January 31, 2014

Dear Protected Resources Division:

We are requesting concurrence from the Protected Resources Division, NOAA Fisheries Service, Southeast Regional Office, that the proposed *FWC Strategic Boat Access: City of Panama City St. Andrews Marina Docking Facility Expansions* (St. Andrews Marina) 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 Florida FWC Strategic Boat Access project would improve the existing St. Andrews Marina docking facility in Panama City. The proposed improvements include adding three boat slips, replacing the existing boat ramp, and replacing a fixed wooden dock with a concrete floating dock. The intention of the proposed strategic boat ramp project is to improve and enhance facilities at the existing St. Andrews Marina in Panama City. Figure 1 shows an overview of the project area. The approximate center of activity for this project is located at Latitude 30.15861 N and Longitude 85.66028 W, marked by the green dot in Figure 1. This property is located at 3151 West 10th Street, Panama City, Florida, near the southernmost boundary of the City limits and is owned by the City of Panama City.

St. Andrew's Marina was established in 1959 by the City of Panama City and is used by both commercial and recreational boaters. St. Andrews Marina is easily accessible to the Gulf of Mexico and the Intracoastal Waterway. The marina is situated in a developed area of Panama City characterized by residential and commercial infrastructure. The site itself is a developed marina with existing boat slips, parking areas, boarding docks, boat slips, temporary mooring locations, and a boat ramp. It currently has approximately 100 slips. The proposed project would be focused on a small area; the over-water structures where work would take place cover a total area of approximately 630 square feet.

The City of Panama City, Florida proposes to make several improvements at the existing St. Andrews Marina. Included in these changes are the addition of three (3) boat slips, replacement of an existing boat ramp, and the replacement of a fixed wooden dock with a concrete floating dock. Figure 2 provides a view of the proposed project area showing its developed status and armored shoreline. Figure 3 provides a conceptual plan for the work area focused on the floating dock and the new slips that would be developed.

Standard construction methods and BMPs will be used to produce the planned improvements. For example, 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.

It is expected that this process will be used to replace the boat ramp as part of this project.

Similarly, the conceptual plans in Figure 3 identify that approximately 15 new pilings would need to be placed as part of the work to install the floating dock and develop the three new slips. It is likely that these piling will be placed by a small barge. However the ultimate method of placement will be delineated in the final construction design. As part of this engineering and site assessment, a survey of submerged aquatic vegetation (SAV) in the area would be completed. Should SAV be identified in the project area, the conditions in the *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat* (U.S. Army Corps of Engineers/National Marine Fisheries Service, 2001) would be implemented. Among other elements this would require pilings for the dock expansion be placed at a minimum of 10 feet apart. BMPs, to limit the noise from any pile driving (e.g., consideration of bubble curtains) will be evaluated with the selection of the final construction methods and implemented, as appropriate. However, the project location within a large, active marina may help limit the effect to which any piling placement contributes to an increase for in-water noise levels from the site. These noise impacts would be limited to the period of actual pile driving. Similarly, turbidity impacts from the placement of new pilings are likely to be limited in scope and duration given the relatively small number of pilings to be placed.

During all in-water construction activity, the conditions and guidelines of the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) would be implemented and adhered to. Additional, specific elements associated with implementation of these guidelines are provided below (see *Sea Turtles* component within the following *Effects* section). However, significant aspects of these provisions include stopping operation of any equipment if sea turtles or smalltooth sawfish come within 50 feet of the equipment until the time when animals leave the project area of their own volition.

All applicable best management practices (BMPs) and permit conditions would be followed to minimize any adverse effects of construction. BMPs for erosion control would be implemented and maintained at all times during construction to prevent discharges into surface waters. Methods for land-based portions of the project construction could include, but may not be limited, to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and installation of turbidity screens around the immediate project site. Prior to the initiation of any work, erosion control measures would be put in place along the perimeter of construction zone. Turbidity barriers with weighted skirts extending to within one foot of the bottom would be installed along the entire shoreline length of the in-water project area prior to initiation of construction. Turbidity barriers would remain in place and be maintained until the authorized work has been completed and all erodible materials have been stabilized. Erosion control measures would remain in place and be maintained until all authorized

work is completed and the site has been stabilized. During and following construction, all construction waste materials would be disposed of appropriately.

Project work is expected to be less than two years in duration, including permitting and construction. The number of in-water days would be some fraction of the total project completion time, and would be delineated in the final project construction plan.

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

The project location is located outside of identified Gulf Sturgeon critical habitat units. As a result, there is a reduced expectation of encountering Gulf sturgeon during the execution of the project. This expectation is enhanced given the limited spatial extent of the in-water activity and its anticipated limited duration. Further, Gulf sturgeon are mobile so any in the project area during the period of piling placement would likely relocate to avoid the noise and activity. These fish may already avoid the immediate project area because of the background noise and activity associated with the operation of the marina. However, during in-water construction activity, the best management practices identified within the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) will be implemented to help to avoid injury. As a result of the limited expected presence of Gulf sturgeon, the high background levels of noise from the marina operations, and the incorporation of the BMP's during in-water construction activity, direct impacts to Gulf sturgeon are not likely to be detectable or measurable so would be insignificant.

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 implementation of the *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 project location does not intersect with any identified critical sea turtle habitat (NOAA, 2013). However, the range of sea turtles suggests they could generally occur in the project area. 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, but data exists for St Andrews State Park, which is around 3.5 miles away. The nesting data are summarized in Table 1 to provide some proxy of potential sea turtle presence in the project area. Figure 4, developed using the state's sea turtle nesting and occurrence reporting system (FWC, 2013), shows the portion of the surveyed beach nearest to the project location.

Table 1. Summary of Sea Turtle Nesting and Occurrence Data from the nearest surveyed beaches to the project area (St. Andrews State Park ~3.5 miles away. see Figure 4 for orientation relative to project site)

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

[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

The information in Table 1 indicates the loggerheads would be the most likely sea turtle to be present at the project site with all other species unlikely to be in the area. However, because of the distance of the surveyed nesting beach from the project site and the specifics of the project location (i.e., its location on the shore side of a bay in an active marina) suggests expected sea turtle presence would be significantly lower in the project area. Sea turtle exposure to the project would also be unlikely given the limited spatial extent and of the anticipated in-water construction activity. Further, sea turtles are mobile and would be expected to try and avoid the noise and activity associated with the in-water construction activity. However, to reduce the risk of adverse impacts the best management practices identified within the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) will be implemented during periods of in-water work. As a result, adverse effects to sea turtles due to the proposed project 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

Florida Fish and Wildlife Conservation Commission (FWC). 2013. Statewide Atlas of Sea Turtle Nesting Occurrence and Density. http://www.myfwc.com/research/wildlife/sea-turtles/nesting/nesting-atlas/ Accessed October 29, 2012.

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Norton, Shelley L., Tonya R. Wiley , John K. Carlson , Amanda L. Frick , Gregg R. Poulakis & Colin A. Simpfendorfer (2012) Designating Critical Habitat for Juvenile Endangered Smalltooth Sawfish in the United States, Marine and Coastal Fisheries: Dynamics, Management, and Ecosystem Science, 4:1, 473-480, DOI: 10.1080/19425120.2012.676606.

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. Army Corps of Engineers/National Marine Fisheries Service. 2001. *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat.* August.

Figures

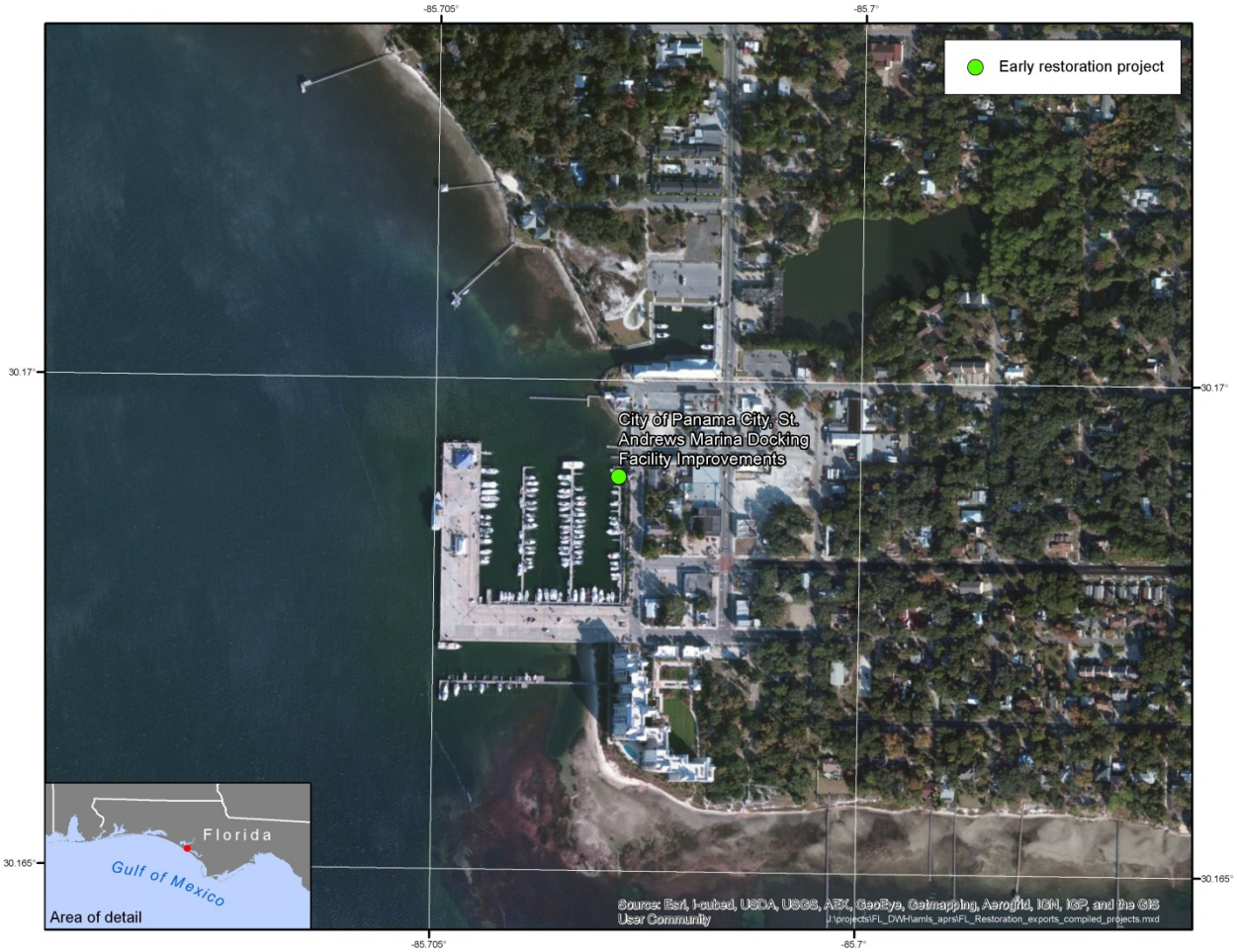
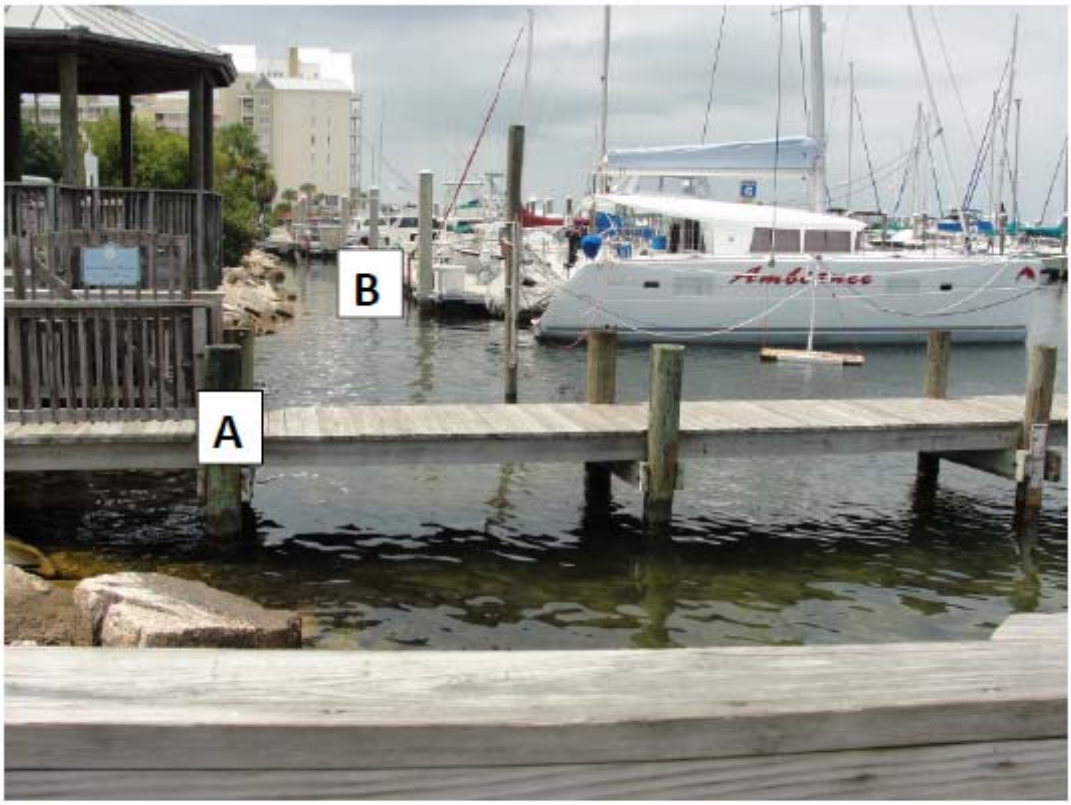


Figure 1. Location of the FWC Strategic Boat Access: St Andrews Marina project.



Picture is taken from the view of the public boat ramp looking first at (A) the fixed dock which is to be replaced by the proposed floating dock and further at (B) the proposed marina expansion area.

Figure 2. View of proposed project area looking from existing boat ramp back toward the existing marina slips over area where the dock would be replaced and additional slips developed.

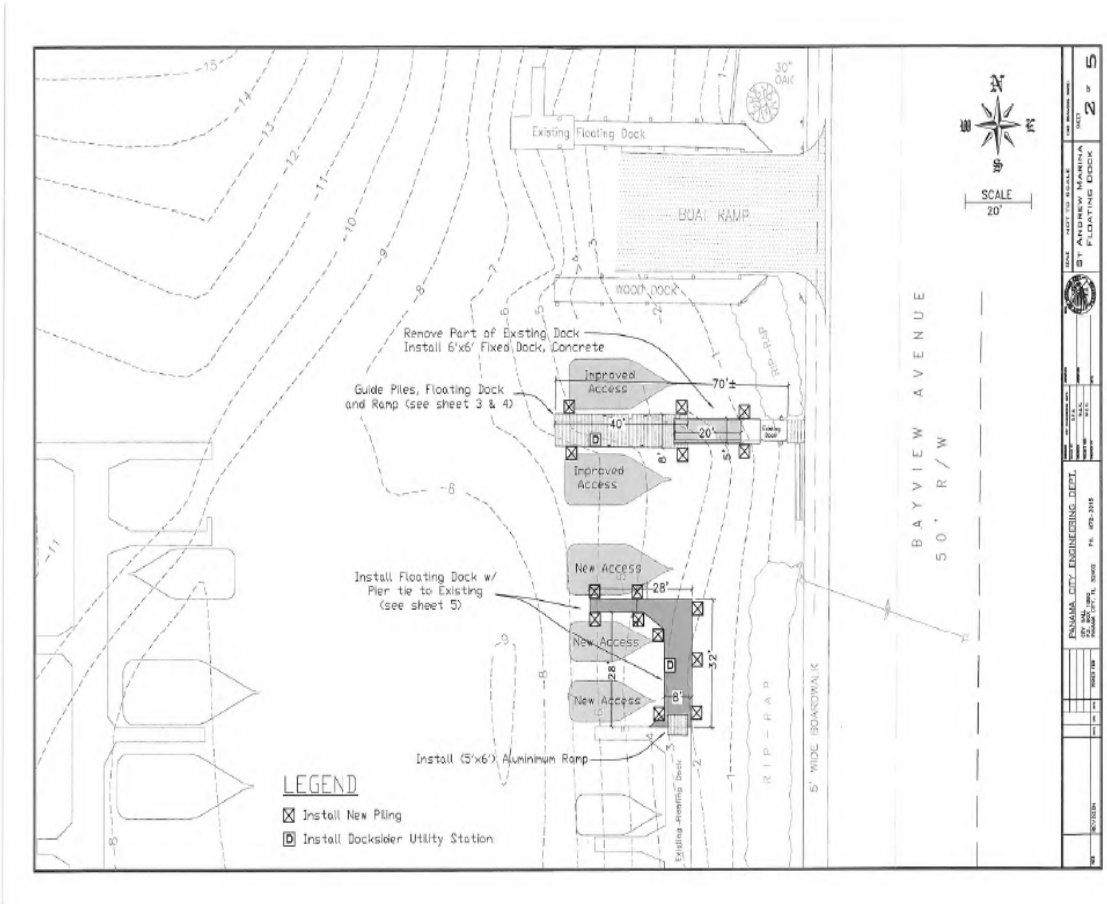


Figure 3. Proposed plans for replacing existing boat ramp and dock while developing new slips

Figure 4. Image showing nesting locations for sea turtles. Only loggerhead and leatherback sea turtles have been found to nest in the locations highlighted in yellow.