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Memorandum

April 15, 2021

From: Assistant Gulf Restoration Manager, *Deepwater Horizon* Gulf Restoration Office  
Subject: Compliance with the Coastal Barrier Resources Act for the Mid-Barataria Sediment Diversion Project in Louisiana



Overview

The proposed *Phase II Restoration Plan #3.2: Mid-Barataria Sediment Diversion* project is currently being evaluated as a potential restoration project to restore natural resources in Louisiana that were injured as a result of the *Deepwater Horizon (DWH)* oil spill. We have reviewed this project in accordance with the Coastal Barrier Resources Act (CBRA) (16 U.S.C. 3501 *et seq.*). We have determined that the proposed project area (Figure 1) is not located within a CBRA System Unit and CBRA is not applicable (except with respect to the restrictions on Federal flood insurance). The proposed project area is also not located within an Otherwise Protected Area. Therefore, it is our determination that CBRA does not apply to this project and no further analysis is required.

Background

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

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

### Project Information

The Louisiana Trustee Implementation Group (LA TIG) has evaluated one project as a potential restoration project under the draft *Phase II Restoration Plan #3.2: Mid-Barataria Sediment Diversion*, which was released for public review and comment on March 5, 2021. If the LA TIG selects the project, after consideration of public comment, the project would be implemented. The project is located approximately 22 miles from the nearest CBRA System Unit (S02) and marsh restoration in CBRS System Units S01, S01A and S02 do not require CBRA consultation as noted in 16 U.S.C. 3504(a)(3).

### Conclusion

The Service has reviewed the project information and believes the referenced project is not located within a System Unit of the CBRS and the CBRA does not apply (except with respect to the restrictions on Federal flood insurance).

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

### **Additional Resources:**

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

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

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

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

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

Figure 1. Mid-Barataria Sediment Diversion Project Location

