



# 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

March 17, 2022

To: Memorandum to File

From: Michael Barron, Deepwater Horizon Gulf Restoration Office

Subject: Regulatory Compliance Determination for the Florida Trustee Implementation Group Early Restoration Phase V.4 Restoration Plan/Supplemental Environmental Assessment

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 one (1) project proposed for implementation in the *Florida Trustee Implementation Group Early Restoration Phase V.4 Restoration Plan/Supplemental Environmental Assessment* are indicated below:

Project Title	ESA (USFWS)	MMPA (USFWS)	BGEPA (USFWS)	MBTA (USFWS)
Florida Coastal Access Project – Dickerson Bay Acquisition	NE	NA	NE	NT

*NA – Not Applicable; NT – No Take; NE – No Effect*

Should the project be modified in a way that could adversely impact species or habitats, these determinations 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](mailto:michael_barron@fws.gov).

Attachment (1)

# Biological Evaluation Form

## Deepwater Horizon Oil Spill Restoration

U.S. Fish and Wildlife Service & National Marine Fisheries Service

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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

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### A. Project Identification

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

Implementing Trustee(s): Florida Department of Environmental Protection

Contact Name: **Lisa Robertson** Phone: 850-245-2177 Email: lisa.robertson@floridadep.gov

Project Name: **Florida Coastal Access Project – Dickerson Bay Acquisition**

DIVER ID# 65 TIG: Florida TIG Restoration Plan # Early Restoration Phase V.4 RP/SEA

### B. Project Phase

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

Construction/Implementation  Planning/Conceptual  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.

### C. Project Location

#### I. State and County/Parish of action area

Wakulla County, Florida

#### 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>]

The centroid of the proposed parcel is 30.038868°N, -84.380103°E NAD83.

#### III. Maps and Drawings

Please insert any maps, aerial photographs, or design drawings here or attach to the end of 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, showing state or regional scale

Map of project area with elements proposed (polygons showing proposed construction elements) Map of action area with critical habitat units or sensitive habitats overlaid

- **Figure 1** provides a map of the parcel that would be acquired with project funds.
- **Figure 2** provides a map of the approximate locations for proposed restoration and enhancement actions for the acquired parcel (see Section F).
- **Figure 3** provides a map of the designated wetlands present within the action 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

#### 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.

A National Environmental Policy Act (NEPA) analysis for this project would be included in the Florida Trustee Implementation Group's (TIG) Early Restoration Phase V.4 Restoration Plan and Supplemental Environmental Impact Statement (Phase V.4 RP/SEA). The NEPA analysis tiers from previous phases of early restoration:

- *Deepwater Horizon* (DWH) Natural Resource Damage Assessment (NRDA) Trustees. 2016. *Deepwater Horizon Oil Spill Phase V Early Restoration Plan and Environmental Assessment*. January. Accessed at: <https://www.gulfspillrestoration.noaa.gov/wp-content/uploads/FinalPhaseVReport-January-2016.pdf>
- Florida TIG. 2018. *Deepwater Horizon Oil Spill Phase V.2 Florida Coastal Access Project: Final Restoration Plan and Supplemental Environmental Assessment*. February. Accessed at: <https://www.gulfspillrestoration.noaa.gov/sites/default/files/DWH-ARZ000744.pdf>
- Florida TIG. 2019. *Phase V.3 Florida Coastal Access Project: Final Restoration Plan and Supplemental Environmental Assessment*. September. Accessed at: <https://www.gulfspillrestoration.noaa.gov/sites/default/files/DWHARZ003772.pdf>

Proposed restoration actions would be implemented by the U.S. Department of the Interior in partnership with St. Marks National Wildlife Refuge (SMNWR). Management and conservation actions implemented by SMNWR staff are analyzed under the SMNWR Comprehensive Conservation Plan (U.S. Fish and Wildlife Service [USFWS], 2006) and Habitat Management Plan (USFWS, 2013).

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

Name of Person Completing this Form: Nadia Martin, IEC

Name of Project Lead: Lisa Robertson

Date Form Completed: Draft completed 2/17/2022

Date Form Updated: Updated 2/27/2022

### **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 critical habitat (CH) is not designated in the area, then describe any suitable habitat in the area.*

#### a. Waterbody & Wetlands

*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 would acquire land in Panacea, Wakulla County, Florida and implement management actions (e.g., signage, fencing; see Section F) on the parcel. No in-water work would be conducted as part of the project. The proposed project is located along the northern edge of Dickerson Bay (**Figure 1**), which converges with Levy and Apalachee Bays to the south. Waters within Dickerson Bay are generally shallow (less than five feet). The parcel sits within Federal Emergency Management Agency (FEMA) designated Flood Zone VE, with flooding depth of 20 feet (FEMA 2014). The southern portions of Dickerson Bay are listed as a 303d impaired waterbody for fecal coliform (FDEP 2021). Various estuarine and marine, freshwater forested/shrub, and freshwater emergent wetlands are present within the parcel (**Figure 3**; USFWS 2021).

*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.*

N/A

#### 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 existing structures are present in the action area. A cultural resource assessment was completed for the parcel (Attachment A).

#### 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 seagrasses or other SAV are present within the action area (National Oceanic and Atmospheric Administration [NOAA] 2022).

#### 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 are present within the action area (NOAA 2022).

**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 are present within the action area (NOAA 2022).

**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.).*

Upland habitat within the action area primarily consists of woody and emergent herbaceous wetlands as well as grasslands or herbaceous lands (U.S. Geological Survey 2016).

**g. Soils and Sediments**

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

Sediments and soils within the action area are characterized by a mix of fine sands and flooded soils. Based on the U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) information from 2021, 19.8 percent of sediments and soils are Bayvi, Isles, and Estero soils; 16.2 percent are Ridgewood fine sand; 3.8 percent are Rutlege Sand; and 59.5 are Scranton sand.

**h. Land Use**

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

The parcel is a privately owned, vacant piece of land. Some hunting is allowed by the parcel owner. No access restrictions are in place.

**i. 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.

## **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 primary goals of this project are to (1) acquire a 114-acre parcel in Panacea, Florida to ensure access to the coastal parcel in perpetuity and (2) enhance recreational opportunities at the parcel (**Figure 1**). To accomplish these goals, the project would:

- Acquire the 114-acre parcel for incorporation into SMNWR;
- Install boundary signs and a gate;
- Enhance existing parking areas; and,
- Dump hurricane debris (see below, debris would be removed outside scope of this project).

Project activities include implementation (construction, operations and maintenance [O&M]), and monitoring. The acquisition has undergone a professional appraisal and a Level 1 contaminants survey. Once the parcel is incorporated into SMNWR, it would be subject to habitat management and conservation activities typically undertaken by the Refuge (e.g., invasive species management, threatened and endangered species recovery) in accordance with SMNWR's Comprehensive Conservation Plan (USFWS, 2006), SMNWR's Habitat Management Plan (USFWS, 2013), and previously obtained permits.

Please see **Figure 2** for the proposed locations of the signs, gate, and parking area. Once incorporated into SMNWR, it is anticipated that the public would participate in a variety of recreational activities such as hiking, biking, and launching of non-motorized watercraft from the bank. The public may participate in wade fishing, but there is no bank on the parcel to fish from. Approximately 500 to 1,000 individuals may use the parcel each year. All construction and staging would occur in previously disturbed areas.

**Signs.** Boundary signs for SMNWR would be installed every 0.25 miles along most of the border of the parcel on previously disturbed land (but not along the border adjacent to marsh habitat; see Figure 2 for approximate locations of the boundary signs). The signs would be approximately 11 inches by 14 inches and made from aluminum. Signs would be installed on new posts or trees, attached with a bolt or screw. If installed on trees, the signs would be



posted to the tree using a hammer and nails. If installed on posts, the posts would be aluminum and installed either by digging a hole or driving the signpost directly into the ground. All posts would be installed in uplands habitat (i.e., no in-water installation).

**Gate.** The existing gate, which is approximately 100 yards from the entrance road, would be replaced by a 10-foot-long metal gate in a previously disturbed location. Two 4–6-inch metal pipe posts for the gate would be installed via hand digging and cemented into the ground on either side of the road.

**Parking.** The parcel currently contains an open, disturbed space that is used for parking. The project would place three to four wooden or plastic parking barriers around this area to prevent car encroachment on the adjacent habitat. The parking barriers would be staked to the ground using a 6-inch by 6-inch post. This area is approximately 50 feet by 50 feet and can hold three to four cars. The barriers would be transported to and placed at the site via a flatbed construction truck. All staging would occur within the disturbed parking area. One small pine tree would likely be removed to provide adequate space for the parking.

**Debris Removal.** Hurricane debris would be removed via community cleanup efforts and funded outside the scope of this restoration project. Restoration project funds would be used for staff support and dumping fees for debris removed through these non-NRDA cleanup events. Pick-up trucks would transport the hurricane debris to the dump via established roads and highways.

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

Construction would begin once the property is incorporated into SMNWR. All construction would occur outside known nesting seasons for T&E birds and would not interfere with any watersheds adjacent to the parcel.

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"/>

*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](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*

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

If any digging occurs as part of this project, it is likely to be limited and confined to upland areas only. Digging could occur to install boundary signs around the property. However, most boundary signs would likely be installed by driving the signpost directly into the ground.

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 Essential Fish Habitat (EFH)**

*If applicable, describe any designated Essential Fish Habitat within the project area in the text box and answer the questions below about habitat effects, conversions or benefits. If there is no EFH in your project area, enter N/A in the box below and move to section F.*

*Depending on the effects of your project, EFH consultation with NMFS may be required:*

<https://www.fisheries.noaa.gov/southeast/consultations/essential-fish-habitat-consultations-southeast> N/A

In this table, please use checkboxes to indicate which EFH eco-region(s) and habitat zone(s) in which the project is located. For more information about EFH Eco Regions see the references here:

[https://dwh.nmfs.noaa.gov/tc/CrTIGRes/Env\\_Combpliance/SiteAssets/EFH%20Resources](https://dwh.nmfs.noaa.gov/tc/CrTIGRes/Env_Combpliance/SiteAssets/EFH%20Resources)

<https://portal.gulfcouncil.org/EFHreview.html>

<u>Gulf of Mexico EFH Eco-Region</u>	<u>Estuarine</u>	<u>Nearshore</u>	<u>Offshore</u>
<b><u>Eco-Region 1: South Florida</u></b> (Florida Keys north to Tarpon Springs, Florida)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Eco-Region 2: North Florida</u></b> (Tarpon Springs, Florida, north and west to Pensacola Bay, Florida)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Eco-Region 3: East Louisiana, Mississippi, and Alabama</u></b> (Pensacola Bay, Florida, west to the Mississippi River Delta)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Eco-Region 4: East Texas and West Louisiana</u></b> (Mississippi River Delta west and south to Freeport, Texas)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Eco-Region 5: West Texas</u></b> (Freeport, Texas south to the U.S./Mexico border)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Effects to EFH

In this section, please indicate if your project has effects on EFH, either beneficial or adverse. For example, whether the project creates, improves, removes or converts habitat. Please describe the types of habitats that will be affected by the project, including number of acres.

Will this project affect EFH?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If no, please proceed to section X. (For example, your project is wholly upland or includes only desktop analysis tasks) If yes, please proceed to additional boxes below.	

Click here to enter text.

Will this project have beneficial effects to EFH?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If yes, please describe how your project will have beneficial effects the text box below:	

Click here to enter text.

Will this project have adverse effects on EFH?	YES <input type="checkbox"/> NO <input type="checkbox"/>
If yes, please describe what type of adverse effects your project will cause to EFH in the text box below:	

Click here to enter text.

**H. NOAA ESA Species and 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 H. and proceed to Section I.*

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. For species not included in the drop down menu please add manually to the table.

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](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/gulf_of_mexico.pdf).

If Gulf sturgeon in marine waters may be affected, include them in the table here. If Gulf Sturgeon in riverine/freshwater may be affected include them in the USFWS table below in Section H. If sea turtles in water may be affected include them in the table here. If sea turtles on land may be affected include them in the USFWS table below in Section H.

Species and/or Critical Habitat	CH Unit (if applicable)	Location (Sea turtles and Gulf Sturgeon <b>only</b> )	Determinations (see definitions below)	For "No Effect", please select justification.
Choose an item.		Choose an item.	Choose an item.	Choose an item.

**Determination Definitions**

Please make the appropriate choice in the drop down menus for both species and designated critical habitat listed in the first column.

**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.

**I. USFWS Species and 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 I and proceed to Section J.*

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 **generated by IPaC** that may be found in the action area. For species not included in the drop down menu please add manually to the table.*

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](http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/gulf_of_mexico.pdf).*

If Gulf sturgeon in riverine/freshwater waters may be affected, include them in the table here. If Gulf Sturgeon in marine waters may be affected include them in the NMFS table above in Section G. If sea turtles on land may be affected include them in the table here. If sea turtles in water may be affected include them in the NMFS table above in Section G.

<b>Species and/or Critical Habitat</b>	<b>CH Unit (if applicable)</b>	<b>Location (Sea turtles and Gulf Sturgeon <u>only</u>)</b>	<b>Determinations (see definitions below)</b>	<b>For "No Effect", please select justification.</b>
West Indian Manatee		Choose an item.	No Effect	Species does not occur within action area
Gulf Sturgeon		Riverine/Freshwater	No Effect	Species does not occur within action area
Godfrey's Butterwort		Choose an item.	No Effect	Species does not occur within action area

Eastern Indigo Snake		Choose an item.	No Effect	Choose an item. See Section J, below.
Gopher Tortoise		Choose an item.	No Effect	Choose an item. See Section J, below.
Red Knot		Choose an item.	No Effect	Choose an item. See Section J, below.
Red-cockaded Woodpecker		Choose an item.	No Effect	Choose an item. See Section J, below.
Wood Stork		Choose an item.	No Effect	Choose an item. See Section J, below.
Monarch Butterfly		Choose an item.	No Effect	Choose an item. See Section J, below.

## Determination Definitions

Please make the appropriate choice in the drop down menus for both species and designated critical habitat

**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.

## J. Effects of the Proposed Project to the Species and Actions to Reduce Impacts

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

1. 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.*

Construction activities (which include installation of boundary signs, a gate, parking barriers, and removal of a tree) may result in a minor temporary disturbance to threatened and endangered species (T&E) in the area due to human presence and noise. However, construction would involve minimal ground-disruption, only one tree would be removed from the site, and staging would use existing disturbed areas on the property. The tree slated for removal is a slash pine sapling with a diameter of less than 12 centimeters (i.e., unable to support a red-cockaded woodpecker cavity). Recreational use of the property may result in minor temporary disturbances to threatened and endangered species due to noise; however, visitor use is anticipated to be light (500 to 1,000 visitors per year) and parking can only accommodate up to four vehicles at one time. Long-term impacts from recreational use would be mitigated by the installation of boundary/closure signs, the installation of parking barriers to prevent vehicle encroachment on adjacent habitat, and stewardship/outreach and engagement by SMNWR staff.

Temporary construction disturbances would be outweighed by the long-term benefits achieved by acquiring the parcel (which is currently zoned for eight residential units per acre) and incorporating it into SMNWR for management and conservation in perpetuity. Additionally, species and habitats would benefit from the removal of hurricane debris, which would return the parcel to a more natural condition.

SMNWR staff would implement the project in accordance with their standard operating procedures to avoid adverse effects to T&E species, including those listed in Section I. Standard conservation practices would be implemented during construction to minimize erosion, habitat fragmentation, and runoff. To the extent practicable, the project would utilize existing disturbed areas for staging and construction. Prior to and during implementation, the project footprint (**Figure 2**) would be surveyed for T&E species. If any T&E species are present within the project footprint, they would be avoided during implementation, or implementation would pause until the species move out of the area of its own volition. Refuge boundary signs would not be installed near gopher tortoise burrows. SMNWR staff would survey for gopher tortoise burrows near the parking area; if burrows are present, USFWS would be contacted to identify the appropriate next steps. Trees identified for potential Refuge boundary signs would be surveyed for red-cockaded woodpeckers, and, if identified as a cavity tree, would be avoided. With these procedures, the project would have no effect on the species listed in Section I.

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 and/or BMPs that will be implemented to avoid or minimize the impacts. Conservation Measures and/or BMPs are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation Measures and/or BMPs 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.

See above.

**Frequently Recommended Conservation Measures and BMPs: This checklist provides standard practices recommended by NMFS and USFWS. Please select any BMPs that will be implemented:**

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | <b>USFWS Standard Manatee In Water Conditions</b>                                      |
| <input type="checkbox"/> | <b>NMFS Protected Species Construction Conditions (2021)<sup>1</sup></b>               |
| <input type="checkbox"/> | <b>NMFS Measures for Reducing the Entrapment Risk to Protected Species<sup>1</sup></b> |
| <input type="checkbox"/> | <b>NMFS Vessel Strike Avoidance Measures (2021)<sup>1</sup></b>                        |

**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](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

**K. 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.*

N/A

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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.*

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<sup>1</sup> <https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance>

N/A

## L. 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 <sup>2</sup>
<input type="checkbox"/>	NMFS Protected Species Construction Conditions (2021) <sup>3</sup>
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species (2012) <sup>3</sup>
<input type="checkbox"/>	NMFS Vessel Strike Avoidance Measures and Reporting for Mariners (2021) <sup>3</sup>
<input type="checkbox"/>	NMFS Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign <sup>4</sup>

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

### **M. 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

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](mailto:permitsR2MB@fws.gov)  
Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: [permitsR4MB@fws.gov](mailto:permitsR4MB@fws.gov)

### **N. Migratory Bird Treaty Act**

In accordance with the Migratory Bird Treaty Act of 1918 as amended (16 U.S.C. 703-712), will this project cause the take of any birds covered under this act?  NO  YES

<sup>2</sup> <https://www.fisheries.noaa.gov/topic/marine-life-viewing-guidelines>

<sup>3</sup> <https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance>

<sup>4</sup> <https://www.fisheries.noaa.gov/southeast/consultations/protected-species-educational-signs>

If YES, please explain and indicate if the pertinent permits will be or have been obtained:

Project proponent will review the appropriate BMPs and CMs found at this website and implement the appropriate measures to the extent practicable:

<https://www.fws.gov/birds/management/project-assessment-tools-and-guidance.php>

NO     YES

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If NO, please explain:

### **O. 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"/>	<b>Oyster Reef Creation and Enhancement</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Marine Debris Removal</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Construction of Living Shorelines</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Marsh Creation and Enhancement</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Construction of Non-Fishing Piers</b>

### **P. 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](mailto: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

### References

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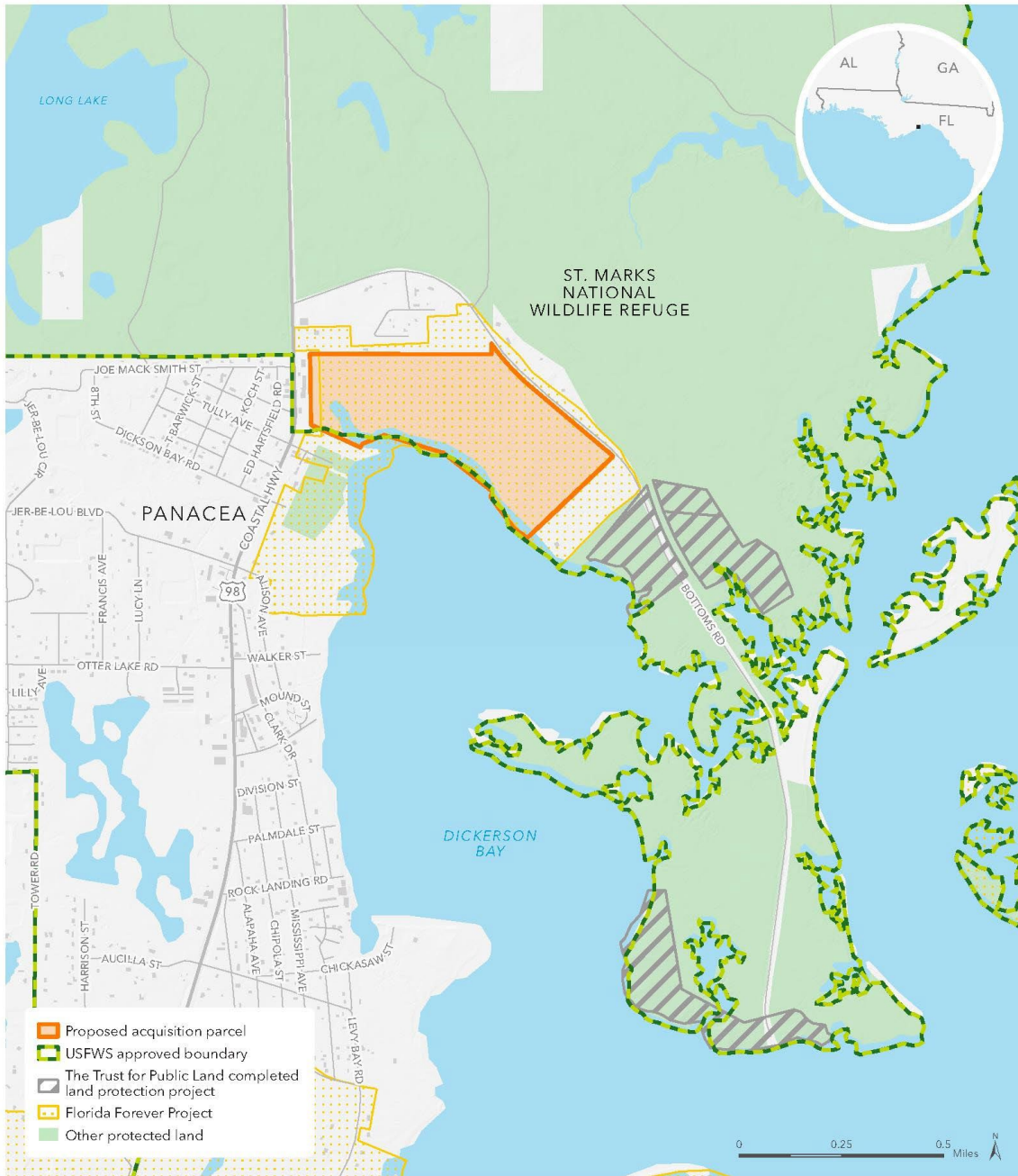
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**Figure 1: Map of the Dickerson Bay parcel proposed for acquisition**



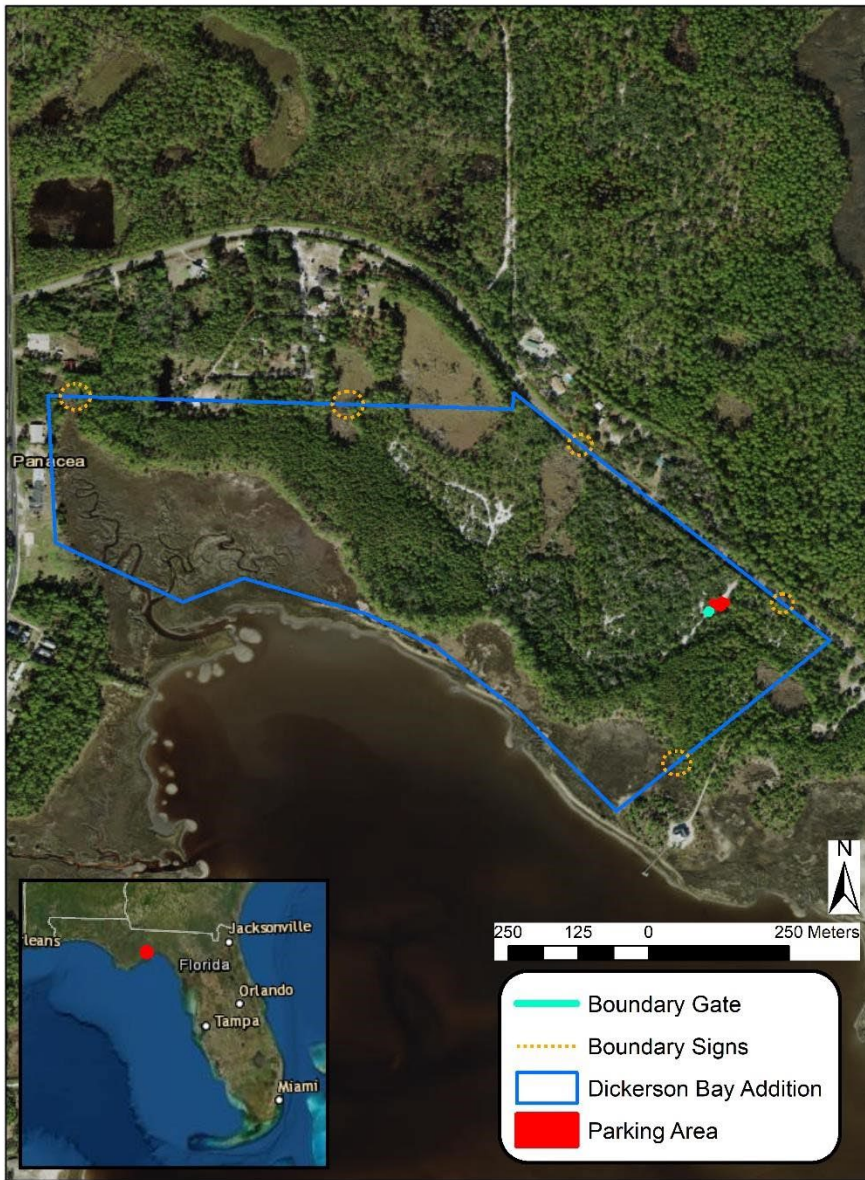
## Dickerson Bay Addition to St. Marks NWR

FLORIDA COASTAL ACCESS PROJECT, WAKULLA COUNTY, FLORIDA

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**Figure 2. Map of the approximate proposed locations for the restoration actions**





**Figure 3. Designated wetlands present within the action area**

