



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
 Southeast Regional Office  
 263 13<sup>th</sup> Avenue South  
 St. Petersburg, Florida 33701-5505  
<https://www.fisheries.noaa.gov/region/southeast>

F/SER31:MT  
 SERO-2021-00178

Christy Fellas  
 DWH Environmental Compliance Coordinator  
 NOAA Restoration Center  
 263 13<sup>th</sup> Ave. South  
 St. Petersburg, FL 33701

Dear Ms. Fellas:

This letter responds to your request for consultation with us, the National Marine Fisheries Service (NMFS), pursuant to Section 7 of the Endangered Species Act (ESA) for the following action.

<b>Project Name</b>	<b>Applicant</b>	<b>SERO Number</b>	<b>Project Type</b>
Baars Park and Sanders Beach Access Upgrades Project	Florida Fish and Wildlife Conservation Commission (FWC)	SERO-2021-00178	Recreational Access Improvement

**Consultation History**

We received your letter requesting consultation on February 2, 2021, and initiated consultation that day. This project has been assigned a tracking number in our NMFS Environmental Consultation Organizer (ECO), SERO-2021-00178. Please refer to this number in any future inquiries regarding this project.

**Project Location**

<b>Location</b>	<b>Latitude/Longitude</b>	<b>Water body</b>
<u>Baars Park</u> : On Bayou Texar, just south (downstream) of the N. 12 <sup>th</sup> Ave. Bridge;	<u>Baars Park</u> : 30.459910°N, 87.206720°W	Pensacola Bay, Gulf of Mexico
<u>Sanders Beach Boat Launch</u> : At the mouth of Bayou Chico, directly east of the Pensacola Yacht Club; Pensacola, Escambia County, Florida	<u>Sanders Beach Boat Launch</u> : 30.400267°N, 87.237860°W (North American Datum 1983)	

**Existing Site Conditions**

Baars Park is located along Bayou Texar (Figure 1), an estuary fed by Carpenter’s Creek and various freshwater springs. Baars Park is located in a freshwater area, approximately 3.75 miles upstream from where Bayou Texar empties into Pensacola Bay. The wetlands at the park site are



comprised of freshwater marsh and forested wetland vegetation. Water depths in the Bayou are generally shallow, approximately 2 to 3 feet (ft) at mean low water with a sand/silt substrate.



**Figure 1. Aerial view of Baars Park project area (Figure 2 in the Biological Evaluation for the Baars Park and Sanders Beach Access Upgrades Project).**

Sanders Beach Boat Launch sits along the north end of Pensacola Bay at the mouth of Bayou Chico, directly west of the Inner Harbor (Figure 2). Water depths in the harbor are generally shallow, except within the channel of Bayou Chico, and the approach channels for the Inner Harbor. The public park has an existing power-craft launch, two existing docks, a parking lot with 13 boat trailer spaces, and restroom facilities. The power-craft launch and docks were severely damaged by Hurricane Sally in late September 2020. The aquatic substrate in the project area is primarily sand, with no seagrass present within the area. The project area falls within Gulf sturgeon critical habitat Unit 9 (Figure 2).



**Figure 2. Aerial view of Sanders Beach project area. Hashed area delineates Gulf sturgeon critical habitat Unit 9 (Figure 5 in the Biological Evaluation for the Baars Park and Sanders Beach Access Upgrades Project).**

### **Project Description**

The Florida Fish and Wildlife Conservation Commission (FWC) proposes to construct recreational access upgrades at two existing public park locations in Pensacola, Florida. The

proposed upgrades are designed to provide and enhance recreational paddling opportunities by creating amenities and water access points at two locations; Baars Park and Sanders Beach Boat Launch.

Implementation of this project will include use of heavy construction equipment, such as bulldozers, trucks, backhoes, tractor trailers, cranes, small excavators, and forklifts. Both land- and water-based construction would occur. Construction barges would approach the sites through existing channels, with no dredging necessary for access. Vehicles and staging equipment would utilize previously existing roads and parking areas. Specific planned amenities include:

### Baar's Park

#### *Creating recreational infrastructure at Baars Park:*

- Construct a small fishing pier and a dock with specialized kayak accessible entry.
- Construct a small unpaved parking lot with approximately eight parking spaces;
- Construct a picnic area/shelter;
- Install monofilament recycling bins;
- Install informational/educational signs/kiosks

This project would require in-water work for the construction of the pier and dock. It is anticipated that 4 pilings would be needed to anchor the floating pier and dock at Baars Park. Placement of these pilings would use the least invasive techniques possible (e.g., jetting or pushing), but could require an impact hammer depending on substrate conditions. Piles would likely be made of wood, but could be composite, vinyl, or concrete. Pile size is expected to be 12 inches (in) diameter, but could be up to 14 in. Under the worst case scenario (for underwater noise generation), the use of 14-in concrete piles driven by impact hammer would require an anticipated 45 strikes to drive each pile, with all 4 piles driven in a single day (180 total strikes over ~2 hours).

The boat dock would be accessible for paddle-craft only. Motorized boats would not be allowed to use the site.

### Sanders Beach Boat Launch

#### *Enhancing existing infrastructure at Sanders Beach Boat Launch:*

- Convert the existing power-craft launch to a kayak/paddle-craft launch (the existing launch was severely damaged by Hurricane Sandy in late September 2020);
- Install floating specialized kayak accessible launches to the two existing docks;
- Reconfigure, and possibly expand, the existing parking lot;
- Install monofilament recycling bins;
- Install informational/educational signs/kiosks.

The existing power-craft boat launch at Sanders Beach would be converted to a kayak launch using existing pilings and structures to the greatest extent possible. The existing docks would be repaired/fortified and specialized kayak accessible floating launches would be attached to each dock. No new piles would need to be installed for these upgrades as the existing dock piles will be used for all facility upgrades.

### Construction Conditions

To minimize any potential effects to ESA-listed species, the construction contractors will implement the following conditions during all in-water construction activities:

- All project-related vessels will adhere to NMFS’s Vessel Strike Avoidance Measures and Reporting for Mariners (<http://www.fisheries.noaa.gov/webdam/download/92937962>).
- Construction contractors will implement the NMFS Sea Turtle and Smalltooth Sawfish Construction Conditions (<https://www.fisheries.noaa.gov/webdam/download/92937961>).
- Construction contractors will implement the NMFS Measures for Reducing the Entrapment Risk to Protected Species (<https://www.fisheries.noaa.gov/webdam/download/92937957>).
- All in-water and upland work would be conducted using measures to minimize turbidity, erosion and runoff impacts including erosion control plans, installing sediment traps, and silt curtains.
- Educational signage will be posted at both sites to inform the public about protected species potentially present in the area, how to avoid impacting these species, and how to report injured, entangled or stranded animals (<https://www.fisheries.noaa.gov/southeast/consultations/protected-species-educational-signs>).

### Effects Determination(s) for Species the Action Agency or NMFS Believes May Be Affected by the Proposed Action

Species	ESA Listing Status	Action Agency Effect Determination	NMFS Effect Determination
<b>Sea Turtles</b>			
Green (North Atlantic [NA] distinct population segment [DPS])	T	NLAA	NLAA
Green (South Atlantic [SA] DPS)	T	NLAA	NLAA
Kemp’s ridley	E	NLAA	NLAA
Loggerhead (Northwest Atlantic [NWA] DPS)	T	NLAA	NLAA
Hawksbill	E	NLAA	NE
Leatherback	E	NLAA	NE
<b>Fish</b>			
Gulf sturgeon (Atlantic sturgeon, Gulf subspecies)	T	NLAA	NLAA
Giant manta ray	T	NLAA	NLAA

E = endangered; T = threatened; NLAA = may affect, not likely to adversely affect; NE = no effect.

We believe the project will have no effect on hawksbill and leatherback sea turtles, due to the very specific life history strategies of these species, which are not supported in the project area. Leatherback sea turtles have pelagic, deepwater life history, where they forage primarily on jellyfish. Hawksbill sea turtles typically inhabit inshore reef and hard bottom areas where they forage primarily on encrusting sponges. These habitat types do not occur anywhere near the project site.

## **Critical Habitat**

The Sanders Beach Boat Launch project area falls within Gulf sturgeon critical habitat Unit 9. The following essential features are present in Unit 9:

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).

We believe the proposed project may have the potential to affect essential feature 2 through temporary increases in turbidity resulting from in-water construction activities. None of the proposed activities are expected to affect the abundance of prey species, sediment quality, or migratory pathways within the action area.

## **Analysis of Potential Routes of Effects to Species**

Sea turtles and giant manta rays are not expected to occur in the Baars Park project area. Although it is possible for these species to access this area, FWC reports that there have been no documented sightings or strandings of sea turtles or manta rays in Bayou Texar. The project area is located far up in the Bayou, in freshwater habitat, approximately 3.75 miles upstream from where Bayou Texar empties into Pensacola Bay, and approximately 13 miles from the nearest outlet to the Gulf of Mexico. Due to the lack of suitable habitat in the Baars Park area, and the lack of any documentation of sea turtles or manta rays occurring in the area, we believe that any effects to these species at the Baars Park site are extremely unlikely to occur. All references to potential effects to sea turtles and manta rays below are specific to the Sanders Beach Boat Launch site.

Sea turtles, manta rays, and Gulf sturgeon may be injured if struck by construction related vessels, equipment, or materials (e.g. barge tugs, dock piles, etc.). The risk of this occurring is extremely unlikely because these species are highly mobile and are expected to avoid the noise and disturbance associated with construction vessels/activities. The implementation of NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* and *Sea Turtle and Smalltooth Sawfish Construction Conditions* will further reduce any risk by requiring all construction vessels to maintain slow transit speeds (5 knots or less), and all workers shall keep watch for protected species. Operation of any mechanical equipment will cease immediately if a protected species is detected within a 50-ft radius of the equipment. Activities will not resume until the animal(s) have departed the project area of their own volition.

Use of turbidity curtains and construction-related noise may prevent or deter sea turtles, manta rays, and Gulf sturgeon from utilizing the project areas during construction activities. We believe any such effects from avoidance of the project areas will be insignificant, given the availability

of similar habitat nearby and the abundance of habitat outside of the project area. We expect any individuals that are excluded from the construction areas to continue their normal behavior in similar habitats outside of the affected zone.

Fishing activities at the new Baars Park fishing pier may have the potential to result in the capture or injury of Gulf sturgeon. We believe that any such effects are extremely unlikely to occur because there have been no documented hook-and-line captures or injuries of Gulf sturgeon associated with fishing piers in Florida (or any other state). The feeding habits, anatomy, and ecology of Gulf sturgeon make the hooking of this species by standard hook-and-line anglers extremely unlikely to occur. Therefore, NMFS concludes that Gulf sturgeon are not likely to be adversely affected by angling activities associated with the proposed fishing pier.

Noise created by pile driving activities can physically injure animals or change animal behavior in the affected areas. Injurious effects can occur in two ways. First, immediate adverse effects can occur to listed species if a single noise event exceeds the threshold for direct physical injury. Second, effects can result from prolonged exposure to noise levels that exceed the daily cumulative exposure threshold for the animals, and these can constitute adverse effects if animals are exposed to the noise levels for sufficient periods. Behavioral effects can be adverse if such effects interfere with animals migrating, feeding, resting, or reproducing, for example. Our evaluation of effects to listed species as a result of noise created by construction activities is based on the analysis prepared in support of the biological opinion for SAJ-82 (NMFS Biological Opinion on Regional General Permit SAJ-82 [SAJ-2007-01590], Florida Keys, Monroe County, Florida, June 10, 2014).

Under the worst case scenario (for underwater noise generation), the driving of 14-in concrete piles by impact hammer, requiring up to 450 hammer strikes per day (45 strikes per pile at 10 piles per day = 450 strikes), would not cause single-strike or peak-pressure injurious noise effect at any distance, for Gulf sturgeon. Sturgeon could be injured through cumulative sound exposure at a distance of 14 ft from the pile (i.e. an individual fish would need to remain within 14 ft of the piles being driven throughout the entire day in order to receive cumulative noise injuries). Given the mobility of Gulf sturgeon, and their natural tendency to avoid in-water construction activities, such a scenario is extremely unlikely to occur. The requirement to cease all pile driving activity if a protected species is detected within 50 ft of the pile will further reduce the potential for Gulf sturgeon to be injured by pile driving noise impacts.

The area of potential behavioral effects for Gulf sturgeon is approximately 383 ft from the pile being driven. We believe that any effects on Gulf sturgeon from behavioral reactions to pile driving noise will be insignificant. Due to the mobility of this species, we expect them to move away from any noise disturbances and continue their normal behavior in similar habitats outside of the affected zone.

### **Analysis of Potential Routes of Effects to Critical Habitat**

The proposed activities at the Sanders Beach Boat Launch within Gulf sturgeon critical habitat Unit 9 have the potential to affect specific essential features of this designated critical habitat. The potential effects to these essential features are described below.

### Water quality

In-water construction activities will likely cause a temporary increase in turbidity in and around the area of activity. Any effect that these activities may have on water quality would be insignificant, as any increases in turbidity would be localized and relatively short in duration (disturbed sediments would likely settle out within 1 day following completion of in-water construction).

### **Conclusion**

Because all potential project effects to listed species and critical habitat were found to be discountable, insignificant, or beneficial, we conclude that the proposed action is not likely to adversely affect listed species or critical habitat under NMFS's purview. This concludes your consultation responsibilities under the ESA for species under NMFS's purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action. NMFS's findings on the project's potential effects are based on the project description in this response. Any changes to the proposed action may negate the findings of this consultation and may require reinitiation of consultation with NMFS.

We look forward to further cooperation with you on other projects to ensure the conservation of our threatened and endangered marine species and designated critical habitat. If you have any questions on this consultation, please contact Michael Tucker, Consultation Biologist, at (727) 209-5981 or by email at [Michael.Tucker@noaa.gov](mailto:Michael.Tucker@noaa.gov).

Sincerely,

David Bernhart  
Assistant Regional Administrator  
for Protected Resources

File: 1514-22.c