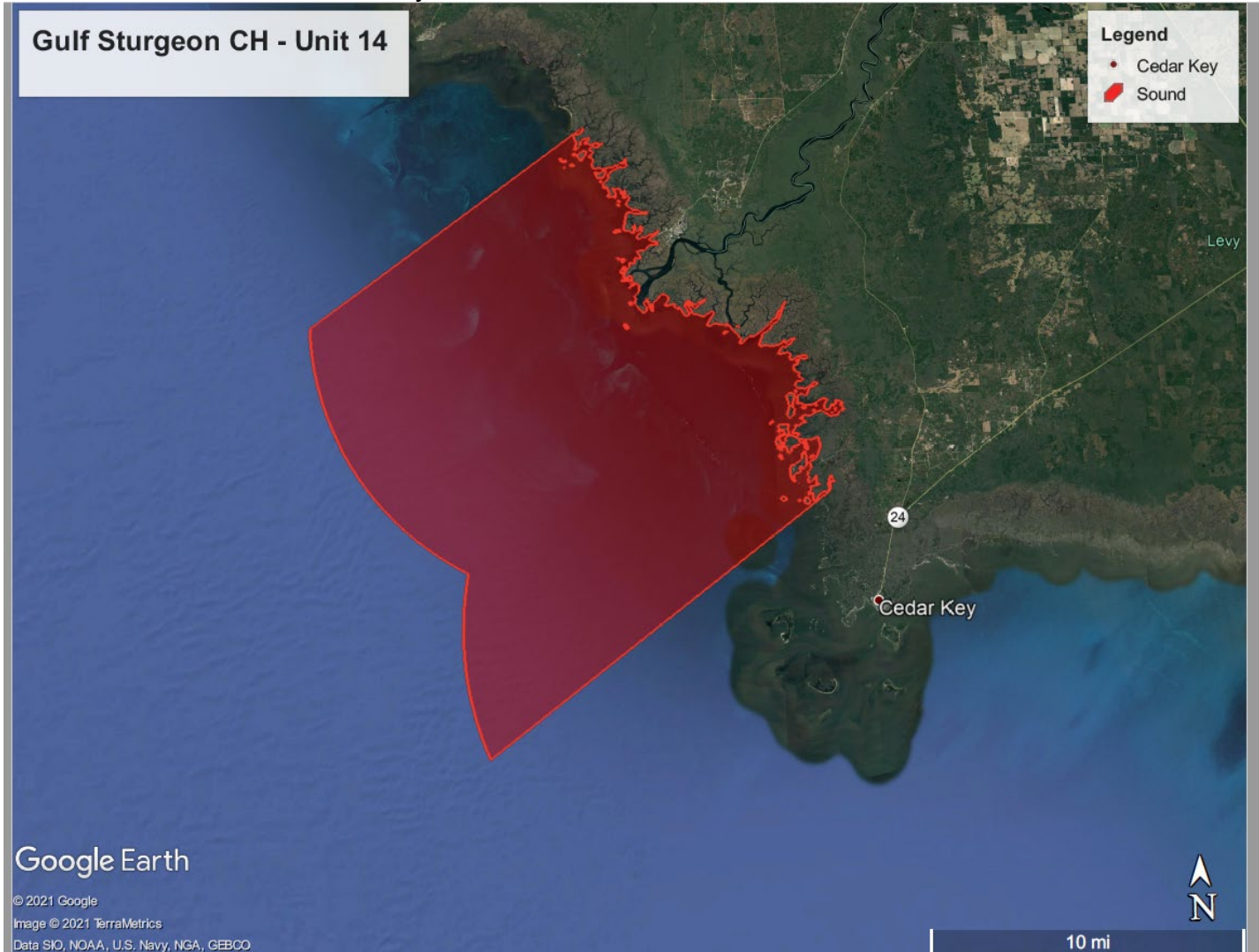


Figure 6: Gulf sturgeon critical habitat in project area.

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 reinstate this consultation.*

The project is anticipated to have less than 10% overflow into soft substrates, given the project goal to restore existing hard substrata (shell or rock). This PDC is listed in the ESA Framework Programmatic

BO completed by NMFS for “Oyster reef creation and enhancement”, specifically that “within Gulf sturgeon critical habitat, oyster reef creation and enhancement shall occur only on existing shell substrata or relic reef locations.” Temporary disturbances associated with vessel use, including increased underwater noise and human activity, may briefly disrupt Gulf sturgeon critical habitat for the duration of in-water work. However, noise levels would return to baseline levels following in-water work. With the use of appropriate conservation measures and BMPs described above, in-water activities may affect, but are not likely to adversely affect, Gulf sturgeon critical habitat.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	<input checked="" type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

In-water activities are expected to result in short-term disturbance to habitats and species (if present). For example, noise, the presence of vessels and equipment, and temporary changes in water quality could temporarily disturb marine mammals that are using habitat in the vicinity of the project area. However,

these highly mobile species would likely be able utilize other habitat during project construction. Boat operators associated with the projects would also follow applicable BMPs, which also would minimize potential harm. The combination of marine mammal mobility, the implementation of BMPs, and the short duration of construction activities suggest that the projects are unlikely to have adverse effects to marine mammals.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹⁴
<input checked="" type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹⁵
<input checked="" type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input checked="" type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

17. 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).
18. 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.
19. 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.
20. 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

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

14. 14 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

15. 15 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Michael Barron, Department of the Interior

Email: michael_barron@fws.gov

Phone: 251-421-7030

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA), Texas, Louisiana, Mississippi, Alabama, Florida

Contact Name: [Click to enter text](#) Phone: 000-000-0000 Email: [Click to enter text](#)

Project Name: Regionwide Enhancements to the Sea Turtle Stranding and Salvage Network,

Component 1: Enhancing Response, Coordination, and Preparedness in the Gulf of Mexico

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If “Engineering & Design” was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

Enhancements to the existing STSSN (both response capacity and rehabilitation critical needs) would occur GoM-wide. Any permitted STSSN participant could be considered for enhancement needs. Appropriate entities are located in all five Gulf states.

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

[Click here to enter text.](#)

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Several. Each STSSN participant and rehabilitation facility requires a Federal and/or state ESA permit to operate within the STSSN. An organization will be required to hold an appropriate

active permit prior to participation in this project.

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: See above. Each participating organization will require an appropriate active Federal and/or state ESA permit.

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 entity receiving funds must have all required permits and authorizations to serve as an active member and participant of the STSSN. Only facilities with permits/authorizations in place and in good standing will be included in this project.

Draft RW TIG RP1 (released early 2021) will include a NEPA analysis for this project.

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

Name of Person Completing this Form: [Rebecca Hazelkorn](#)

Name of Project Lead: [Click here to enter text.](#)

Date Form Completed: [9/28/2020](#)

Date Form Updated: [5/25/21, C. Fellas](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

yy. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Stranding networks respond to calls of distressed/injured/deceased sea turtles in the Gulf of Mexico, on beaches gulf-side, as well as inshore estuarine/tidal/riverine waters.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Dependent on each location

zz. 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.

Not applicable

aaa. 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.

Not applicable

bbb. 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.

Not applicable

ccc. 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. Click [here](#) to enter text.

Not applicable

ddd. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Not applicable

eee. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES YES

Manatees YES YES

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>

As this project takes place Gulf of Mexico-wide, all Northern Gulf of Mexico Bay, Sound, and Estuary stocks of bottlenose dolphins, coastal stocks of bottlenose dolphins, stranded whales, as well as stranded manatees could be found in areas where the STSSN responds.

fff. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Not applicable

ggg. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Not applicable

hhh. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

Not applicable

F. Project Description

*1. Describe the Proposed Action/Project Objectives: 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.*

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.*

Component 1:

This component involves the following activities:

- Evaluate and prioritize critical enhancement needs and current funding gaps for Gulf-wide STSSN response and rehabilitation.
- Provide funding to support enhanced capacity for stranding response (e.g., large-scale cold-stuns, red tide, other unusual stranding events) or other identified gaps in STSSN response coverage where increased response effort and capacity (e.g., education outreach,

picking up and transporting live sea turtles to rehab, stranding patrols, and veterinary services) have a benefit to sea turtles.

- Provide funding to support enhancements to rehabilitation efforts and the improve rehabilitation outcomes.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

Component 1 would begin upon project approval and would take approximately 5 years to complete

	Component 1: Enhancing Response, Coordination, and Preparedness in the Gulf of Mexico
Project Start	Upon project approval
Planning	1 year
Implementation	5 years
Monitoring	occurs concurrent with implementation
Project Complete	5 years from start date

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will boat docking be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Click or tap here to enter text.

Construction: 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.)

iii. *Use of “Dock Construction Guidelines”?*

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 (sq ft)?*

Click or tap here to enter text.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

56. <i>Method of pile installation</i>	
57. <i>Material type of piles used</i>	
58. <i>Size (width) of piles/sheets</i>	
59. <i>Total number of piles/sheets</i>	
60. <i>Number of strikes for each single pile</i>	
61. <i>Number of strikes per hour (for a single pile)</i>	
62. <i>Expected number of piles to be driven each day</i>	
63. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	
64. <i>Expected number of sequential days spent pile driving</i>	
65. <i>Whether pile driving occurring in-water or on land</i>	
66. <i>Depth of water where piles will be driven</i>	

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 (sqft) beneath the boats that will be shaded.)*

Not applicable

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.)*

Not applicable

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.*

Not applicable

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

Not applicable

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.)*

Not applicable

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

Not applicable

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)).

Not applicable

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.

Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

[H. USFWS Species & Critical Habitat and Effects Determination Requested](#)

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	Choose an item.	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

Activities funded by this project to enhance the STSSN fall under the existing ESA consultation issued to the STSSN and its authorized partners. Sea turtle rehabilitation work is overseen by USFWS, and any enhancements funded by this project would take place at facilities with permits/authorizations in place and in good standing.

II. 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 reinstate this consultation.

Frequently Recommended BMPs: *This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:*

- | |
|---|
| <input type="checkbox"/> USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁶ |
| <input type="checkbox"/> NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |

16. 16 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. *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 to physical and biological features, 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.

Click here to enter text.

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 reinstate this consultation.*

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

None of the enhancements to existing/ongoing STSSN work would have any effects on marine mammals.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ¹⁷
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ¹⁸
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

[Click here to enter text.](#)

L. Bald Eagles

Are bald eagles present in the action area? NO YES

17. 17 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

18. 18 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

If YES, the following conservation measures should be implemented:

21. 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).
22. 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.
23. 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.
24. 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
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): Texas General Land Office, Texas Parks and Wildlife Department,
Texas Commission On Environmental Quality

Contact Name: Angela Sunley Phone: 512-463-9309 Email: angela.sunley@glo.texas.gov

Project Name: Regionwide Enhancements to the Sea Turtle Stranding and Salvage Network,
Component 2: Texas Rehabilitation Facility

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # RP1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

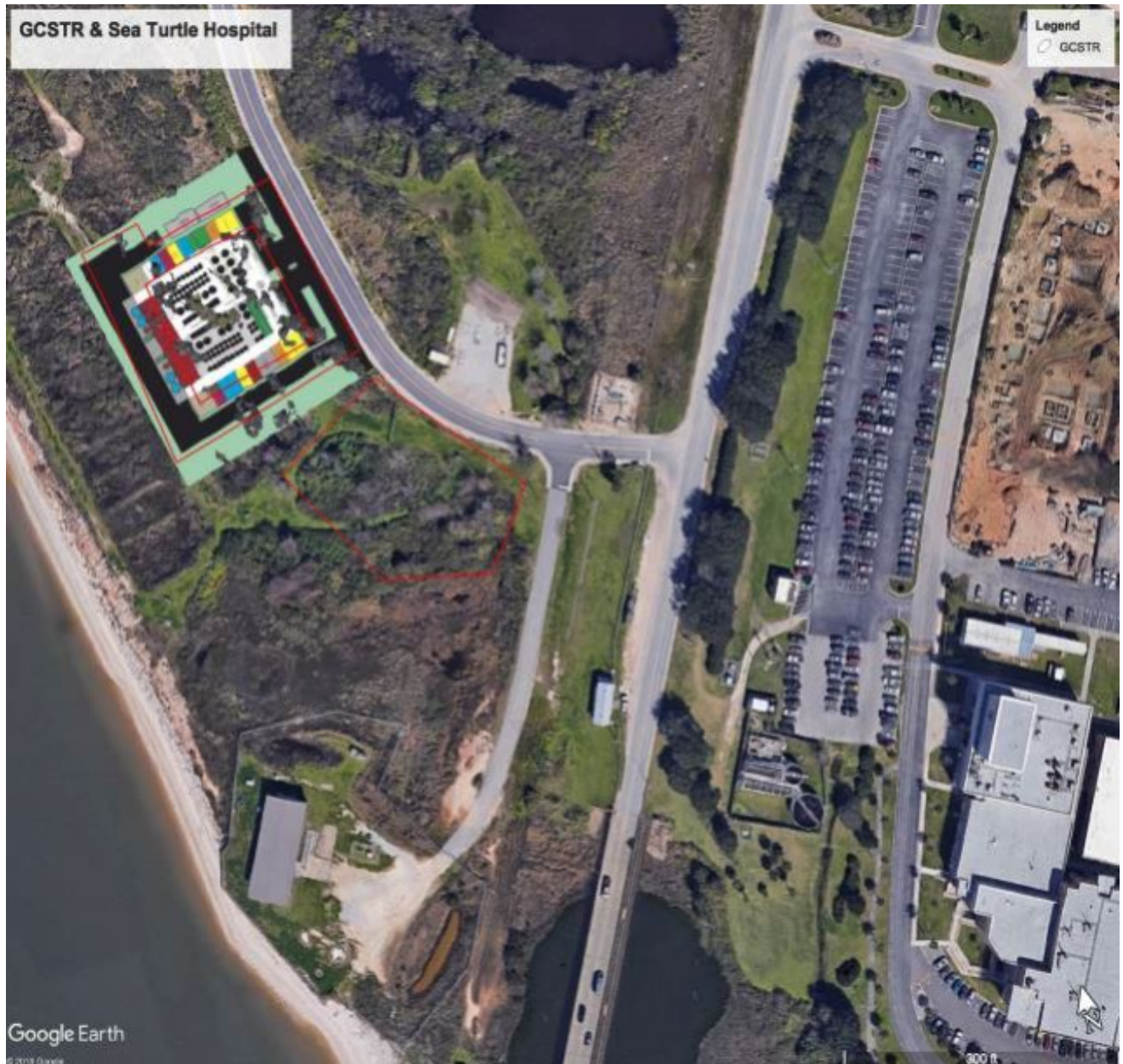
Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

The facility will be located in the City of Galveston, Galveston County, Texas on the Texas A & M University campus, west of Seawolf Parkway along the shore of Galveston Bay.



II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

29.316469 N 94.821964 W

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: [Click or tap here to enter](#)

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: [Click or tap here to enter](#)

text.

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.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Angela Sunley

Name of Project Lead: Texas General Land Office, Texas Parks and Wildlife Department, Texas Commission on Environmental Quality

Date Form Completed: 09/30/2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

The proposed facility is located within an old dredge placement area on the Texas A & M University Galveston Campus. The site is flat with sand/silt soils.

iii. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

The facility will be constructed on uplands adjacent to Galveston Bay near the Port of Galveston.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Less than one mile to Galveston Bay

jjj. 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.

There are no structures located within the proposed footprint of the facility.

kkk. 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.

N/A

lll. 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.

N/A

mmm. 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. Click here to enter text.

N/A

nnn. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

The current habitat types are grassland and scrub/shrub uplands.

ooo. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES No

Manatees YES No

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>

Click here to enter text.

ppp. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

The area is flat with deep non-saline soils of the barrier islands consisting of Mustang-Galveston sand. It is located on an old dredge placement area.

qqq. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

The site is no longer utilized as a dredge placement area.

rrr. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

N/A

F. Project Description

1. Describe the Proposed Action/Project Objectives: 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.

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.*

The project description is based on the current design concept for the purpose of assessing the construction impact on the environment. Final engineering and project design could result in revisions to the project. The following description is intended to be a conservative review of the project components in order to evaluate a maximum environmental impact in the National Environmental Policy Act (NEPA) review and in environmental permitting.

The proposed project will construct a Sea Turtle Rehabilitation Center on the Texas A&M University campus on Pelican Island, in Galveston County Texas that will facilitate the treatment of injured, cold stunned, or sick sea turtles. The purpose is to reduce response time and enhance capabilities of the Gulf-wide Sea Turtle Stranding Network with the ultimate goal of returning sea turtles to the wild when possible. The project area is located within the Gulf Coastal Plain physiographic region. Landforms are generally comprised of Holocene sediments composed of sand, silt, and clay. Construction will include clearing an area located within an existing dredge placement area with heavy equipment and construction of the facility, parking area, and driveways. The site is located in a previous disturbed area with no wetlands. The water system to support this rehabilitation center will tie in to existing university water infrastructure.

During construction, activities there would be short-term, minor and localized impacts to the area and placement of fill. Installation of new pavements would cause long-term, minor, adverse impacts to approximately 2 acres of soils. Some erosion of soils may occur prior to revegetation of the site. However, a stormwater pollution prevention plan (SWPPP) would be prepared and erosion, sedimentation, and stormwater runoff would be managed in accordance with Texas Commission on Environmental Quality stormwater requirements.

II. *Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)*

6-12 months of terrestrial construction.

III. *Specific In-Water and/or Terrestrial Construction Methods*

Please check yes or no for the following questions related to in-water work and overwater structures

<i>Does this project include in-water work?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Does this project include terrestrial construction?</i>	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
<i>Does this project include construction of an overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will fishing be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

N/A

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

The site will be cleared of vegetation and graded with large machinery such as bull dozers, bobcats and tractors. Construction of the building will include machinery and manual labor utilizing steel, wood, fiberglass, glass, and concrete to construct the building. All work will be completed in upland areas. Any debris created during the construction of the facility will be properly managed and disposed of at a waste management facility.

b. *Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below*

67. Method of pile installation	
68. Material type of piles used	
69. Size (width) of piles/sheets	
70. Total number of piles/sheets	
71. Number of strikes for each single pile	
72. Number of strikes per hour (for a single pile)	
73. Expected number of piles to be driven each day	
74. Expected amount of time needed to drive each pile (minutes of driving activities)	
75. Expected number of sequential days spent pile driving	
76. Whether pile driving occurring in-water or on land	
77. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)*

N/A

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.)*

N/A

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.

N/A

f. *Dredging or digging* (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.

N/A

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.)

N/A

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.

N/A

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)).

N/A

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Red Knot		Terrestrial	No Effect	No suitable habitat in action area
Piping Plover		Terrestrial	No Effect	No suitable habitat in action area
Choose an item.				
Green Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Loggerhead Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area

Kemp's Ridley		Terrestrial	No Effect	No suitable habitat in action area
Hawksbill Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
Leatherback Sea Turtle		Terrestrial	No Effect	No suitable habitat in action area
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

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.

This facility will be built on a previously disturbed area and there will be no new connections to waterways. This project is not expected to have any effects on ESA-listed species or habitats.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions¹⁹ |
| <input type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

N/A

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as "No Effect" with justification in table do not need to be addressed in Section I or J.

I. 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

19. 19 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

cumulative impacts to physical and biological features, 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.

Adherence to permit conditions and other requirements would minimize any adverse impacts.

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.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	<i>a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>b) In-water construction or demolition</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>d) In-water Explosive detonation</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>e) Aquaculture</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>f) Restoration of barrier islands, levee construction or similar projects</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>g) Fresh-water river diversions</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²⁰
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ²¹
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

No Bald eagles according to IPAC

If YES, the following conservation measures should be implemented:

25. 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).
26. 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.
27. 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.
28. 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

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

20. 20 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

21. 21 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons
USFWS: Erin Chandler at erin_chandler@fws.gov
NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA)

Contact Name: Rebeccah Hazelkorn Phone: 941-724-3906 Email:

rebeccah.hazelkorn@noaa.gov

Project Name: Reducing Sea Turtle Bycatch at Recreational Fishing Sites

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form. Examples of such supporting documentation include, but are not limited to:

- Plan view of design drawings
- Aerial images of project action area and surrounding area
- Map of project area with elements proposed (polygons showing proposed construction elements)
- Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

This project would be implemented throughout the Gulf of Mexico, in all 5 Gulf-states. Details on the exact survey and implementation efforts would be determined during Activity 1

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83])

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

Details on the exact survey location efforts would be determined during Activity 1

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: Click or tap here to enter

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: Click or tap here to enter

text.

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.

RW TIG RP1 draft (expected release early 2021) will include a NEPA analysis of this project.

PRA: Angler surveys that are implemented or coordinated by NOAA, would require that all survey instruments undergo Paper Reduction Act (PRA) clearance. Currently, NOAA has an existing approved pier survey collection, called “**Recreational Angler Survey of Sea Turtle Interactions**,” currently approved for use by the Office of Management and Budget, per PRA guidelines (OMB Control No. 0648-0774, exp date: 12/31/2021). The collection includes 3 main survey forms plus instructions, including a fishing site characterization form, angler survey form, and sea turtle incidental capture form. The collection of forms will be renewed for approval every 3-years. The renewal process is streamlined relative to initial approval process, and is anticipated to take approximately 6-months to complete. NOAA will lead the renewal process at the appropriate time.

No federal permits are required to conduct angler surveys.

ESA Take Authorization: In most cases the bycatch of sea turtles at recreational fishing piers are illegal takes, not authorized under the ESA. The response to those turtles by the STSSN is authorized by the USFWS and NMFS via existing STSSN permits or delegated authority under Section 7.

STSSN ESA Permits: The project would use existing permitted Sea Turtle Stranding and Salvage Network participants and rehabilitation facilities for the handling, dehooking, and rehabilitation of sea turtles.

NEPA analysis for this project will be included in the draft restoration plan that is expected to be released by the RW TIG in March 2021

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

Name of Person Completing this Form: Rebeccah Hazelkorn

Name of Project Lead: [Click here to enter text.](#)

Date Form Completed: 23Sep2020

Date Form Updated: 5/25/21, C. Fellas

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the

action.

If CH is not designated in the area, then describe any suitable habitat in the area

sss. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

Gulf of Mexico

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Dependent on individual location identified

ttt. 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.

GoM shore-based fishing sites such as fishing piers, bridges, and other shoreline structures that have documented sea turtle bycatch, or are suspected to as determined by activity 1 of the project

uuu. 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.

Not applicable

vvv. 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.

Not applicable

www. 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. Click [here](#) to enter text.

Not applicable

xxx. Uplands

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Potentially shore based fishing sites that have documented sea turtle bycatch, or are suspected to as determined in activity 1 of the project

yyy. Marine Mammals

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

As this project takes place Gulf-wide, all Northern Gulf of Mexico Bay, Sound, and Estuary stocks of bottlenose dolphins (*Tursiops truncatus*) could be found in areas where shore-based fishing sites such as fishing piers, bridges, and other shoreline structures that have documented sea turtle bycatch, or are suspected to. Depending on areas chosen during activity 1 of the project, it is a possibility that manatees would use nearby areas.

zzz. Soils and Sediments

If applicable. Indicate topography, soil type, substrate type.

Not applicable

aaaa. Land Use

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Not applicable

bbbb. Essential Fish Habitat

If applicable. Describe any designated Essential Fish Habitat within the project area

Not applicable

F. Project Description

1. *Describe the Proposed Action/Project Objectives: 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.*

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.*

NOTE: additional compliance may be required for the pilot projects. Once pilot project locations and methods are identified, a BE form will be filled out with those details and will be evaluated by the TIG through the compliance liaisons for any additional compliance that may be needed.

The goal of the project is to identify factors contributing to sea turtle bycatch at shore-based recreational fishing sites (e.g., piers, bridges, jetties, and other shoreline structures where fishing occurs) and to implement voluntary angler education and other programs to reduce bycatch and bycatch-associated injuries.

Project Objectives:

- Compile an inventory of shore-based fishing sites in the Gulf of Mexico (GoM) with documented sea turtle captures and characterize the sites relative to variables that may influence bycatch of sea turtles (e.g., night fishing allowed, pier lighting, fish cleaning stations, length, water depth where fishing occurs, etc.) and adjacent benthic habitats including community type and distance from structures.
- Compile known information on shore-based sea turtle bycatch from the Sea Turtle Stranding and Salvage Network database. Work with the STSSN Coordinators and other relevant entities (if applicable) to collect standardized information on incidental capture events, including factors surrounding the capture (i.e. bait type, hook type, time of day, depth of water, surrounding habitat, location on pier, etc.)
- Characterize bycatch of sea turtles at select (representative) shore-based fishing sites through in-person or electronic angler surveys to better understand angler fishing practices and potential co-factors influencing sea turtle bycatch. If lack of angler participation occurs at some sites, additional methods will be used, such as stationing trained volunteers to collect the information without contacting anglers. This effort may be coordinated with the RW TIG Marine Mammal Team, if applicable.
- Develop and implement a comprehensive educational effort for the recreational fishing community to promote: reporting of sea turtle bycatch to trained responders, proper disposal of fishing line, and awareness of potential interactions when fishing at or near areas where sea turtles occur
- Develop, test, and implement voluntary programs to reduce sea turtle bycatch at selected fishing sites through implementation of voluntary fishing practices (based on survey results); this could involve voluntary measures such as bait type, hook type, or other identified co-factors. This may require additional compliance depending on methods and locations.
- Work with commercial entities that market fishing gear to develop an incentive program for anglers to report sea turtle by catch on different gear and bait types, as necessary.

II. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)

Project is envisioned as a 5-yr project.

Activity 1: Initial Data Gathering, Timeframe: Years 1-2

Activity 2: Angler Surveys and Angler Education at Selected Sites, Timeframe: Years 2-4

Activity 3: Implementation of voluntary efforts and pilot studies to implement and/or test bycatch reduction strategies, Timeframe: Years 2-5

III. Specific In-Water and/or Terrestrial Construction Methods

Please check yes or no for the following questions related to in-water work and overwater structures

Does this project include in-water work?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Does this project include terrestrial construction?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Does this project include construction of an overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will wildlife observation be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Not applicable

Construction: 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.)

iii. Use of "Dock Construction Guidelines"?

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 (sq ft)?

Not applicable

b. Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below

78. Method of pile installation	
79. Material type of piles used	
80. Size (width) of piles/sheets	
81. Total number of piles/sheets	
82. Number of strikes for each single pile	
83. Number of strikes per hour (for a single pile)	
84. Expected number of piles to be driven each day	

85. <i>Expected amount of time needed to drive each pile (minutes of driving activities)</i>	
86. <i>Expected number of sequential days spent pile driving</i>	
87. <i>Whether pile driving occurring in-water or on land</i>	
88. <i>Depth of water where piles will be driven</i>	

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 (sqft) beneath the boats that will be shaded.)*

Not applicable

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.)*

Not applicable

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.*

Not applicable

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

Not applicable

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.)*

Not applicable

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

Not applicable

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)).

Not applicable

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	Select Most Appropriate	
Choose an item.		Choose an item.	Select Most Appropriate	
Choose an item.		Choose an item.	Select Most Appropriate	
Choose an item.		Choose an item.	Select Most Appropriate	
Choose an item.		Choose an item.	Select Most Appropriate	
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

		Choose an item.	Choose an item.	Choose an item.
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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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
Choose an item.		Choose an item.	No Effect	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

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.

The BE form covers the initial planning phases of the project including data compilation/analysis, education/outreach and surveys with anglers. None of those activities require work in areas that could overlap with ESA-listed species or habitats.

Towards the end of these initial planning phases it is expected that voluntary pilot projects will be developed, tested and implemented. At the time these pilot projects are identified, a BE form will be completed and information will be review to determine if additional consultations or authorization are needed.

II. *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.*

Frequently Recommended BMPs: *This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:*

- | | |
|--------------------------|--|
| <input type="checkbox"/> | USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> | NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions²² |
| <input type="checkbox"/> | NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input type="checkbox"/> | NFMS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

22. 22 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

I. *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 to physical and biological features, 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.

Click here to enter text.

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.*

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>g) Fresh-water river diversions</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>j) Conducting driving of sheet piles or pilings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>k) Use of floating pipeline during dredging activities</i>

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>

Click here to enter text.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²³
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ²⁴
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input checked="" type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

Click here to enter text.

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

29. 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).
30. 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.

23. 23 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

24. 24 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

31. 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.
32. 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
 Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153

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 Protection 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.

For assistance, please contact the compliance liaisons

USFWS: Erin Chandler at erin_chandler@fws.gov

NMFS: Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWS NOAA EPA USDA

Implementing Trustee(s): National Oceanic and Atmospheric Administration (NOAA)

Contact Name: Rebecca Hazelkorn Phone: 941-724-3906 Email:

rebecca.hazelkorn@noaa.gov

Project Name: Pilot implementation of Automatic Identification System (AIS) in the GOM

Inshore Fishery to Inform Efforts to Reduce Sea Turtle Bycatch

DIVER ID# [Click to enter text](#) TIG: Regionwide TIG Restoration Plan # 1

B. Project Phase and Supporting Documentation

Please choose the box which best describes the project status, as proposed in this BE form:

Planning/Conceptual Construction/Implementation Engineering & Design

If "Engineering & Design" was selected, please describe the level of design that has been completed and is available for review:

[Click here to enter text.](#)

Supporting Documentation

Please attach any maps, aerial photographs, or design drawings that will support the information in this BE form.

Examples of such supporting documentation include, but are not limited to:

Plan view of design drawings

Aerial images of project action area and surrounding area

Map of project area with elements proposed (polygons showing proposed construction elements)

Map of action area with critical habitat units or sensitive habitats overlaid

C. Project Location

I. State and County/Parish of action area

This project would span the nearshore/inshore waters throughout all 5 states of the Gulf of Mexico region, with a particular focus on the Northern Gulf of Mexico

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622°N,

80.25174°W NAD83)

[online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-to-from-decimal-degrees>]

No specific lat/long is identified for this project as the vessels chosen will be selected during project implementation. As stated above, the project will span the nearshore/inshore waters of the Gulf of Mexico. Vessels with Automatic Identification System (AIS) equipment installed with have their lat/long monitored. The project may also include vessels that operate in both state and Federal waters.

D. 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:

- TIG Restoration Plan/EA or EIS (draft or final)
- 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

Permit Number and Type: [Click or tap here to enter](#)

text

Have any federal permits been applied for but not yet obtained, if so which ones and what is the permit number(s)?

YES

NO

Permit Number and Type: [Click or tap here to enter](#)

text.

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.

RW TIG RP1 (draft release expected early 2021) will include a NEPA analysis for this project. No Corps permits would be required for this project.

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

Name of Person Completing this Form: Rebecca Hazelkorn

Name of Project Lead: TBD

Date Form Completed: 23 Sep 2020

Date Form Updated: [Click here to enter text.](#)

E. Description of Action Area

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). Describe all areas that may be directly or indirectly affected by the action.

If CH is not designated in the area, then describe any suitable habitat in the area

cccc. Waterbody

If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If applicable, please describe water quality, depth, hydrology, current flow, and direction of flow.

This project will occur in Gulf of Mexico nearshore/inshore waters throughout all 5 states where the fishery currently operates.

Does the project area include a river or estuary?

YES NO

If yes, please approximate the navigable distance from the project location to the marine environment.

Click or tap here to enter text.

dddd. 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.

No

eeee. 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.

Not applicable

ffff. 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.

Not applicable

gggg. **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. Click here to enter text.

Not applicable

hhhh. **Uplands**

If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Not applicable

iiii. **Marine Mammals**

Please select the following marine mammals that could be present within the project area:

Dolphins YES NO

Whales YES NO

Manatees YES NO

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>

As this project takes place regionwide, all Northern Gulf of Mexico Bay, Sound, and Estuary stocks of bottlenose dolphins could be found in areas where shrimp trawl monitoring will focus. These are habitat areas that similarly could be used by West Indian manatee, but most vessels involved in the project will likely be located in states other than FL where the majority of manatees are located (*Trichechus manatus latirostris*).

jjjj. **Soils and Sediments**

If applicable. Indicate topography, soil type, substrate type.

Soft/smooth sand bottoms

kkkk. **Land Use**

If applicable. Indicate existing or previous land use activities (agriculture, dredge disposal, etc).

Not applicable

llll. **Essential Fish Habitat**

If applicable. Describe any designated Essential Fish Habitat within the project area

Not applicable

F. Project Description

*I. Describe the Proposed Action/Project Objectives: 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.*

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.*

The project would consist of implementing AIS in a voluntary portion of the state-permitted shrimp trawl fishery that operates nearshore/inshore. Vessels that are not required by USCG to carry AIS equipment would be eligible to participate. The project would include the purchase and installation of AIS Class B equipment on shrimp trawl fishing vessels. Installing this equipment on vessels that currently operate in this fishery will not change the current fishing effort or the areas in which these permitted fishing vessels are currently operating. The fishery is currently operating under an existing NMFS ESA consultation.²⁵

Data would be continually reviewed to help inform state agencies and NOAA's Gear Monitoring Team (GMT) community outreach activities. There are approximately 5,000 nearshore/inshore shrimp trawlers operating in the GOM under state permits – a percent of those vessels would be recruited to participate in the project. The number of vessels will likely be cost-dependent and interest-dependent. Participation by fishers would be voluntary. We anticipate the project would occur over the course of multiple fishing seasons (2-5 seasons, project is scalable).

II. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)

The duration of this project would be 3 years. We anticipate Year 1 to be spent on planning, working with the states to acquire state fishing data, establishing a Steering Committee, and meeting to discuss the process of project implementation.

Implementation would take place in years 2 and 3. This phase would include the voluntary installment and deployment of AIS on state permitted shrimp trawl vessels operating nearshore/inshore. Monitoring would simultaneously occur during the implementation phase as items such as number of vessels that carry AIS for contribution to the project, temporal/spatial maps of AIS data, and summaries and outreach efforts of the GMT are analyzed.

25. 25 NMFS. 2014. Reinitiation of Endangered Species Act (ESA) Section 7 Consultation on the Continued Implementation of the Sea Turtle Conservation Regulations, as Proposed to Be Amended, and the Continued Authorization of the Southeast U.S. Shrimp Fisheries in Federal Waters under the Magnuson-Stevens Act. Biological Opinion. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southeast Regional Office, Protected Resources Division (F/SER3) and Sustainable Fisheries Division (F/SER2), St. Petersburg, Florida.

III. Specific In-Water and/or Terrestrial Construction Methods

Please check yes or no for the following questions related to in-water work and overwater structures

Does this project include in-water work?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Does this project include terrestrial construction?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Does this project include construction of an overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will wildlife observation be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will boat docking be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Will fishing be allowed from this overwater structure?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

If this is a fishing pier, please provide the following information: public or private access to pier, estimated number of people fishing per day, plan to address hook and line captures of protected species, specific operating hours/open 24 hours, artificial lighting of pier (if any), number of fish cleaning stations, and number of pier attendants (if any).

Not applicable

Construction: 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.)

iii. Use of “Dock Construction Guidelines”?

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 (sq ft)?

Not applicable

b. Pilings & Sheetpiles: If this project includes installation of pilings or sheets, please provide answers to questions 1-11 listed below

89. Method of pile installation	
90. Material type of piles used	
91. Size (width) of piles/sheets	
92. Total number of piles/sheets	
93. Number of strikes for each single pile	
94. Number of strikes per hour (for a single pile)	
95. Expected number of piles to be driven each day	
96. Expected amount of time needed to drive each pile (minutes of driving activities)	
97. Expected number of sequential days spent pile driving	
98. Whether pile driving occurring in-water or on land	
99. Depth of water where piles will be driven	

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 (sqft) beneath the boats that will be shaded.)

Not applicable

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.)*

Not applicable

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.*

Not applicable

f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) 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.*

Not applicable

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.)*

Not applicable

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, long term maintenance plan (periodic clean-up of lost fishing gear/debris)], 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.*

Not applicable

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)).*

This project monitors electronically the shrimp trawl industry, which has potential for fishery interaction with ESA and MMPA listed protected species. This project does not alter the fishing effort or equipment used in the shrimp trawl fishery. This is a data gathering project with intent to inform future restoration projects on the most beneficial locations to focus future voluntary bycatch mitigation efforts to reduce nearshore/inshore sea turtle and shrimp fishery interactions.

G. NOAA Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed NOAA species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

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.

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)	Determinations (see definitions below)	For "No Effect", please select justification.
Gulf Sturgeon (T)		Choose an item.	No Effect	Choose an item.
Green Sea Turtle (T)		Choose an item.	No Effect	Choose an item.
Loggerhead Sea Turtle		Choose an item.	No Effect	Choose an item.
Leatherback Sea Turtle (E)		Choose an item.	No Effect	Choose an item.
Hawksbill Sea Turtle (E)		Choose an item.	No Effect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Choose an item.	No Effect	Choose an item.
Smalltooth Sawfish (E)		Choose an item.	No Effect	Choose an item.
Giant Manta Ray		Choose an item.	No Effect	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

H. USFWS Species & Critical Habitat and Effects Determination Requested

If your project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats, please check the box below. If this box is checked, you may skip Section G. and proceed to Section H.

This project occurs in a location that does not contain any listed USFWS species or designated Critical Habitats.

ESA effects have been accounted for under an existing consultation.

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area. Species that do not currently occur in the action area (but are listed on county species lists) do not need to be listed in drop downs.

*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.*

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)	Determinations (see definitions below)	For “No Effect”, please select justification.
West Indian Manatee		Choose an item.	No Effect	Select Most Appropriate
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
Choose an item.		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.
		Choose an item.	Choose an item.	Choose an item.

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 = may affect, 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 = may affect, 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.

I. Effects of the proposed project to the species and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

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.

While this project will take place on vessels that operate in nearshore areas where NMFS and USFWS ESA-listed species are present, there will be no effect to these species. The project entails adding AIS equipment to vessels, but will not change the location where the vessels operates or the level of fishing effort. The fishery is currently operating under an existing NMFS ESA consultation, as described in Section F above.

II. 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.

Frequently Recommended BMPs: This checklist provides standard BMPs recommended by NOAA and USFWS. Please select any BMPs that will be implemented:

- | |
|---|
| <input type="checkbox"/> USFWS Standard Manatee In Water Conditions |
| <input type="checkbox"/> NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions²⁶ |
| <input type="checkbox"/> NMFS Measures for Reducing the Entrapment Risk to Protected Species¹ |
| <input type="checkbox"/> NMFS Vessel Strike Avoidance Measures and Reporting for Mariners¹ |

Additional BMPs or Conservation Measures

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

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were not listed in Section I above)

Click here to enter text.

J. Effects to critical habitats and actions to reduce impacts

NOTE: Species selected as “No Effect” with justification in table do not need to be addressed in Section I or J.

I. 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

²⁶ 26 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

cumulative impacts to physical and biological features, 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.

While this project will take place in nearshore areas where critical habitat designated under the ESA may be present, there will be no effect on these habitats. The project entails adding AIS equipment to vessels, but will not change the location where the vessels operates or the level of fishing effort.

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.

Click here to enter text.

K. 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

If yes, is your activity likely to cause large-scale, ecosystem level impacts to 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	ACTIVITY
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input checked="" type="checkbox"/>	<input type="checkbox"/>	b) In-water construction or demolition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	d) In-water Explosive detonation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	e) Aquaculture
<input checked="" type="checkbox"/>	<input type="checkbox"/>	f) Restoration of barrier islands, levee construction or similar projects
<input checked="" type="checkbox"/>	<input type="checkbox"/>	g) Fresh-water river diversions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	j) Conducting driving of sheet piles or pilings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	k) Use of floating pipeline during dredging activities

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>

While the fishery may operate in area where marine mammals are present, this project is only to monitor vessels who are voluntarily installing AIS equipment. Fishing effort will not be changed and vessels will continue operating within permitted areas.

IV. *Frequently Recommended BMPs for marine mammals (manatees are covered in Section I above): This checklist provides standard BMPs recommended by NOAA. Please select any BMPs that will be implemented:*

<input type="checkbox"/>	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ²⁷
<input type="checkbox"/>	NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions ²⁸
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species ³
<input type="checkbox"/>	NFMS Vessel Strike Avoidance Measures and Reporting for Mariners ³
<input type="checkbox"/>	Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don’t Feed Wild Dolphins sign ³

If not listed above, please describe any additional BMPs or conservation measures that may be implemented for marine mammals.

[Click here to enter text.](#)

L. Bald Eagles

Are bald eagles present in the action area? NO YES

If YES, the following conservation measures should be implemented:

33. 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).
34. 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.
35. 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.
36. 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

27. 27 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/outreach_and_education/index.html

28. 28 Documents can be found here: http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html

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

M. Request approval for use of NMFS PDCs for this project

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. Check “yes” for PDC categories that apply to the proposed project, and request PDC checklist from NMFS.

NO	YES	ACTIVITY
<input type="checkbox"/>	<input type="checkbox"/>	Oyster Reef Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Marine Debris Removal
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Living Shorelines
<input type="checkbox"/>	<input type="checkbox"/>	Marsh Creation and Enhancement
<input type="checkbox"/>	<input type="checkbox"/>	Construction of Non-Fishing Piers

N. Submitting the BE Form

We request that all BE forms and consultation materials be placed on Sharepoint for review. 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 use the Biological Evaluation form to initiate appropriate consultations.

Questions may be directed to:

NMFS ESA § 7 Consultation

Christy Fellas, National Oceanic Atmospheric Administration

Email: Christina.Fellas@noaa.gov

Phone: 727-551-5714

USFWS ESA § 7 Consultation

Erin Chandler, Department of the Interior

Email: Erin_Chandler@fws.gov

Phone: 470-361-3153