



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

April 4, 2023

To: Memorandum to File

From: Michael Barron, Deepwater Horizon Gulf Restoration Office

Subject: No Effect Determination for Louisiana Trustee Implementation Group's project:
Colonial Waterbird Monitoring

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 U.S. 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.

We have reviewed the project materials provided (see attached Biological Evaluation Form) for the proposed project entitled: "Colonial Waterbird Monitoring". Based on our evaluation, we have determined that the project will have No Effect on any listed species. Should the project be modified in a way that could adversely impact species or habitats, this determination will be reevaluated as appropriate.

We have also reviewed the proposed project for impacts to bald eagles (*Haliaeetus leucocephalus*) in accordance with the Bald and Golden Eagle Protection Act of 1940 as amended (16 U.S.C. 668-668c) and impacts to migratory birds in accordance with the Migratory Bird Treaty Act of 1918 as amended (16 U.S.C. 703-712 and determined that take would be avoided, and best management practices will be followed. In accordance with the Marine Mammal Protection Act of 1972 as amended (16 U.S.C. 1361-1383b, 1401-1406, 1411-1421h), no marine mammals under the jurisdiction of the USFWS will be impacted.

We have also reviewed the proposed project for consistency with the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501-3510) and determined that the project will not be implemented in any System Units.

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.

Attachment (1)

Attachment 1

Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

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

This form will be filled out by the Implementing Trustee and used by the regulatory agencies. The form will provide information to initiate informal Section 7 consultations under the Endangered Species Act (ESA) and may be used to document a No Effect determination or to initiate pre-consultation technical assistance.

It is recommended that this form also be completed to inform and evaluate additional needs for compliance with the following authorities: Migratory Bird Treaty Act (MBTA), Marine Mammal Protection Act (MMPA), Coastal Barrier Resources Act (CBRA), Bald and Golden Eagle Protection Act (BGEPA) and Section 106 of the National Historic Preservation Act (NHPA).

Further information may be required beyond what is captured on this form. Note: if you need additional space for writing, please attach pages as needed.

For assistance, please contact the compliance liaisons

USFWS: Michael Barron at
michael_barron@fws.gov NMFS:
Christy Fellas at
christina.feltas@noaa.gov

A. Project Identification

Federal Action Agency(one or more):USFWSNOAA

USDA

Implementing Trustee(s): LA

Contact Name: Jon Wiebe Phone: 337-207-4120 Email: jwiebe@wlf.la.gov

Project Name: Colonial Waterbird Monitoring

DIVER Click to enter text TIG: Louisiana TIG Restoration Plan # MAIP: Colonial Waterbird Monitoring

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 c

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

"Construction/Implementation" only - Aerial photographic surveys are the only 'field' type effort of this Monitoring and Adaptive Management (MAM) activity.

C. Project Location

I. State and County/Parish of action area

Coastwide aerial surveys will be flown for the entire extent of Louisiana's coastline. Cameron Parish to St. Bernard Parish

II. Latitude/Longitude for action area (Decimal degrees and datum [e.g., 27.71622⁰N, 80.25174⁰W NAD83) [online conversion: <https://www.fcc.gov/encyclopedia/degrees-minutes-seconds-tofrom-decimal-degrees>]

State of Louisiana's coastal zone



III. Maps, Drawings, and GIS Data

Please insert any maps, aerial photographs, or design drawings here or attach to the end of this BE form. GIS files may be added to the same folder location as where this BE is filed on Sharepoint . 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
GIS Files to include ARCGIS, KMZ, CAD, or other GIS files are required (WGS 84) for projects with a field component

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? NOC

Examples:

- TIG Restoration Plan/EA or EIS (draft or final)
- USACE programmatic NEPA analysis
- USACE Clean Water Act individual permit for the project
- NEPA analysis provided by a federal agency that gave approval, funding or authorization

Permits

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

YESO NOE 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)?

NOX 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 T)G representative for the Trustee designated as lead federal agency for the restoration plan.

The Monitoring and Adaptive Management Activity Implementation Plan (MAIP) for this Colonial Waterbird Monitoring Activity includes a National Environmental Policy Act (NEPA) review, which says in part:

Section 6.4.14 of the Programmatic Damage Assessment Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS) considers the environmental consequence associated with activities including, but not limited to planning, feasibility studies, design, engineering, and permitting of conceptual projects. These activities can include a mixture of data collection into historical conditions, modeling of ecological response to the project, conducting surveys, and creating maps and scale drawings of potential project sites. These activities may

also include minimally intrusive field activities. The MAM activities described in the MAIP fall within the scope described in the PDARP/PEIS. Upon review, the federal trustees of the LA TIG find the environmental conditions and NEPA analysis in the PDARP/PEIS current and valid. Therefore, this review relies on the analysis in Section 6.4.14 of the PDARP/PEIS.

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

Name of Person Completing this Form:

Jon Wiebe Name of Project Lead: Jon

Wiebe

Date Form Completed: Click

here to enter text. Date Form

Updated: Click here to enter text.

E. Description of Action Area

Provide a description of the existing environment (e.g., topography, vegetation type, soil type, substrate type, water quality water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). Describe all areas that may be directly or indirectly affected by the action. If critical habitat (CH) is not designated in the area, then describe any suitable habitat in the area.

a. Fixed-wing aircraft will fly over colonial waterbird colonies and, photographers will document the locations of nesting colonies across coastal Louisiana Click or tap here to enter text.

Does the project area include a river or estuary?

YES NO

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

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.

N/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.

N/A

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.

N/A

e. Corals

If applicable. Describe the corals found in action area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the action area. Click here to enter text.

N/A

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

N/A

g. Soils and Sediments

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

N/A

h. Land Use

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

N/A

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.nm\(s noca.gov/pr/:ars/region.htm](http://www.nm(s noca.gov/pr/:ars/region.htm)

[Click here to enter text.](#)

F. Project Description

1. Describe the Proposed Action/Project Objectives: What are you trying to accomplish and how with this project? Describe in detail the construction equipment and methods* * needed; long term vs. short term impacts; duration of short term impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained

Attach a separate map showing project footprint, avoidance areas, construction accesses, staging/laydown areas.

* *If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, artificial reefs or fishery activities, list the method here, but complete the next section(s) in detail.

Objectives: This activity will estimate select Colonial Waterbird (CWB) endpoints (relative abundance, distribution trends and breeding status) across coastal Louisiana.

Two well-established methods will be implemented:

- 1) Aerial Photographic Nest Surveys: Fixed-wing aircraft will fly over colonial waterbird colonies and, photographers will document the locations of nesting colonies across coastal Louisiana;
- 2) Data Analyses: Aerial photographic nest surveys will be reviewed and the location of each nest will be noted. Using this information, we will estimate relative abundance, distribution trends and breeding status of targeted colonial waterbird species across coastal Louisiana.

Target species: Colonial-breeding seabirds and long-legged wading birds (CWBs) documented during aerial photographic nesting surveys and associated data analyses include but are not limited to: Brown Pelicans, Royal Terns, Sandwich Terns, Caspian Terns, Gull-billed Terns, Black Skimmers, Reddish Egret, Little Blue Heron, Tricolored Heron, Roseate Spoonbill, Great Blue Heron, Black-crowned Night Heron, and secondarily, Laughing gull and Forster's Tern.

Common Name	Scientific Name
Brown Pelican	<i>Pelecanus occidentalis</i>
Royal Tern	<i>Thalasseus maxima</i>
Sandwich Tern	<i>Thalasseus sandvicensis</i>
Caspian Tern	<i>Hydroprogne caspia</i>

Gull-billed tern	<i>Gelochelidon nilotica</i>
Black Skimmer	<i>Rynchops niger</i>
Reddish Egret	<i>Egretta rufescens</i>
Little Blue Heron	<i>Egretta caerulea</i>
tricolored Heron	<i>Egretta tricolor</i>
Roseate Spoonbill	<i>Platalea ajaja</i>
Great Blue Heron	<i>Ardea herodias</i>
Black-crowned Night Heron	<i>Nycticorax nycticorax</i>
Laughing Gull	<i>Leucophaeus atricilla</i>
Forster' Tern	<i>Sterna forsteri</i>

Duration: 6 Years

Geographic Range: Coastal Louisiana

Field work consists entirely of photographic surveys conducted by a four person crew aboard fixed wing aircraft, or by other means appropriate. Crews will consist of a pilot, a navigator/data recorder, and two photographers. The navigator will coordinate the sequence of colony visits and optimal aerial approach to each colony with the pilot. As the aircraft approaches a target colony, the crew will assess the spatial distribution of birds on the colony. Photographers, navigator, and pilot will confer to determine the best angle of approach and the ideal altitude for photographic census. Their decision will be based on the shape of the colony, the species present at the colony, the strength and direction of the wind, vegetation around the colony, and angle of the sun. While the approach altitude is variable, all photography will be carried out at an altitude between 600' and 900' above sea level, adjusted so that birds present on the colony do not leave their nests. Multiple approaches from different directions or altitudes may be made if photographers feel that they are not obtaining pictures of adequate quality or if colonial waterbirds appear to be responding to the presence of the aircraft. After each day's survey, a subset of photographs will be checked to ensure that the photographic quality is such that the photos are usable for counting. If better photographs are required for a particular colony and survey logistics allow, a colony may be visited a second time during a survey session.

Aerial photographic surveys will take place over CWB nesting habitats, including coastal islands, beaches and marshes with trees or shrubs. Some CWBs (egrets and herons) nest in woody vegetation, such as mangroves, shrubs or low trees near water. Others are ground nesters (terns and Black Skimmers), creating a depression in the sand or shell on beaches for their nest. Brown Pelicans nest either on the ground in a depression lined with grassy vegetation or in trees on a platform of sticks lined with grass or leaves.

Data analysis is implemented using counting software, compiling data, assessing colony conditions, and similar activities are considered office work and make up the preponderance of the work. These activities would not cause adverse impacts to any resource area and require no additional review.

II. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.) N/A. No construction

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

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

Does this project include in-water work?	NOE
Does this project include terrestrial construction ?	YESO NOE
Does this project include construction of an overwater structure?	YESO NOE
Will fishing be allowed from this overwater structure?	YESO NOE
Will wildlife observation be allowed from this overwater structure?	YESCJ NOE
Will boat docking be allowed from this overwater structure ?	YESO NOE

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://www.dockconstruction.com/media](#)
- 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)?

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

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

c. Marinas and Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)

7

N/A

d. Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)

N/A

e. Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the action area.

N/A

f. Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)). If digging in the terrestrial environment, please describe fully with details about possible water jetting, vibration methods to install pilings for dune walk-over structure, or other methods. If using devices/methods/turtle relocation dredging to relocate sea turtles, then describe the methods here.

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 pot etc)).

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/essemia!•fish> 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://noaasdd.sharepoint.com/:f:/s/tcover/Euupi2PMtXdEqQtJsdKyq-wBdyb42ubMUUbMy7QsijqK7A?e=o>
<https://portal.gulfcouncil.org/EFHreview.html>

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

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/CI NOE
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.	
Will this project have beneficial effects to EFH?	YES/O NOE
If yes, please describe how your project will have beneficial effects the text box below: N/A	

Will this project have adverse effects on EFH?	YES/Ü NON
If yes, please describe what type of adverse effects your project will cause to EFH in the text bow below:	

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.

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

Critical Habitats.

DESA 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.

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

t. 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.

DESA 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. The IPaC website can be found here: <https://ipac.ecosphere.fws.gov/>.

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.

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.

Species and/or Critical Habitat	CH Unit (if applicable)	Location (Sea turtles and Guff Sturgeon <u>only</u>)	Determinations (see definitions below)	For "No Effect", please select justification.
West Indian Manatee			No Effect	Species does not occur within action area

Piping Plover CH			No Effect	Species does not occur within action area
Piping Plover			No Effect	Species does not occur within action area
Eastern Black Rail			No Effect	Species does not occur within action area

Red Knot			No Effect	Species does not occur within action area
Red Knot CH			No Effect	Species does not occur within action area
Whooping Crane			No Effect	Species does not occur within action area
Alligator Snapping Turtle			No Effect	Species does not occur within action area
Loggerhead Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Loggerhead Sea Turtle CH		Terrestrial	No Effect	Species does not occur within action area
Kemp's Ridley Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Kemp's Ridley Sea Turtle CH		Terrestrial	No Effect	Species does not occur within action area
Leatherback Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Leatherback Sea Turtle CH		Terrestrial	No Effect	Species does not occur within action area
Green Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Green Sea Turtle CH		Terrestrial	No Effect	Species does not occur within action area

Hawksbill Sea Turtle		Terrestrial	No Effect	Species does not occur within action area
Hawksbill Sea Turtle CH		Terrestrial	No Effect	Species does not occur within action area
Gulf Sturgeon		Riverine	No Effect	Species does not occur within action area
Gulf Sturgeon CH		Riverine	No Effect	Species does not occur within action area
Pallid Sturgeon			No Effect	Species does not occur within action area
Monarch Butterfly			No Effect	Species does not occur within action area

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.

I. Explain the potential beneficial and adverse effects to each species listed above. Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, and cumulative impacts and where possible, quantify effects.

If species are present (or potentially present) and wd/ 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.

No effects to any threatened or endangered species are anticipated from this monitoring activity based on the nature of the project activities which include data analysis and aerial surveys. No workers or equipment will be placed on the ground. The sound from aerial surveys will not affect ESA-listed species and habitat because they are operating between 600 and 900 feet off the ground to get photographs. At this flight altitude the plane has no effect on any listed species or critical habitat. Additionally, wintering Red Knots and Piping Plover are not anticipated to be present during the time of year when the flight surveys will be conducted (May and June).

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 remitote this consultation

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

<input type="checkbox"/> USFWS Standard Manatee In Water Conditions
<input type="checkbox"/> NMFS Protected Species Construction Conditions (2021) ¹
<input type="checkbox"/> NMFS Measures for Reducing the Entrapment Risk to Protected Species1
<input type="checkbox"/> NMFS Vessel Strike Avoidance Measures (2021) ¹

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_EnvironmentalConsequences_508.pdf

Use the box below to indicate which best management practices or conservation measures you'll be using in your project (that were nc listed in Section I above)

Click here to enter text.

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.

Piping plover critical habitat may occur on or near colonial waterbird nesting islands and beaches; however, no effects to listed species or their critical habitat are expected from this project due to the flight altitude and nature of this project.

II. Explain the actions to reduce adverse effects to critical habitat listed above. For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review.

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

Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.

Click here to enter text.

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? ENO OYES II. If Yes, describe activities further using checkboxes. Does your activity involve any of the following:

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

<input type="checkbox"/>	a)	Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
<input type="checkbox"/>	b)	In-water construction or demolition
<input type="checkbox"/>	c)	Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
<input type="checkbox"/>	d)	In-water Explosive detonation
<input type="checkbox"/>	e)	Aquaculture
<input type="checkbox"/>	<input type="checkbox"/> f)	Restoration of barrier islands, levee construction or similar projects
	<input type="checkbox"/> g)	Fresh-water river diversions
	<input type="checkbox"/> h)	Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
	<input type="checkbox"/> i)	Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
	<input type="checkbox"/> j)	Conducting driving of sheet piles or pilings
C)	<input type="checkbox"/> k)	Use offloating 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 water 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 ¹
<input type="checkbox"/>	NMFS Protected Species Construction Conditions (2021) ²
<input type="checkbox"/>	NMFS Measures for Reducing the Entrapment Risk to Protected Species (2012) ³
<input type="checkbox"/>	NMFS Vessel Strike Avoidance Measures and Reporting for Mariners (2021) ³
<input type="checkbox"/>	NMFS Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ³

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

M. Bald Eagles

Are bald eagles present in the action area? NO EYES

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, AN, 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

¹ <https://www.fisheries.noaa.gov/topic/marine-life-viewing-guidelines>

² <https://www.fisheries.noaa.gov/southeast/consultations/regulations•policies•and-guidance>

³ <https://www.fisheries.noaa.gov/southeast/consultations/protected•species-educational-signs>

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 EYES

If these measures cannot be implemented, then you must contact the Service's Migratory Bird Permit Office. Texas (505) 248-7882 or by email: permitsR2MB@fws.gov
Louisiana, Mississippi, Alabama, Florida — (404) 679-7070 or by email: permitsR4MB@fws.gov

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? ENO DYES

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/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>

ONO EYES

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

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 5 7 Consultation
Christy Fellas, National Oceanic Atmospheric Administration
Email: Christina.Fellas@noaa.gov
Phone: 727-551-5714

USFWS ESA 5 7 Consultation
Michael Barron, Department of the Interior
Email: michael_barron@fws.gov
Phone: 251-421-7030