



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/Region 4/DH NRDAR

JAN 22 2014

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

Subject: No Effect Determination for the Proposed Bob Sikes Pier Restoration Project, Florida

RECEIVED
2/3/14

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 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 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 Bob Sikes Pier Restoration Project, Florida 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. 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.*).

The Bob Sikes Pier Restoration Project, Florida proposes to improve access to and enhancing the quality of visitor experience at the Bob Sikes Fishing Pier in the Pensacola area, Escambia County, Florida. Specifically, the proposed project will:

- Add wildlife-friendly, solar-powered lighting to illuminate dark areas along the pier.
- Complete a series of minor pier and rail modifications to generally improve the pier's safety.
- Renovate and rehabilitate designated parking areas to improve parking efficiency of visitors and to improve traffic flow leading into and within the pier parking lot.
- Adding a *Bob Sikes Pier* entrance sign and informational/educational signage for pier users (e.g., proper actions to take if a sea turtle should be hooked while fishing).
- Widen and enhance half mile section of multipurpose (bicycle/pedestrian) access trail that connects the Bob Sikes Fishing Pier to other recreational and commercial areas on the beach.
- Eliminate a directional north bound right turn lane into parking area from Pensacola Beach Boulevard in order to address a major vehicle/pedestrian/bicycle safety conflict point while creating additional parking area for visitors.
- Aesthetic improvements to the parking area, parking access road and multipurpose trail leading to the Bob Sikes pier.

The Bob Sikes Pier runs parallel to the Pensacola Beach Boulevard Bridge (Highway 399) that spans the Santa Rosa Sound with proposed project site being located on the northern portion of the Santa Rosa Island (Figure 1). The majority of the project area has previously been developed leaving few areas of undisturbed soils/substrates remaining, and for those soils remaining that have not been developed most have been previously impacted through landscaping. Areas remaining void of development primarily consist of sand. All work will be conducted from existing disturbed areas in terrestrial habitats or on the pier. No in-water work will occur.

We reviewed the species list for Escambia County, Florida (Table 1)¹ and also considered the presence of bald eagles (*Haliaeetus leucocephalus*) and migratory birds. West Indian manatee (*Trichechus manatus*), five species of sea turtles (Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's Ridley sea turtle (*Lepidochelys kempii*), Leatherback sea turtle (*Dermochelys coriacea*), Loggerhead sea turtle (*Caretta caretta*)), and

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.

gulf sturgeon (*Acipenser oxyrinchus desotoi*) could be present in waters surrounding the project area. Gulf sturgeon critical habitat is also designated in waters surrounding the project site. Consultation with National Marine Fisheries Service will be requested to consider potential affects to in-water sea turtles, Gulf sturgeon and Gulf sturgeon critical habitat and are not considered in this letter.

Because all work will be conducted from the terrestrial environment and debris will not be allowed to enter the water, no effects to West Indian manatee from implementation of the proposed project are anticipated. No other listed, proposed, or candidate species known from Escambia 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 (under the jurisdiction of the U.S. Fish and Wildlife Service) known from Escambia 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 by the public for recreation and fishing and is adjacent to an active bridge-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. We anticipate these measures should avoid any take of migratory birds. Therefore, no impacts to bald eagles or migratory birds are anticipated.

Based upon the information presented above, we have determined the proposed project will have no effect to listed, proposed, or candidate species and 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. As mentioned previously, consultation will also be initiated with National Marine Fisheries Service for species where ESA regulatory authority is shared and in regards to MMPA.

We request your concurrence with our determination. 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.

Figure 1. Location of Bob Sike's Pier, Escambia County, Florida.



Table 1. Species of concern in Escambia County, Florida.

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
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	Estuarine: winters along coasts Lacustrine: various Palustrine: various Terrestrial: various, ruderal.	NE	Listed natural community is inconsistent with the project habitat
Birds	Bachman's sparrow	ce		Terrestrial: various, ruderal.	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	Estuarine: various Lacustrine: various Riverine: various 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	C		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-cockaded woodpecker	E		Terrestrial: mature pine forests.	NE	Listed natural community is inconsistent with the project habitat
Birds	Southeastern kestrel	ce	T	Estuarine: various habitats Palustrine: various habitats Terrestrial: open pine forests, clearings, ruderal, various.	NE	Listed natural community is inconsistent with the project habitat
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	Stoddard's yellow-throated warbler	ce		Terrestrial: wooded habitats with Spanish moss, various.	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

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
Fish	Crystal darter	ce	T	Riverine: alluvial stream.	NE	Listed natural community is inconsistent with the project habitat
Fish	Gulf sturgeon	T (CH)	SSC	Estuarine: various Marine: various habitats 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	Santa Rosa beach mouse	ce		Terrestrial: beach dune, coastal scrub.	NE	Listed natural community is inconsistent with the project habitat
Mammals	Southeastern big-eared bat	ce		Palustrine: various, floodplains Terrestrial: pine and hardwood forests, ruderal, various.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Choctaw bean	E (CH)		Riverine: Small to large creeks and rivers in sand to silty-sand substrates with moderate current. Panhandle drainages: Escambia, Yellow, and Choctawhatchee Rivers.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Fuzzy pigtoe	T (CH)		Riverine: small to medium-sized creeks and rivers with slow to moderate currents in sand and sand with some silt. Panhandle drainages: Escambia, Yellow, and Choctawhatchee Rivers.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Narrow pigtoe	T (CH)		Riverine: small to medium-sized creeks and rivers in stable substrates of sand, sand and gravel, or silty sand, with slow to moderate current. Panhandle drainages: Escambia and Yellow Rivers.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Round ebonyshell	E (CH)		Riverine: medium-size drivers in stable substrates of sand, small gravel, or sandy mud in slow to moderate current. Panhandle drainages: restricted to the main channel of the Escambia River.	NE	Listed natural community is inconsistent with the project habitat
Mussels	Southern sandshell	T (CH)		Riverine: found in small to medium-sized creeks and rivers in sandy substrates sometimes with some silt in slow to moderate current. Panhandle drainages: Escambia, Yellow, and Choctawhatchee Rivers.	NE	Listed natural community is inconsistent with the project habitat
Plants	Baltzell's sedge	ce	T	Terrestrial: slope forest, moist sandy loam; moist sandy loam.	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

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
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	Cruise's golden-aster	ce	E	Terrestrial: coastal dunes, coastal strand, coastal grassland; openings and blowouts.	NE	Listed natural community is inconsistent with the project habitat
Plants	Curtiss' sandgrass	ce	T	Palustrine: mesic and wet flatwoods, wet prairie, depression marsh Terrestrial: mesic flatwoods.	NE	Listed natural community is inconsistent with the project habitat
Plants	Decumbant pitcher plant		T	Palustrine: Bogs.	NE	Listed natural community is inconsistent with the project habitat
Plants	Florida anise		T	Palustrine: floodplain forest, baygall Riverine: seepage stream bank Terrestrial: slope forest, seepage slope.	NE	Listed natural community is inconsistent with the project habitat
Plants	Florida pondweed	ce		Riverine: blackwater stream.	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 yellow-eyed grass	ce	T	Palustrine: seepage slope, wet prairie, bogs.	NE	Listed natural community is inconsistent with the project habitat
Plants	Heartleaf		T	Riverine: seepage stream bank Terrestrial: slope forest.	NE	Listed natural community is inconsistent with the project habitat
Plants	Hummingbird flower		E	Palustrine: seepage slope, dome swamp edges, floodplain swamps Riverine: seepage stream banks Terrestrial: seepage slopes.	NE	Listed natural community is inconsistent with the project habitat
Plants	Large-leaved jointweed	ce	T	Terrestrial: scrub, sandpine/oak scrub ridges.	NE	Listed natural community is inconsistent with the project habitat
Plants	Mountain laurel		T	Riverine: seepage stream bank Terrestrial: slope forest, seepage stream banks.	NE	Listed natural community is inconsistent with the project habitat
Plants	Orange azalea		E	Palustrine: bottomland forest Riverine: seepage stream bank Terrestrial: slope forest, upland mixed forest.	NE	Listed natural community is inconsistent with the project habitat
Plants	Panhandle lily	ce	E	Palustrine: baygall, dome swamp edges, mucky soil, seepage slope, edges of titi bogs, Riverine: banks.	NE	Listed natural community is inconsistent with the project habitat
Plants	Parrot pitcher plant		T	Palustrine: wet flatwoods, wet prairie, seepage slope.	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	Primrose-flower butterwort		E	Palustrine: bogs, pond margins, margins of spring runs.	NE	Listed natural community is inconsistent with the project habitat
Plants	Red-flowered pitcher plant		T	Palustrine: bog, wet prairie, seepage slope, wet flatwoods Riverine: seepage stream banks.	NE	Listed natural community is inconsistent with the project habitat
Plants	Silky camellia		E	Palustrine: baygall Palustrine: slope forest, upland mixed forest, Terrestrial: slope forest, upland mixed forest; acid soils.	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	Sweet shrub		E	Terrestrial: upland hardwood forest, slope forest, bluffs Palustrine: bottomland forest, stream banks, floodplains.	NE	Listed natural community is inconsistent with the project habitat
Plants	Trailing arbutus		E	Terrestrial: bluff, slope forest, mixed hardwood forest.	NE	Listed natural community is inconsistent with the project habitat
Plants	West Florida cow-lily	ce		Riverine: shallow, clear, or tannic-acid tinted (blackwater) waters, and is often rooted in sandy substrate	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	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	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

Resource category	Common name	FWS status	State status	Natural communities	Species impacts (NE, NLAA, MAA)	Justification
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
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; Terrestrial: sandy beaches; 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	T	T	Terrestrial: sandy beaches; nesting.	NE	Listed natural community is inconsistent with the project habitat

BGEPA = Bald and Golden Eagle Protection Act, C = candidate, ce = consideration encouraged, CH = critical habitat, E = endangered, P = proposed, SSC = species of special concern, T = threatened.

Source: This table reflects the information available 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. Information downloaded March 13, 2013.

1601 Balboa Avenue
Panama City, FL 32405
Tel: 850-769-0552

XIII. Reviewing Ecological Services Office Evaluation:

A. Concurrence Nonconcurrency

B. Formal consultation required

C. Conference required

D. Informal conference required

E. Remarks (attach additional pages as needed):

<u>Donald W. Orr</u>	<u>1/28/2014</u>
Signature	date
<u>DW Orr</u>	<u>PCFO</u>
Field Supervisor	office

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2/7/14

B.B. Skister