



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

Deepwater Horizon Gulf Restoration Office  
341 Greeno Road North, Suite A  
Fairhope, Alabama 36532

In Reply Refer To:  
FWS/R4/DH NRDAR

Memorandum

February 15, 2022

To: Memorandum to File

From: Michael Barron, Deepwater Horizon Gulf Restoration Office

Subject: Regulatory Compliance Determinations for NR3, Lower Suwannee River Watershed – Nutrient Reduction as Proposed in the Florida Trustee Implementation Group’s Restoration Plan #1

Under the Endangered Species Act (ESA) Section 7(a)(2), each Federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species, or destroy/adversely modify designated critical habitat. If a Federal agency determines that a Federal action will have no effect on ESA-listed species or designated critical habitat, then the Federal agency is not required to consult with the US Fish and Wildlife Service (USFWS) for purposes of ESA. This memo does not include any information or effects determinations for protected species under the jurisdiction of the National Marine Fisheries Service.

We have reviewed the information provided for the project NR3, Lower Suwannee River Watershed – Nutrient Reduction as proposed for implementation in the *Florida Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #1*. The Biological Evaluation (BE) for the project concluded a May Affect, Not Likely to Adversely Affect determination for the following species: red knot (*Calidris canutus rufa*), wood stork (*Mycteria americana*), Florida scrub-jay (*Aphelocoma coerulescens*), Eastern indigo snake (*Drymarchon corais couperi*), gopher tortoise (*Gopherus polyphemus*), Florida salt marsh vole (*Microtus pennsylvanicus dukecampbelli*), and West Indian manatee (*Trichechus manatus*); and No Effect for Gulf sturgeon (*Acipenser oxyrinchus (=oxyrinchus) desotoi*). Upon review of the BE and after discussions with the Implementing Trustee, the United States Department of Agriculture (USDA), we have determined that the project will have No Effect for all listed species. We reached this conclusion after a thorough review of USDA’s standard protocol procedures for nutrient reduction projects. As per these protocols, USDA evaluates specific

proposals from qualified landowners, determines potential impacts to federally listed species and/or their Critical Habitats, and conducts the necessary consultations at a later date.

As this project will have no effect to West Indian Manatee, compliance with the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1461 *et seq.*) is also satisfied.

Within the BE form, we have 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 and we determined that take would be avoided.

Should any project be modified in a way that could adversely impact species or habitats, this determination will be reevaluated as appropriate.

If you have questions or concerns regarding this action, please contact Michael Barron, Fish and Wildlife Biologist, at 251-421-7030 or [michael\\_barron@fws.gov](mailto:michael_barron@fws.gov).