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 St. Marks Boat Ramp Improvements* (St. Marks 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 City of St. Marks boat ramp by adding a boarding dock to the existing one-lane boat ramp shown in Figure 1, which is no longer used for motor boat launching. This boarding dock would be used primarily to facilitate the launching, loading, and removal of non-motorized watercraft (e.g., canoes, kayaks). Figure 2 shows the project location and the surrounding area. The approximate center of activity for this project is located at Latitude 30.15145 N and Longitude 84.20977 W, marked by the green dot in Figure 2.

The project consists of constructing a dock up to 50 linear feet long and approximately 8 feet in width, composed of wood, metal grating or composite decking anchored to pilings. The length of the dock and the type of decking, including grating, manufacturer, and board spacing will be defined in the final project design. In-water excavation is not anticipated for this project activity with the emphasis being on the placement of a limited number of pilings to support and anchor the dock in the desired location. Final design and location of the dock would reflect, among other things, the results of a submerged aquatic vegetation (SAV) survey in the potential placement areas. This survey typically involves an initial review of aerial photos and existing seagrass maps. Initial results are then confirmed with an onsite visual survey typically conducted from a boat. In areas with visibility issues the assessment may involve attaching a small rake head to a line and dragging it through the area of interest to see if seagrasses are present. Snorkel assessments would then be used, if necessary, to verify results.

The techniques used to place any additional pilings would be determined based on an engineering assessment of the site requirements while taking into account which options would minimize disruption to the aquatic environment including available BMPs (e.g., use of bubble curtains). Should SAV be identified in the potential project area where pilings would need to be placed, 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 canoe/kayak launch be placed a minimum of 10 feet apart. As a result, while the exact number of pilings has not been finalized it is expected that roughly a dozen, as a maximum, could be needed given the anticipated maximum dock length and spacing.

The first step in the construction of the dock will be to stake out the project area including locations for the placement of the pilings. Following this staking, the pilings would be placed to the design depth. Once the piles, beams and cross bracing are placed the decking is begun from the land and proceeds out over the water. In addition to hand tools, equipment is expected to include a small construction barge, pile-driver, and tractor trailer for transporting construction materials and equipment.

In addition, BMPs for erosion control would be implemented and maintained at all times during construction to prevent siltation and turbid discharges into surface waters from land-based activity. Methods for land-based portions of the project construction would 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 all landward work areas to prevent the displacement of fill material into the St. Marks River. 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.

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 in a previously disturbed area (from the former ramp). 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. In addition, the range of sea turtles suggests they would not 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 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 12 miles away at Bald Point State Park as shown in Figure 3 (FWC, 2013). Additionally, sea turtles are mobile and will likely avoid the limited project area associated with the dock construction during periods of in-water work as a result of noise and 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. These conditions specify the following:

a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles

and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.

b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.

c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.

d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.

e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.

f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.

As a result, of the consideration of the possible presence of sea turtles along with the limited scope of in-water work and adherence to relevant construction guidelines, 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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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.

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Figures

Figure 1. A detailed view of the project area (star indicates approximate location for proposed new boarding dock).

Figure 2. A view of the project location and surrounding area.

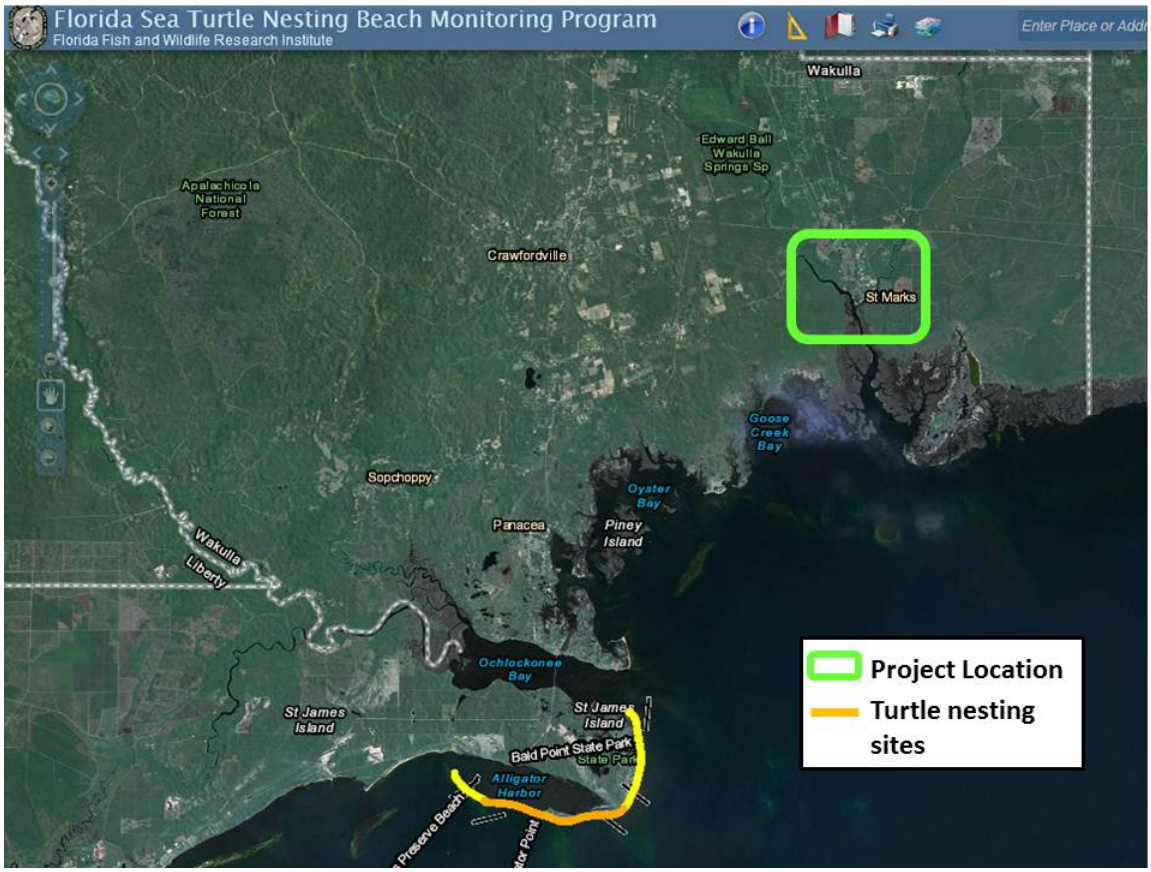

Figure 3. Potential nesting locations for sea turtles.