United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard
Atlanta, Georgia 30345

JAN 22 2014

In Reply Refer To:
FWS/R4/DH NRDAR

Memorandum

To: Field Supervisor, Panama City Ecological Services Office

From: Deputy Deepwater Horizon, Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR), Case Manager Debora L McCl

Subject: Informal Consultation Request for the Proposed Gulf Islands National Seashore Ferry Project, Florida

As you are no doubt aware, on or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced an explosion, leading to a fire and its subsequent sinking in the Gulf of Mexico (the Gulf). These events resulted in the discharge of millions of barrels of oil into the Gulf over a period of 87 days. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil. These events are hereafter collectively referred to as the Oil Spill.

The Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (the Service) and other Bureaus, is a designated natural resource trustee agency 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. DOI is only one of several Trustees, so authorized. Consistent with their federal and state authorities, the Trustees are investigating the resource injuries and losses that occurred as a result of the Oil Spill and have initiated restoration planning to identify the actions that will be needed or appropriate to restore injured resources and to make the public whole for the injuries and losses that occurred. This process is known as a Natural Resource Damage Assessment (NRDA).

On April 20, 2011, DOI, the National Oceanic and Atmospheric Administration and the Trustees for the five Gulf states affected by the Oil Spill entered into an agreement with BP, a responsible party for the Oil Spill, under which BP agreed to provide $1 billion for early restoration projects in the Gulf to begin to address injuries to natural resources caused by the Oil Spill. The subject project is being evaluated by the Trustees as a potential early restoration project. The early restoration project has been proposed in a draft early restoration plan that was released for public comment and review on December 6, 2013. If the Trustees select the project after consideration of public comment and a stipulated agreement is reached with BP, the early restoration project will be implemented by DOI. DOI will be the lead Trustee for the project, if it is selected and implemented.

The above facts lead us to the conclusion that consultation under Section 7 of the Endangered

Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), is required for the proposed early restoration project and we wish to engage in such consultation. Accordingly, we have reviewed the proposed Gulf Islands National Seashore Ferry Project, Florida, for potential impacts to listed, proposed, and candidate species and critical habitats in accordance with section 7 of the ESA and for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) of 1940 (16 U.S.C. 668-668c) and the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703–712), respectively. National Marine Fisheries Service (NMFS) has reviewed this project previously for species where ESA regulatory authority is shared (i.e., sea turtles and Gulf sturgeon) and in regards to the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

We determined the proposed project may affect, but is not likely to adversely affect, the West Indian manatee and Gulf sturgeon. We have also determined no destruction or adverse modification of Gulf sturgeon critical habitat will occur. We have provided our analysis in the attached Biological Evaluation. We request your review of and concurrence with the attached intra-Service Section 7 Biological Evaluation form describing the proposed project, potential effects, conservation measures and justifications for our determinations. If you have questions or concerns regarding this request for consultation, please contact Holly Herod, Fish and Wildlife Biologist, at 404-679-7089 or holly_herod@fws.gov.

Attachments
Biological Evaluation Form
Prior Consultation 41410-2010-I-0183

SOUTHEAST REGION
INTRA-SERVICE SECTION 7
BIOLOGICAL EVALUATION FORM

Originating Person: Holly Herod, Mark VanMouwerik
Telephone Number: 404 679-7089, 970-225-3507
E-Mail: holly_herod@fws.gov, mark_vanmouwerik@nps.gov
Date: September 4, 2013

PROJECT NAME (Grant Title/Number): Gulf Islands National Seashore Ferry Project

I. Service Program:

_X_ NRDAR
___ Ecological Services
___ Federal Aid
- **___ Clean Vessel Act**
- **___ Coastal Wetlands**
- **___ Endangered Species Section 6**
- **___ Partners for Fish and Wildlife**
- **___ Sport Fish Restoration**
- **___ Wildlife Restoration**

___ Fisheries
___ Migratory Birds
___ Refuges/Wildlife

II. State/Agency: Florida/National Park Service Gulf Islands National Seashore

III. Station Name: DOI Deepwater Horizon Case Management Team, USFWS Southeast Regional Office, Atlanta, Georgia 30345

IV. Location (attach map):

A. Ecoregion Number and Name: Ecoregion Number 30 – Northeast Gulf Watersheds

B. County and State: Escambia County, Florida

C. Section, township, and range (or latitude and longitude):

Plaza De Luna Pier: 30°24'19.28"N, 87°12'43.90"W
Fort Pickens Pier: 30°19'51.38"N, 87°17'34.58"W
Quietwater Beach: 30°20'9.94"N, 87°8'27.42"W

D. Distance (miles) and direction to nearest town:

Plaza De Luna pier will be located in Pensacola, Florida
Fort Pickens pier is located nine miles west of Pensacola Beach, Florida
Quietwater Beach pier will be located in Pensacola Beach, Florida

V. Description of Proposed Action and Habitats in the Project Area (attach additional pages as needed):

The need for an alternative means to access the Fort Pickens area of Gulf Islands National Seashore, Florida (Park) was made especially apparent when hurricanes and storms in 2004 and 2005 destroyed large segments of the only road going to it and eliminated vehicle access through this eight-mile-long area. For five years the only means of visitor access to this area was by foot, bicycle, private boat, or limited Commercial Use Authorization permit holders. This severely restricted access to the Park for everyone, especially those with disabilities, the elderly, and the very young.

The National Park Service (NPS) conducted an Environmental Assessment (EA) for the operation of ferry service and the construction of a pier at Fort Pickens, which resulted in an approved Finding of No Significant Impact (FONSI) on October 31, 2011. As part of the EA, the NPS completed section 7 consultation pursuant to the Endangered Species Act with the U.S. Fish and Wildlife Service (FWS) on April 1, 2010. FWS concurred with the NPS determination that pier construction and operation of a ferry service was not likely to adversely affect listed species or critical habitats (see attached 41410-2010-I-0183). Although the new pier was constructed at Ft. Pickens in April, 2013, the ferry service itself has not been established yet, nor have the ferries been purchased.

Recently, the NPS proposed purchasing up to three ferries as a potential *Deepwater Horizon* early restoration project. The ferries will be used to transport visitors (no automobiles) between the City of Pensacola, Pensacola Beach, and the Fort Pickens area of Gulf Islands National Seashore in Florida (Figure 1). Due to the NPS proposal to purchase the ferries, the resulting ferry service will require additional facilities to be constructed: two passenger queuing areas – one with a small ticketing facility; a floating dock, a landing, and a ramp between the two in one area; and an additional dock plus improvements to an existing dock in another area. These activities will *not* be funded with NPS early restoration project funds nor will they occur on NPS property. However, we consider them "interrelated and interdependent" under section 7 of the ESA and "connected actions" under NEPA because they would not be undertaken but for NPS' proposal to purchase the ferries with *Deepwater Horizon* early restoration funds. Because these actions just became known, they were not included in the original EA or original FWS consultation. Therefore, we are seeking to "supplement" or amend the original section 7 consultation to include these actions.

Regarding the actions that are connected to the purchase of the ferries, the new boat dock (with the ramp and landing) and queuing area would be immediately adjacent to the City of Pensacola Plaza de Luna facility (Figure 2). The ticketing facility, the second queuing area, and the other new dock and improvements to the existing dock would be at the Pensacola Beach Quietwater Beach facility (Figure 3).

The queuing and ticketing facilities would be simple, functional structures (e.g., small, ~10x10ft, shed-like) that could be permanent, but might also be temporary. The structures would be

located on already disturbed (e.g., concrete-, asphalt-, wood plank-, and/or landscape-covered)

areas or on the new docks.

The floating boat dock and ramp near Plaza de Luna would be located at either the north or west end of the existing berth area and would require that approximately 20 pilings be driven into the benthic substrate. The floating dock at Quietwater Beach would require approximately 16 pilings, would be attached to the existing public dock, and could be up to approximately 100 feet in length. Additionally, the existing dock at Quietwater Beach would likely be widened and given handrails. The floating docks and ramp would be constructed off-site and delivered to the sites by barge. The landing would also be constructed off-site and would be delivered to the area either by truck or barge. Both docks would be installed by barge. No dredging in either area would be needed. The ferries (up to three) will be moored at the City of Pensacola dock at night. No other changes to the original project description are anticipated.

The terrestrial habitat present at both Plaza de Luna and Quietwater Beach is highly urbanized with parking lots, restaurants, and shops. Some beach does exist at Quietwater Beach, but it is highly disturbed and does not lend itself to dune creation. The water adjacent to both locations is estuarine, and does not include coral or seagrass. The area already sees a great deal of boat traffic, commercial and private, with Plaza de Luna being adjacent to a large dock with private slips and Quietwater Beach being an area where jet-skis and other vessels may be rented.

VI. Description of the Action Area (attach additional pages as needed):

The Action Area includes Plaza De Luna and Harbor, Quietwater Beach (on- and off-shore), Fort Pickens, and the area of Pensacola Bay that lies within the triangle made by these three terrestrial locations. The operation of the ferry within Pensacola Bay and at the Fort Pickens pier was previously analyzed in the Environmental Assessment and as such, these portions of the action area have already undergone ESA Section 7 consultation. All previously agreed to conservation measures will be implemented. Although the ferry service was previously covered, we are seeking concurrence on the connected actions of the construction and operation of the two new piers at Plaza de Luna and Quietwater Beach.

Plaza De Luna is a 2-acre, highly developed urban park with parking lots, fountains, a waterfront promenade, and an auditorium (see Figure 2 appended to this form). It is not critical habitat and is highly disturbed.

Quietwater Beach at Pensacola Beach is a highly developed urban beachfront facing the bay and does not include dune habitat (see Figure 3 appended to this form). It is bounded on its western and southern extent by parking lots, shops, and activities such as miniature golf, go-carts, and water-based equipment rentals (e.g. wave-runners, kayaks, and parasailing). It is not critical habitat and is highly disturbed.

VII. Species and Habitat:

A. This species list was derived from the U.S. Fish and Wildlife, Panama City office website: http://www.fws.gov/panamacity/specieslist.html which provides a county-

based list of federal threatened, endangered, and other species of concern likely to occur in the Florida Panhandle:

Species/Critical Habitat	STATUS[1]	Habitat Description	Habitat Present
Fish			
Acipenser oxyrhinchus desotoi (Gulf sturgeon)	T; CH	RIVERINE: spawning over bedrock, cobble, clean gravel, marl, soapstone, or hard clay substrates ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Yes
Gulf sturgeon critical habitat	Designated	Estuarine/Marine	PCEs -Yes**
Amphibians and Reptiles			
Caretta caretta (loggerhead turtle)	T	TERRESTRIAL: sandy beaches; Nesting ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Terrestrial – No; Estuarine/Marine – Yes
Chelonia mydas (green sea turtle)	E	TERRESTRIAL: sandy beaches; Nesting ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Terrestrial – No; Estuarine/Marine – Yes
Dermochelys coriacea (leatherback turtle)	E	TERRESTRIAL: sandy beaches; Nesting ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Terrestrial – No; Estuarine/Marine – Yes
Drymarchon corais couperi (Eastern indigo snake)	T	ESTUARINE: tidal swamp PALUSTRINE: hydric hammock, wet flatwoods TERRESTRIAL: mesic flatwoods, upland pine forest, sandhills, scrub, scrubby flatwoods, rockland hammock, rudera	No
Eretmochelys imbricata (hawksbill sea turtle)	E	TERRESTRIAL: sandy beaches; Nesting ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Terrestrial – No; Estuarine/Marine – Yes
Lepidochelys kempii (Kemp's ridley Sea Turtle)	E	TERRESTRIAL: sandy beaches; Nesting ESTUARINE/MARINE: unvegetated sandy shorelines, shallow shoals, and other areas containing mostly sand	Terrestrial – No; Estuarine/Marine – Yes
Ambystoma bishopi (reticulated flatwoods salamander)	E	PALUSTRINE: wet flatwoods, dome swamp, basin swamp, TERRESTRIAL: mesic flatwoods (reproduces in ephemeral wetlands	No

Species/Critical Habitat	STATUS[1]	Habitat Description	Habitat Present
		within this community)	
Birds			
Picoides borealis (red-cockaded woodpecker)	E	TERRESTRIAL: mature pine forests	No
Charadrius melodus (piping plover)	T	ESTUARINE: exposed unconsolidated substrate MARINE: exposed unconsolidated substrate TERRESTRIAL: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants.	No
Mycteria Americana (wood stork)	E	ESTUARINE: marshes LACUSTRINE: floodplain lakes, marshes (feeding), various PALUSTRINE: marshes, swamps, various	No
Calidris canutus rufa (red knot)	P	ESTUARINE: exposed unconsolidated substrate MARINE: exposed unconsolidated substrate TERRESTRIAL: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants.	No
Mammals			
Peromyscus polionotus trissyllepsis (Perdido Key beach mouse)	E	TERRESTRIAL: beach dune, coastal scrub. Sites: Perdido Key State Rec. Area (CH), Gulf Islands National Seashore (CH).	No
Trichechus manatus (West Indian Manatee)	E	ESTUARINE: submerged vegetation, open water MARINE: open water, submerged vegetation RIVERINE: alluvial stream, blackwater stream, spring-run stream	Yes
Clams			
Villosa choctawensis (Choctaw bean)	E	RIVERINE: Small to large creeks and rivers with moderate current over sand to silty-sand substrates. Endemic to the Escambia, Yellow, and Choctawhatchee River drainages of Alabama and Florida.	No
Pleurobema strodeaneem (fuzzy pigtoe)	T	RIVERINE: small to medium-sized creeks and rivers with slow to moderate currents in sand and sand with some silt. Endemic to the Escambia, Yellow, and Choctawhatchee River drainages of Alabama and Florida.	No
Fusconaia rotulata (round ebonyshell)	E	RIVERINE: Endemic and restricted	No

Species/Critical Habitat	STATUS[1]	Habitat Description	Habitat Present
		to the main channel of the Conecuh River AL, and Escambia River, FL	
Fusconaia Escambia (narrow pigtoe)	T	RIVERINE: small to medium-sized creeks and rivers with slow to moderate current over gravel, and gravel mixed with sand or some silt. Endemic to the Escambia and Yellow River drainages of Alabama and Florida	No

[1]STATUS: E=endangered, T=threatened, PE=proposed endangered, PT=proposed threatened, CH=critical habitat, PCH=proposed critical habitat, C=candidate species

** PCE's for Gulf sturgeon: 1) Abundant food items, such as detritus, aquatic insects, worms, and/or mollusks, within riverine habitats for larval and juvenile life stages; and abundant prey items, such as amphipods, lancelets, polychaetes, gastropods, ghost shrimp, isopods, mollusks and/or crustaceans, within estuarine and marine habitats and substrates for subadult and adult life stages; 2) Riverine spawning sites with substrates suitable for egg deposition and development, such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone, or hard clay; 3) Riverine aggregation areas, also referred to as resting, holding, and staging areas, used by adult, subadult, and/or juveniles, generally, but not always, located in holes below normal riverbed depths, believed necessary for minimizing energy expenditures during freshwater residency and possibly for osmoregulatory functions; 4) A flow regime (*i.e.*, the magnitude, frequency, duration, seasonality, and rate-of-change of freshwater discharge over time) necessary for normal behavior, growth, and survival of all life stages in the riverine environment, including migration, breeding site selection, courtship, egg fertilization, resting, and staging, and for maintaining spawning sites in suitable condition for egg attachment, egg sheltering, resting, and larval staging; 5) Water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; 6) Sediment quality, including texture and other chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; and 7) Safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (*e.g.*, an unobstructed river or a dammed river that still allows for passage).

B. Include species/habitat occurrence map: *(see attached maps of the areas)*

VIII. Determination of Effects:

A. Explanation of effects of the action on species and critical habitats in item VII (attach additional pages as needed):

Discuss the effects of the action on each listed, proposed, or candidate species and critical habitat in the table above. Describe what, when, and how the species/critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, and cumulative impacts. Where possible, quantify effects - acres of habitat, miles of habitat, number of individuals, etc. If species or critical habitats are present (or potentially present) and will not be adversely affected describe your rationale.

If the species(or critical habitat) is unlikely to be present in the general area or action area, explain why. This justification provide documentation for your administrative record, avoids the need for additional correspondence regarding the species and helps expedite review.

SPECIES/CRITICAL HABIAT	SPECIES/CRITICAL HABITAT IMPACTS
Gulf Sturgeon Gulf Sturgeon Critical Habitat	Gulf sturgeon is a highly mobile species that utilizes riverine, estuarine, and marine habitats throughout its lifecycle, The effect the operation of the ferries in Pensacola Bay could have on Gulf sturgeon was addressed during the Environmental Assessment for the Fort Pickens Pier and Ferry Service (discussed above) and the Service concurred with an NLAA; nothing has changed with the proposed operation of the ferries and all previously agreed upon conservation measures will be implemented. Gulf sturgeon could be in the vicinity while the piers at Plaza De Luna and Quietwater Beach are under construction. Turbidity of the water may increase during construction and the noise from the machinery may affect species within the area. If transiting the area, Gulf sturgeon could be startled by in-water construction or have difficulty navigating due to turbidity. We expect Gulf sturgeon to naturally avoid any areas of increased turbidity as they are not known to use turbid habitats. We do not expect this avoidance of the area to result in changes to normal behaviors. Upon completion, the new piers should have no additional effects on Gulf sturgeon (i.e., pilings will not block migratory pathways or interfere with feeding). Conservation measures should reduce the potential risks to Gulf sturgeon from in-water construction and operation to an insignificant and discountable level. The applicable PCE's for Gulf sturgeon in estuarine environments (like that of the project area) include: 1) abundant food items, 4) appropriate flow regimes, 5) appropriate water quality, 6) appropriate sediment quality, and 7) safe and unobstructed migratory pathways. No long-term impacts to Gulf sturgeon's critical habitat or PCE's are expected because of this project. There may be a temporary increase in turbidity, as well as changes in food abundance and water quality during construction. However, these changes will be temporary and extremely localized and will not affect the remainder of the critical habitat unit that includes Pensacola Bay. Conservation measures will be implemented to further minimize impacts to Gulf sturgeon critical habitat during construction and no adverse modification or destruction will occur.
Loggerhead, hawksbill, green, Kemp's Ridley, and leatherback sea turtles Proposed Loggerhead Critical Habitat	Sea turtles nest on seaward-facing beaches. No such habitat exists within the action area. Therefore the proposed project will not affect these species while in terrestrial habitats. Impacts to turtles and critical habitat in-water will be reviewed and consulted on by National Marine Fisheries Service and are not considered in this consultation. No sea turtle critical habitat is proposed or designated within the action area.
Eastern indigo snake	Eastern indigo snakes are located within pine flatwoods, hardwood forests, moist hammocks, and areas surrounding cypress swamps. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.
reticulated flatwoods salamander	Reticulated flatwoods salamanders inhabit longleaf pine flatwoods and slash pine flatwoods that contain wetland areas. Breeding occurs within the wetland areas of the forest and eggs are then laid within the leaf litter and pine needles. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.
red-cockaded woodpecker	Red-Cockaded Woodpeckers inhabit pine forests and nest in self-made cavities in the trunks of live pine trees. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.

SPECIES/CRITICAL	SPECIES/CRITICAL HABITAT IMPACTS
piping plover	Piping Plovers are primarily found in geologically dynamic coastal areas that support intertidal beaches and flats, and associated dune systems and flats above annual high tide. Although at least one amateur birder reported sighting of Piping Plover within two miles of Plaza De Luna and Quietwater Beach and at least one amateur birder sighted piping plovers within two miles of this site (source: eBird), there is no habitat present at Plaza de Luna and potential habitat at Quitewater Beach is very disturbed. It is extremely unlikely that a Piping Plover would be present at either site due to existing disturbance; therefore the proposed project will not affect this species. No critical habitat for this species is within the action area.
wood stork	Wood Storks are wading birds that build their nests in trees located in water. They inhabit hardwood swamps, cypress domes/strands, mangroves, and sloughs. Nesting occurs during the fall, winter, and spring months. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.
red knot	Red knots are primarily found in geologically dynamic coastal areas that support intertidal beaches and flats, and associated dune systems and flats above annual high tide. This type of habitat does not occur at Plaza De Luna and as such, this species is does not utilize the area. There is some beach at Quietwater Beach, however it is very disturbed and urbanized. No sightings of red knot have been recorded within two miles of either site (source: eBird) and it is extremely unlikely the species would be present at either site. Therefore, the proposed project will not affect this species.
Perdido Key beach mouse	Perdido Key beach mice exclusively inhabit the sand dunes along Perdido Key. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species. No critical habitat for this species is within the action area.
West Indian manatee	West Indian manatees inhabit fresh, brackish, and marine environments in water 5-20 feet deep throughout their range. The effect the operation of the ferries in Pensacola Bay could have on manatees was addressed during the Environmental Assessment for the Fort Pickens Pier and Ferry Service (discussed above) and the Service concurred with an NLAA; nothing has changed with the proposed operation of the ferries and all previously agreed upon conservation measures will be implemented. The new piers, once completed, should have no effect on manatees. No seagrass beds occur in the vicinity of the new pier locations. Manatees could be in the vicinity while the piers at Plaza De Luna and Quietwater Beach are under construction. Turbidity of the water may increase during construction and the noise from the machinery may affect species within the area. If transiting the area, manatees could be startled by in-water construction or have difficulty navigating due to turbidity. We expect West Indian manatee to naturally avoid any areas of increased turbidity as they are not known to use turbid habitats. We do not expect this avoidance of the Action area to result in changes to normal behaviors. Conservation measures should reduce the potential risks to manatees from in-water construction and operation to an insignificant and discountable level.
Villosa choctawensis (Choctaw bean)	Choctaw Beans inhabit freshwater rivers and are endemic to the Choctawhatchee River drainage. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.
Pleurobema strodeaneem (fuzzy pigtoe)	Fuzzy Pigtoes inhabit freshwater rivers and are endemic to the Escambia, Yellow, and Choctawhatchee River drainages. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.
Fusconaia rotulata (round ebonyshell)	Round Ebonyshells inhabit freshwater rivers and are endemic to the Escambia River drainage. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.

SPECIES/CRITICAL	SPECIES/CRITICAL HABITAT IMPACTS
Fusconaia Escambia (narrow pigtoe)	Narrow Pigtoes inhabit freshwater rivers and are endemic to the Escambia and Yellow river drainages. Neither this species nor habitat type occurs within or adjacent to the action area. Therefore, the proposed project will not affect this species.

B. Explanation of actions (Conservation Measures) to be implemented to reduce adverse effects:

For each species or critical habitat above for which impacts were identified, describe any conservation measures that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.

Review the recovery plan for project modification ideas to minimize impacts. Although section 7 of Act prohibits only those actions by Federal agencies which are likely to jeopardize listed species or adversely modify critical habitat, the Service has a commitment to recovering listed species and trying to prevent the need to list additional species.

SPECIES	CONSERVATION MEASURES TO MINIMIZE IMPACTS
Gulf Sturgeon and West Indian Manatee	NPS will develop a Memorandum of Agreement with local government officials (responsible for construction of related piers) that requires construction of new piers and Ferry Operation to be consistent with the previous consultation, the avoidance and minimization measures from this consultation as outlined below or recommended from the Field Office, and any measures as developed through public comment on the Draft Programmatic Early Restoration Plan and Environmental Impact Statement and a Draft Phase III Early Restoration Plan and associated environmental reviews. Because of these measures potential effects to both Gulf sturgeon and manatee will be avoided or minimized to an insignificant or discountable level. No adverse modification of critical habitat will occur.
Gulf sturgeon and Gulf sturgeon critical habitat	• Instruct all personnel associated with the construction and operational phases of the project in the potential presence of Gulf sturgeon and the need to avoid collisions with them. Furthermore, inform the construction site personnel and personnel associated with operating the ferry of the civil and criminal penalties for harming, harassing, or killing species that are protected. • Keep construction noise low (in air and in water) to the greatest extent possible. • Construct piers from floating barges using floating turbidity barriers made of materials that would not allow Gulf sturgeon to become entangled. Barriers would be properly secured and would be monitored regularly so that no animals are entangled or trapped. • Care shall be taken in lowering equipment or material below the water surface and into the sediment. These precautions will be taken to ensure no harm occurs to any sturgeon which may have entered the construction area undetected.

SPECIES	CONSERVATION MEASURES TO MINIMIZE IMPACTS
	• Maintain spill response kits on board during construction. • In the unlikely event that a protected Gulf sturgeon approaches (within 100 yards) any near-shore, littoral areas of the proposed project, work would immediately cease until the sturgeon moves away from the area on its own volition. • 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.
West Indian manatee	• Below represent agreed upon conservation measures as approved in the 2010 consultation and are from the in-water work. If the 2010 and April 2013 in-water manatee construction guidelines differ, the more recent will be followed: o All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act. o All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible. o Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement. o All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shut down if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving. o Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida.

SPECIES	CONSERVATION MEASURES TO MINIMIZE IMPACTS
	o Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 81/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

IX. Effect Determination and Response Requested:

[1]DETERMINATION/ RESPONSE REQUESTED:

From the information provided in each of the tables above, there should be enough detailed information, when combined together provide clear and obvious support for your determinations in the table below. If the rationale for the determination is not clear, additional information must be added to one of the tables.

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat. Response Requested is optional but "Concurrence" is recommended for a complete Administrative Record.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response Requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact (and should never reach the scale where take occurs), while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Ecological Services Office concurs in writing with the Project Leader's determination of "is not likely to adversely affect" listed species or critical habitat, the intra-Service section 7 consultation process is completed.

MAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response Requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed Service action or its interrelated or interdependent actions, and the effect is not discountable or insignificant (see definition of "is not likely to adversely affect". In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed Service action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required. If you reach this conclusion, intra-Service conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed Service action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

Species	Species Impacts					Response Requested*
	NE	NLAA	MAA	JP	JC	
Acipenser oxyrhinchus desotoi (Gulf sturgeon)		X				Concurrence
Gulf Sturgeon critical habitat	No destruction or adverse modification					Concurrence
Caretta caretta (loggerhead turtle)	X					Concurrence – Terrestrial habitats only
Chelonia mydas (green sea turtle)	X					Concurrence – Terrestrial habitats only
Dermochelys coriacea (leatherback turtle)	X					Concurrence – Terrestrial habitats only
Drymarchon corais couperi (Eastern indigo snake)	X					Concurrence
Eretmochelys imbricata (hawksbill sea turtle)	X					Concurrence – Terrestrial habitats only
Lepidochelys kempii (Kemp's ridley sea turtle)	X					Concurrence – Terrestrial habitats only
Ambystoma bishopi (reticulated flatwoods salamander)	X					Concurrence
Picoides borealis (Red-Cockaded Woodpecker)	X					Concurrence
Charadrius melodus (Piping Plover)	X					Concurrence
Mycteria Americana (Wood Stork)	X					Concurrence
Calidris canutus rufa (Red Knot)	X					Conference
Peromyscus polionotus trissyllepsis (Perdido Key beach mouse)	X					Concurrence
Trichechus manatus (West Indian manatee)		X				Concurrence
Villosa choctawensis (Choctaw bean)	X					Concurrence
Pleurobema strodeaneem (fuzzy pigtoe)	X					Concurrence
Fusconaia rotulata (round ebonyshell)	X					Concurrence
Fusconaia Escambia (narrow pigtoe)	X					Concurrence

*Concurrence, Formal Consultation, Formal Conference

X. Bald Eagles

Are bald eagles present in the action area? __X__ No ____ Yes

If "Yes", can you implement the conservation measures below? ____Yes ____ No

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (walking, camping, cleanup, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (like driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If not, contact the Service's Migratory Bird Permit Office to determine how to avoid impacts or if a permit may be needed.

XI. Migratory Birds

A. Identify the species anticipated in the action area and behaviors (breeding, roosting, foraging) anticipated during project implementation.

SPECIES*	BEHAVIOR	SPECIES/HABITAT IMPACTS
Wading birds (herons, egrets, ibises, wood stork, American flamingo)	Foraging, feeding, resting, roosting, nesting	Wading birds primarily forage and feed at the water's edge. As such, they may be impacted locally and temporarily by the project. It is expected that they would be able to move to another nearby location to continue foraging, feeding and resting. These birds primarily nest and roost in trees or shrubs (e.g. pines, *Bacchurus* and mangroves), which occur outside the action area.
Shorebirds (plovers, oystercatchers, stilts, sandpipers)	Foraging, feeding, resting, roosting, nesting	Shorebirds forage, feed, rest, and roost in the action area. As such, they may be impacted locally and temporarily by the project. It is expected that they would be able to move to another nearby location to continue foraging, feeding and resting. These birds primarily nest and roost in dunes. There is no dune habitat in the action area.
Seabirds (terns, gulls, skimmers, double-crested cormorant, American white pelican, brown pelican)	Foraging, feeding, resting, roosting, nesting	Seabirds forage, feed, rest, and roost in the action area. As such, they may be impacted locally and temporarily by the project. It is expected that they would be able to move to another nearby location to continue foraging, feeding and resting. These birds primarily roost in dunes. There is no dune habitat in the action area.
Raptors (osprey, hawks, eagles, owls)	Foraging, feeding, resting, roosting,	Raptors forage, feed, and rest in the action area. As such, they may be impacted locally and temporarily by the project. It is

SPECIES*	BEHAVIOR	SPECIES/HABITAT IMPACTS
	nesting	expected that they would be able to move to another nearby location to continue foraging, feeding and resting. Most raptors are aerial foragers and soar long distances in search of food. Raptors primarily roost and nest in large, mature trees and standing snags, which are not found in the action area.
Goatsuckers (nighthawks, whip-poor-will, Chuck-will's widow)	Foraging, feeding, resting, roosting, nesting	Goatsuckers forage, feed, rest, and roost in the action area. However, they are nocturnal/crepuscular and therefore not active during the project work period. They nest in thickets and woodlands, which are not found in the action area.
Waterfowl (geese, swans, ducks, loons, and grebes)	Foraging, feeding, resting, roosting, nesting	Waterfowl may forage, feed, rest, and roost in the action area. As such, they may be impacted locally and temporarily by the project. It is expected that they would be able to move to another nearby location to continue foraging, feeding, roosting, or resting. Nesting is unlikely.
Doves and pigeons	Foraging, feeding, resting, roosting	Doves and pigeons could forage, feed, rest, and roost in the action area. As such, they may be impacted locally and temporarily by the project. It is expected that they would be able to move to another nearby location to continue foraging, feeding, roosting, and resting. Nesting is unlikely.
Passerines	Foraging, feeding, resting, roosting, nesting	Passerines forage, feed, rest, and roost in the action area. As such, they may be impacted locally and temporarily by the project. However it is expected that they would be able to move to another nearby location to continue foraging, feeding, roosting, and resting if disturbed by the project. Nesting is unlikely.

B. If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
Wading birds (herons, egrets, ibises, wood stork, American flamingo)	All construction-related disturbance will be localized and temporary. The general behavior of these birds is to mediate their own exposure to human activity when given the opportunity. Birds that roost and nest in this area are already acclimated to the urban interface; therefore, any increase in foot traffic or other during-project activities as a result of this project is not expected to negatively impact them.
Shorebirds (plovers, oystercatchers, stilts, sandpipers)	All construction-related disturbance will be localized and temporary. The general behavior of these birds is to mediate their own exposure to human activity when given the opportunity. Roosting should not be impacted because the project will occur during daylight hours only. Nesting will not be impacted because these birds do not nest in the action areas.
Seabirds (terns, gulls, skimmers, double-crested cormorant, American white pelican, brown pelican)	All construction-related disturbance will be localized and temporary. The general behavior of these birds is to mediate their own exposure to human activity when given the opportunity. Roosting should not be impacted because the project will occur during daylight hours only. Nesting will not be impacted because these birds do not nest in the action areas.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
Raptors (osprey, hawks, eagles, owls)	All construction-related disturbance will be localized and temporary. The general behavior of these birds is to mediate their own exposure to human activity when given the opportunity. Roosting should not be impacted because the project will occur during daylight hours only. Nesting will not be impacted because these birds do not nest in the action areas.
Goatsuckers (nighthawks, whip-poor-will, Chuck-will's widow)	All work will be done during daylight hours. These birds are nocturnal/crepuscular and as such, should not be foraging or feeding while work occurs. Birds that roost and nest in this area are already acclimated to the urban interface; therefore, any increase in foot traffic as a result of this project is not expected to negatively impact them.
Waterfowl (geese, swans, ducks, loons, and grebes)	All construction-related disturbance will be localized and temporary. The general behavior of these birds is to mediate their own exposure to human activity when given the opportunity. Roosting should not be impacted because the project will occur during daylight hours only. Birds that roost and nest in this area are already acclimated to the urban interface; therefore, any increase in foot traffic as a result of this project is not expected to negatively impact them.
Doves and pigeons	All construction-related disturbance will be localized and temporary. Birds that roost and nest in this area are already acclimated to the urban interface; therefore, any increase in foot traffic as a result of this project is not expected to impact them.
Passerines	All construction-related disturbance will be localized and temporary. Birds that roost and nest in this area are already acclimated to the urban interface; therefore, any increase in foot traffic as a result of this project is not expected to negatively impact them.

XII. Signatures from the station preparing the Intra-Service Biological Evaluation:

/s/ Holly N. Blalock-Herod January 16, 2014
Signature (originating station - preparer) **date**

DOI Case Management Team, ESA Coordinator
Title

Deborah L. McCl 1/22/14
Signature (originating station) **date**
Deputy Case Manager

This analysis resulted in a determination that no "take" of a federally listed species would occur. If any of the following occur, then there must be reinitiation on this action:

(1) any unforeseen circumstances arise or incidental take occurs

(2) new information reveals effects of the Service's action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion;

(3) the Service's action is later modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or

(4) a new species is listed or critical habitat designated that may be affected by the action.

In instances where any incidental take occurs, the operations causing such take must cease until reinitiation.

If reinitiation is required, contact the (*insert the ES field office*) **about the action.**
Panama City Ecological Services Office
U.S. Fish and Wildlife Service
1601 Balboa Avenue
Panama City, FL 32405
Tel: 850-769-0552

XIII. Reviewing Ecological Services Office Evaluation:

A. Concurrence _____ Nonconcurrence _____

B. Formal consultation required _____

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed):

_____ _____
Signature **date**

_____ _____
Field Supervisor **office**

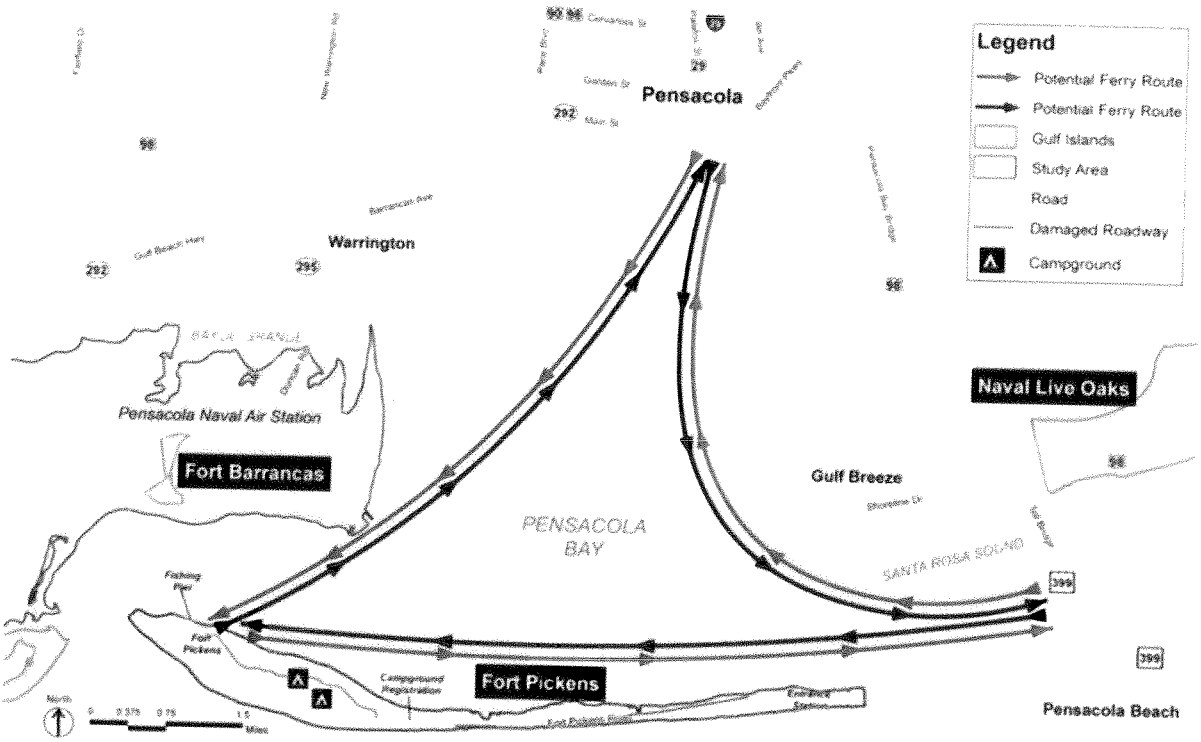

Figure 1: Approximate ferry service route.

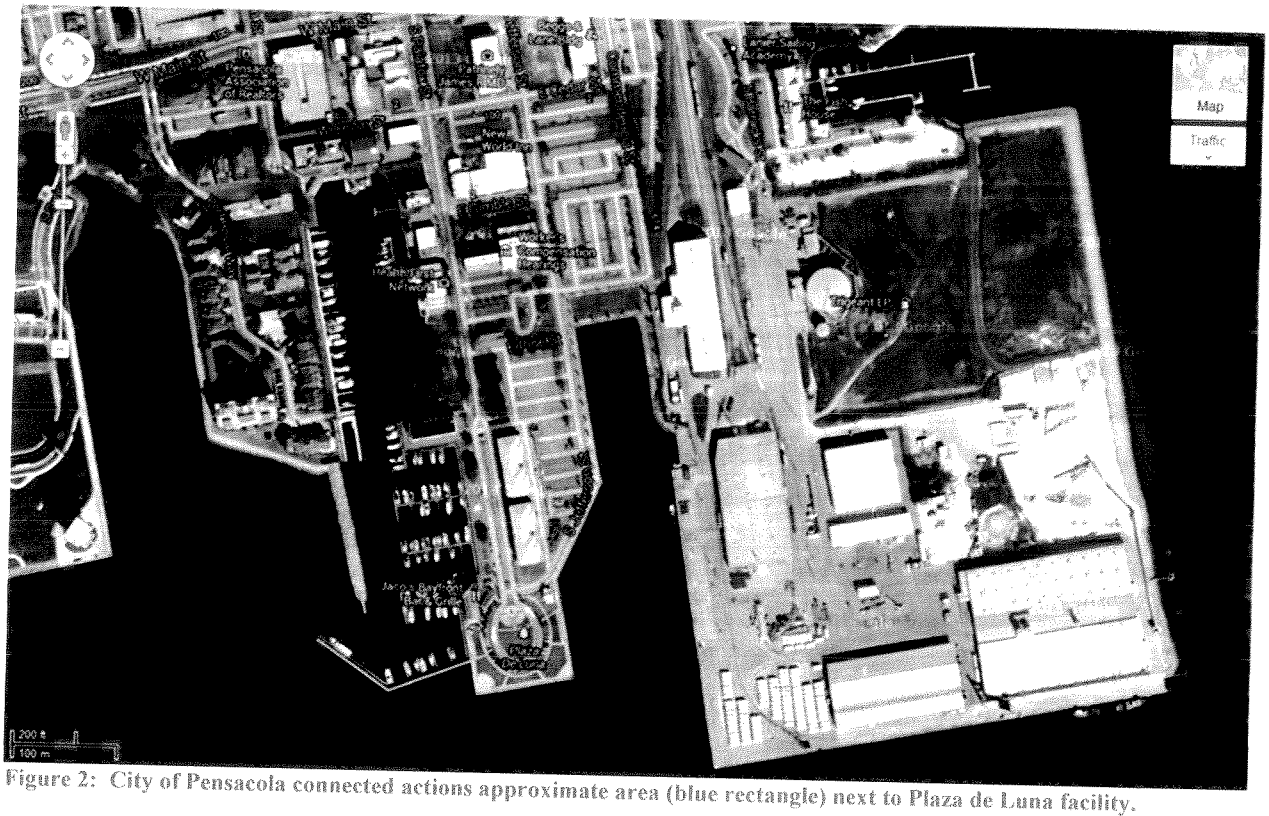

Figure 2: City of Pensacola connected actions approximate area (blue rectangle) next to Plaza de Luna facility.

Figure 3: Pensacola Beach connected actions approximate area (blue rectangle) of Quietwater Beach facilities.

8. DETERMINATION OF EFFECT

The implementation of the Endangered Species Act often requires an evaluation of the effects of human activity on listed species and their habitats. The potential for hindering the attainment of a properly functioning environment for protected species is an example of one of questions posed by the dichotomous key for making a determination of effect. Potential impediments to a properly functioning environment may include physical barriers, and impacts to water quality, species disturbance, and habitat, for example. The following questions were reviewed and addressed as part of the decision-making process to make the determination of effect:

Are there any proposed/listed species and/or proposed or designated critical habitat in the project area or downstream from the project area?

Answer: Yes.

Does the proposed action have the potential to hinder attainment of relevant properly functioning indicators?

Answer: No.

Does the proposed action have the potential to result in "take" of proposed/listed species or destruction/adverse modification of proposed/designated critical habitat?

Answer: Yes, but not likely with mitigation (Section 7).

The information available for the project has been analyzed, and it has been concluded that the proposed action would have a negligible probability of take of listed species, which is summarized in Table 2. The rationale for each of these determinations is discussed in detail in Section 5.

Table 2 Listed Species/Critical Habitat and Determination of Effect

Listed Species/Critical Habitat	Determination of Effect
Florida manatee	Not likely to adversely effect
Atlantic green turtle	Not likely to adversely effect
Atlantic loggerhead sea turtle	Not likely to adversely effect
Kemp's Ridley sea turtle	Not likely to adversely effect
Leatherback sea turtle	Not likely to adversely effect
Hawksbill turtle	Not likely to adversely effect
American alligator	No effect
Gulf sturgeon	Not likely to adversely effect
Gulf sturgeon critical habitat	Not likely to adversely effect
Essential Fish Habitat	Not likely to adversely effect
Santa Rosa beach mouse	Not likely to adversely effect
Shorebirds	Not likely to adversely effect
Seagrass and seagrass habitat	Not likely to adversely effect

U.S. Fish and Wildlife Service
1601 Balboa Avenue
Panama City, Florida 32405
(850) 769-0552 Fax (850) 763-2177

FWS Log No. 41410-2010-1-0183

This project should have minimal impacts to fish and wildlife resources (16 USC 661 et seq.) and is not likely to adversely affect any species under the Endangered Species Act.

Gail A. Carmody, Project Leader

4-1-10
Date