

SECTION 3

**ENDANGERED SPECIES ACT
CONSULTATION AND ASSESSMENTS**



DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT CORPS OF ENGINEERS

P.O. BOX 80267

NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF:

SEP 21 2000

Planning, Programs, and
Project Management Division
Environmental Planning
and Compliance Branch

Mr. David Frugé
Field Supervisor
U.S. Fish and Wildlife Service
646 Cajundome Boulevard, Suite 400
Lafayette, Louisiana 70506

Dear Mr. Frugé:

This office is preparing a draft Environmental Impact Statement for replacement of the Bayou Sorrel Lock, which is located on the Gulf Intracoastal Waterway, Morgan City to Port Allen Alternate Route. A map showing the tentatively selected plan is enclosed for reference.

Through consultation with personnel of your office, this office has determined that the threatened Louisiana black bear and the endangered pallid sturgeon may occur in the vicinity of the proposed action. In accordance with consultation requirements of Section 7 of the Endangered Species Act, as amended, biological assessments have been prepared to address the potential for adverse impacts to these species. The assessments are enclosed for your review. In both biological assessments, this office has concluded that the proposed action is not likely to adversely affect the listed species or their critical habitats.

Please review the enclosed documents and advise whether or not your office concurs in the determination. Mr. Richard Boe may be contacted at (504) 862-1505 if questions arise.

Sincerely,

/s/

David F. Carney
Chief, Environmental Planning
and Compliance Branch

Enclosures



United States Department of the Interior

FISH AND WILDLIFE SERVICE

646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506
October 23, 2000



TFS 10/27
J. D. [unclear]
- Dave Carney

Colonel Thomas F. Julich
District Engineer
U.S. Army Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160-0267

Dear Colonel Julich:

The Fish and Wildlife Service has reviewed the Biological Assessments (BAs) for the Gulf Intracoastal Waterway, Bayou Sorrel Lock Replacement, Louisiana, feasibility study. Those BAs were used to determine that project's impacts to the threatened Louisiana black bear and its proposed critical habitat, and to the endangered pallid sturgeon. Mr. David Carney, Chief of your Environmental Planning and Compliance Branch, transmitted the BAs via a September 21, 2000, letter. We provide the following comments under the authority of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

General Comments

The BAs are well written and contain views of recognized experts and an analysis of the project effects on the species. In addition, the pallid sturgeon BA incorporates several previous BAs by reference. The Service concurs with your determinations that replacement of the Bayou Sorrel Lock will not adversely affect any threatened or endangered species or their proposed critical habitat. We disagree, however, with certain statements in the pallid sturgeon BA regarding habitat usage. The Service also used additional information as a basis for concurring with the Corps of Engineers' (Corps) determination. Our concerns will be addressed in the following section and we will present the additional information utilized in making our determination.

Specific Comments

Pallid Sturgeon BA Page 2, Occurrence of Pallid Sturgeon in the Atchafalaya Basin, paragraph 3
- The BA states that most pallid sturgeon would likely be in the main channel of the Atchafalaya River because of their preference for deep, turbid flowing water. During high river stages in early spring, pallid sturgeon are known to congregate at the Old River Control Complex; however, as temperatures increase and river stages decrease, they distribute themselves downstream from that facility. Studies have not documented pallid sturgeon usage of the lower Atchafalaya River Basin (Basin), although anecdotal evidence suggests that they occur there. Therefore, conclusions about which habitats pallid sturgeon may use in the lower Basin must be extrapolated from existing literature. Pallid sturgeon have been found in water depths as shallow

as 6 feet in the Yellowstone, Missouri, and Platte rivers. Current knowledge of pallid sturgeon habitat usage in the Atchafalaya River suggests that velocity refugia and an adjacent food source are important factors in determining their distribution. Therefore, we do not believe that the lack of deep water would prevent sturgeon from being in smaller channels off the Atchafalaya River.

Pallid Sturgeon BA Page 2, Potential for Pallid Sturgeon in the Project Area, paragraph 3 -

Additional factors the Service considered when determining the potential presence of pallid sturgeon in the project area included: activities associated with dredging new channels (e.g., spudding, laying and anchoring discharge pipes, loading and unloading barges, etc.) are likely to induce sturgeon to leave the project area; most of the dredging will be through dry land; and, open-water areas that will be used for disposal occur primarily in sites that undergo annual maintenance dredging (thus, such areas have a low abundance of sturgeon food items and are slack-water areas which are not preferred by sturgeon). This same general area also experiences an above-average amount of disturbance associated with tows navigating through the locks.

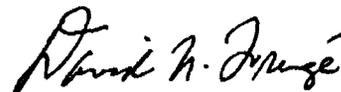
Pallid Sturgeon BA Page 3, Conclusion, paragraph 1 - An additional factor that the Service considered in concurring with the "not likely to adversely affect" determination is that there will not be a significant loss of open-water aquatic habitat or change in aquatic habitat types, because new channels of similar dimensions are being constructed. In addition, velocities, substrates, water depths, and disturbances within the new channels will not significantly differ from the existing channels.

Louisiana Black Bear BA Page 3, Conclusion, paragraph 1 - Another factor that the Service considered in concurring with the "not likely to adversely affect" determination is that approximately 124 acres within the project area will be apportioned to bottomland hardwood mitigation (i.e., reforestation and/or management).

If the proposed project is changed significantly or when the plans and specifications or design memorandums are developed, we recommend that you reinitiate coordination to ensure the continuing validity of our determinations.

If your staff has any questions about the above comments or would like to have a meeting to discuss the comments, please have them contact Mr. David Walther (337/291-3122) of my staff.

Sincerely,


David W. Frugé
Field Supervisor

cc: Louisiana Department of Wildlife and Fisheries, Baton Rouge, LA

July 29, 2002

To: David Walther, USFWS

From: Richard Boe, USACE MVN

Subject: Bayou Sorrel, T&E Species

Attached is a map of the Bayou Sorrel area with the closest known bald eagle nest shown. We had previously consulted with your office concerning the Endangered Species Act by letter of September 21, 2000. That letter transmitted biological assessments for Louisiana black bear and pallid sturgeon. Your office's letter of October 23, 2000, concurred with our determination of the project "not likely to adversely affect" these species. We have not previously consulted on bald eagles. Back in 2002, after assessing the bald eagle status in the area, we concluded that the proposed action would have no effect on that species, since there were no eagle nests known within several miles of the project site. We recently became aware of a newly discovered, active bald eagle nest located about 2 miles southwest of the Bayou Sorrel lock. The construction activity associated with the proposed lock replacement project would extend to within a little more than a mile from the nest. We believe that our previous conclusion of "no effect" is still valid since the nest is more than one mile from any work associated with our proposed project.

4-702-961

THE PROPOSED ACTIVITIES WOULD NOT SIGNIFICANTLY AFFECT LISTED OR PROPOSED THREATENED OR ENDANGERED SPECIES

Debra A. Sullivan
 ENDANGERED SPECIES COORDINATOR
 U.S. FISH & WILDLIFE SERVICE
 LAFAYETTE, LOUISIANA
 DATE: July 29, 2002



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, FL 33702
(727) 570-5312, FAX 570-5517
<http://caldera.sero.nmfs.gov>

NOV 20 2002

Dear Colleague:

The National Marine Fisheries Service (NMFS) Protected Resources Division has reviewed your letter pursuant to Section 7(a)(2) of the Endangered Species Act (ESA) concerning Bayou Sorrel Lock Replacement, Iberville Parish, Louisiana, EIS dated Sept. 2002, letter dated Nov. 5, 2002.

We cannot determine impacts to threatened or endangered species, or designated critical habitat, under NMFS purview because the letter lacks sufficient information to evaluate the project.

As requested, enclosed is a list of federally protected species under the jurisdiction of NMFS for the project area. Biological information on federally protected sea turtle species and other listed species can be found at the following website addresses: NMFS Southeast Regional Office (<http://caldera.sero.nmfs.gov/protect/protect.htm>); NMFS Office of Protected Resources (http://www.nmfs.noaa.gov/prot_res/prot_res.html); U.S. Fish and Wildlife Service (<http://noflorida.fws.gov/SeaTurtles/seaturtle-info.htm>); the Ocean Conservancy (<http://www.cmc-ocean.org/main.php3>); the Caribbean Conservation Corporation (<http://www.cccturtle.org/>); and <http://www.turtles.org>

✓ It is NMFS' opinion that the project will have **no effect** on listed species or critical habitat protected by the ESA under NMFS' purview, because there are no listed species or designated critical habitat in the project area. **No further consultation with NMFS pursuant to Section 7(a)(2) of the ESA is required.**

If you have any questions, please contact the Section 7 coordinator, Eric Hawk, at (727)570-5312, or by e-mail at eric.hawk@noaa.gov.

Sincerely,

Georgia Cranmore
Assistant Regional Administrator
for Protected Resources

Enclosure

File:1514-22.b. General correspondence
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**BIOLOGICAL ASSESSMENT
FOR THE THREATENED SPECIES
LOUISIANA BLACK BEAR (*URSUS AMERICANUS LUTEOLUS*)
NEW ORLEANS DISTRICT, LOUISIANA**

Bayou Sorrel Lock Replacement

Introduction

This Biological Assessment (BA) is submitted to the U.S. Fish and Wildlife Service (USFWS) by the U.S. Army Corps of Engineers (USACE), New Orleans District (NOD), to comply with Section 7 of the Endangered Species Act of 1973, as amended. The Louisiana black bear, Federally listed as threatened, is found in and near the Atchafalaya River and Tensas River Basins in Louisiana.

Project Description

The USACE-NOD is investigating the feasibility of replacing the Bayou Sorrel Lock, located in Iberville Parish, Louisiana. The Bayou Sorrel Lock was constructed in 1952 under authority of the Mississippi River and Tributaries Project. It is located on the Morgan City to Port Allen alternate route of the Gulf Intracoastal Waterway and allows navigation to pass through the East Atchafalaya Basin Protection Levee. The lock is dimensionally inadequate to handle existing and future traffic on the waterway. In addition, the project flood flow line in the Atchafalaya Basin Floodway (the floodway) has been raised since the lock was constructed, so the lock would be unable to pass a project flood. If a project flood should occur, flood-fighting efforts at the lock would be necessary. Such efforts would likely cause permanent, irreparable damage to the structure.

The lock replacement alternative under consideration consists of a new lock next to and nearly parallel with the existing lock. New connecting channels would be dredged and a portion of the East Access Channel in the floodway would be realigned. Upon completion of the new lock, the old lock would be decommissioned, and it and its connecting channels would be used for dredged material disposal from the remaining project construction and annual maintenance.

Occurrence of Louisiana Black Bears in the Project Area

The Recovery Plan for the Louisiana black bear (U.S. Fish and Wildlife Service, 1995) contains a map showing the known breeding sub-populations of the species. The map shows the project area, located in southern Iberville Parish, within the range of known breeding

populations. However, personnel familiar with the current range of Louisiana black bears, have verbally stated that no female bears with cubs are known to inhabit this general area (McBride and Davidson, pers. comm., 2000). A lone bear, thought to be a roaming male bear, was reportedly seen near the community of Bayou Pigeon, which is only a few miles south of the Bayou Sorrel lock, in 1990. At least 2 others bears, also thought to be roaming males, were reported along the east side of the floodway in 1997 and 1999, in the general project area. The vast forests of bottomland hardwoods and cypress swamp surrounding the project site are classified as potentially inhabitable areas, but are apparently not occupied at this time and have not been recently.

Project Effects on Potentially Inhabitable Land

The project, as currently proposed, would require dredging new forebay and tailbay channels to access the new lock and re-routing of the East Access Channel to provide a slack-water forebay approach to the new lock. The material dredged from these channels would be placed in existing, confined disposal areas in the floodway, in borrow pits outside the floodway, in the forebay and tailbay channels of the existing lock, and in the existing lock chamber. No new dredged material disposal sites would be developed in the floodway for project construction. With the project, deposition of dredged material from annual maintenance dredged would not be placed within the floodway for about 35 years after project construction. During this time, the forebay and tailbay channels of the existing lock would be used. Therefore, construction and use of new disposal areas in the floodway would be avoided with the project, but would be necessary without a new lock.

The conversion of the bottomland hardwood forest and cypress swamp in the floodway into disposal areas is generally considered to be an adverse impact for the fish and aquatic wildlife resources that inhabit the floodway. Increasing the height of the land through dredged material disposal removes it from periodic overflow. This virtually eliminates its value for fisheries resources and diminishes its value for the aquatic and semi-aquatic animals that inhabit the floodway. The dredged material disposal areas normally become dominated by light-seeded tree species such as cottonwood and willow which are not generally considered desirable species for wildlife. As for impacts to black bear, the creation of disposal areas can bury potential den trees. There are scattered old-growth cypress trees in the area near Bayou Sorrel that may be suitable den trees.

However, the dredged material disposal areas serve as a valuable escape area during high water in the floodway when all but a few high ridges and the disposal areas are inundated. During inspection trips to the disposal areas during high water periods, concentrations of mammals and reptiles have been noted.

Conclusion

The project area, located in southern Iberville Parish, is not currently occupied by Louisiana black bears. However, the area is considered to be potentially inhabitable. The proposed project would affect the area around the Bayou Sorrel Lock by converting borrow pits and channels to land, converting forested land to channels, and increasing the height of existing dredged material disposal areas. These activities would have both adverse and beneficial effects on fish and aquatic wildlife resources. The net effect of the proposed project on the suitability of the habitat for Louisiana black bear would be beneficial because less bottomland hardwood forest and cypress swamp within the floodway would be converted to dredged material disposal areas with the project, compared to condition without the project.

The USACE-NOD has reviewed the literature pertinent to the Louisiana black bear and discussed the current state of knowledge of this species in Louisiana with a recognized authority. The conclusion of this office is that the replacement of the Bayou Sorrel lock, and associated dredging activities as currently planned, is not likely to adversely affect the Louisiana black bear.

Preparer

This BA was prepared by Mr. Richard Boe, USACE-NOD, in May 2000.

**BIOLOGICAL ASSESSMENT
FOR THE ENDANGERED SPECIES
PALLID STURGEON (*SCAPHIRHYNCHUS ALBUS*)
NEW ORLEANS DISTRICT, LOUISIANA**

Bayou Sorrel Lock Replacement

Introduction

This Biological Assessment (BA) is submitted to the U.S. Fish and Wildlife Service (USFWS) by the U.S. Army Corps of Engineers (USACE), New Orleans District (NOD), to comply with Section 7 of the Endangered Species Act of 1973, as amended. The pallid sturgeon, Federally listed as endangered, is found in the Missouri, Mississippi, and Atchafalaya Rivers. Since 1990, pallid sturgeons have been captured at numerous times by commercial fishermen and through directed research efforts in the vicinity of the Old River Control Structure, where the Atchafalaya River begins as a distributary of the Mississippi River.

The USACE-NOD has prepared seven biological assessments since 1991 to assess the potential for impacts to pallid sturgeon from navigation and flood control projects in the NOD. A list of these assessments is included as Appendix A. These assessments are incorporated by reference in this biological assessment to avoid having to repeat the information. The last of the BAs, prepared in 1996 to assess impacts of dredging and disposal of shoal material from the Mississippi River, contains information gathered through two studies conducted in the vicinity of Old River. That BA should be referred to for the most recent information available from the Atchafalaya River. The information contained in this BA comes mainly from previous BAs and discussions with Mr. Bobby Reed, employee of the Louisiana Department of Wildlife and Fisheries, and Pallid Sturgeon Recovery Team Member.

Project Description

The USACE-NOD is investigating the feasibility of replacing the Bayou Sorrel lock, located in Iberville Parish, Louisiana. The Bayou Sorrel lock was constructed in 1952 under authority of the Mississippi River and Tributaries Project. It is located on the Morgan City to Port Allen alternate route of the Gulf Intracoastal Waterway and allows navigation to pass through the East Atchafalaya Basin Protection Levee. The lock is dimensionally inadequate to handle existing and future traffic on the waterway. In addition, the project flood flow line in the Atchafalaya Basin has been raised since the lock was constructed, so the lock would be unable to pass a project flood. If a project flood should occur, flood-fighting efforts at the lock would be necessary. Such efforts would likely cause permanent, irreparable damage to the structure.

The lock replacement alternative under consideration consists of a new lock next to and nearly parallel with, the existing lock. New connecting channels would be dredged and a portion of the East Access Channel in the Atchafalaya Basin would be realigned. Upon completion of the new lock, the old lock would be decommissioned, and it and its connecting channels would be used for dredged material disposal from the remaining project construction and annual maintenance.

Occurrence of Pallid Sturgeon in the Atchafalaya Basin

The primary studies targeting pallid sturgeon in Louisiana have been in the vicinity of Old River where concentrations of pallid sturgeon are known to occur. Some sampling has been done upstream of the Old River complex, in the Red River, but no pallid sturgeons were captured. Elsewhere in the Atchafalaya River system there are records of two pallid sturgeon from Vermilion Bay, but these records are not recent and have not been verified. More recently, in 1990, a large pallid sturgeon was captured south of Highway 190 near Krotz Springs. Also, a commercial fisherman captured and released a previously tagged pallid sturgeon near Melville, which is between Krotz Springs and Old River. Commercial fishermen operating between Interstate 10 and Charenton have reported catching large white sturgeon and releasing them, but the captures have not been verified. This anecdotal evidence suggests that there are some adult pallid sturgeons scattered in the middle part of the Atchafalaya Basin.

The studies at Old River indicate the pallid sturgeon that congregate in the outflow channels of the structures at Old River disburse when structures are closed. It is believed that the fish move to other areas, such as behind other open structures or into the Atchafalaya River, seeking moving water.

It is reasonable to believe that there is a population of pallid sturgeon within the Atchafalaya River system. If this were true, most of those fish would likely be in the main channel of the Atchafalaya River. This is because of their apparent preference for deep, turbid, flowing water.

Potential for Pallid Sturgeon in the Project Area

While there is a possibility that pallid sturgeon may occur in the East Access Channel near Bayou Sorrel, there is no apparent reason why they would be attracted to the location. There is nothing unique about this location, except that it is the only place for many miles where maintenance dredging occurs on a regular basis, and it is a bottleneck for navigation traffic. The maintenance dredging is necessary to remove shoal material that develops annually at the confluence of the East Access Channel and the lock entrance channel. These are not the types of activities that would tend to attract fish of any sort.

Spawning activity of pallid sturgeon has not been documented anywhere in Louisiana, or elsewhere. The smallest pallid sturgeon documented from Louisiana was about 24 inches long. Little to nothing is known about the spawning habits of pallid sturgeon. The closely related shovelnose sturgeon, as well as other North American sturgeons, spawns mainly over gravel to which their adhesive eggs attach. There are no areas of exposed gravel in the vicinity of Bayou Sorrel, only sand and silt substrates. Therefore, spawning activity near Bayou Sorrel is highly unlikely.

Conclusion

While there is a slight possibility that pallid sturgeon occur in the vicinity of Bayou Sorrel, there is no evidence to verify whether they occur there or not. Sampling for pallid sturgeon has been shown to be costly and difficult, and largely not successful except at concentration points like Old River. If there are any pallid sturgeon near Bayou Sorrel, they would likely be large individuals. This can be safely stated since no sturgeon smaller than 24 inches long have been captured in Louisiana. Fish of this size and larger should be easily able to avoid adverse impacts from dredging activities.

The USACE-NOD has reviewed the literature pertinent to pallid sturgeon and discussed the current state of knowledge of this species in Louisiana with a recognized authority. The conclusion of this office is that the replacement of the Bayou Sorrel lock, and associated dredging activities as currently planned, is not likely to adversely affect pallid sturgeon.

Preparer

This BA was prepared by Mr. Richard Boe, USACE-NOD, in May 2000.

Appendix A
List of Biological Assessments for Pallid Sturgeon

1. BA for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), New Orleans District, Louisiana. Approximate date - April 91.
2. BA Supplement for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), New Orleans District, Louisiana. Maintenance Dredging at Three Rivers and Old River Lock Tailbay. Approximate date - May 92.
3. BA Supplement II for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), New Orleans District, Louisiana. Maintenance Dredging of Old River Lock Forebay, Baton Rouge Harbor (Devil's Swamp), and Mississippi River Crossings. Approximate date - early June 92.
4. BA Supplement III for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), New Orleans District, Louisiana. Mississippi River Revetments. Approximate date - late June 92).
5. BA Supplement IV for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), New Orleans District, Louisiana. Atchafalaya River Revetments. Approximate date - Oct 92.
6. BA Supplement V for the Endangered Species Pallid Sturgeon (*Scaphirhynchus albus*), Mississippi River Channel Training, Soft Dikes Demonstration System, Redeye Crossing, East Baton Rouge Parish, Louisiana. Approximate date - Dec 92.
7. BA, Impacts of Dredging and Disposal of Shoal Material from the Mississippi River on the Pallid Sturgeon. (Includes results of study efforts around Old River.) Approximate date - July 96).