United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard
Atlanta, Georgia 30345

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In Reply Refer To:
FWS/R4/DH NRDAR

JAN 13 2014

Memorandum

2014-I-0237

RECEIVED
1/23/14 HBA

To: Field Supervisor, Alabama Ecological Services Office

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

Subject: Informal Consultation and Conference Request for the Proposed Swift Track Living Shoreline, Baldwin County, Alabama

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, including the Department of Commerce through the National Oceanic and Atmospheric Administration, (NOAA), 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, NOAA, 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 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 NOAA. DOI, acting through the Service, will be a co-Trustee for the project, if it is selected and implemented.

The above facts lead us to the conclusion that consultation and conference 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 project and we wish to engage in such consultation. Accordingly, we have reviewed the proposed Swift Track Living Shoreline, Baldwin County, Alabama, for potential impacts to listed, candidate, and proposed species and designated and proposed critical habitats in accordance with section 7 of the ESA. We determined the proposed project may affect, but is not likely to adversely affect, West Indian manatee, Alabama red bellied turtle, piping plover, wood stork, and red knot (if listed) and have provided our analysis in the attached Biological Evaluation. We have also reviewed the proposed project 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. Consultation will also be initiated with National Marine Fisheries Service for species where ESA regulatory authority is shared and in regards to Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

We request your review of and concurrence/conference 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.

Attachment

SOUTHEAST REGION
INTRA-SERVICE SECTION 7
BIOLOGICAL EVALUATION FORM

Originating Person: Dan Van Nostrand; Holly Herod
Telephone Number: Dan Van Nostrand 251.544.5015; Holly Herod 404-679-7089
E-Mail: dan.van-nostrand@noaa.gov; holly_herod@fws.gov
Date: January 2, 2013

PROJECT NAME Swift Tract Living Shoreline

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
___ Refuges/Wildlife

II. State/Agency: NOAA/Alabama (DWH co-Trustees)

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: Self explanatory
4/Southeast -

B. County and State: Self explanatory
Baldwin County, AL

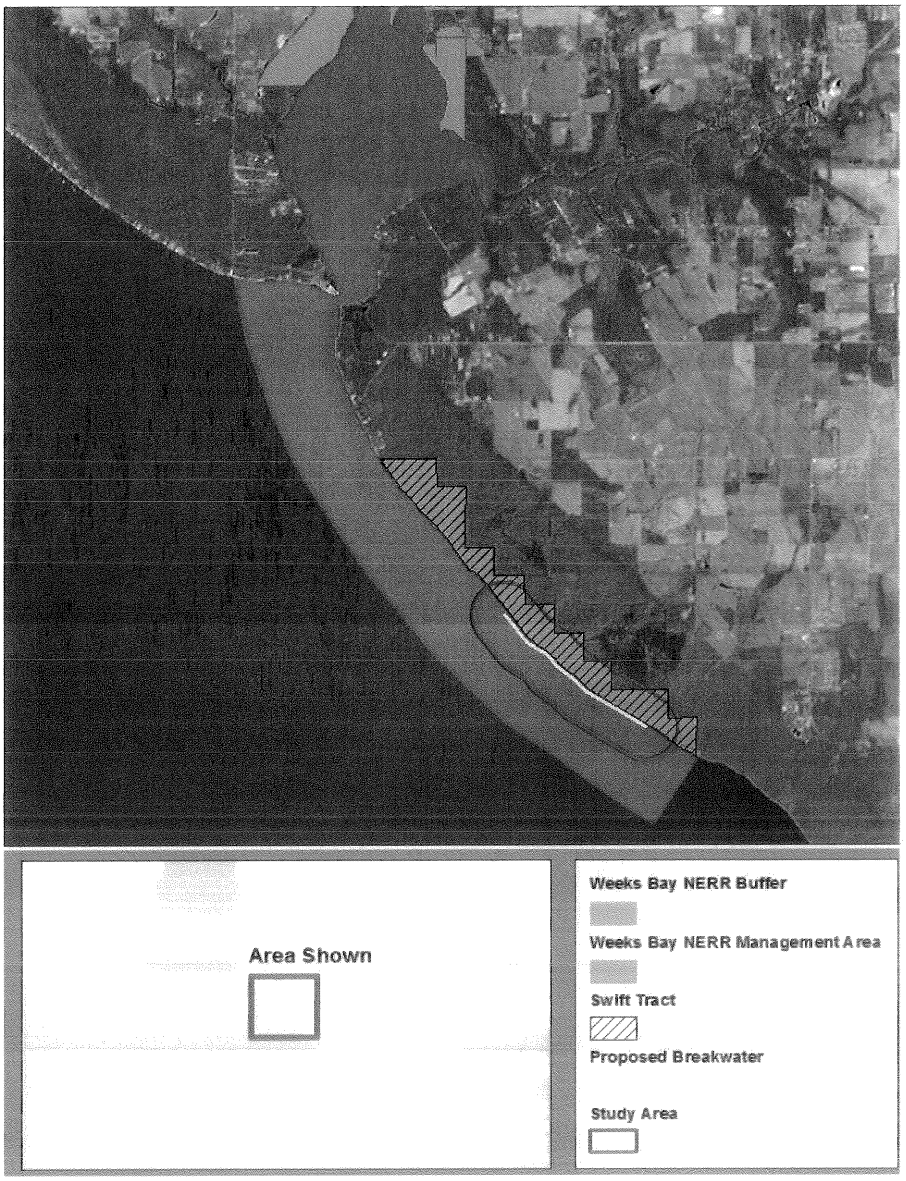
C. Section, township, and range (or latitude and longitude):
30.335832°N (latitude), -87.812745°W (longitude)

D. Distance (miles) and direction to nearest town: Self explanatory
Approximately 6 miles northwest of Gulf Shores, Alabama.

V. Description of Proposed Action (attach additional pages as needed):
The Swift Tract Living Shoreline project will employ living shoreline techniques which utilize natural and artificial breakwater material to stabilize eroding shorelines by dampening wave energy while also providing habitat that was once present in these regions. This project would consist of construction of a breakwater, to stabilize eroding shorelines, allow for sediment accretion and provide substrate for oyster and bivalve recruitment. Additionally, this project will

protect freshwater marsh and forested wetlands located just inland of the shoreline. The living shoreline project will be constructed on public property in the eastern portion of Bon Secour Bay, approximately 6 miles northwest of Gulf Shores in Baldwin County, Alabama (Figure 1, below).

Figure 1. General Project Location.



The breakwaters will be constructed along the identified marsh shoreline. To implement these goals, the project will include placement of approximately 1.6 miles of linear structures that may utilize artificial and/or shell-based materials aligned 100 feet from the existing shoreline in 70 foot segments with 25 foot gaps between breakwater segments. Contractors will be used to implement much of this project, including initial design, bathymetry, and directional wind and wave data collection, as well as construction. The specific breakwater elevation and technique

design will be selected to maximize shoreline protection and meet individual state regulatory requirements. Oyster shell will be used to create approximately 6 inch thick surface over riprap material. The action area includes a 1,500 foot buffer on the landward and seaward side of the shoreline factoring in an erosion rate of up to 10 feet/year for a 25 year project lifespan (red oval around yellow line in Figure 1).

The alignment and limits of the breakwaters will be surveyed with the outer limits of the breakwater being marked with poles driven into the bottom and extended approximately 3' above the water surface. Elevation controls along the alignment will be established. Prior to working in an area, existing bottom elevations along the alignment will be surveyed. Height of breakwaters along the alignment will be constructed based on bottom elevations and the submerged breakwater crest elevation (+0.59' above MLLW). Barriers, navigation warning signs (lighted and unlighted), etc. will be established along the work area to protect boaters. These will be maintained throughout the project until permanent markers are established.

This area has shallow water (1.0' – 2.0' depth, on average) and a soft bottom. It is anticipated that heavy equipment (i.e., mounted crane, backhoe, tracked backhoe) on a barge will be used to distribute material to the design cross-section. The material barge will be positioned seaward of the submerged breakwaters in sufficient depth of water, but within reach of the crane. The material barge will be loaded so as not to exceed the draft requirements in the work area.

Assuming that the breakwaters will have an initial settlement of 0.5', a work barge with heavy equipment will place loose rip rap design cross-section. The rip rap will be placed on material barge(s) delivered to the work area. Placement of the rip rap will be monitored to insure the breakwater dimensions, slopes and crest elevation is achieved.

After the rip rap core of the beakwaters has been confirmed to be complete, bags of shell will be placed over the rip rap core to provide the shell veneer. The bags of shell may be placed, by hand, from shallow draft boats. Bags of shell will be prepared on-shore in an off-site location, depending on the chosen source, and loaded onto material barges and delivered to the work area. The material barges will be anchored in deeper water. Skiffs will return to the work barge to obtain bags of shell for deployment. Placement of bags of shell will be monitored to insure the bags are properly placed and the shell veneer requirements have been met.

The logistics of the construction process are dependent upon the construction contractor. At this time, it is anticipated that the construction contractor will use existing land based docks and loading areas to stage rip rap and oyster materials along with construction equipment. There are several commercial sources of rip rap and shell, and no one source has been specified. Nearby small boat launches may be used for access to the site. All the construction activities should be performed from water based resources with no activities on the shoreline adjacent to the site.

Final construction of the breakwaters will be surveyed (alignment, elevation, representative cross-sections, settlement plates, etc.). Permanent navigation signage will be installed in accordance

with safety requirements. The signs are anticipated to be installed on 12-inch diameter piles that are hydraulically pushed to the extent possible then hammered to final elevation.

Construction Access Alternative: Due to the shallow depths, dredging may be required to allow for equipment access. Dredged material will be side cast to allow for access then backfilled upon completion of construction. The maximum dredge depth is anticipated to be -8 ft below MLLW.

Monitoring will be conducted for a period of approximately 7 years following construction. Monitoring events are expected at least twice annually and access will be from the water. Existing local boat ramps (e.g. Weeks Bay) will be used. If the breakwater structure is not performing as designed or anticipated, then adaptive management procedures will be used to correct the structure. Adaptive management activities may include adding additional shell veneer to the surface of the reef, adding additional hardened structure, and/or replacing warning signs. All monitoring and adaptive management procedures will follow the minimization measures as described below (Section VII.B.) and it is not anticipated that these actions will result in adverse impacts to species. If adaptive management procedures significantly differ from the construction methodologies described in this consultation, additional coordination with FWS will be initiated.

VI. Pertinent Species and Habitat:

A. Include species/habitat occurrence map:

This project is located in Bon Secour Bay, AL; it is part of the Weeks Bay National Estuarine Research Reserve and is located on the Eastern Shore of Mobile Bay. The Weeks Bay NERR has a diverse set of habitats including tidal wetlands and swamps, salt marshes, aquatic grass beds, maritime and palustrine upland forests, a pitcher plant bog and benthic estuarine sediments. It is an environment of great importance to the eastern Mobile Bay System, and possesses numerous species of plants and animals, including rare, threatened and endangered species. The Swift Tract, within the NERR, is associated with essential fish habitat (Gulf of Mexico Fishery Management Council, 2004); it is a highly productive area that serves as a nursery for commercially important shellfish and finfish, as well as a diverse array of other flora and fauna. Additionally, these wetlands are considered a high priority area (Alabama Coastal Area Management Plan, 1999). This 1.6-mile shoreline shows evidence of erosion over time and appears to be in a net loss that has been exacerbated over the last half century. Recent hurricanes have inundated the adjacent forest with salt water, dramatically affecting the habitat and, unfortunately, accelerating invasion of exotic floral species. Shoreline erosion for this area is approximately 40 feet between 1992 and 2010 (based upon aerial photography interpretation). The proposed project is not within or adjacent to critical habitat for any listed species.

B. Complete the following table:

Table 1. ESA protected species in Baldwin County, Alabama.

SPECIES/CRITICAL HABITAT	STATUS[1]
Wood Stork	E (in AL)
Piping Plover	T
Red Knot	PT
Alabama heelsplitter	T
Southern clubshell	T
Alabama Sturgeon	E
Gulf sturgeon	T
West Indian Manatee	E
Perdido Key Beach Mouse (CH)	E
Alabama Beach Mouse (CH)	E
Loggerhead Sea Turtle	T
Hawksbill Turtle	E
Leatherback Turtle	E
Kemp's Ridley Turtle	E
Green Turtle	T
Alabama red belly turtle	E
Eastern Indigo snake	T
Gopher Tortoise	C
American chaffseed	E

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

Figure 2 – Critical Habitats within the Vicinity of the Swift Tract Site

VII. Determination of Effects:

A. Explanation of effects of the action on species and critical habitats in item V.

SPECIES/ CRITICAL HABITAT	IMPACTS TO SPECIES/CRITICAL HABITAT
Wood Stork, Piping Plover and Red Knot	Not Likely to Adversely Affect. Piping Plover habitat includes intertidal portions of ocean beaches, washover areas, mudflats, sand flats, algal flats, shoals, wrack lines, sparse vegetation, shorelines of coastal ponds, lagoons, ephemeral pools, and areas adjacent to salt marshes but not within the salt marsh. Red Knot habitat includes intertidal marine habitats near coastal inlets, estuaries, and bays, or along resting formations. Existing habitat is limited (due to erosion) for Piping Plover or Red Knot wintering habitat and these species are not expected to be within the action area. Wood Storks could be present around the project area; though breeding is not known to occur in the area. If wood storks, piping plover, or red knots are present in the project area construction noise may startle individuals or cause them to move to a nearby location to resume activities. However, because the construction is short-term, repeated startling that could result in

SPECIES/ CRITICAL HABITAT	IMPACTS TO SPECIES/CRITICAL HABITAT
	effects to fitness are not expected. Therefore, no adverse effects are anticipated, but there may be indirect benefits to these species due to an increase in benthic invertebrates and juvenile fish in project area, resulting from creation of artificial reef proposed. The reef creation may increase available prey species, in shallow water areas where these species can forage. Shoreline stabilization may also provide suitable wintering habitat for resting as well.
Sea Turtles	No Effect (Nesting). The five sea turtles species protected by the ESA are rarely observed in Mobile Bay. The Swift Tract shoreline does not provide suitable nesting habitat and the estuarine waters directly shoreward of the proposed construction location do not provide suitable foraging habitat due to shallow water and lack of seagrass. Because nesting is not expected in the action area, no effects to nesting sea turtles are anticipated. Consultation with the National Marine Fisheries Service will be initiated to evaluate sea turtles when using in-water habitats. Standard sea turtle construction conditions will be followed.
Eastern Indigo Snake, Gopher Tortoise, and American chaffseed	No effect. There is no Eastern Indigo snake, gopher tortoise, or American Chaffseed habitat within the proposed action area; therefore, these species will not be present in the action area. Eastern Indigo snakes and gopher tortoises inhabit deep, sandy soils, which are associated with upland habitats. American chaffseed uses open, moist pine flatwoods, pine/wiregrass savannas, and ecotonal areas between peaty wetlands and xeric sandy soils. The Swift Tract project will involve open water and marsh habitats and not extend into any sandy soils.
Alabama Sturgeon & Gulf Sturgeon	Since this project is located within the estuarine portion of their habitat, consultation with National Marine Fisheries Services, Protected Resource Division will be requested. The following information is provided to facilitate coordination between agencies. There would be no effect to these species while under the ESA jurisdiction of FWS because the project area does not include riverine habitat. There may be some temporary and minor adverse effects to individual sturgeon that are using habitat in the vicinity of the project site due to increased noise from placing reef material, increased boat traffic, and pile driving (6 warning signs). The increased noise levels will be temporally limited to the construction

SPECIES/ CRITICAL HABITAT	IMPACTS TO SPECIES/CRITICAL HABITAT
	period and there is adequate habitat meeting the foraging and resting needs of sturgeon within the Mobile Bay that the project construction will not cause a change of behavior or alteration of the populations. The project may benefit sturgeon due to an increase in benthic invertebrates, resulting from creation of the proposed artificial reef. This may increase available prey species, in shallow water areas where sturgeon may forage.
West Indian Manatee	May Affect, but Not Likely to Adversely Affect. The actual construction area is too shallow (1-2 feet) to support manatees; however, they may be swimming or resting in nearby locations putting them at risk of strike or collision with vessels as they move to and from the construction location. Construction procedures will follow the standard manatee in-water construction conditions, which also provide boating conditions, to avoid strikes or collisions with manatees. Dredge noise may disturb manatees as well. However, we would expect any nearby manatees to temporarily move to other locations with resting and feeding habitat in Mobile bay to avoid the noise disturbance. Dredge noise will be temporary and short-term, if dredging is conducted at all. Therefore, the proposed action may affect, but is not likely to adversely affect, West Indian manatee.
Perdido Key Beach Mouse, Alabama Beach Mouse	No effect. The project and proposed action area do not provide suitable habitat for beach mice and beach mice are not present in the action area. Beach mice typically use primary and secondary dunes as habitat, which are associated with the gulf barrier islands.
Alabama red belly turtle	May Affect, but Not Likely to Adversely Affect. The Swift Tract project area provides suitable habitat for the red bellied turtle; however, there is no SAV present which limits the value of the habitat for this species. Placing structural material over the soft bottom will impact their habitat, but it is anticipated that the placement of the breakwater will create conditions favorable for future SAV colonization. Further, stabilizing the shoreline and possible future accretion of sandy beaches will provide additional nesting habitat for the red bellied turtle. Construction related impacts will be minimized by conducting pre-construction surveys and monitoring for turtle presence during construction (discussed in greater detail below).
Freshwater mussels	No. Effect. The Alabama heelsplitter and southern clubshell occur in freshwater riverine habitats only. This habitat type is not present at the project location, nor are these species. Therefore, no effects to freshwater mussels will occur.

B. Table 2. Explanation of actions to be implemented to reduce adverse effects.

SPECIES/ CRITICAL HABITAT	ACTIONS TO MINIMIZE IMPACTS
Wood Stork	The site will be examined prior to construction for evidence of Wood Stork nesting. If nests are observed prior to construction, boat traffic within 300 feet of the nests will be minimized to the maximum extent practicable and contractors will operate at idle/no wake speed.
Alabama Sturgeon & Gulf Sturgeon	For piling installation, the piling will be pushed into the soft, bottom substrate instead of driven and hammered only as necessary. Pushing the pilings will reduce, to the maximum extent practicable, any noise from piling installation. During breakwater construction, the contractor will be made aware of the potential presence of sturgeon. If any are observed during construction, work will cease until the sturgeon have moved away from the construction area.
West Indian Manatee	Construction measures will follow FWS guidelines according to *STANDARD MANATEE CONDITIONS FOR IN-WATER WORK, 2011* (appended), including, but not limited to, awareness of manatee presence. If manatee(s) are found to be present in the immediate project area during restoration activities, construction will be halted until species moves away from project area. We believe the implementation of these conditions will reduce the risk of harming, injuring, or killing manatees and that the project may affect, but is not likely to adversely affect, West Indian manatee.
Alabama Red Bellied Turtle	Prior to construction, the proposed action area will be surveyed for the presence or absence of Alabama red bellied turtle, turtle nests, and appropriate shoreline habitat conditions. This survey would be conducted by an individual with experience conducting aquatic turtle surveys and handling turtles. Results of the report will be coordinated with FWS and NOAA-NMFS to determine if additional conservation measures are necessary. During construction, the contractor will be made aware of the potential presence of the Alabama red bellied turtle. If any red bellied turtles are observed during construction, work will cease until the turtles have moved away from the construction area, including the shoreline.

VIII. Effect Determination and Response Requested:

SPECIES/ CRITICAL HABITAT	DETERMINATION[1]			RESPONSE REQUESTED
	NE	NLAA	AA	
Wood Stork, Piping Plover		X		Concurrence
Red Knot		X		Conference
Sea Turtles	X			Concurrence
Gulf & Alabama Sturgeon	X			Concurrence
West Indian Manatee		X		Concurrence
Alabama Red Bellied Turtle		X		Concurrence
Eastern Indigo Snake, Gopher Tortoise, American Chaffseed, Perdido Key Beach Mouse, Alabama Beach Mouse, and Freshwater mussels	X			Concurrence

IX. Bald Eagles

Are bald eagles present in the action area? ☐No ☒Yes (Transient)

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, construction, dredging, 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.

X. Migratory Birds

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

SPECIES	BEHAVIOR	SPECIES/HABITAT IMPACTS
Waterfowl (geese, swans, ducks, loons, and grebes)	Foraging, feeding, resting, and roosting	Waterfowl forage, feed, rest, and roost in the project area. These birds primarily roost and nest in low vegetation which may be present nearby. 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.
Other water birds (terns, gulls, skimmers, double-crested cormorant, American white pelican, brown pelican)	Foraging, feeding, resting, and roosting	These birds forage, feed, and rest in the project 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 outside of the project area.
Raptors (osprey, hawks, eagles, owls)	Foraging, feeding, and resting	Raptors forage, feed, and rest in the project 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. Most raptors are aerial foragers and soar long distances in search of food. The areas in the NERR where these birds roost and nest are not within the project area. The project is expected to improve foraging habitat for raptors.
Colonial Wading birds (herons, egrets, ibises, wood stork, American flamingo)	Foraging, feeding, resting, and roosting	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 project area. In addition, this project is likely to improve shoreline habitat conditions and near-shore habitat.
Shorebirds (plovers, oystercatchers, stilts, sandpipers)	Foraging, feeding, resting, and roosting	Shorebirds forage, feed, rest, and roost in the project 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 or roost outside the immediate area of disturbance.
Marsh birds (passerine species; grebes, bitterns, rails, gallinules, and limpkin)	Foraging, feeding, resting, and roosting	Marsh birds forage, feed, rest, and roost in the vicinity of the project 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 and resting if disturbed by the project.

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
All Migratory Birds	Impacts to birds are expected to be minor and temporally limited to the construction period due to increased noise levels and in-water work, which will temporarily disturb localized foraging and resting habits. These impacts will be minimized by boat operations at idle/no wake speed, by cessation of work activities each day that will return noise levels to baseline ambient conditions, and by observing the shoreline for any nesting behavior. While none of the proposed project will occur within nesting habitat, noise from construction may be able to be heard along the shoreline in potential nesting habitats. If nesting behavior is observed within vicinity of the project construction area, noise and boat traffic close to the nests will be minimized to the maximum extent practicable. If recommended by the FWS, additional conservation measures could be implemented.

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

/s/ Holly N. Blalock-Herod — Jan 2, 2014
Signature (originating station - preparer) **date**

DOI Case Management Team, ESA Coordinator
Title

Deborah McCoy — 1/9/14
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 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 Alabama Ecological Services Field Office, 1208 Main Street, Daphne, Alabama 36526, 9ph) 351-441-5181about the action.

X. Reviewing Ecological Services Office Evaluation:

A. Concurrence X **Nonconcurrence** _____

B. Formal consultation required _____

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed):

[signature] 1-21-2014

Signature **date**

Deputy Field Supervisor AL ES Field Office.

Field Supervisor **office**

RECEIVED 1/27/14 HRH