

2012-5-1021
2012-CPA-0805

INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

Originating Person: Ben Frater
Telephone Number: 251-517-8019
Email: Benjamin_Frater@fws.gov
Date: 02/09/2012

Project Name: Louisiana Oyster Cultch Restoration

I. Service Program: Ecological Services

II. State: Regional Office

III. Station Name: Deepwater Horizon NRDAR Field Office

IV. Description of proposed action:

This project is being proposed and implemented by the State of Louisiana (State). However, as a member of the Department of Interior, the Deepwater Horizon NRDAR Field Office is (in part) a co-Trustee to the State in the Natural Resources Damage Assessment and Restoration planning currently unfolding for the *Deepwater Horizon* incident. Trustees bear the responsibility to approve or disapprove of any other Trustee's project. We believe this decision is a federal action that warrants consultation under Section 7 of the ESA.

The Louisiana Oyster Cultch Project involves (1) the placement of oyster cultch onto approximately 850 acres of public oyster seed grounds throughout coastal Louisiana and (2) construction of an oyster hatchery facility that would produce supplemental larvae and seed.

First, the Louisiana Department of Wildlife and Fisheries (LDWF) would contract for the placement of cultch material onto approximately 850 acres of public oyster seed grounds throughout coastal Louisiana, including 3-Mile Bay, Drum Bay, Lake Fortuna, South Black Bay, Hackberry Bay and Sister Lake (Figure 1). Cultch material consists of limestone rock, crushed concrete, oyster shell and other similar material that, when placed in oyster spawning areas, provides a substrate on which free swimming oyster larvae can attach and grow into oysters. The cultch materials are planned to be placed at a planting density of 200 cubic yards/acre, although adjustments to this planting density may be made depending upon water bottom characteristics at the time of project implementation. The Louisiana Oyster Cultch Project would employ cultch planting approaches utilized by LDWF since 1917.

The second portion of the Project involves constructing hatchery improvements to help facilitate and expedite success of the cultch placement. Since the *Deepwater Horizon* oil spill and associated response activities, spat fall in some of the areas impacted by the spill and resulting response activities has been lower than average. In order to provide a supplemental source of oyster larvae and oyster seed, LDWF, in partnership with Louisiana Sea Grant, would contract to

construct a new building adjacent to the existing Sea Grant oyster hatchery located at the LDWF facility on Grand Isle, Louisiana. Larvae produced at the hatchery can be released into the water directly over cultch material or be remotely set on oyster cultch to create oyster seed. The new facility would be located next to the LDWF Research Lab at a site leased by Louisiana State University, located at 133 Port Drive in Grand Isle, Louisiana. The site, which is currently undeveloped, is approximately 20,186 square feet, and is owned by the Grand Isle Port Commission and leased by Louisiana State University. Louisiana State University plans to construct an additional building at this site prior to construction of the hatchery facility; this building is not part of this Early Restoration Project. The footprint of the Hatchery building is proposed to be approximately 8400 sq ft. Parking will be available onsite. Oyster hatchery activities currently housed at the LDWF Research Lab in Grand Isle, Louisiana will relocate to the new hatchery building once it is constructed.

Hatchery operations would include broodstock maintenance, algal cultivation, larvae production, and a nursery system. Broodstock (adult oysters used in oyster breeding), which would continue to be located at the LDWF Research Lab, are collected in Louisiana waters. Broodstock are critical to hatchery operations as they ensure a source of males and females of specific genetic traits that are used to produce larvae and eventually seed. Algae are the primary source of food for both larvae and adult oysters. At the hatchery, broodstock would be thermally induced to spawn. The resulting fertilized eggs would be added to a tank and allowed to hatch. The free swimming larvae move up and down the water column feeding on algae, and grow and develop (after approximately 15 days) into "eyed" larvae that looks like a small clam. Once an oyster reaches the eyed larvae stage it is ready to settle or spat onto hard substrate. Once oyster larvae reach the proper age and size they can be broadcast onto suitable coastal areas (i.e. cultched areas), or encouraged to settle (set) onto small pieces of shell in the hatchery. After the larvae set on the shell, they are called "spat." Spat can be grown into seed in the hatchery nursery system. The nursery system consists of a series of upweller silos, which are columns (2' x 1.5') through which water is pushed from the bottom. The system would use the water from, and would replace the water to, the bay immediately adjacent to the new facility. Planned capacity for the hatchery system is approximately 8,000 gallons of water per day from April through October. When oysters reach approximately 1 inch in length they would be moved to a suitable growout area (i.e. public seed grounds). The facility is designed to produce 1 billion eyed larvae per season.

V. Pertinent Species and Habitat:

Species / Critical Habitat	Status
West Indian Manatee	Endangered
Gulf Sturgeon	Threatened
Gulf Sturgeon Critical Habitat	Designated Final

VI. Location (attach map):

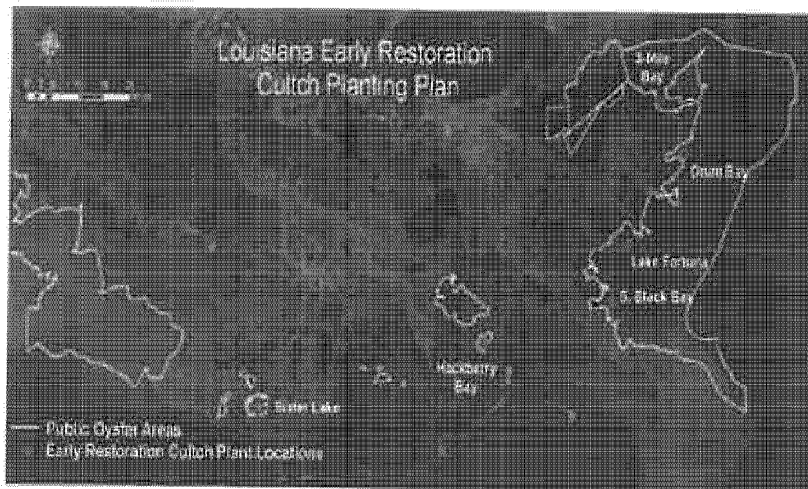


Figure 1. Louisiana oyster cultch planting locations.

A. County and State: Coastal Parishes of Louisiana

B. Species/habitat occurrence: West Indian Manatee and Gulf Sturgeon are known to migrate through these areas. Gulf Sturgeon Critical Habitat has been designated for the northern most location (3-Mile Bay).

VII. Determination of effects:

A. Explanation of effects of the action on species in Item V. It is anticipated that placement of the cultch material will be brief (a few days) at any given site so the duration and extent of disturbance will not significantly interfere with migration. If sturgeon or manatee are present, these highly mobile species could avoid any disturbance by moving into adjacent areas of similar, unimpacted habitat. Turbidity in the water column may temporarily increase during the brief deployment. The material may displace or cover some infauna and epifauna. However many epifaunal organisms are mobile and would be minimally affected by the settling material. It is unlikely that cultch placement near 3-Mile Bay would damage, destroy, or adversely modify any designated critical habitat since the sites proposed to be enhanced are all existing oyster seed beds.

B. Explanation of actions to be implemented to reduce adverse effects:

None needed.

VIII. Effect determination and response requested:

Our determination is that this project may affect, but is not likely to adversely affect the Gulf Sturgeon and its critical habitat, and the West Indian Manatee. We are requesting concurrence from you on this determination.

[Signature]
Signature from originating station
Restriction Specialist
Title

2/9/12
Date
DWIF NRDAR
Office

IX. Reviewing ESO Evaluation:

- A. Concurrence Nonconcurrency _____
- B. Formal consultation required _____
- C. Conference required _____
- D. Informal conference required _____


E. Remarks (attach additional pages as needed): *MMFS consulted on G. Sturgeon. Manatee prototyping measures via March 5, 2012 email will be included*

[Signature]
Signature of reviewing official
Supervisor
Title

3/13/12
Date
La Escalve
Office

DWF 3/12/12

Benjamin
Frater/R4/FWS/DOI
03/05/2012 12:14 PM

To Deborah Fuller/R4/FWS/DOI@FWS
cc
bcc
Subject Re: Fw: Consultation on Deepwater Horizon Early
Restoration Projects 

Debbie,

Thanks for calling me to follow up on the request for concurrence. I have the additional information you requested below.:

1) I've attached maps of the exact location of the Oyster Hatchery.



Proposed Oyster Hatchery Location on Grand Isle, La.jpg ~2008180.JPG

2) NOAA has taken the lead on the Gulf Sturgeon for this project as is customary for marine projects. Accordingly, they have pursued concurrence for their determination through their regional office. I no longer need to include Gulf Sturgeon in this concurrence request.

3) The following BMP's for Manatee will be included as a mandatory feature of this project.

Boat Operation Best Management Practices (BMPs) for Manatee Protection

Note: These BMPs represent the United States Fish and Wildlife (USFWS) and National Oceanic and Atmospheric Administration (NOAA) recommendations for minimizing impacts to trust resources under the Marine Mammal Protection Act, Migratory Bird Treaty Act, and serve as recommendations under the Endangered Species Act emergency section 7 consultations regulations to avoid and minimize effects to endangered and threatened species, and critical habitat.

Manatee Protection Guidance for Boat Operations - Deepwater Horizon (Deepwater Horizon - MC 252)

1. All Boat Operations should follow the West Indian Manatee Construction Protocol.
2. All personnel are responsible for observing water-related activities for the presence of manatees.
3. All vessels shall operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow deep-water routes whenever possible.
4. Any collision with and/or injury to a manatee should be reported immediately to Candace Martino, USFWS, 904-731-3336.
5. Barriers should be made of material in which manatees cannot become entangled, should be properly secured, and regularly monitored to avoid manatee entanglement or entrapment. Barriers should not impede manatee movement.
6. If manatees are seen within 100 yards of the active daily boom deployment, operation, recovery, or vessel movement, all appropriate precautions shall be implemented to ensure their protection. These precautions should include cessation of operation of any equipment within 50 feet of a manatee. Activities should not resume until the protected species has departed the area of its own volition.
7. Instruct all personnel associated with boom deployment, operation, and recovery, of the potential

presence of manatees and the need to avoid collisions with and injury to manatees.

Please let me know if there are any other questions I can answer to assist in your decision. We're happy to continue informal consultation until we get it all right. Thank You.

Ben

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Deborah Fuller/R4/FWS/DOI



Deborah
Fuller/R4/FWS/DOI
02/15/2012 09:23 AM

To Benjamin Frater/R4/FWS/DOI@FWS
cc
Subject Fw: Consultation on Deepwater Horizon Early Restoration
Projects

Ben - I need to speak with you about this consultation but it seems that your phone number listed on the email is not working. Do you have another number I can try? It so happens that our phones are out right now too but I can use my personal cell (or you can call me on it too 337-654-3510).
/Debbie

----- Forwarded by Deborah Fuller/R4/FWS/DOI on 02/15/2012 09:21 AM -----

Brad Rieck/R4/FWS/DOI
02/10/2012 03:25 PM

To Deborah Fuller/R4/FWS/DOI@FWS, Darryl
Clark/R4/FWS/DOI@FWS
cc
Subject Fw: Consultation on Deepwater Horizon Early Restoration
Projects

Debbie, let me know if you agree with manatee and sturgeon NLAA's for hatchery and cultch placement. Thanks.

Darryl, FYI on Fairhope status of consultation on Lake Hermitage project

Brad Rieck

Acting Field Supervisor
U.S. Fish and Wildlife Service
Louisiana Ecological Services Office
337-291-3116 (fax 3139)
brad_rieck@fws.gov

----- Forwarded by Brad Rieck/R4/FWS/DOI on 02/10/2012 02:47 PM -----

Benjamin
Frater/R4/FWS/DOI
02/09/2012 03:47 PM

To Brad Rieck/R4/FWS/DOI@FWS
cc
Subject Fw: Consultation on Deepwater Horizon Early Restoration
Projects

Hello, Brad.

I've attached a request for concurrence for an oyster project around the Mississippi River Delta. This project is sponsored and will be conducted by the State of Louisiana. It is scheduled for early this summer or next depending on approval. Essentially this is a project to replenish existing public oyster grounds, including a new hatchery. As co-Trustees of the Deepwater Horizon restoration activities, we do sign off on the comprehensive restoration plans, thus constituting a federal action and a need for consultation. This project is included in Round 1 of the planning process.

For more information on this project and the other early restoration projects, please visit this website: <http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/>

Also, part of the early restoration plan is the Lake Hermitage project. We have the intra-Service section 7 consultation already conducted by your office for that project and will be using that for our administrative record.

Please call with any questions or concerns. If you can concur, please check the box and return with the appropriate signature.

Thank you,

Ben

[attachment "Concurrence request for LA oysters.pdf" deleted by Deborah Fuller/R4/FWS/DOI]

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----- Forwarded by Benjamin Frater/R4/FWS/DOI on 02/09/2012 03:39 PM -----



Debora
McClain/R4/FWS/DOI
02/07/2012 10:04 AM

To Donald Imm/R4/FWS/DOI@FWS, Bill
Pearson/R4/FWS/DOI@FWS, Stephen
Ricks/R4/FWS/DOI@FWS, Brad
Rieck/R4/FWS/DOI@FWS
cc benjamin_frater@fws.gov, Janet
Mizzi/R4/FWS/DOI@FWS
Subject Consultation on Deepwater Horizon Early Restoration
Projects

I wanted to give each of you a heads up that your office will be receiving a request for concurrence to our Endangered Species Act determinations for our Tier I DERP projects. Ben Frater from the Fairhope DH NRDAR office will be sending the request very soon. As you may already be aware, due to the political nature of the Deepwater Horizon NRDAR case and the \$1 billion Early Restoration Framework Agreement the Trustees signed with BP last April there has been a push to get projects on the ground quickly therefore we are trying to move as quickly as we can and meet the timeframe in which the Trustee's Executive Committee has set for the 1st phase of projects.

If you have any questions please feel free to contact either Ben or myself. I appreciate your assistance with this.

Breakdown of projects:

Panama City, FL (3 projects)
Daphne, AL (1 project)
Jackson, MS (2 projects)
Lafayette, LA (1 project)

Thanks

Debora L. McClain
Deputy DOI DH Case Manager
DOI DH Case Management Office
Blackberry - 907-382-2477
email: debora_mcclain@fws.gov