



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
Southeast Regional Office  
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MAY 28 2008

F/SER31:KS

Ms. Elizabeth Behrens  
New Orleans District Corps of Engineers  
P.O. Box 60267  
New Orleans, Louisiana 70160-0267

Re: IER 3

Dear Ms. Behrens:

This responds to your letter dated February 29, 2008, requesting section 7 consultation pursuant to the Endangered Species Act (ESA) for the Army Corps of Engineers' (COE) Individual Environmental Report (IER) 3. The report evaluates the COE's proposal to upgrade the existing hurricane protection system to protect communities and infrastructure in Jefferson Parish, Louisiana, from 100-year level storms. The proposed project includes the installation of a cement breakwater in Lake Pontchartrain at Pump Station #1 in New Orleans, Louisiana. You requested concurrence from the National Marine Fisheries Service (NMFS) with your determination the project is not likely to adversely affect Gulf sturgeon, listed as threatened under the ESA, and its designated critical habitat. A November 2007 report containing benthic surveys of the project area was provided with IER 3.

This project is located at 30.0211°N, 90.1450°W (WGS84) in Jefferson Parish, Louisiana. A cement breakwater will be installed in front of Pump Station #1, located just east of the Lake Pontchartrain Causeway, to protect the pump station from wave damage during significant storm events. The breakwater will be located along the western edge of the pump station outfall. Rock riprap will be placed along the toe of the breakwater to provide erosion protection. The total width of the breakwater, including the riprap, will be 115 feet and it will extend 420 feet beyond an existing spit of land that currently forms the western edge of the pump station outfall. Due to the shallow water depths, a 3000-foot channel, 100 feet wide and 10 feet deep, will be bucket-dredged to allow the construction barge access to the pump station. At the construction site, the channel width will be increased to 300 feet. Dredged material will be temporarily stockpiled on the western side of the access channel, in an area 290 feet wide and no more than 3 feet high, and encircled with a silt curtain (except for the side adjacent to the channel). All stockpiled material will be returned to the channel upon project completion. An additional access channel, 50 feet wide and 5 feet deep, will be dredged to access the eastern side of the breakwater to place the riprap. Dredged material will be stockpiled east of the breakwater in an area 50 feet wide to an elevation of no more than 3 feet, and will be returned to the channel upon project completion. Dredging will occur May through September in order to avoid impacts to Gulf sturgeon that may



use Lake Pontchartrain as winter foraging habitat. A total of 11,000 cubic yards of dredged material will be temporarily displaced. Approximately 9 acres of waterbottom will be dredged and 20 acres of waterbottom will be temporarily covered by the stockpiled dredged material. Bottom substrates in this portion of the project area consist of a 7-foot layer of muddy sand, underlain by a 4-foot layer of soft clay. The breakwater will permanently cover 1.5 acres of benthic habitat, consisting of hard bottom.

In addition to Gulf sturgeon, three listed species of sea turtles may occur at the project site: the endangered Kemp's ridley, the threatened/endangered<sup>1</sup> green, and the threatened loggerhead. The proposed project is located within designated Gulf sturgeon critical habitat Unit 8. The primary constituent elements (PCEs) essential for the conservation of Gulf sturgeon present in Unit 8 include abundant prey items, water quality, sediment quality, and safe and unobstructed migratory pathways. Of these PCEs, NMFS believes prey abundance, water quality, and sediment quality may be affected.

NMFS has analyzed the routes of potential effects from the proposed project and concluded that listed sea turtles and Gulf sturgeon, as well as designated critical habitat, are not likely to be adversely affected. We believe the potential effects could result from the following: dredging, the transit and anchoring of construction equipment and vessels at the site, water quality impacts associated with construction (i.e., turbidity and noise), temporary impacts to 29 acres of benthic habitat, and the permanent loss of 1.5 acres of benthic habitat.

Based on the type of dredge being used and the adherence to the May-September dredging window, the risk of injury to listed species from dredging will be discountable. Gulf sturgeon are not likely to be present during dredging activities because they primarily utilize Lake Pontchartrain for winter foraging. NMFS has previously determined that non-hopper-type dredging activities, such as the bucket dredging method proposed for this project, are unlikely to adversely affect sea turtles. Further, due to their mobility, the likelihood of sea turtles and Gulf sturgeon being struck by the transit and anchoring of equipment and vessels at the project site is discountable. While sea turtles and Gulf sturgeon potentially present in the project area are likely to avoid the area during construction due to noise, the effects to these species as a result of avoiding refuge and foraging habitat at the site will be insignificant, as their exclusion from the area will be temporary. NMFS considers the temporary loss of 29 acres of benthic habitat due to dredging and the permanent loss of 1.5 acres of habitat due to breakwater placement as having insignificant and/or discountable effects on sea turtles and Gulf sturgeon. The project area encompasses only a small portion of the 403,200-acre lake and there is ample available habitat in the vicinity such that impacts to foraging success, reproduction, resting, or other behaviors are expected to be minor and insignificant. The substrate bottom does not support submerged aquatic vegetation and is likely a poor source of other forage resources for sea turtle species. Due to the shallow water depth and the bottom substrate in the area where the breakwater will be constructed, the project area provides poor foraging habitat for Gulf sturgeon, as well. Gulf sturgeon are suction feeders; due to their feeding morphology, as well as their preferred prey, they typically feed over sandy substrate and are not likely to be found foraging over hard bottom.

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<sup>1</sup> Green turtles are listed as threatened, except for breeding populations in Florida and the Pacific Coast of Mexico, which are listed as endangered.

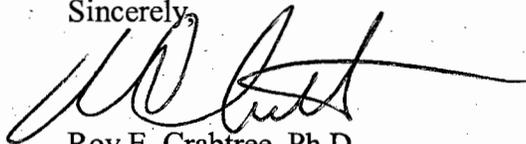
In addition, the survey showed that water depths at the site of the breakwater are less than 1 foot. Gulf sturgeon are usually found at slightly deeper depths (2 to 4 meters), where lower wave energy at the substrate, compared to the shallower swash zone, interferes less with feeding.

Impacts to all PCEs in designated critical habitat Unit 8 will be insignificant and/or discountable, and will not affect the ability of Unit 8 to provide for normal behavior, growth, and viability of Gulf sturgeon life stages. Potential effects to sediment quality resulting from dredging and stockpiling of dredged material will be insignificant. While dredging may temporarily uncover a layer of finer-grained sediment, the original material will be placed back in the channel and sediment quality will be returned to pre-project conditions. Sediment quality will be affected by the permanent conversion of waterbottom to the cement breakwater; this can impact the availability and abundance of prey and will be discussed further in this section. Prey abundance will be temporarily affected by the dredging of 9 acres of waterbottom and the placement of dredged material on 20 acres of waterbottom. However, the project area encompasses only a small portion of the 403,200-acre lake and there is ample available habitat in the vicinity supporting Gulf sturgeon prey items. Stockpiled material will be placed back into the dredged channels upon project completion and returned to pre-project contours. Benthic invertebrates utilized by Gulf sturgeon are expected to recolonize the dredged area rapidly, as they have been found to recolonize within one year when sediment composition and depth remain consistent. The permanent loss of 1.5 acres of habitat on prey abundance is also expected to be insignificant, as Gulf sturgeon prey are expected to be found in sandy substrate, while the substrate found at the site of the breakwater is mainly hard bottom. Water quality impacts related to dredging and stockpiling of dredged material will be temporary and minimized by the use of silt curtains; therefore, impacts are expected to be insignificant.

This concludes your consultation responsibilities under the ESA for species under NMFS' purview. Consultation must be reinitiated if a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action. We have enclosed additional information on other statutory requirements that may apply to this action, and on NMFS' Public Consultation Tracking System (PCTS) to allow you to track the status of ESA consultations.

Thank you for your continued cooperation in the conservation of threatened and endangered species under NMFS' purview. If you have any questions on this consultation or PCTS, please contact Kelly Shotts at (225) 389-0508 x 209, or by e-mail at [kelly.shotts@noaa.gov](mailto:kelly.shotts@noaa.gov).

Sincerely,



Roy E. Crabtree, Ph.D.  
Regional Administrator

Enclosure

cc: F/SER43, Hartman/Williams

File: 1514-22 F.1. LA

Ref: I/SER/2008/01387

## **Additional Considerations for ESA Section 7 Consultations (Revised 01-18-2008)**

Marine Mammal Protection Act (MMPA) Recommendations: The Endangered Species Act (ESA) section 7 process does not authorize incidental takes of listed or non-listed marine mammals. If such takes may occur an incidental take authorization under MMPA section 101 (a)(5) is necessary. Contact Ken Hollingshead of our NMFS Headquarters' Protected Resources staff at (301) 713-2323 for more information on MMPA permitting procedures.

Essential Fish Habitat (EFH) Recommendations: In addition to its protected species/critical habitat consultation requirements with NMFS' Protected Resources Division (PRD) pursuant to section 7 of the ESA, prior to proceeding with the proposed action the action agency must also consult with NMFS' Habitat Conservation Division (HCD) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act's (MSA) requirements for essential fish habitat (EFH) consultation (16 U.S.C. 1855 (b)(2) and 50 CFR 600.905-.930, subpart K). The action agency should also ensure that the applicant understands the ESA and EFH processes; that ESA and EFH consultations are separate, distinct, and guided by different statutes, goals, and time lines for responding to the action agency; and that the action agency will (and the applicant may) receive separate consultation correspondence on NMFS letterhead from HCD regarding their concerns and/or finalizing EFH consultation.

Public Consultation Tracking System (PCTS) Guidance: PCTS is an online query system allowing federal agencies and U.S. Army Corps of Engineers' (COE) permit applicants to track the status of NMFS consultations under ESA section 7 and under MSA sections 305(b)2 and 305(b)(4): Essential Fish Habitat. Access PCTS via: [www.nmfs.noaa.gov/pcts](http://www.nmfs.noaa.gov/pcts). Federal agencies are required to enter an agency-specific username and password to query the Federal Agency Site. The Corps Permit Site allows COE permit applicants the ability to check on the current status of Clean Water Act section 404 permit actions for which NMFS has conducted an ESA section 7 consultation with the COE since the beginning of the 2001 fiscal year (no password needed).

For COE-permitted projects, click on "Enter Corps Permit Site." From the "Choose Agency Subdivision (Required)" list, pick the appropriate COE district. At "Enter Agency Permit Number" type in the COE district identifier, hyphen, year, hyphen, number. The COE is in the processing of converting its permit application database to PCTS-compatible "ORM." An example permit number is: SAJ-2005-000001234-IPS-1. For the Jacksonville District, which has already converted to ORM, permit application numbers should be entered as SAJ (hyphen), followed by 4-digit year (hyphen), followed by permit application numeric identifier with no preceding zeros. E.g., SAJ-2005-123, SAJ-2005-1234, SAJ-2005-12345.

For inquiries regarding applications processed by Corps districts that have not yet made the conversion to ORM (e.g., Mobile District), enter the 9-digit numeric identifier, or convert the existing COE-assigned application number to 9 numeric digits by deleting all letters, hyphens, and commas; converting the year to 4-digit format (e.g., -04 to 2004); and adding additional zeros in front of the numeric identifier to make a total of 9 numeric digits. E.g., AL05-982-F converts to 200500982; MS05-04401-A converts to 200504401. PCTS questions should be directed to Eric Hawk at [Eric.Hawk@noaa.gov](mailto:Eric.Hawk@noaa.gov). Requests for username and password should be directed to [PCTS.Usersupport@noaa.gov](mailto:PCTS.Usersupport@noaa.gov).