February 5, 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 Port St. Joe Frank Pate Boat Ramp* (Frank Pate Improvements) 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 Frank Pate boat ramp in the City of Port St. Joe (see Figure 1). The approximate center of activity for this project is located at Latitude 29.81099 N and Longitude 85.30562 W, marked by the green dot in Figure 1. The proposed improvements include the renovation and extension of an existing boarding dock; construction of additional boat trailer parking; and construction of a new staging area and an upland fish cleaning station tied to existing wastewater treatment infrastructure.

There is an existing, two-lane boat ramp at the site with the two lanes separated by a boarding dock. A gravel parking lot lies to the southeast of the boat ramp. There is also an informal grass parking area on the north side of the ramp. The proposed project would include making the north parking lot more formal and adding additional parking to the gravel lot of the boat ramp (see Figure 2 for details of this area and preliminary plans). A fish cleaning station would be located near the existing park restroom facilities so the existing water and sewer lines could be used. A conceptual plan for this work, see Figure 3, also shows additional elements being pursued as part of the improvements to the park but that are not part of this project.

The current boarding dock separating the two lanes of the boat ramp would be renovated and extended to allow for more temporary mooring areas while boaters are launching and loading at the ramp. Fenders and rub rails located on the north and south sides of the boat basin along the existing sheet pile retaining wall would also be repaired.

As part of the dock expansion new pilings would be placed although the exact number and specific location has not been determined. The pile driving methods for construction of the boarding docks would be finalized in the final project design with an emphasis on selecting the least disruptive method possible (e.g., water jetting) while also taking account of available measures to limit the noise impacts of the placement (e.g., bubble

curtains). Development of final plans will incorporate the guidance and requirements set forth 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) should an SAV survey indicate sea grasses are located in the project area. Among other impacts, implementing these guidelines would require pilings for the dock expansion be placed at a minimum of 10 feet apart.

Most work, and all equipment and materials staging, would be completed from the existing disturbed areas near the current boat ramp, although some of the dock construction work would take place from the water. During periods of in-water work the guidelines and conditions within the *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NOAA, 2006) will be implemented and adhered to. 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. BMPs for erosion control would also be implemented and maintained at all times during upland construction to prevent siltation and turbid discharges into surface waters. Methods could include but are not 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.

Project work would be completed in approximately 1-2 years, including permitting, development of final plans, and construction. The total duration of in-water work would be some small fraction of this total time.

Basis for Conclusion of "Not Likely to Adversely Affect"

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 (Federal Register, 2003) in a previously disturbed area that is actively used as a public boat launch and is isolated from the larger bay habitat (see Figures 1 and 4). As a result, there is a reduced expectation of encountering Gulf sturgeon during the execution of the project. 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. Finally, 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 injury. As a result of the limited expected presence of Gulf sturgeon and incorporation of the BMP's during in-water construction activity suggests direct impacts would not likely 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 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 project location does not intersect with any identified critical sea turtle habitat (NOAA, 2013). However, the range of sea turtles suggests they could 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 potential indication of sea turtle activity levels in the area. The project area for the boat ramp was not directly surveyed, but data exists for the shoreline of Wakulla County, which is over 4 miles away. The shoreline of Wakulla County has no known sea turtle nesting habitat, and the nearest surveyed nesting habitat is over 2 miles away at Bald Point State Park as shown in Figure 4 which shows the portion of the surveyed beach nearest to the project location (FWC, 2013). The nesting data are summarized in Table 1 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 (St Joe Beach ~3.5 miles away. See Figure 2 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

Based on Table 1 the sea turtle species most likely to be encountered in the project area would be loggerheads.

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 and adhered to during periods of in-water work. As noted above, these conditions require stopping operation of any equipment if sea turtles or smalltooth sawfish come within 50 feet of the equipment until the animals leave the project area of their own volition. 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

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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.

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Figures

Figure 1. Location of the Port St. Joe Frank Pate boat ramp project.

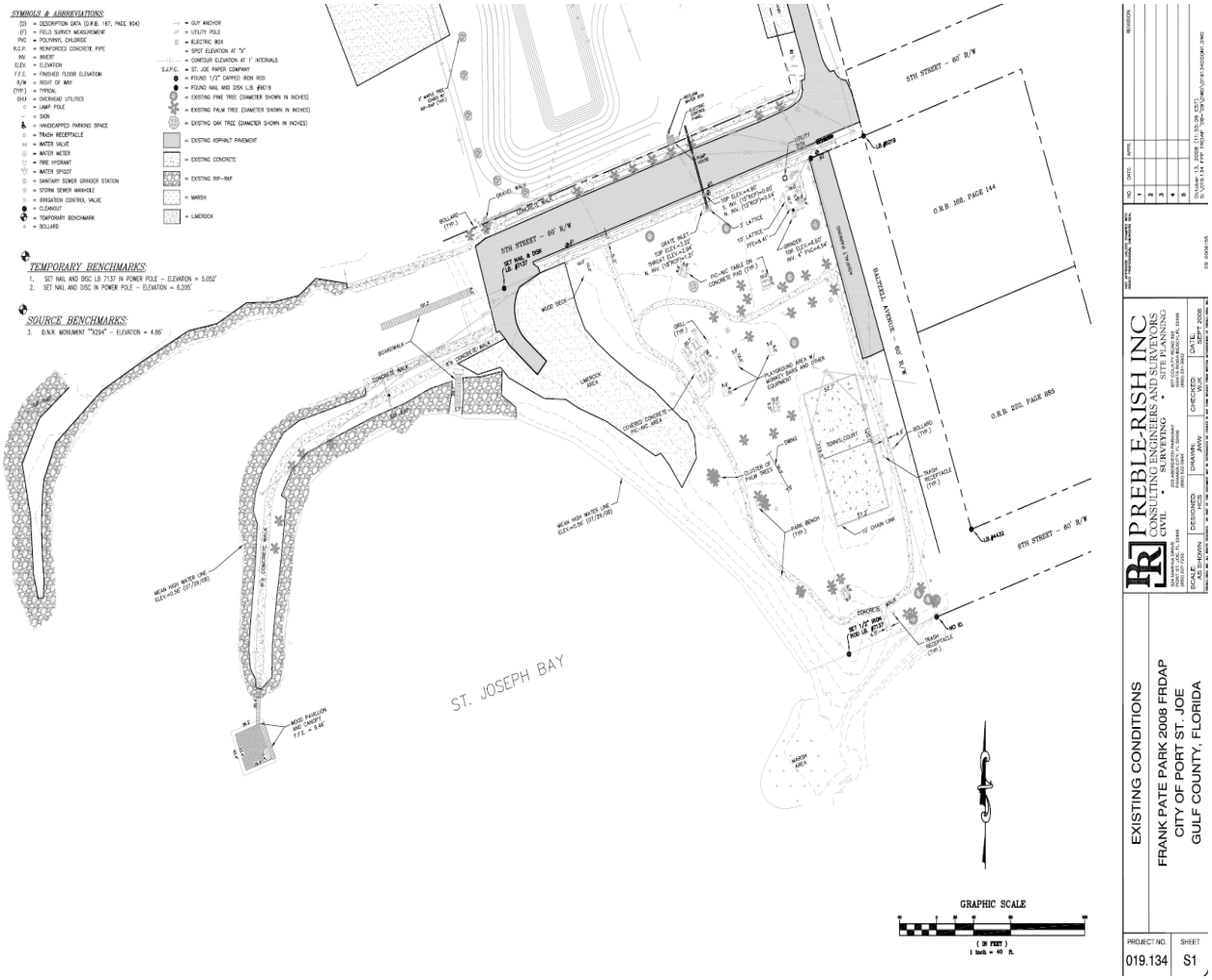

Figure 2. Details of City of Port St. Joe Frank Pate Boat Ramp and Planned Improvement Areas.

Figure 3. General Plan for Baywalk Park in Port St. Joe which incorporates the Frank Pate Boat Ramp.

Figure 2. Image showing nesting locations for sea turtles.