# United States Department of the Interior

FISH AND WILDLIFE SERVICE
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FWS/Region 4/DH NRDAR

February 18, 2014

Memorandum

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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: No Effect Determination for the Proposed Gulf County Recreation Projects: Improvements at Beacon Hill Veterans' Memorial Park, 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, including agencies of the state of Florida, 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 will be proposed in a draft early restoration plan that will be released for public comment and review. If the Trustees select the project after publication of the plan and consideration of public comment, and a stipulated agreement is reached with BP, the early restoration project will be implemented by the state of Florida. 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/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 early restoration project and we wish to engage in such consultation. Accordingly, we have reviewed the proposed Gulf County Recreation Projects: Improvements at Beacon Hill Veterans' Memorial Park, Florida (Beacon Hill Veterans' Memorial Park project) for potential impacts to listed, proposed, and candidate species and proposed and designated 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. No in-water work will occur therefore no coordination with National Marine Fisheries Service is necessary under the ESA or Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*).

The Beacon Hill Veterans' Memorial Park project, is located in Gulf County, Florida (Figure A) on land to the North of State Highway 98 (see Figure B). The proposed project will improve the park, including: the construction of a small amphitheater, pavilions, upgrade/replace existing restrooms and possible development of a nature trail and additional area for vehicle parking. Detailed construction methods and plans have not yet been developed for the proposed project and would be subject to the final design and contractor approach.

All of the proposed project work would occur in upland areas away from beach/nearshore habitat and these areas are clearly separated from this habitat by State Highway 98. There would be no in-water work associated with the proposed project. Construction of facilities would occur in areas within the park that had been previously cleared or built on as part of the original park construction. Specifically, no trees associated with the park nor any of the surrounding forested areas would be cleared as part of facilities' construction and operation. The design and layout of any nature trails would be finalized as part of final project plan development. Any new lighting will be sea-turtle/wildlife friendly. Figure C provides an overview of the park area with the anticipated area where activity could take place clearly identified, recognizing the restrictions identified above.

We reviewed the species list for Gulf County, Florida (Table 1)[1] and also considered the presence of bald eagles (*Haliaeetus leucocephalus*) and migratory birds. No listed, proposed, or candidate species known from Gulf County, Florida are expected to be using terrestrial areas in or near the project site due to a lack of suitable habitat for these species. Therefore, we made a no effect determination for all listed, proposed, and candidate species known from Gulf County, Florida. No terrestrial critical habitat is designated or proposed in or near the action area; therefore, none will be adversely modified or destroyed.

No bald eagles or migratory birds are known to nest near the project area. However, migratory birds likely use the area for feeding, loafing, or resting. Because the project area is already used

[1] The U.S. Fish and Wildlife, Panama City office website (http://www.fws.gov/panamacity/specieslist.html) provides a county-based list of federal threatened, endangered, and other species of concern likely to occur in the Florida Panhandle. Information downloaded March 13, 2013.

by the public for recreation and is adjacent to an active highway that will remain in operation throughout the project, construction activity is anticipated to represent a marginal source of additional disturbance to species already in the area. However, precautions during construction will be used to protect any migratory birds that may be feeding, loafing, or resting in or near the project area. Such precautions include minimizing construction noise to the extent practicable, using care to avoid birds when operating machinery or vehicles near birds, and general contractor awareness of bird presence. Therefore, no impacts to bald eagles and insignificant impacts to migratory birds are anticipated. The general measures to protect migratory birds should avoid take.

Based upon the information presented above, we have determined the proposed project will have no effect to listed, proposed, or candidate species, will not result in adverse modification or destruction of proposed or designated critical habitat under the jurisdiction of the U.S. Fish and Wildlife Service nor will it result in take of bald eagles or migratory birds.

We request your concurrence with our determination (see signature block below). 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.

No Effect Determination for the Proposed Gulf County Recreation Projects: Improvements at Beacon Hill Veterans' Memorial Park, Florida

Concurrence [X] Non-Concurrence [ ]

Comments (Attach Additional Pages if Necessary:

RECEIVED 3/18/14

Donald W

Signature of Reviewing Field Office

3/10/2014

Date

Field Supervisor, Panama City, FO

Title

**Figure A. Location of envisioned Gulf County, Improvements at Beacon Hill Veterans' Memorial Park Beacon Hill Recreation Project.**

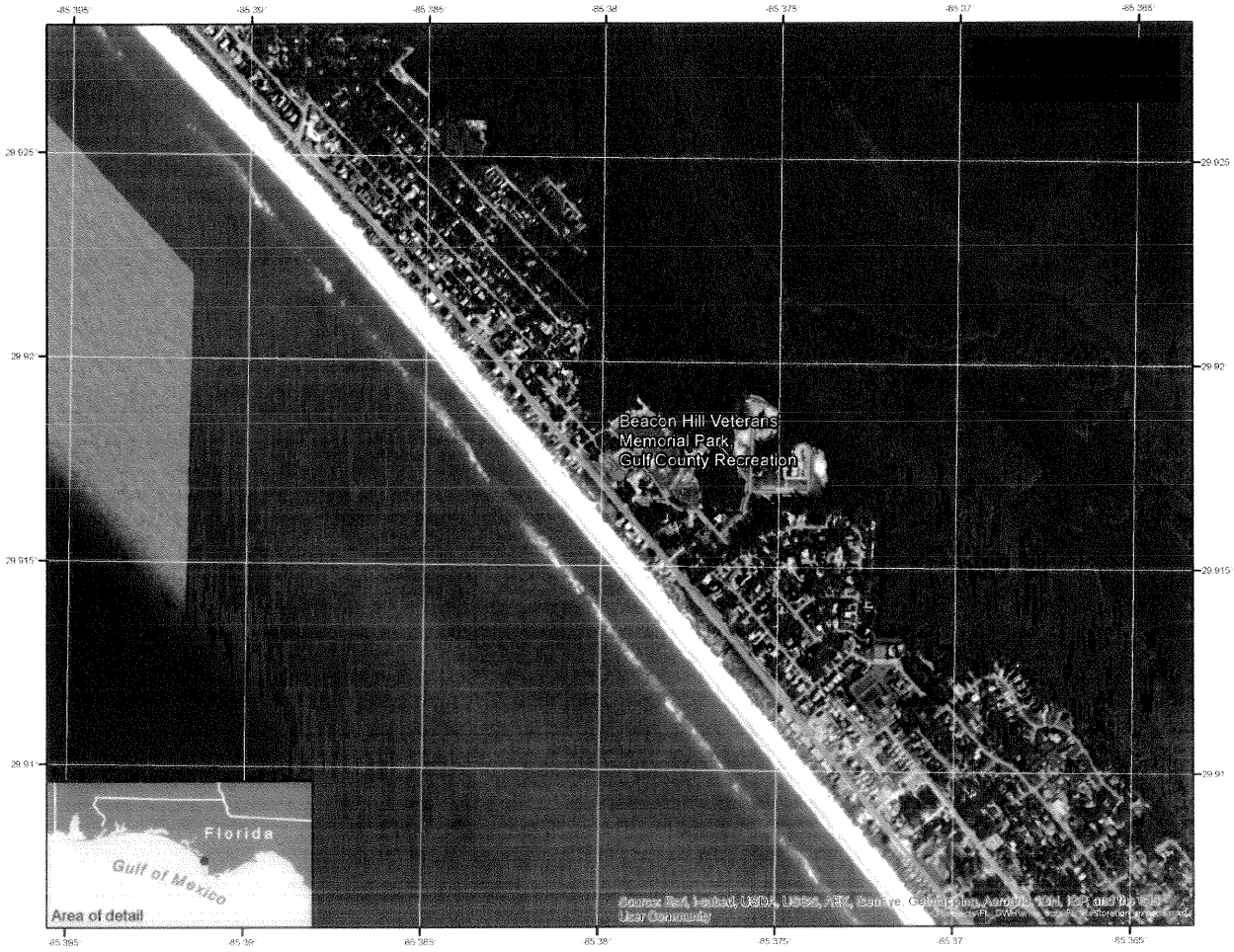

**Figure B. Detailed view of envisioned Gulf County, Improvements at Beacon Hill Veterans' Memorial Park Beacon Hill Recreation Project.**

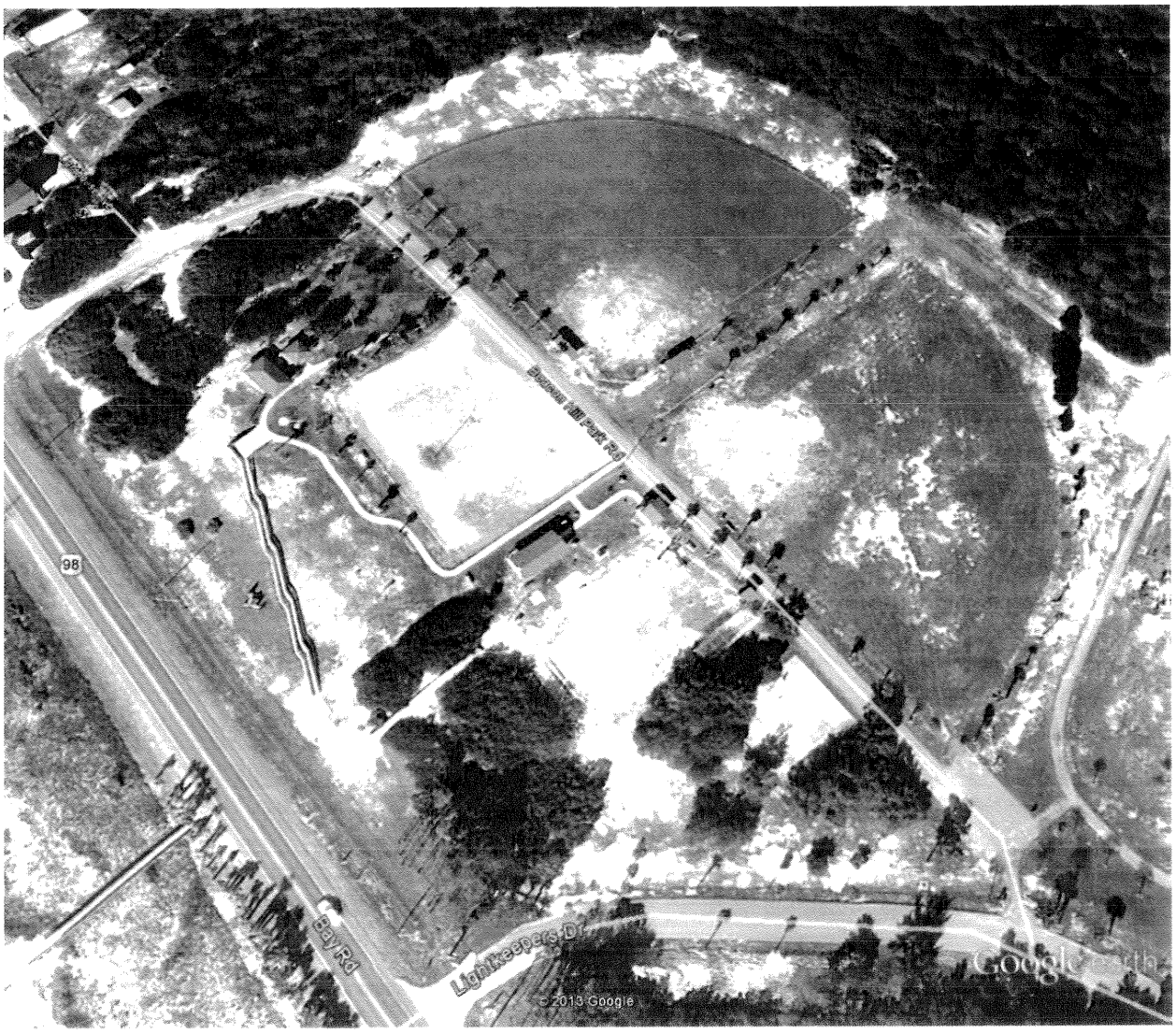

**Figure C. Detailed view of envisioned Gulf County, Improvements at Beacon Hill Veterans' Memorial Park Beacon Hill Recreation Project.**

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Amphibians | Gopher frog | SSC | ce | Terrestrial: sandhill, scrub, scrubby flatwoods, xeric hammock (reproduces in ephemeral wetlands within these communities). | NE | Listed natural community is inconsistent with the project habitat |
| Amphibians | Reticulated flatwoods salamander | E (CH) | | Palustrine: wet Flatwoods, dome swamp, basin swamp, Terrestrial: mesic flatwoods (reproduces in ephemeral wetlands within this community). | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Arctic peregrine falcon | ce | E | Terrestrial: various, ruderal; winters along coasts | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Bald eagle | BGEPA | | Estuarine: marsh edges, tidal swamp, open water Lacustrine: swamp lakes, edges Palustrine: swamp, floodplain Riverine: shoreline, open water Terrestrial: pine and hardwood forests, clearings. | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Least tern | | T | Terrestrial: beach dune, ruderal. Nests common on rooftops. | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Piping plover | T (CH) | T | Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants. | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Red knot | P | | Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas. Mostly wintering and migrants. | See Table 2 | See Table 2 |
| Birds | Red-cockaded woodpecker | E | | Terrestrial: mature pine forests. | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Southeastern kestrel | ce | T | Terrestrial: open pine forests, clearings, ruderal, various. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Birds | Southeastern snowy plover | ce | T | Estuarine: exposed unconsolidated substrate Marine: exposed unconsolidated substrate Terrestrial: dunes, sandy beaches, and inlet areas. | NE | Listed natural community is inconsistent with the project habitat |
| Birds | Wood stork | E | E | Estuarine: marshes Lacustrine: floodplain lakes, marshes (feeding), various Palustrine: marshes, swamps, various. | NE | Listed natural community is inconsistent with the project habitat |
| Fish | Gulf sturgeon | T (CH) | SSC | Estuarine and Marine: sandy sediments for foraging and resting; Riverine: alluvial and blackwater streams. | NE | Listed natural community is inconsistent with the project habitat |
| Mammals | Florida black bear | ce | T | Palustrine: titi swamps, floodplains Terrestrial: pine and hardwood forests. | NE | Listed natural community is inconsistent with the project habitat |
| Mammals | West Indian manatee | E | E | Estuarine: submerged vegetation, open water Marine: open water, submerged vegetation Riverine: alluvial stream, blackwater stream, spring-run stream. | NE | Listed natural community is inconsistent with the project habitat |
| Mussels | Chipola slabshell | T (CH) | | Riverine: main channel of the Chipola River and its larger tributaries in substrate combinations of silt, clay, sand and occasionally gravel. Panhandle drainages: Chipola River. | NE | Listed natural community is inconsistent with the project habitat |
| Mussels | Fat threeridge | E (CH) | | Riverine: main channels of small to large rivers in slow to moderate currents; fine to medium silty sand, also mixtures of sand, clay, and gravel. Panhandle drainages: Chipola and Apalachicola Rivers. | NE | Listed natural community is inconsistent with the project habitat |
| Mussels | Gulf moccasinshell | E (CH) | | Riverine: medium-sized creeks to large rivers with sand and gravel substrates in slow to moderate currents. Panhandle drainages: Econfina Creek and Chipola River. | NE | Listed natural community is inconsistent with the project habitat |
| Mussels | Oval pigtoe | E (CH) | | Riverine: medium-sized creeks to small rivers; various substrates; slow to moderate currents. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Mussels | Purple bank climber | T (CH) | | Riverine: small to large rivers in sand, sand mixed with mud, or gravel substrates with slow to moderate currents. Panhandle drainages: Chipola, Apalachicola, and Ochlockonee Rivers. | NE | Listed natural community is inconsistent with the project habitat |
| Mussels | Shinyrayed pocketbook | E (CH) | | Riverine: medium-sized creeks to mainstem rivers in a range of substrates including sand, clay, and gravel with slow to moderate current. Panhandle drainages: Econfina (Creek),Chipola, and Ochlockonee (upstream of Lake Talquin) Rivers. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Apalachicola dolls daisy | ce | | Palustrine: Floodplain Forest. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Bear tupelo or Dwarf blackgum | ce | | Terrestrial: fire prove savannas, open herb bogs, and along the wet edges of pineland swamps | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Bent golden aster | ce | E | Terrestrial: pine forest, ruderal. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Buckthorn | ce | E | Palustrine: hydric hammock, floodplain swamp. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Chapman's butterwort | ce | T | Palustrine: wet flatwoods, seepage slopes, bog, dome swamp, ditches; in water. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Chapman's crownbeard | ce | T | Palustrine: seepage slope Terrestrial: mesic flatwoods with wiregrass (Aristida stricta). | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Chapman's rhododendron | E | E | Palustrine: seepage slope (titi bog) Terrestrial: mesic flatwoods; ecotone between flatwoods or more xeric longleaf communities and titi bogs. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Dark-headed hatpin | ce | | Palustrine: Wet Boggy Seepage slopes, mucky soils. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Plants | Decumbant pitcher plant | | T | Palustrine: Bogs. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Florida skullcap | T | E | Palustrine: seepage slope, wet flatwoods, grassy openings Terrestrial: mesic flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Giant water-dropwort | | E | Palustrine: dome swamp, wet flatwoods, ditches; in water. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Godfrey's (violet) butterwort | T | E | Palustrine: wet flatwoods, wet prairie, bog; in shallow water Riverine: seepage slope; in shallow water. Also, roadside ditches and similar habitat. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Gulf coast lupine | ce | T | Terrestrial: beach dune, scrub, disturbed areas, roadsides, blowouts in dunes. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Harper's beauty | E | E | Palustrine: wet prairie, seepage slope, roadsides, edges of titi swamps. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Harper's grooved yellow flax | ce | | Palustrine: wet Flatwoods Terrestrial: mesic flatwoods; in site-prepped areas. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Harper's yellow-eyed grass | ce | T | Palustrine: seepage slope, wet prairie, bogs. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Hooded pitcher plant | | T | Palustrine: wet flatwoods, wet prairie, seepage slope. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Karst pond xyris | | E | Lacustrine: sandhill upland lake margins. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Meadow beauty | ce | E | Palustrine: dome swamp margin, seepage slope, depression marsh; on slopes; with hypericum. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Panhandle spiderlily | ce | E | Palustrine: dome swamp edges, wet prairie, wet flatwoods, baygall edges, swamp edges Terrestrial: wet prairies and flatwoods. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Plants | Parrot pitcher plant | | T | Palustrine: wet flatwoods, wet prairie, seepage slope. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Pine-woods aster | ce | E | Palustrine: seepage slope Terrestrial: sandhill, scrubby and mesic flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Quillwort yellow-eyed grass | ce | | Lacustrine: lake margins Palustrine: wet flatwoods, wet prairie. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Snowy orchid | | T | Palustrine: bogs. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Southern milkweed | ce | T | Palustrine: wet prairie, seepage slope edges Riverine: seepage stream banks Terrestrial: mesic flatwoods, drainage ditches. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Southern red lily | | T | Palustrine: wet prairie, wet flatwoods, seepage slope Terrestrial: mesic flatwoods, seepage slope; usually with grasses. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Spoon-leaved sundew | | T | Lacustrine: sinkhole lake edges Palustrine: seepage slope, wet flatwoods, depression marsh Riverine: seepage stream banks, drainage ditches. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Telephus spurge | T | E | Terrestrial: mesic flatwoods; disturbed wiregrass (Aristida stricta) areas, coastal scrub. All known sites are within 4 miles of Gulf of Mexico. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Thick-leaved water willow | ce | E | Palustrine: dome swamp, seepage slope Terrestrial: mesic flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Tropical waxweed | ce | | Palustrine: wet prairie, seepage slope Terrestrial: mesic flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | West's flax | ce | E | Palustrine: dome swamp, depression marsh, wet flatwoods, wet prairie, pond margins. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Plants | White birds-in-a-nest | T | E | Palustrine: seepage slope Terrestrial: grassy mesic pine flatwoods, savannahs, roadsides, and similar habitat. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | White Indian Plantain | ce | | Palustrine: wet flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | White-top pitcher plant | ce | E | Palustrine: wet prairie, seepage slope, baygall edges, ditches. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Wiregrass gentian | ce | E | Palustrine: seepage slope, wet prairie, roadside ditches Terrestrial: mesic flatwoods, planted slash pine. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Yellow butterwort | | T | Palustrine: flatwoods, bogs. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Yellow fringed orchid | | T | Palustrine: bogs, wet flatwoods Terrestrial: Bluff. | NE | Listed natural community is inconsistent with the project habitat |
| Plants | Yellow fringeless orchid | ce | E | Palustrine: wet prairie, seepage slope Terrestrial: mesic flatwoods. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Alligator snapping turtle | ce | SSC | Estuarine: tidal marsh Lacustrine: river floodplain lake, swamp lake Riverine: alluvial stream, blackwater stream. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Barbour's map turtle | ce | SSC | Palustrine: floodplain stream, floodplain swamp Riverine: alluvial stream. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Eastern indigo snake | T | T | Estuarine: tidal swamp Palustrine: hydric hammock, wet Flatwoods Terrestrial: mesic flatwoods, upland pine forest, sand hills, scrub, scrubby flatwoods, rockland hammock, ruderal. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Florida pine snake | ce | SSC | Lacustrine: ruderal, sandhill upland lake Terrestrial: flatwoods, xeric hammock, ruderal. | NE | Listed natural community is inconsistent with the project habitat |

| Resource category | Common name | FWS status | State status | Natural communities | Species impacts (NE, NLAA, MAA) | Justification |
|---|---|---|---|---|---|---|
| Reptiles | Gopher tortoise | C | SSC | Terrestrial: sandhills, scrub, scrubby flatwoods, xeric hammocks, coastal strand, ruderal. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Green turtle | E | E | Terrestrial: sandy beaches; nesting. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Hawksbill turtle | E | E | Marine: open water; no nesting. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Kemp's ridley turtle | E | E | Terrestrial: sandy beaches; nesting. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Leatherback turtle | E | E | Terrestrial: sandy beaches; nesting. | NE | Listed natural community is inconsistent with the project habitat |
| Reptiles | Loggerhead turtle (PCH) | T | T | Terrestrial: sandy beaches; nesting. | NE | Listed natural community is inconsistent with the project habitat |