



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Deepwater Horizon Gulf Restoration Office
341 Greeno Road North, Suite A
Fairhope, Alabama 36532



In Reply Refer To:
FWS/R4/DH NRDAR

Memorandum

May 22, 2025

To: Memorandum to File

From: Michael Barron, Deepwater Horizon Gulf Restoration Office

Subject: Regulatory Compliance Determinations for Open Ocean Trustee Implementation Group's Restoration Project: Coastal Restoration Effects on Inshore, Nearshore, and Offshore Ecological Condition

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 for the Coastal Restoration Effects on Inshore, Nearshore, and Offshore Ecological Condition project are indicated below:

Project Title	Endangered Species Act	Marine Mammal Protection Act	Bald and Golden Eagle Protection Act	Migratory Bird Treaty Act	Coastal Barrier Resources Act
Coastal Restoration Effects on Inshore, Nearshore, and Offshore Ecological Condition	C-SC	NT	NT	NT	NA

C-SC – Completed-Separate Consultation; NA – Not Applicable; NT – No Take

Should any project be modified in a way that could adversely impact species or habitats, this determination 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.

Attachments (1)

ATTACHMENT 1

Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

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

This Biological Evaluation (BE) form will be filled out by the Implementing Trustee and used by the U. S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) 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), and Bald and Golden Eagle Protection Act (BGEPA). Section 106 of the National Historic Preservation Act (NHPA) review can be started by submitting this form to the online NHPA Submission Portal (<https://www.fws.gov/doid/web/compliance-reviews>).

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

U.S Fish and Wildlife Service: Michael Barron at michael_barron@fws.gov

National Marine Fisheries Service (NMFS): Christy Fellas at christina.fellas@noaa.gov

A. Project Identification

Federal Action Agency (one or more):

USFWS ☐ NOAA ☐ Environmental Protection Agency (EPA) ☒ U.S. Department of Agriculture (USDA) ☐

Implementing Trustee(s): U.S. Environmental Protection Agency

Contact Name: Click to enter text Phone: 202-566-0365 Email: brucker.kaitlyn@epa.gov

Project Name: Coastal Restoration Effects on Inshore, Nearshore and Offshore Ecological Condition

DIVER ID# 357 Trustee Implementation Group (TIG): Open Ocean TIG

Restoration Plan # Open Ocean TIG MAM Activity Coastal Restoration Effects on Inshore, Nearshore and Offshore Ecological

Condition MAIP

Name of Person Completing this Form: Kaitlyn Brucker

Name of Project Lead: Kaitlyn Brucker

Date Form Completed: 4/1/2025

Date Form Updated: 5/19/2025

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

Mobile Bay, Alabama

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-tofrom-decimal-degrees>]

Water quality monitoring activities will be completed at the following survey sites:

Base samples

NRDA-101 (30.59968333, -87.91395), NRDA-103 (30.2626, -88.03755), NRDA-104 (30.65165, -88.05643333), NRDA-106 (30.58258333, -88.06091667), NRDA-109 (30.3326, -88.14376667), NRDA-112 (30.275, -87.87666667), NRDA-114 (30.22666667, -88.34), NRDA-117 (30.39096667, -87.83093333), NRDA-119 (30.505, -88.02), NRDA-120 (30.25833333, 88.02666667), NRDA-122 (30.45168333, -88.09478333), NRDA-123 (30.66725, -88.02026667), NRDA-125 (30.25753333, 88.21293333), NRDA-127 (30.29516667, -87.7486), NRDA-128 (30.37833333, -88.32166667), NRDA-129 (30.48875, 87.94635), NRDA-131 (30.54338333, -88.08153333), NRDA-105 (30.24171149, -88.07473878), NRDA-108 (30.29292106, 88.12399424), NRDA-111 (30.34004863, -87.9841715), NRDA-113 (30.45196376, -87.92760406), NRDA-116 (30.67759067, 88.01512913), NRDA-121 (30.24271322, -87.98844855), NRDA-124 (30.2940845, -88.02152929), NRDA-126 (30.46142324, 87.99988801), NRDA-133 (30.5746715, -88.06337536), NRDA-134 (30.37841757, -88.38496032), NRDA-135 (30.55241575, -87.95792736), NRDA-136 (30.29805882, -87.87559754), NRDA-137 (30.3012258, -88.1191076), NRDA-138 (30.28595952, 88.31555975), NRDA-139 (30.23062389, -88.35970688), NRDA-140 (30.33941025, -87.84222148), NRDA-141 (30.27081768, -88.10253235), NRDA-142 (30.51807629, -88.08842708), NRDA-143 (30.67121259, -87.98540356), NRDA-144 (30.29373772, -87.81750543), NRDA-145 (30.38265644, -88.03317666).

Over Sample

NRDA-146 (30.65317162, -87.93819997), NRDA-147 (30.25669355, -87.90894002), NRDA-148 (30.369853, -87.85871413), NRDA-149 (30.25839877, -88.13296828), NRDA-150 (30.44487386, -88.08573624), NRDA-151 (30.35048178, -88.22043799), NRDA-152 (30.34652535, -87.98030569), NRDA-153 (30.28738309, -88.0840097), NRDA-154 (30.2744732, 87.90724139), NRDA-155 (30.29358427, -88.35934293), NRDA-156 (30.62384102, -87.94412301), NRDA-157 (30.46372854, -87.94205141), NRDA-158 (30.44882756, -88.10406848), NRDA-159 (30.31259062, -88.06376726), NRDA-160 (30.25927051, -87.88204157).

The geographic range for collection for each parameter, at each site listed above, is as follows:

- For water collection, hydrographic profile (in situ measurements), and secchi depth, collection is completed within 37 meters of the GPS point. If there is no suitable location within 37 meters, the crew may increase the range to 100 meters.
- For sediment collection (Benthic grabs)- if a suitable location (e.g., bare sediment without vegetation or oyster beds) are not available within 100 meters, the crew may move the range up to 500 meters.
- Fish collection- if no suitable areas are found within 100 meters or 500 meters, crews may move up to 1,000 meters.

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 are required and should be added to the same Sharepoint folder location as the BE form. Examples of such supporting documentation include, but are not limited to:

Plan view of design drawings

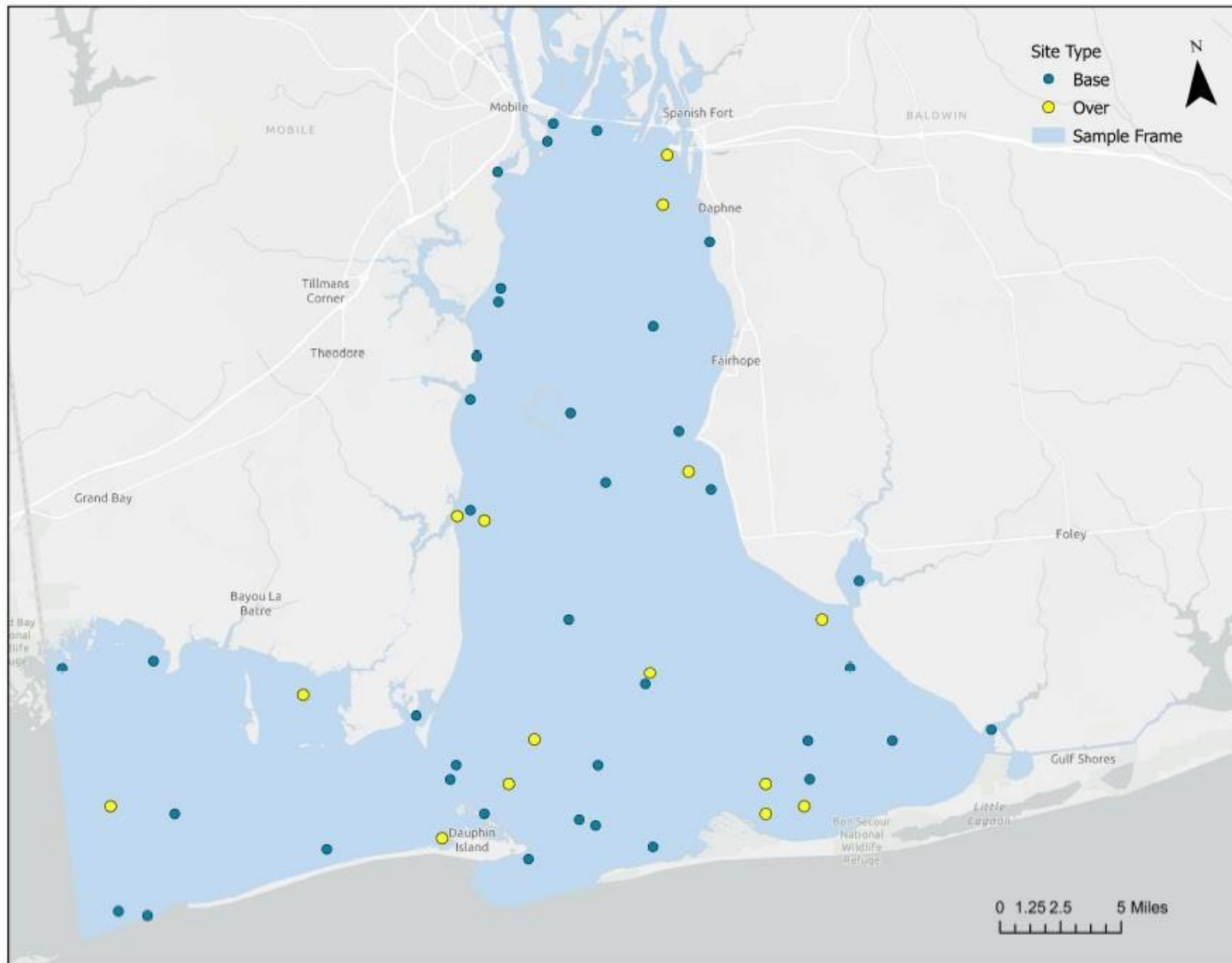
Aerial images of project action area and surrounding area, showing state or regional scale

Map of project area with elements proposed (polygons showing proposed construction elements)

Map of action area with critical habitat units or sensitive habitats overlayed

GIS Files to include ARCGIS, KMZ, CAD, or other GIS files are required (WGS 84) for projects with a field component; all files should be polygons and not polylines

Map of Sample Sites in Mobile Bay, Alabama



D. Existing Compliance Documentation

National Environmental Policy Act (NEPA) Documents

Are there any **existing** draft or final NEPA analyses (not PDARP/PEIS) that cover all or part of this project?

YES ☒

NO ☐

Examples:

- TIG Restoration Plan/Environmental Assessment or Environmental Impact Statement (draft or final)
- U.S. Army Corps of Engineers (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)?

YES ☐

NO ☒

Permit Number and Type: The contractor field crews are responsible for obtaining all required permits.

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 here to enter text.

If yes to any question above, please provide details in the text box (i.e. link to/name of the NEPA document, year, lead federal agency, Point of Contact, 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. Any documentation or information provided will help move the project forward.

This OO TIG Monitoring and Adaptive Management (MAM) activity was evaluated in Coastal Restoration Effects on Inshore, Nearshore and Offshore Ecological Condition MAM Activity Implementation Plan in March of 2024. As described in the MAIP, the Phase 1 planning activities (i.e., Communication, Gap Analysis, and Pilot Location Selection) would consist exclusively of desktop analysis of existing literature, existing data resources, report development, and engagement of subject matter experts with no field data collection and consequently, no impacts to natural resources as defined within the PDARP/PEIS. After review of the proposed activities against those actions previously evaluated in the PDARP/PEIS, the OO TIG determined that the environmental consequences resulting from the Phase 1 activities fall within the range of impacts described in Section 6.4.14 of the PDARP/PEIS, thus no additional NEPA evaluation was necessary at that time. Also described in the MAIP, prior to implementation of the Phase 2 field sampling activities, NEPA compliance review would be revisited and addressed as appropriate. EPA is using one of its existing NEPA Categorical Exclusions applicable to monitoring and sample collection activities to document NEPA compliance for the Phase 2 field sampling activities described in this BE Form.

In addition, these activities follow the same protocols as EPA's National Coastal Condition Assessment (NCCA) Program which received a Biological Opinion (BO) from NMFS (#OPR-2020-01249) and from USFWS (Biological Opinion for the U.S. Environmental Protection Agency's National Coastal Condition Assessment dated August 6, 2021 and the 2025 Reinitiation to the National Coastal Condition Assessment Biological Evaluation dated May 13, 2025). The consultations cover multiple rounds of the survey (once every 5 years). EPA has provided one amendment to that Biological Evaluation to both NMFS

and USFWS to report on updates to the 2025 survey.

These project activities will follow the requirements of the 2020 BOs, and the FWS 2025 Reinitiation to the National Coastal Condition Assessment Biological Evaluation dated May 13, 2025.

In February 2025, the Alabama Department of Conservation and Natural Resources (ADCNR) Marine Resources Division issued the state permit for benthic and fish sampling activities for this MAIP.

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.

Mobile Bay is an estuarine ecosystem that covers approximately 413 square miles. The deepest parts of the bay are the dredged ship channel at about 16 meters and an average depth of 3 meters. It receives freshwater inputs from the Alabama and Tombigbee Rivers and is a drainage basin for over 71,747 square miles. On the southern end, Mobile Bay opens to the Gulf of America. The bay supports a variety of estuarine habitats including oyster reefs, SAV, unvegetated soft bottom, and wetlands. The southern portion of the bay is 303d listed as an impaired waterway by the state of Alabama for pathogens (Enterococcus).

In-water monitoring samples would be collected from 45 random stratified sites spread throughout Mobile Bay as indicated in the map in Section III above. Five of the sites will be revisited for quality assurance purposes.

Does the project area include a river or estuary?

YES ☒ NO ☐

Monitoring samples would be collected within the open waters of the Mobile Bay estuary. There are no proposed sample sites in rivers upstream of Mobile Bay.

There are no proposed monitoring sample sites located Gulfward of the Alabama barrier shoreline/barrier islands, e.g., Dauphin Island. Monitoring sites range from approximately .5 miles to 30 miles from the marine environment.

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.

The river delta along the northern edge of the bay contains sea grasses. If the sampling coordinates are within an SAV area, crews will move around and attempt to collect sediment/benthic samples from unvegetated sandy patches within up to a 500-meter radius. If suitable locations are not identified after several attempts, the field crew will record that sample as not collected. The other parameters (water samples, hydrographic profile measurements, secchi depth and fish (as permits allow) will be collected in a way that avoids damage to SAVs. Map below pulled from National Centers for Environmental Information (NCEI) database. <https://www.ncei.noaa.gov/maps/gulf-dataatlas/atlas.htm?plate=Critical%20Habitats>

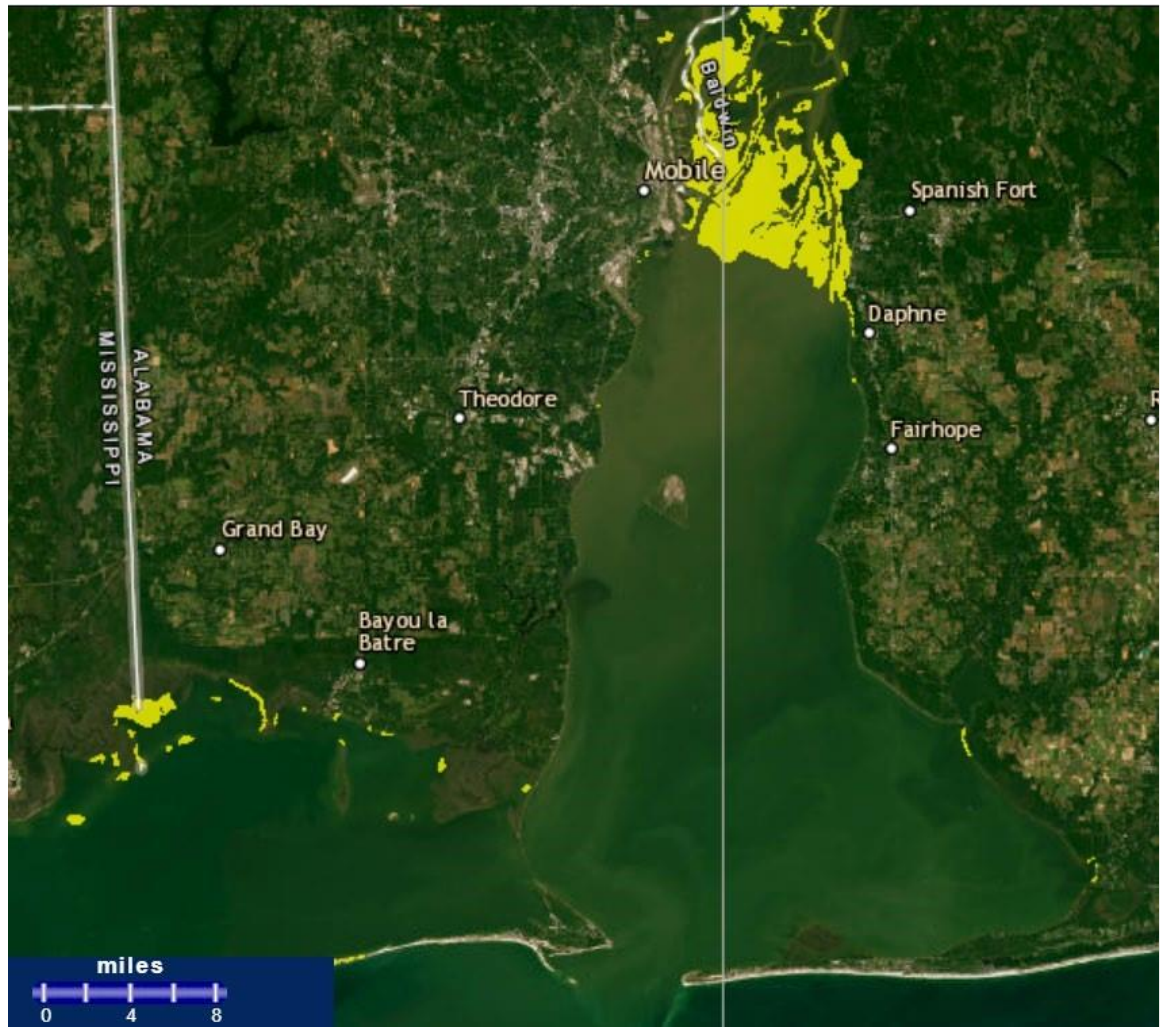


Figure 1: Map of Mobile Bay and surrounding area with yellow markings indicating areas with SAV.

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.

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.

Monitoring samples would be collected within the open waters of Mobile Bay. The Mobile Bay bottom is characterized as being comprised of riverine sediments and muds typical of coastal estuarine systems. Near the mouth of the bay, the bottom substrate transitions from higher concentrations of silts to higher concentrations of sand.

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 for more information, see <http://www.nmfs.noaa.gov/pr/sars/region.htm>

Marine mammals potentially occurring in the project area include West Indian Manatee (*Trichechus manatus*) and Common Bottlenose Dolphin (*Tursiops truncatus*). Marine Mammals will be avoided during monitoring activities.

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.*

The purpose of the project is to gather data that can be used to assess the benefits of DWH nutrient reduction and Wetlands, Coastal, and Nearshore Habitats (WCNH) projects, in Mobile Bay Alabama, on fish and water column invertebrate (FWCI) populations. To do this, the

project will conduct monitoring activities in accordance with EPA's National Coastal Condition Assessment (NCCA) approach (i.e., field and lab protocols, assessment techniques, etc.) to characterize the condition of estuary habitat important to FWCI species.

This MAM activity will lead to an understanding of how estuarine restoration activities, regardless of restoration type, may affect Open Ocean FWCI populations by improving habitat for estuarine dependent FWCI species and/or important prey species. It may also inform adaptive management of existing projects and designs of future projects by helping to identify parameters for setting baselines and monitoring change in areas that serve as important habitat for FWCI species and their prey (e.g., establishing indicator baselines using NCCA protocols prior to beginning a water quality restoration project and monitoring for changes after completion).

Activities will be conducted by personnel on small, shallow-draft outboard motor type boats. The following data and samples will be collected at each site:

- Discrete surface water grab samples. Water samples are collected at each site 0.5 meters below the surface (or mid-depth if station depth is less than 1.0 meter), with either a water pumping system or water sampling device such as a Niskin, Van Dorn, or Kemmerer bottle and transfer to a rinsed 250 microLiter amber High-Density Polyethylene (HDPE) bottle. Water for the chlorophyll-a sample will be collected and transferred to a separate reusable 2 Liter amber HDPE bottle. The maximum volume collected at each site is 4 liters. The parameters collected using this method are dissolved inorganic nitrogen, total nitrogen, dissolved inorganic phosphorus, total phosphorus, Chlorophyll *a*, total microcystins, Cylindrospermopsin, and Enterococci
- Sediment collection for benthic macroinvertebrate infauna, sediment toxicity and contaminants, Total Organic Carbon (TOC) and grain size. A 1/25 (0.04) m², stainless steel, Young-modified Van Veen Grab (or similar) sampler is used for collecting sediment samples for both biological and chemical analyses. The top of the sampler is either hinged or otherwise removable so the top layer of sediment can be easily removed for sediment contaminant, toxicity and the marine-only Delta 15 Nitrogen (D15N) sample collection. Other sediment grab devices may be used for sediment toxicity and contaminant samples at the crew's discretion. The maximum area of sediment the grab for NCCA is 0.5 m². Multiple sediment grabs are taken until 2.3 liters of sediment is collected for the sediment analysis. The area the grab sampler collects will be recorded for data analysis. If the grab sampler size is less than 0.03 m², two grabs will be taken for the benthic macroinvertebrate collections and composite the sediment into the sieve. The maximum area impacted at each site is 1.5 m² for these samples. If the field crew encounters SAV or oyster beds at a sampling location, they will move around within up to 500 meters of the selected coordinates in an attempt to

find patches free of vegetation and oysters adjacent to the beds in order to collect samples without disturbing those habitats. If suitable locations are not identified after several attempts, the field crew records that sample as not collected.

- Whole fish contaminants (composite sample): Ecological fish tissue collection protocols require crews to collect up to five individuals of the target species, yielding a minimum of 300-gram total mass from each site. These fish are to be collected within a 500-meter radius of the sample site (may expand to 1,000 meters if needed). Crews may collect these samples using any reasonable method (e.g., hook and line, cast net) that their scientific collection permits allow, that is most efficient, least impactful, and the best use of available time on station. The methods used for fish collection are analyzed in the NCCA Biological Opinion. At all sites and for all sample types, crews are never to collect species that are federally listed as threatened or endangered under the Endangered Species Act for tissue samples. If a federally listed species (e.g., fish, mammal, sea turtle, etc.) is encountered while fishing (netted, hooked, etc.), crew members are expected to immediately release the individual(s), following identification, in an area where it is unlikely to be captured again and cease sampling for five minutes to allow the individual(s) to safely leave the area. The encounter with the listed species will be entered by selecting the ESA button in the NCCA App and record the species, number of individuals, and condition of the individuals. Prior to restarting fish collection, field crews should evaluate whether alternative fishing methods that are less likely to encounter listed species are available. In the event of interactions with federally protected marine species while conducting sampling, the appropriate federal agency and ADCNR will be notified within 24 hours of the interaction.
- Hydrographic profile (record on downcast and upcast as described in the NCCA Field Operations Manual). The field crew will lower a multi-parameter water quality meter (or sonde). Measurements are taken incrementally from just below the surface progressing down to .5 meters from the bottom and then taken again on return to the surface. The parameters collected using this method are Dissolved Oxygen, pH, Temperature, Salinity, and Light (photosynthetically active radiation).
- Secchi Depth (20-centimeter disk). The field crew will lower a 20-centimeter secchi disk 3 times and record the disappear and reappear depths each time. If any of the measurements differs by > 0.5 meters, the measurement needs to be repeated. If the secchi disk is visible to the bottom, "CTB" is recorded for the sample site.

For this MAM activity, 45 sample sites will be visited once between June 1 and September 30, 2025, for a total of approximately 32 days in the field (estimate coverage of 1-2 sites per workday). Five of the 45 sites will be sampled a second time for quality assurance purposes.

The impacts of the activities above are anticipated to be short term with minor effects. Localized short term increased turbidity from the sediment grab samples is expected to occur at each sampling location on the day samples are taken. Short term minor effects from increased boating activity and noise in the sampling areas would occur. Effects are not likely to be greater than or distinguishable from the background level of boating and noise that typically occurs by other boaters in Mobile Bay.

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

No construction activities would occur as part of this project. The project consists of water quality monitoring activities (collection of water samples, benthic grabs, and fish tissue samples). Monitoring will occur over a period of approximately 32 days between June 1, 2025, and September 30, 2025.

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 ☐	NO ☒
<i>Does this project include terrestrial construction?</i>	YES ☐	NO ☒
<i>Does this project include construction of an overwater structure?</i>	YES ☐	NO ☒
<i>Will fishing be allowed from this overwater structure?</i>	YES ☐	NO ☒
<i>Will wildlife observation be allowed from this overwater structure?</i>	YES ☐	NO ☒
<i>Will boat docking be allowed from this overwater structure?</i>	YES ☐	NO ☒

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"? <https://media.fisheries.noaa.gov/dam-migration/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

a. *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

b. *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

c. *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

d. *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

e. *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.*

Sediment grab samples would be collected at each of the sample sites for benthic macroinvertebrate infauna, sediment toxicity and contaminants, TOC and grain size. A 1/25 (0.04) m², stainless steel, Young-modified Van Veen Grab (or similar) sampler is used for collecting sediment samples for both biological and chemical analyses. The top of the sampler is either hinged or otherwise removable so the top layer of sediment can be easily removed for sediment contaminant, toxicity and the marine-only D15N sample collection. Other sediment grab devices may be used for sediment toxicity and contaminant samples at the crew's discretion. The maximum area of sediment the grab for NCCA is 0.5m². Multiple sediment grabs are taken until 2.3 liters of sediment are collected. The area the grab sampler collects will be recorded for data analysis. If the grab sampler size is less than 0.03 m², two grabs will be taken for the benthic macroinvertebrate collections and composite the sediment into the sieve. Therefore, the maximum bottom area impacted by these sediment collection activities at each survey site is 1.5 m². Crews will attempt to find patches without vegetation or oysters when sampling in close proximity to beds. Grab samples will not be collected at sites where patches void of vegetation and/or oysters cannot be located within 500 meters of the survey site coordinate point.

f. *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

g. *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

h. *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)).*

Field crews may collect fish contaminant samples using a number of methods (e.g., hook and line, cast net). It is expected that crews utilize the gear that is allowed by their Alabama DCNR scientific collection permits, is most efficient, least impactful, and the best use of available time on station. The methods used for fish collection are analyzed in the NCCA Biological Opinion. At all sites and for all sample types, crews are never to collect species that are federally listed as threatened or endangered under the Endangered Species Act for tissue samples. If a federally listed species (e.g., fish, mammal, sea turtle, etc.) is encountered while fishing (netted, hooked, etc.), crew members are expected to immediately release the individual(s) following identification in an area where it is unlikely to be captured again and cease sampling for five minutes to allow the individual(s) to safely leave the area. Record the encounter with the listed species by selecting the ESA button in the NCCA App and record the species, number of individuals, and condition of the individuals. Prior to restarting fish collection, field crews should evaluate whether alternative fishing methods that are less likely to encounter listed species are available. In the event of interactions with federally protected marine species while conducting

sampling, the appropriate federal agency and ADCNR will be notified within 24 hours of the interaction.

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>

Mobile Bay is essential fish habitat for reef fish, coastal migratory species, shrimp, and red drum. Short-term minor effects due to increased boating and noise in the sampling areas for a period of approximately 32 days. Short term minor effects are also anticipated due to increased turbidity from sediment grab sampling.

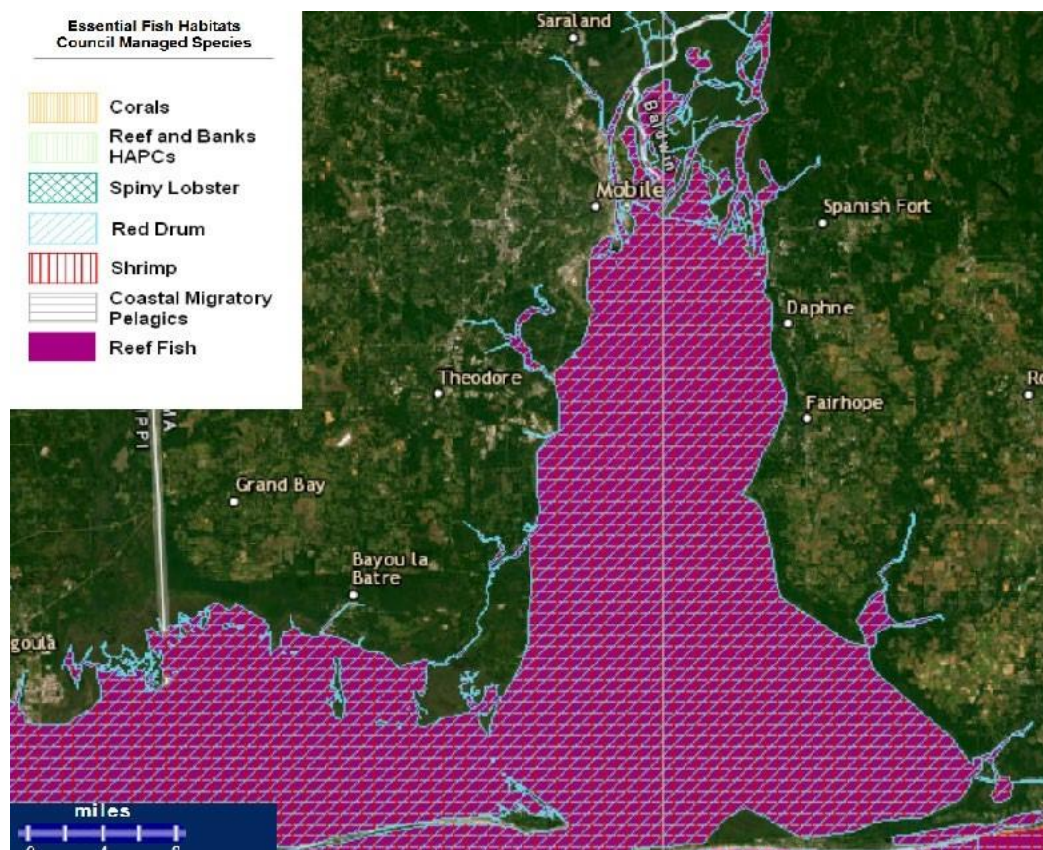


Figure 2: Map of Mobile Bay Alabama illustrating Essential Fish Habitats.

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

Gulf of Mexico EFH Eco-Region	Estuarine	Nearshore	Offshore
Eco-Region 1: South Florida (Florida Keys north to Tarpon Springs, Florida)	☐	☐	☐

Eco-Region 2: North Florida (Tarpon Springs, Florida, north and west to Pensacola Bay, Florida)	☐	☐	☐
Eco-Region 3: East Louisiana, Mississippi, and Alabama (Pensacola Bay, Florida, west to the Mississippi River Delta)	☒	☐	☐
Eco-Region 4: East Texas and West Louisiana (Mississippi River Delta west and south to Freeport, Texas)	☐	☐	☐
Eco-Region 5: 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 ☐ NO ☒
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.	

At each of the sites sampled, there will be sediment and benthic grabs of no more than a total of 1.5 m² of area. These grabs will not be taken from seagrasses or oyster beds. Fish specimen (minimum of 300 grams) collection is attempted at each site for whole body fish composite contaminant analysis.

Will this project have beneficial effects to EFH?	YES ☒ NO ☐
If yes, please describe how your project will have beneficial effects the text box below:	

This MAM activity will lead to an understanding of how estuarine restoration activities, regardless of restoration type, may affect Open Ocean FWCI populations by improving habitat for estuarine dependent FWCI species and/or important prey species. It may also inform adaptive management of existing projects and designs of future projects by helping to identify parameters for setting baselines and monitoring change in areas that serve as important habitat for FWCI species and their prey (e.g., establishing indicator baselines using NCCA protocols prior to beginning a water quality restoration project and monitoring for changes after completion).

Will this project have adverse effects on EFH?	YES ☐ NO ☒
If yes, please describe what type of adverse effects your project will cause to EFH in the text box below:	

N/A

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 the ESA Section 7 Mapper at:

<https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=b184635835e34f4d904c6fb741cfb00d>

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 I. 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 I.

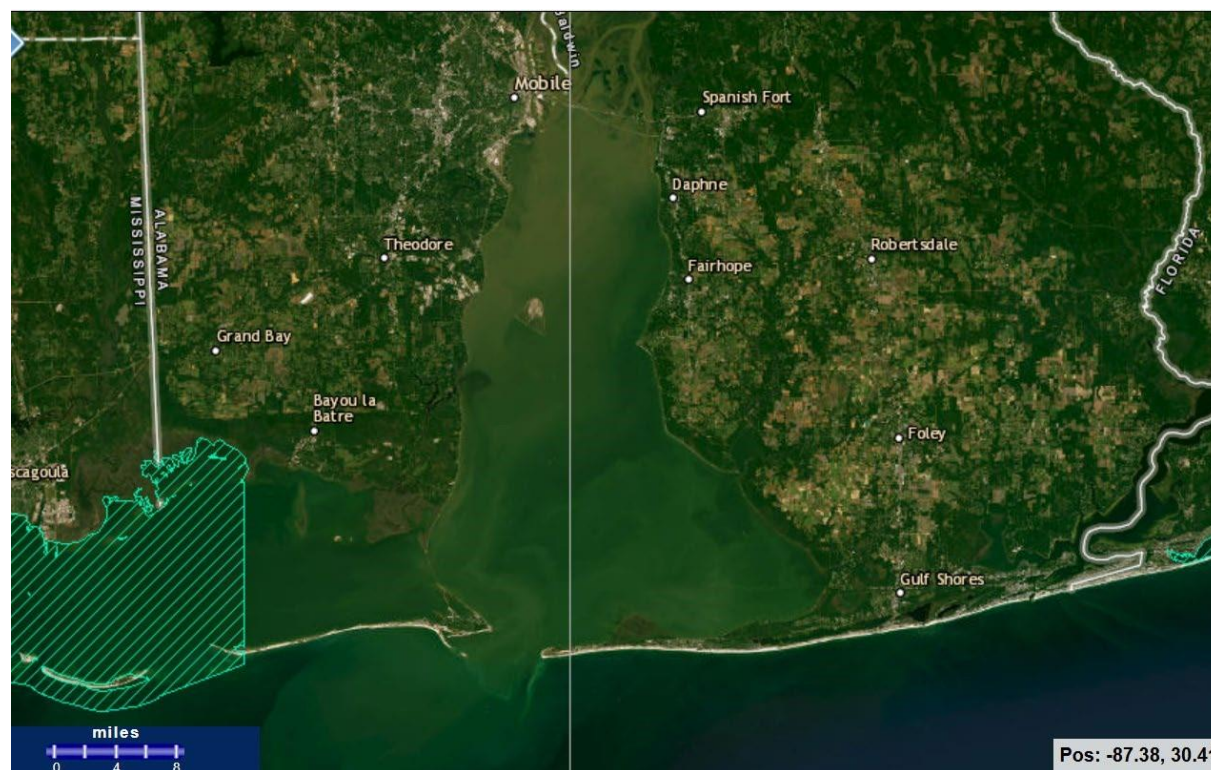


Figure 3: Map of Mobile Bay Alabama and surrounding areas. The area with green lines indicates Critical Habitat for Gulf Sturgeon.

Species and/or Critical Habitat	CH Unit (if applicable)	Location (Sea turtles and Gulf Sturgeon <u>only</u>)	Determinations (see definitions below)	For "No Effect", please select justification.
Giant Manta Ray (T)		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Gulf Sturgeon (T)		Marine	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle (T)		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Kemp's Ridley Sea Turtle (E)		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Green Sea Turtle (T)		Choose an item.	May Affect, Not Likely to Adversely Affect	Choose an item.
Loggerhead Sea Turtle CH	LOGG-N-34 nearshore reproductive habitat	Marine	No Effect	Methods will not affect primary constituent element of CH
		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. 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 H. 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 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.	Select Most Appropriate	Choose an item.
Choose an item.		Choose an item.	Select Most Appropriate	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.
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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 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 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.

USFWS

As included in the FWS Biological Opinion for the U.S. Environmental Protection Agency's National Coastal

Condition Assessment dated August 6, 2021 and the 2025 Reinitiation to the National Coastal

Condition

Assessment Biological Evaluation dated May 13, 2025 , the document describes and evaluates activities that EPA will be conducting for the NCCA program on a nationwide level. This BE form references that Biological Opinion for those activities being conducted for this MAM activity at a smaller scale in Mobile Bay.

NMFS

Implementation of the project would result in short-term, minor impacts on some ESA-listed species that could occur within the project vicinity. Potential impacts would include noise, temporary increases in turbidity, and associated with boat traffic and sampling. ESA-listed species would likely avoid the area during sampling for a short duration (days), but any individuals that are displaced due to noise would likely return to the area upon completion use other suitable habitats nearby. The proposed activities fall within the Project Design Criteria set forth by NMFS, see the attached checklist.

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.

Field crews will abide all boating speed regulations, including “No Wake” and “Minimum Wake” zones; designate a marine animal spotter for when the boat is in motion; understand the circumstances when it would be necessary to shut down a vessel due to the presence of a listed species; allow a listed species to naturally move away from the sampling area (do not herd or harass); immediately release listed taxa if they are unintentionally collected while implementing the sediment, benthic macroinvertebrate, or fish tissue sampling protocols (do not preserve); and implement additional limitations that may be established in the scientific sampling permits.

These best practices are not an exhaustive list of requirements for field crews. Regulations and guidelines that have been developed for marine life viewing provide useful risk minimization practices when boating in area that may support listed manatee, whales, turtles, sea lions, and sharks. Field crews are expected to be aware of the recommendations and guidelines that apply in Mobile Bay and for the listed species in the area.

As mentioned above, if a federally listed species (e.g., fish, mammal, sea turtle, etc.) is encountered while conducting fish tissue sampling (netted, hooked, etc.), crew members are expected to immediately release the individual following identification in an area where it is unlikely to be captured again and cease sampling for five minutes to allow the individual to

safely leave the area and record the encounter (the species, number of individuals, and condition of the individuals). Prior to restarting fish collection, field crews should evaluate whether alternative fishing methods that are less likely to encounter listed species are available. In the event of interactions with federally protected marine species while conducting sampling, the appropriate federal agency and ADCNR will be notified within 24 hours of the interaction.

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

- | | |
|-------------------------------------|--|
| ☐ | NMFS Protected Species Construction Conditions (2021) ¹ |
| ☒ | NMFS Measures for Reducing the Entrapment Risk to Protected Species ¹ |
| ☒ | NMFS Vessel Strike Avoidance Measures (2021) ¹ |
| ☒ | USFWS Standard Manatee In Water Conditions (2011) ² and Appropriate State Manatee Conditions ³ |

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

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.

These monitoring activities are not expected to affect critical habitat.

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

² <https://www.fws.gov/media/2011-standard-manatee-construction-conditions-water-work>

³ Contact USFWS representative for appropriate documents

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.

L. Marine Mammals

I. The Marine Mammal Protection Act (MMPA) 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
☐	☐	a) Use of active acoustic equipment (e.g., echosounder) producing sound below 200 kHz
☐	☐	b) In-water construction or demolition
☐	☐	c) Temporary or fixed use of active or passive sampling gear (e.g., nets, lines, traps; turtle relocation trawls)
☐	☐	d) In-water Explosive detonation
☐	☐	e) Aquaculture
☐	☐	f) Restoration of barrier islands, levee construction or similar projects
☐	☐	g) Fresh-water river diversions
☐	☐	h) Building or enhancing areas for water-related recreational use or fishing opportunities (e.g. fishing piers, bridges, boat ramps, marinas)
☐	☐	i) Dredging or in-water construction activities to change hydrologic conditions or connectivity, create breakwaters and living shorelines, etc.
☐	☐	j) Conducting driving of sheet piles or pilings
☐	☐	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>

BMPs below will be employed to reduce any minor affects on marine mammals. This sampling will not result in any take of marine mammals.

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:*

☐	NMFS Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines ⁴
☐	NMFS Protected Species Construction Conditions (2021) ⁵
☒	NMFS Measures for Reducing the Entrapment Risk to Protected Species (2012) ³
☒	NMFS Vessel Strike Avoidance Measures and Reporting for Mariners (2021) ³
☐	NMFS Reproducing and posting outreach signs: Dolphin Friendly Fishing Tips sign, Don't Feed Wild Dolphins sign ⁶

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 (Bald and Golden Eagle Protection Act)

Are bald eagles present in the action area? ☒NO ☐YES

Whether Bald Eagles are present or not, the following conservation measures should be implemented to project eagles or in the case that previously unknown eagles are documented:

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

⁴ <https://www.fisheries.noaa.gov/topic/marine-life-viewing-guidelines>

⁵ <https://www.fisheries.noaa.gov/southeast/consultations/regulations-policies-and-guidance>

⁶ <https://www.fisheries.noaa.gov/southeast/consultations/protected-species-educational-signs>

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? ☒ NO ☐ YES

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 the following website and implement the appropriate measures to the extent practicable:

<https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>

☐ NO ☒ YES

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 and updated Appendix A (2023). 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](#). Review the document here on sharepoint: [NMFS ESA PDCs](#)

YES	NO	ACTIVITY
☐	☐	Marsh Creation, Maintenance, or Enhancement
☐	☐	Living Shorelines Construction Maintenance, or Expansion
☐	☐	Removal of Fishing Gear and Other Marine Debris
☐	☐	Oyster Reefs Creation, Maintenance, or Enhancement
☐	☐	Pile-Supported Structures, including Non-fishing Piers, Anchored Buoys, and In-water Sign Posts
☐	☐	Artificial Reefs Construction, Maintenance, or Expansion
☐	☐	Boat Ramps Installation, Repair, Replacement, or Removal
☐	☐	Water Management Outfall Structures and Associated Endwalls Installation, Repair, Replacement or Removal
☐	☐	Establishing or Restoring SAV
☒	☐	Scientific Surveys or Research Projects and the Installation, Repair, or Removal of Equipment

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

Phone: 813-816-2732

USFWS ESA § 7 Consultation

Michael Barron, Department of the Interior

Email: michael_barron@fws.gov

Phone: 251-421-7030

NHPA Consultation

Benjamin Frater, Department of the Interior

Email: benjamin_frater@fws.gov

Phone: 404-314-8815