



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

May 20, 2022

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

From: Compliance Supervisor, Deepwater Horizon Gulf Restoration Office

Subject: Coastal Barrier Resources Act Consistency Determination Request for Implementation of Seven (7) Restoration Projects proposed in the Mississippi Trustee Implementation Group's Restoration Plan #3

The Department of the Interior (DOI) Deepwater Horizon Gulf Restoration Office is working through various environmental compliance consultations on post-settlement proposed restoration alternatives. We are now working on the Coastal Barrier Resources Act consistency determinations for seven (7) proposed projects. The Mississippi Trustee Implementation Group (MS TIG) has evaluated these projects as potential restoration projects under the draft Mississippi Trustee Implementation Group Final Restoration Plan #3. Public comment for this plan closed on January 26, 2022. If the MS TIG selects these projects, after consideration of public comments, the MS TIG partners would implement the projects.

We used the Coastal Barrier Resources System mapper – Beta (<https://www.fws.gov/cbra/maps/mapper.html> [accessed May 20, 2022]) to determine if the proposed actions are located within an Otherwise Protected Area (OPA) or within a System Unit (CBRS). If the proposed action occurs in an OPA or outside of a System Unit, no additional analysis was developed. Please see below for a list of projects, Unit Numbers (if applicable), and consistency determinations.

Project Location

The actions or projects are located in coastal Mississippi and include activities that may partially occur within a Unit of the Coastal Barrier Resources System (CBRS). Please see below for project maps.

Description of the Proposed Action or Project

The proposed projects are designed to restore natural resources injured by the Deepwater Horizon oil spill. Please see below for project descriptions and consistency analyses.

Justification for Exception(s)

Please see below for Justification for Exception.

Contact Information

Please provide response via email to the following:

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Deepwater Horizon Gulf Restoration Office
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Phone: 850-769-0552 x 45228

A handwritten signature in black ink, appearing to read "Patricia Kelly".

5-23-2022

Patricia Kelly, Regions 2 & 4 CBRA Coordinator

Date

1. Bird Stewardship and Enhanced Monitoring in Mississippi (FWS 2022-0005554)

No construction would occur as part of this proposed project. This proposed project would increase the acreage of habitat under stewardship and management on the Mississippi barrier islands (Petit Bois, Horn, Ship, and Cat) and includes more than 62 miles of beach and shoreline. Proposed stewardship and management would provide a number of benefits, including, but not limited to: increasing bird nesting success, survival, and production; increasing public awareness; establishing and implementing an adaptive management framework to assess threats; implement strategies to address those threats; and monitor success within and across season, where appropriate. The anticipated project duration is seven years.

Consistency Analysis

The proposed action is within System Units R01, R02, R03 and OPA Unit MS-01P. Programmatic activities include the following Mississippi counties: Harrison, Jackson. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves acquisition of land and enhancement of recreational activities. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for “Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.” The purposes of CBRA are “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts...” 16 U.S.C. §3501(b). This project is designed to enhance natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption below.

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

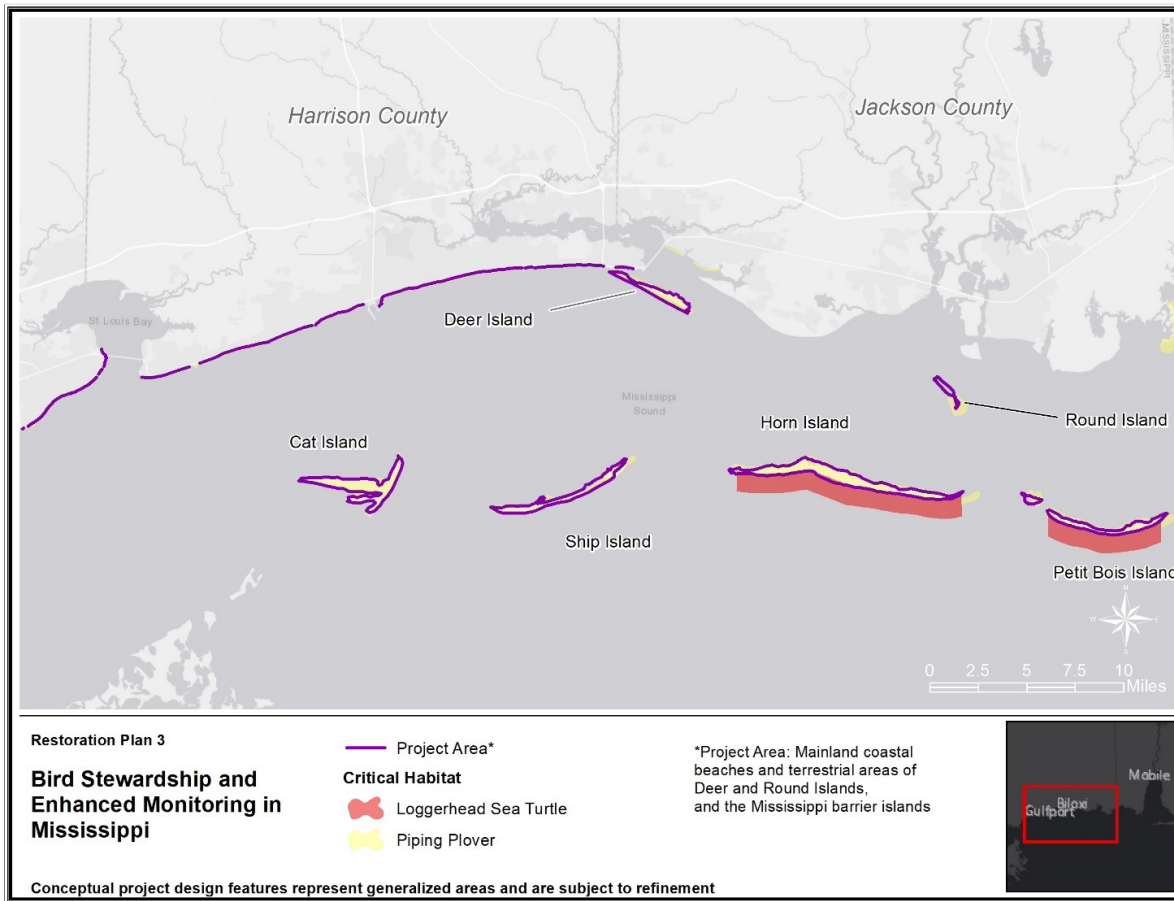
Consistency Determination

- Located within OPA and not subject to a consistency determination.
- Meets the selected CBRA exception(s) and requires no further case-by-case consultation
- Meets different CBRA exception(s) than the one(s) selected above (see additional information/comments below) and requires no further case-by-case consultation
- Does not meet the selected CBRA exception or requires separate case-by-case consultation (see additional information/comments below)

Additional Information/Comments:

The project description describes increased monitoring and management for nesting birds but the analysis mentions land acquisition and enhancement for recreation. I determined this consistent with monitoring and management needed to improve nesting bird habitat. IF there is a focus on increased or targeted recreation, additional information is needed. For example, no golf courses are allowed under this specific exception within a CBRA unit as it would not likely meet the 3 purposes of CBRA.

Figure 1. Map showing the Bird Stewardship and Enhanced Monitoring in Mississippi project area.



2. Improve Native Habitats by Removing Marine Debris from Mississippi Barrier Islands (FWS 2022-0005587)

This proposed project would remove marine debris on Mississippi barrier islands managed by the National Park Service's Gulf Islands National Seashore (including all of Petit Bois, Horn, and Ship islands and a portion of Cat Island). The project would reduce threats to terrestrial and aquatic wildlife species from entanglement and ingestion, reduce transport of invasive species and toxicity, and reduce effects to humans. Fieldwork would be performed opportunistically throughout each year.

Consistency Analysis

The proposed action is within System Unit R03 and OPA Unit MS-01P. Programmatic activities include the following Mississippi counties: Harrison, Jackson. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves acquisition of land and enhancement of recreational activities. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for "Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects." The purposes of CBRA are "to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts..." 16 U.S.C. §3501(b). This project is designed to enhance natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption below.

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

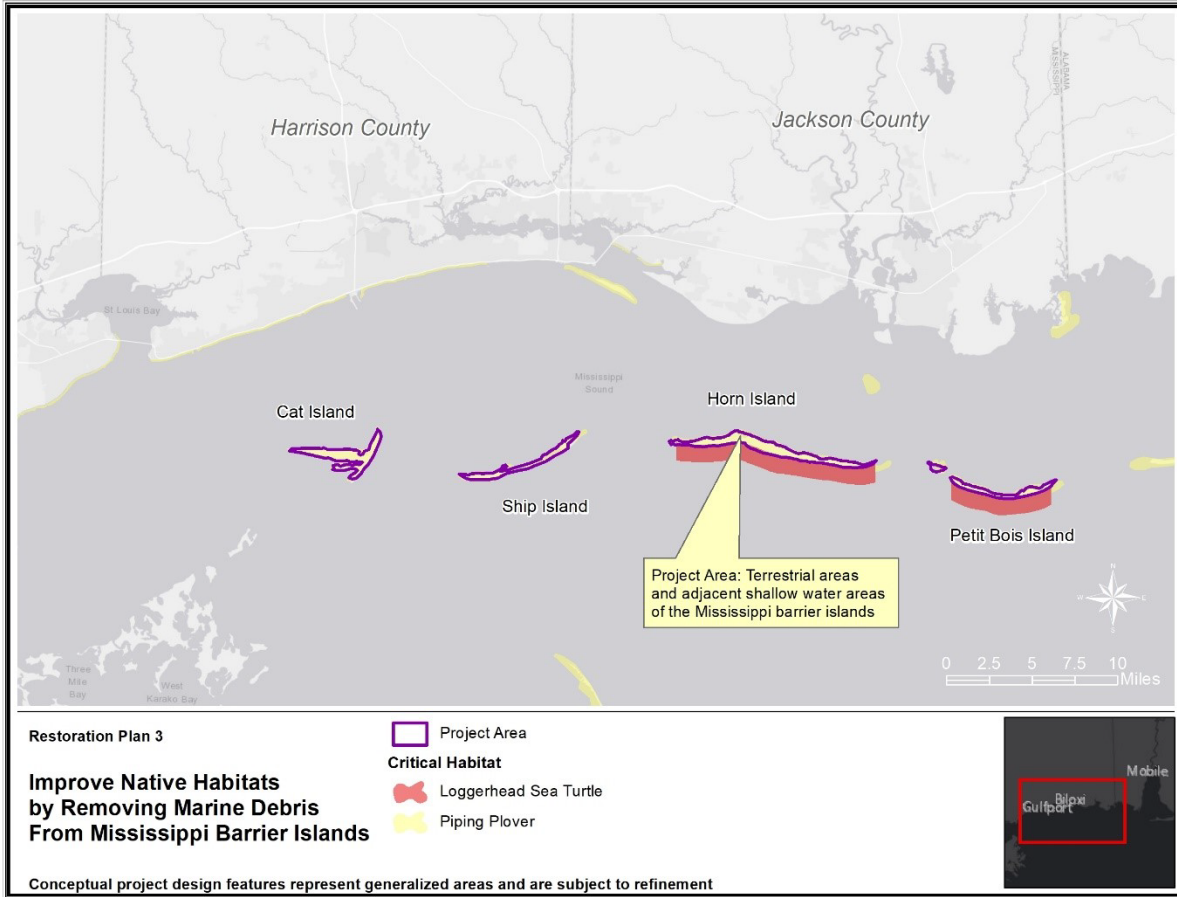
Consistency Determination

- Located within OPA and not subject to a consistency determination.
- Meets the selected CBRA exception(s) and requires no further case-by-case consultation
- Meets different CBRA exception(s) than the one(s) selected above (see additional information/comments below) and requires no further case-by-case consultation
- Does not meet the selected CBRA exception or requires separate case-by-case consultation (see additional information/comments below)

Additional Information/Comments:

There is not a clear explanation of how debris is to be removed-- we are assuming that there will be minimal to no large excavation actions without additional coordination with the ESA folks . BMPs to conduct work during appropriate seasons to reduce impact to species using the areas might be necessary.

Figure 2. Map showing the Improve Native Habitats by Removing Marine Debris from Mississippi Barrier Islands project area.



3. Maintaining Enhanced Marine Mammal Stranding Network Capacity and Diagnostic Capabilities (FWS 2022-0005613)

This proposed project would focus on maintaining the increased capacity of the Mississippi Marine Mammal Stranding Network (MMSN) in order to continue an enhanced ability to respond to stranded, sick, injured, or deceased marine mammals. Project activities include: Providing financial support for personnel, equipment, stranding, training, or other project-related travel, vehicle fuel, and maintenance of vehicles/vessels/trailers to federally permitted MS MMSN organizations to rapidly respond to live and dead stranded marine mammals in Mississippi; Performing field necropsies on carcasses, where applicable; Maintaining current average response time to live or dead stranded marine mammals; and Maintaining MMSN's capacity to respond to unusual natural or anthropogenic events (e.g., oil spills, harmful algal blooms, freshwater events, hurricanes). The anticipated project duration is five years.

Consistency Analysis

The proposed action is within System Units MS-02, MS-04, R01, R01A, R02, R03 and OPA Unit MS-01P. Programmatic activities include the following Mississippi counties: Harrison, Jackson, Hancock. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves acquisition of land and enhancement of recreational activities. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for "Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects." The purposes of CBRA are "to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts..." 16 U.S.C. §3501(b). This project is designed to enhance natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption below.

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

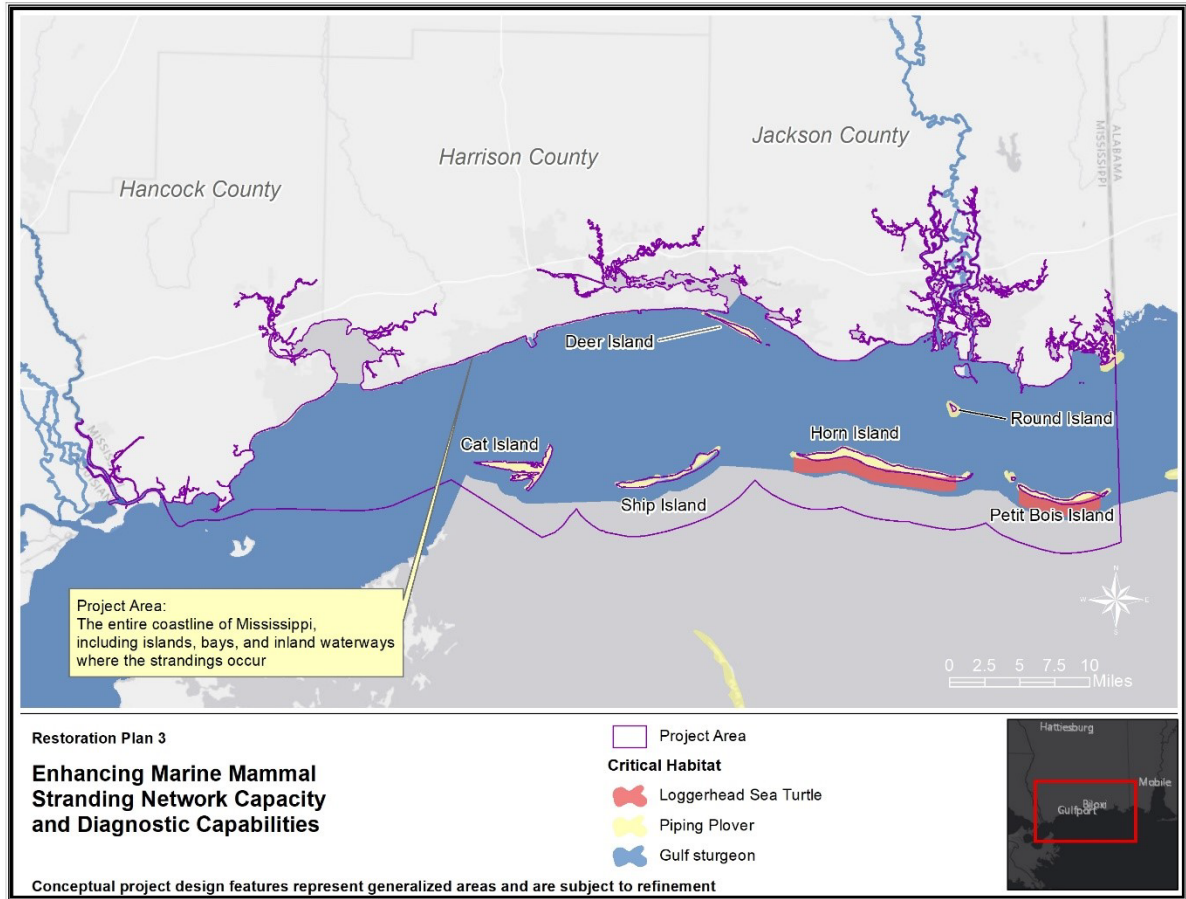
Consistency Determination

- Located within OPA and not subject to a consistency determination.
- Meets the selected CBRA exception(s) and requires no further case-by-case consultation
- Meets different CBRA exception(s) than the one(s) selected above (see additional information/comments below) and requires no further case-by-case consultation
- Does not meet the selected CBRA exception or requires separate case-by-case consultation (see additional information/comments below)

Additional Information/Comments:

Efforts to remove "dead" animals should be coordinated with the appropriate nesting bird crews to reduce the possibility of disturbances when in season. They might have specific times (early morning, late evenings) to apply such efforts. Its unclear if there will be regular boating surveys for dead/live stranded animals. If so, coordination also necessary with local bird and sea turtle monitors to receive guidance on minimizing disturbances.

Figure 3. Map showing the Maintaining Enhanced Marine Mammal Stranding Network Capacity and Diagnostic Capabilities project area.



4. Maintaining Enhanced Sea Turtle Stranding Network Capacity and Diagnostic Capabilities (FWS 2022-0005631)

This proposed project would seek to continue the enhanced response and data collection efforts of the Sea Turtle Stranding Network to further understand mortality, inform population studies, and enhance potential for species conservation, recovery and rehabilitation. Stranding response and diagnostic follow-up of stranded animals maintained at the enhanced capacity would allow for current stranding response and data collection efforts in the Mississippi Restoration Area to be continued. Personnel would work to ensure efficient and timely response to sea turtle strandings during peak times are maintained. This includes but is not limited to increases in stranding network personnel, equipment and supplies, and data enhancement and coordination. The anticipated project duration is three years.

Consistency Analysis

The proposed action is within System Units MS-02, MS-04, R01, R01A, R02, R03 and OPA Unit MS-01P. Programmatic activities include the following Mississippi counties: Harrison, Jackson, Hancock. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves acquisition of land and enhancement of recreational activities. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for "Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects." The purposes of CBRA are "to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts..." 16 U.S.C. §3501(b). This project is designed to enhance natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption below.

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

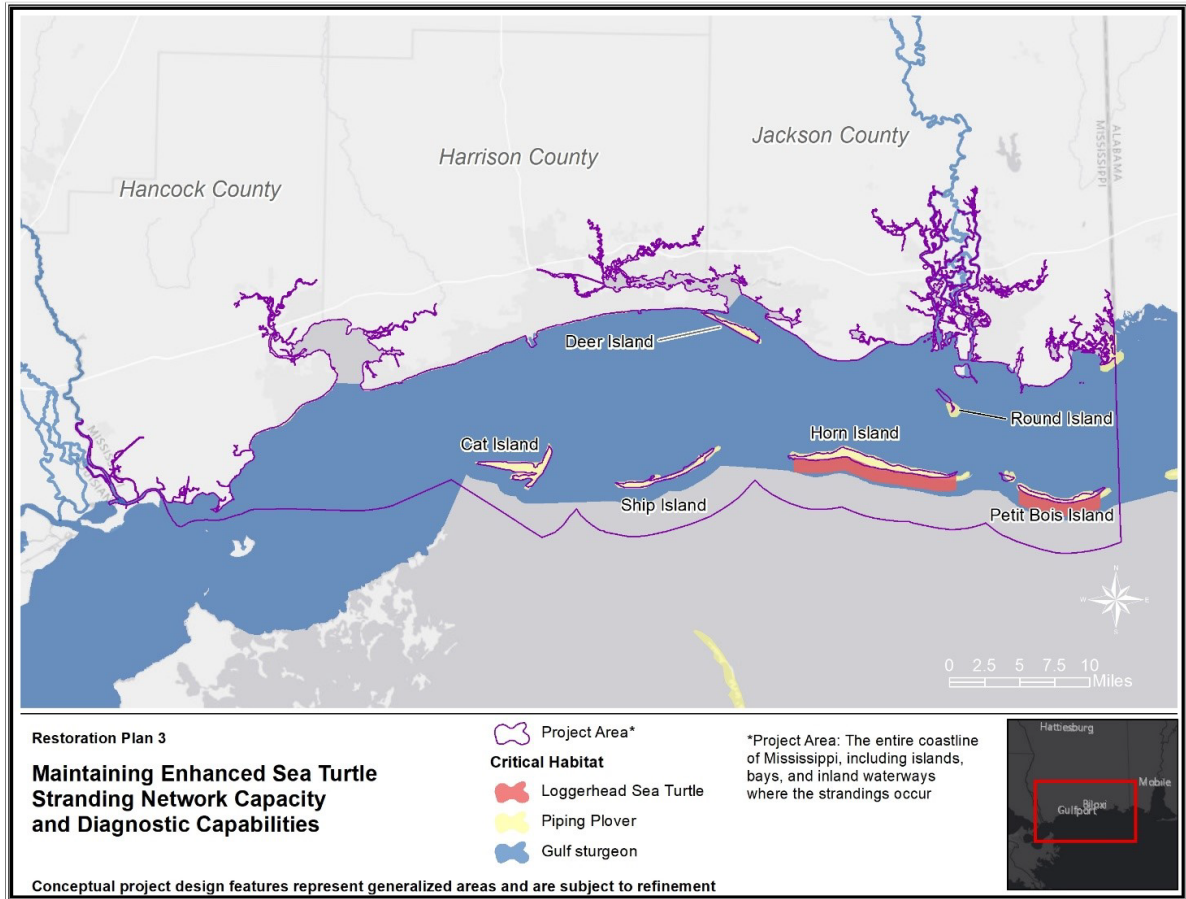
Consistency Determination

- Located within OPA and not subject to a consistency determination.
- Meets the selected CBRA exception(s) and requires no further case-by-case consultation
- Meets different CBRA exception(s) than the one(s) selected above (see additional information/comments below) and requires no further case-by-case consultation
- Does not meet the selected CBRA exception or requires separate case-by-case consultation (see additional information/comments below)

Additional Information/Comments:

seems similar to the one above so same recommendations. Efforts to remove "dead" animals should be coordinated with the appropriate nesting bird crews to reduce the possibility of disturbances when in season. They might have specific times (early morning, late evenings) to apply such efforts. Its unclear if there will be regular boating surveys for dead/live stranded animals. If so, coordination also necessary with local bird and sea turtle monitors to receive guidance on minimizing disturbances.

Figure 4. Map showing the Maintaining Enhanced Sea Turtle Stranding Network Capacity and Diagnostic Capabilities project area.



5. Reduction of Marine Mammal Fishery Interactions through Trawl Technique and Component Improvements (No FWS Number, No Section 7 Consultation Required)
FWS 2022-CBRA #30 for temporary number

This project will seek to determine both the optimal trawl material type(s) and covering configuration(s) (i.e., experimental treatments) to reduce interactions with dolphins when compared to the standard polyethylene webbing (i.e., control). The project will also compare shrimp catch rates and operational aspects between each of the experimental treatments compared to the control (i.e., protective coverings vs control, stronger net materials vs control). Net maintenance for each treatment type will also be compared. Additionally, fishing techniques that may decrease dolphin interactions will be noted and passed along to industry. Drones, optical cameras, and acoustic cameras would also be explored for use in observing dolphin behavior during trawling operations in an effort to identify behavior modifications that directly caused by changes in trawl configuration.

Consistency Analysis

The proposed action is within System Units MS-02, MS-04, R01, R01A, R02, R03 and OPA Unit MS-01P. Programmatic activities include the following Gulf and Atlantic Coast counties: Mississippi counties: Harrison, Jackson, Hancock. Therefore, this project is subject to a Consistency Analysis under CBRA. Within the System unit, the proposed action involves acquisition of land and enhancement of recreational activities. Consequently, this activity is consistent with CBRA per exemption 16 U.S.C. 3505(a)(6)(A) for “Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats, and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.” The purposes of CBRA are “to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damages to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf Coasts...” 16 U.S.C. §3501(b). This project is designed to enhance natural resources injured by the Deepwater Horizon oil spill. Accordingly, this project is consistent with the purposes of the CBRA and falls within the CBRA exemption below.

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

Consistency Determination

- Located within OPA and not subject to a consistency determination.
- Meets the selected CBRA exception(s) and requires no further case-by-case consultation
- Meets different CBRA exception(s) than the one(s) selected above (see additional information/comments below) and requires no further case-by-case consultation
- Does not meet the selected CBRA exception or requires separate case-by-case consultation (see additional information/comments below)

Additional Information/Comments:

Drone use near or over islands with nesting birds should be coordinated with monitoring staff for BMPs. ESA review should include Gulf Sturgeon considerations.

Figure 5. Map showing the Reduction of Marine Mammal Fishery Interactions through Trawl Technique and Component Improvements project area.

