January 29, 2014

Dear Protected Resources Division:

We are requesting concurrence from the Protected Resources Division, NOAA Fisheries Service, Southeast Regional Office, that the proposed *Big Lagoon State Park* project is *not likely to adversely affect* listed species managed by the National Oceanic and Atmospheric Administration (NOAA) in the project area (see project description and list below). The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, and the Department of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA) are designated natural resource trustee agencies authorized by the Oil Pollution Act of 1990 (OPA) and other applicable federal laws to assess and assert a natural resource damages claim for this Oil Spill.

Project Description

The proposed restoration work for the Big Lagoon State Park Boat Ramp Improvement project includes adding an additional lane to the existing boat ramp, expanding boat trailer parking, improving traffic circulation at the boat ramp, and providing a new restroom facility that would connect the park to the Emerald Coast Utilities Authority (ECUA) regional sanitary sewer collection system. Big Lagoon State Park is located at 12301 Gulf Beach Highway, approximately 10 miles southwest of the city of Pensacola in Escambia County, Florida (see Figures 1 and 2 for general location and detailed view). The approximate center of the envisioned project activity area for the boat ramp is located at Latitude 30.3116 N and Longitude 87.4219 W – see Figure 2.

Big Lagoon State Park is part of the Pensacola Bay system and consists of approximately 655 upland acres and two bodies of water (the freshwater Long Pond and the saltwater Grand Lagoon Lake). It contains beaches, shallow bays, open woodlands, an observation tower, boardwalks, nature trails, camping areas, picnic areas, an amphitheater, and the boat ramp which provides easy access to Big Lagoon. The Park preserves a natural area along the north shoreline of Big Lagoon and the Intracoastal Waterway, providing wildlife and plant habitat and preserving large wetland expanses.

The existing two-lane boat ramp in the Park requires maintenance. The facility improvements would improve traffic circulation at the boat ramp, which would help address safety and over-use concerns by park visitors and authorities. Most of the project would involve upland construction. In addition the existing boat launch ramp would be replaced. Ramp construction would likely require excavation in an area of approximately 500 square meters, of which only a small portion would be in the subtidal area. In general, the construction of a boat ramp can be summarized in terms of executing a number of specific tasks and subtasks including:

Task 1. Site Preparation

a. Prior to beginning any waterward work at the boat ramp site the project area needs to be surveyed and marked. Turbidity curtains are then installed to encapsulate the work area and other erosion control methods are put in place on the landward side of the project (e.g., placement of hay bales) to prevent erosion into the water from equipment movement and any work being performed on the upland areas.

Task 2. Ramp Construction

a. The area for the ramp is surveyed in and marked by stake or pole (typically small diameter 2" or less PVC).
b. A coffer or bladder dam is installed and the water within the dam, between the waterward extent of the ramp and the land, is pumped out to upland storage ponds or run through a filter system to remove any sediment in the water before returning it to the receiving waterbody. The work area is kept dry by use of dewater pumps (ground water to be pumped is first sampled and tested for water quality) and disposed of in the same manner as the pumped surface water. This dewatering operation is run continuously throughout the construction of the ramps. Once the ramps are completed the dewatering pumps are shut down and the dams are removed.
c. Construction of the ramps begins once the area is sufficiently dry to remove unsuitable soils, if necessary, and replaced with suitable soil. This soil is then compacted to specification. Then the base material for the ramp is placed, usually a rock material. After placement and compaction of the base the ramp is formed, reinforcing steel placed and then the concrete poured and finished. Once curing of the concrete is complete the forms are removed and the coffer or bladder dams are removed.

Task 3. Monitoring

a. Every day, before the start of construction activities, the turbidity screen is checked and repaired if necessary.
b. The foreman or other designated individual checks the area inside the screen and the screen itself to see if any protected species (manatees, dolphins, small tooth sawfish etc) have gotten trapped within the work area or in the screen. If so then appropriate (FWC) personnel are notified to request removal. No work is begun until the animal, fish or bird is removed.
c. During the work day the work area and area adjacent to the work are is monitored to make sure protected species have not ventured into the area. If so then work is stopped until the animal moves out of the area.
d. At the end of the day the area is checked for debris, sediment and possible spillage and these are properly removed and disposed of before shutting down the site.
e. If a storm is anticipated that might damage the turbidity screen it is removed and stored until the storm event has passed and seas have resided.

During all in-water construction activity the conditions and guidelines of the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) and the *Standard Manatee Conditions for In-Water Work* (USFWS, 2011) would be implemented and adhered to.

Effect of the Proposed Action

As part of the project review process, we carefully reviewed and completed an initial National Marine Fisheries Service Endangered Species Checklist for this project on July 30, 2013. As part of this effort, we reviewed a list of species and their critical habitat that "may be present" within the project area. The 7 species from this list that may be present in the proposed project area, and their status, include:

- Gulf Sturgeon, *Acipenser oxyrinchus desotoi*, Threatened
- Smalltooth Sawfish, *Pristis pectinata*, Endangered
- Green Sea Turtle, *Chelonia mydas*, Endangered
- Loggerhead Sea Turtle, *Caretta caretta*, Threatened
- Hawksbill Sea Turtle, *Eretmochelys imbricate*, Endangered
- Leatherback Sea Turtle, *Dermochelys coriacea*, Endangered
- Kemp's Ridley Sea Turtle, *Lepidochelys kempii*, Endangered

An evaluation of potential impacts to each of these species, and any associated critical habitat areas that intersect the proposed project activity area, follows.

Gulf Sturgeon

Direct risks to Gulf sturgeon are limited by the isolation and dewatering of the ramp construction area (see Task descriptions above). Gulf sturgeon are mobile and will likely avoid the project area as a result of noise and activity. However, the project will be implemented incorporating the best management practices identified within the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) to help to avoid any injury. As a result of the limited expected presence of Gulf sturgeon and incorporation of the BMP's during construction activity suggests direct impacts would not likely be detectable or measurable so would be insignificant.

Gulf Sturgeon Critical Habitat

The proposed project currently intersects with a Gulf sturgeon Critical Habitat Unit 9 (Pensacola Bay). Primary constituent elements (PCEs) of Gulf sturgeon critical habitat include: the following habitat features have been identified as important for review: (1) water quality; (2) migratory pathways; (3) Prey items, (4) riverine spawning sites, (5) flow regime, (6) sediment quality, and (6) abundant prey items necessary for normal behavior, growth, and viability of all life stages.
Temporary impacts to water quality may occur as a result of the construction. However, these impacts will be mitigated with the use of construction BMPs to control erosion and the monitoring of the return of pumped waters back to the receiving waterbody as part of the construction area dewatering process. The remaining PCEs would be unaffected

reflecting the project location and its previous development and ongoing use as an active boat ramp. As a result, constructing the boat ramp will not have a detectable or measurable adverse impact on the identified PCEs so the impacts of this project are insignificant to Gulf sturgeon critical habitat.

Smalltooth Sawfish

Encounter data indicate a resident population of Smalltooth sawfish exists only in southwest Florida (Simpfendorfer and Wiley, 2005). Only scattered individual encounters of species have occurred in areas north of Charlotte Harbor (Norton et al. 2012). In addition, most of the encounters reported from the Panhandle between 2001 and 2006 were associated with sandy beaches or in deeper water (NMFS 2009). Due to the lack of suitable habitat and extremely rare occurrence of Smalltooth sawfish in the project area, exposure to the proposed project is unlikely. In addition, adverse effects due to the proposed project are not likely to be detectable or measurable due to the proposed implementation of NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006). Therefore, effects to Smalltooth sawfish due to the proposed project would be insignificant.

Sea Turtles

The range of sea turtles suggests they could generally occur in the project area although the lack of suitable nesting habitat and the turtles' ability to avoid the general activity in the area with the ramp may make this less likely. Florida conducts sea turtle nesting monitoring which provides some indication of sea turtle activity levels in the area. The project area for the boat ramp was not directly surveyed. The nearest surveyed beach is around 1 mile away. Table 1 provides a summary of the information for the sea turtle species on Perdido Key, the closest monitored area to the project. See Figure 3, using the state's reporting system (FWC, 2013), to provide some proxy of potential sea turtle presence in the project area.

Table 1. Summary of Sea Turtle Nesting and Occurrence Data from the nearest surveyed beaches to the project area (Perdido Key ~1.0 mile away from Big Lagoon State Park boat ramp)

Sea turtle	***Nesting density rank***[a]
Green sea turtles	Not present
Loggerhead sea turtles	Medium
Leatherback sea turtles	Not present
Sea turtle	***Nesting occurrence data***[b]
Hawksbill sea turtles	Absent
Kemp's ridley sea turtles	Present

[a] Nesting habitat for these species is ranked based on quartiles of observed density in the state along surveyed reaches of beach based on data from 2008-2012. Low values were in the lower quartile, high values in the highest quartile and the Medium value reflects an observation from the middle two quartiles. Not present indicates no observed nesting from 2008-2012.

[b] The available data from 2008-2012 for these species is summarized only in terms of whether the species nested (i.e., present) or not (i.e., absent) during the period in the surveyed area.

Source. FWC, 2013

This suggests Loggerhead sea turtles might be the species most likely to be in the project area among the species.

While sea turtle presence not generally expected the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006), including ceasing all activity until the sea turtle has departed the project area of its own volition, will still be implemented. As a result impacts to sea turtles are not likely to be detectable or measurable so would be insignificant.

Determination of Effect

Based upon this review, we conclude the proposed action "may affect, but is not likely to adversely affect" the following protected species and associated critical habitats in the project area:

- Gulf Sturgeon - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Smalltooth Sawfish – The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Green Sea Turtle - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Loggerhead Sea Turtle - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Hawksbill Sea Turtle - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Leatherback Sea Turtle - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.
- Kemp's Ridley Sea Turtle - The proposed project may affect, but is not likely to adversely affect and will not jeopardize the continued existence of the species.

References

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National Marine Fisheries Service (NMFS). 2009. Recovery Plan for Smalltooth Sawfish (*Pristis pectinata*). Prepared by the Smalltooth Sawfish Recovery Team for the National Marine Fisheries Service, Silver Spring, Maryland.

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Simpfendorfer, C.A. and T.R. Wiley. 2005. Determination of the distribution of Florida's remnant sawfish population and identification of areas critical to their conservation. Final Report. Florida Fish and Wildlife Conservation Commission, Tallahassee, Florida.

U.S. Fish and Wildlife Service (FWS). 2011. Standard Manatee Conditions for In-Water Work. http://www.fws.gov/northflorida/Manatee/Manate_Key_Programmatic/20130425_gd_Appendix%20B_2011_Standard%20Manatee%20Construction%20Conditions.pdf

Figures

Figure 1. Illustration of the proposed boat ramp location in Big Lagoon State Park, Florida.

Figure 2. Detail of the proposed boat ramp location in Big Lagoon State Park, Florida.

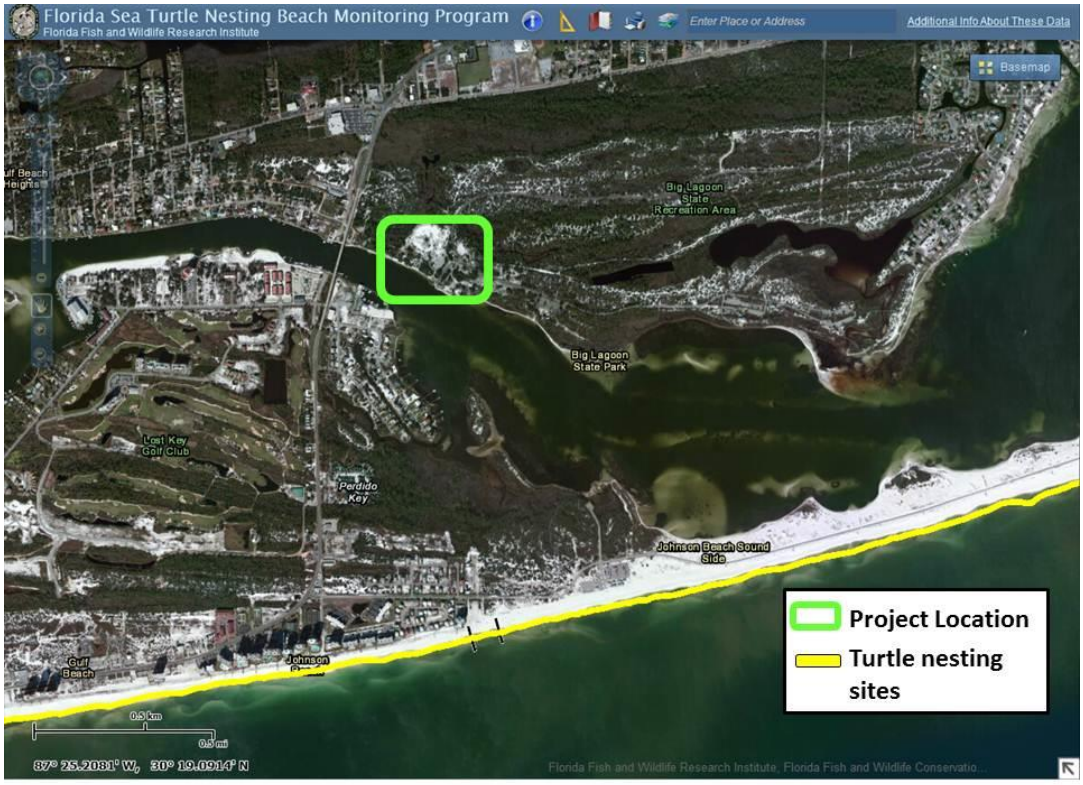

Figure 3. Image showing the turtle nesting locations for sea turtles. Only loggerheads, green turtles, and Kemp's ridley turtles have been found to nest in or near the locations highlighted in yellow.