



Mills, Ashley <ashley_mills@fws.gov>

Marsh Island project in Alabama - MBTA and BGEPA coordination - DWH NRDA Early Restoration Phase 1 -

Holbrook, Shannon <shannon_holbrook@fws.gov>
To: "Mills, Ashley" <ashley_mills@fws.gov>

Tue, Nov 10, 2015 at 11:08 AM

Ashely -

Thank you for your email and information on the Marsh Island Project. This project is logged as 2014-CPA-0027 in our system and has a completed ESA compliance on file.

Per your request, this office concurs with your determination that there are no issues with this project under the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act.

Thank you,
Shannon Holbrook

On Thu, Nov 5, 2015 at 9:13 AM, Mills, Ashley <ashley_mills@fws.gov> wrote:

Hi Shannon,

I am writing to confirm coordination on the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act for the Marsh Island (Portersville Bay) Marsh Creation Project in *Deepwater Horizon* NRDA Early Restoration Phase 1.

Project Description and Background

The Marsh Island (Portersville Bay) Marsh Creation Project (Project) is an Early Restoration project funded as part of the *Deepwater Horizon* Natural Resource Damage Assessment and Restoration process. The Project is located in Portersville Bay of the Mississippi Sound, near Coden, Mobile County, Alabama.

The primary goals of the Project are (1) to protect the southern shoreline of the island and reduce and/or prevent further erosion of the existing salt marsh, and (2) to expand the island by re-creating salt marsh that was lost in the now open water areas north of the island.

To implement these goals, the Project would: (1) install about 5,000 linear feet of permeable segmented breakwater; (2) place approximately 245,000 cubic yards of dredged materials to create 50 acres of marsh by filling open-water areas with dredged material; and (3) plant approximately 202,500 native vegetation plugs. Additionally, through the natural de-watering and compaction of dredged sediments and the use of a marsh buggy, approximately 5,000 linear feet of tidal creeks would be created, connecting existing tidal creeks to the newly created marsh and to Mississippi Sound.

The project will be implemented by the Alabama DCNR.

The USACE consulted with the USFWS and NMFS under Section 7 of the ESA prior to issuing a Clean Water Act Section 404 permit to the Alabama DCNR. USACE, USFWS, and NMFS determined that the Marsh Island project may affect, but will not likely adversely affect West Indian Manatee, Gulf Sturgeon, Loggerhead sea turtles, Kemp's ridley sea turtles, Leatherback sea turtles, Green Sea turtles, and Hawksbill sea turtles (in water). USACE concluded there is no designated critical habitat located within the project area.

The USACE Environmental Assessment (EA) describes the existing Marsh Island habitat as unsuitable for nesting and foraging for Wood Stork, Red Knot and Piping Plover. The EA states: "The existing Marsh Island is predominantly marsh with some upland areas containing sparsely vegetated oyster shell beaches and berms rather than cypress mangrove habitat. Species of Wood Stork have not been observed on the island and presence during construction activities is very unlikely. There are no proposed impacts to sandy shorelines which may have the presence of Red Knot or Piping Plover. The northern portion of Marsh Island has erosive scarps and marsh not suitable for shorebirds foraging. No loss of habitat would occur from proposed project. The USACE determined the project should have no effect on the Wood Stork, Red Knot, and Piping Plover.

"The existing Marsh Island contains some oyster shell beaches. These beaches are scarped and eroding with minimal width and are therefore unsuitable for sea turtle nesting. The island does not have a history of sea turtle nests associated with its beaches. The permit area does not contain submerged grassbeds or other foraging habitat for the manatee making its presence transient in nature and very unlikely. Gulf Sturgeon could be present within the project area at times but avoid contact with the impact area. Motile species would likely avoid the area during construction activities."

ESA, MBTA, and BGEPA

It is my understanding that USFWS does not have any ESA concerns with this project other than for West Indian manatee, and that as long as the USFWS "Standard Manatee Construction Conditions" are implemented, there will be no adverse impact to manatees.

It is also my understanding that USFWS does not have any concerns in regards to compliance with the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). The USACE EA indicates no suitable nesting or foraging habitat for shorebirds, wood stork or bald eagles, and no impacts to sandy shorelines. Construction will not occur in the existing marsh habitat on Marsh Island, but rather on the north side where the dredged material will be placed to create new marsh habitat. If migratory birds such as shorebirds and wading birds are using Marsh Island habitats for foraging or resting during project implementation and activities cause birds to flush, they would be able to move to another nearby location to continue foraging and resting. It is very unlikely that bald eagles occur in the project area. Golden eagles do not occur along the Gulf coast.

Can you please confirm that the USFWS has no concerns in regards to compliance with the MBTA and BGEPA for the Marsh Island (Portersville Bay) Marsh Creation Project?

Thank You,
Ashley Mills

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