

March, 2010

**SOUTHEAST REGION
INTRA-SERVICE SECTION 7
BIOLOGICAL EVALUATION FORM**

[Federally endangered, threatened, and candidate species]

[Note: This form provides the outline of information needed for intra-Service consultation. If additional space is needed, attach additional sheets, or set up this form to accommodate your responses.]

Originating Person: Ken Litzenberger
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Date: 06/02/2010

PROJECT NAME (Grant Title/Number): Construction of sand protection berm adjacent to/on portions of Breton NWR to prevent oiling of Chandeleur Islands and other refuge lands.

I. Service Program:

- Ecological Services
- Federal Aid
 - Clean Vessel Act
 - Coastal Wetlands
 - Endangered Species Section 6
 - Partners for Fish and Wildlife
 - Sport Fish Restoration
 - Wildlife Restoration
- Fisheries
- Refuges/Wildlife

II. State/Agency: U.S Fish and Wildlife Service

III. Station Name: U.S. Fish and Wildlife Service – Southeast Louisiana Refuges

IV. Description of Proposed Action (attach additional pages as needed):

Project will create a sand berm using native materials in the nearshore waters of Breton NWR with potential for spoil deposition on emergent lands and beach front of the Chandeleur Islands and other refuge lands. Sand berm will be approx. 6 feet high with a 25 foot wide crown and 327 foot wide base, and approx. 20-25 miles in length in the vicinity of the island(s). Depending on fluidity and mobility of materials used, base may be wider than indicated with potential to impact additional refuge lands. Berm will initially create approx. 60-75 acres of sandy beachfront habitat along the Gulf side of the main Chandeleur Island(s). Purpose of construction is to create a physical barrier to prevent oil from the MC-252 release from impacting coastal marshes located to the west of the proposed construction location. It will also provide the same protection to beach, dune, back barrier marsh, tidal flats, and seagrass beds of Breton NWR.

Material dredged from identified sites will be deposited in the non-vegetated shallow water marine habitat along the eastern shoreline of the islands. This is not a restoration project and is considered temporary in nature. As berm degrades and erodes, sand and other materials used in

construction are expected to nourish nearby islands through the natural littoral processes. Materials mining sites and placement are outlined in the US Army Corp Permit and will to the greatest extent possible follow the guidance provided by the USGS Scientific Investigations Report 2009-5252, Sand Resources, Regional Geology, and Coastal Processes of the Chandeleur Islands Coastal System: an Evaluation of the Breton National Wildlife Refuge.

V. Pertinent Species and Habitat:

There is a possibility that Gulf sturgeon and West Indian manatees could be in the vicinity of the project during construction. Federally listed as an endangered species, West Indian manatees (*Trichechus manatus*) enter coastal waters of Louisiana during the summer months (i.e., June through September). There have been approximately 131 sightings of West Indian manatees in Louisiana since 1943 and manatee occurrences appear to be increasing. The manatee population has declined in numbers due to collisions with boats and barges, entrapment in flood control structures, poaching, habitat loss, and pollution. Cold weather and outbreaks of red tide may also adversely affect these animals.

The Gulf sturgeon (*Acipenser oxyrinchus desotoi*), federally listed as a threatened species, is an anadromous fish that occurs in many rivers, streams, and estuarine waters along the northern Gulf coast between the Mississippi River and the Suwanee River, Florida. In Louisiana, Gulf sturgeon have been reported at Rigolets Pass, rivers and lakes of the Lake Pontchartrain basin, and adjacent estuarine areas. Spawning occurs in coastal rivers between late winter and early spring (i.e., March to May). Estuarine waters surrounding Breton NWR have been designated as gulf sturgeon critical habitat.

The Piping Plover, (*Charadrius melodus*) federally listed as an endangered and threatened species, is a migratory bird that occurs in beach front, tidal flats, and other estuarine areas during the winter months. Breton NWR is within the area designated as piping plover critical habitat.

Table 1. Listed/proposed species/critical habitat that occur or may occur within the project area:

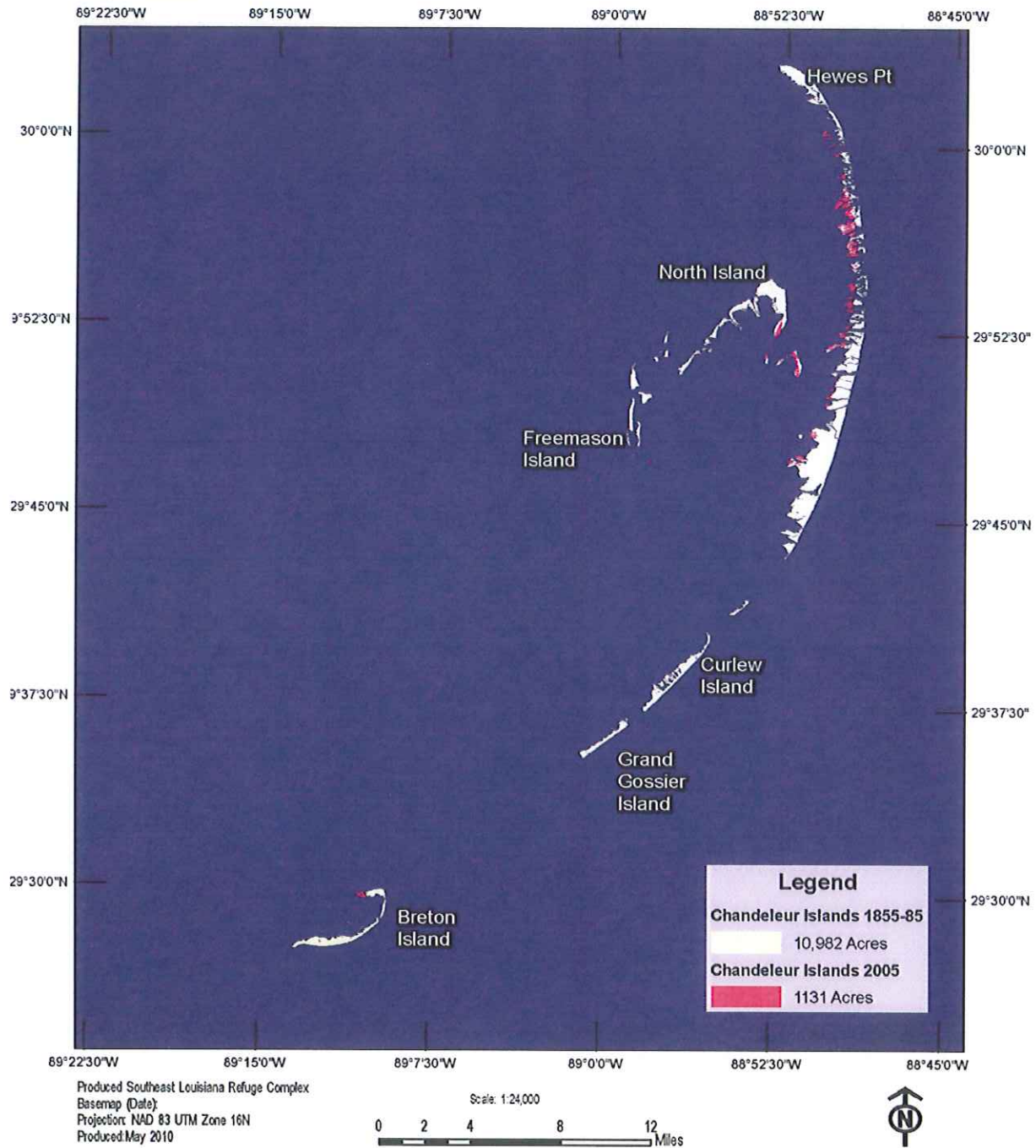
SPECIES/CRITICAL HABITAT	STATUS
Gulf Sturgeon	T
Gulf Sturgeon Critical Habitat	CH
West Indian Manatee	E
Piping Plover	E/T
Piping Plover Critical Habitat	CH

¹STATUS: E=endangered, T=threatened, PE=proposed endangered, PT=proposed threatened, CH=critical habitat, PCH=proposed critical habitat, C=candidate species

VI. Location (attach map):



U.S. Fish & Wildlife Service
Breton National Wildlife Refuge



A. Ecoregion Number and Name: Region 4 (Southeast Region)

B. Parish and State: St. Bernard, Louisiana

- C. **Section, township, and range (or latitude and longitude):** Point of beginning: 30 02' 11.57" N 88 51'07.01" W Point of ending: 29 44' 40.25" N 88 52' 59.53"W
- D. **Distance (miles) and direction to nearest town:** Approximately 68 miles E from the New Orleans city limits
- E. **Species/habitat occurrence:** Gulf sturgeon, Gulf sturgeon critical habitat, West Indian manatee, Piping plover, Piping Plover critical habitat

VII. Determination of Effects:

- A. **Explanation of effects of the action on species and critical habitats in item V. B (attach additional pages as needed):**

Table 2. Project impacts to listed/proposed species/critical habitat.

SPECIES/ CRITICAL HABITAT	IMPACTS TO SPECIES/CRITICAL HABITAT
Gulf Sturgeon	Possible take could occur from entrapment in dredge or from burial resulting from disposal of dredge material in open water
Gulf Sturgeon CHU	Burial of shallow open-water bottoms would temporarily remove benthic invertebrates and shallow foraging areas. Temporary loss of 400-500 acres of shallow water habitat. Dredging will likely temporarily raise turbidity of the area and could promote anoxic conditions in small localized areas. Dredging increases turbidity and could temporarily change the sandy substrates sturgeon prefer for foraging to a less preferred type.
West Indian Manatee	Possible take could occur from injury/entrapment in bucket of bucket dredge or injury from boat traffic.
Piping Plover	No foreseeable take would occur.
Piping Plover CHU	Burial of tidal flats and beach front habitat would temporarily remove invertebrates and foraging areas. Potential initial gain of up to 75 acres of sandy foraging habitat.

- B. **Explanation of actions to be implemented to reduce adverse effects:**

Table 3. Conservation measures proposed to minimize or eliminate adverse impacts to proposed/listed species, critical habitat.

SPECIES/ CRITICAL HABITAT	ACTIONS TO MINIMIZE IMPACTS
Gulf Sturgeon	To induce Gulf sturgeon to leave the immediate work area prior to dredging regardless of water depth or time of year at the commencement of dredging, the dredge should be lowered into the water and operated within the water column (above substrate) for a period of approx. 1-2 minutes. After the dredge has stopped, a one-minute no dredging (cont.) period must be observed. If, at any time, more than fifteen minutes elapses with no dredging, then the start/stop process shall be performed again prior to initiating dredging. Using this technique makes it highly unlikely that Gulf sturgeon would be caught in the dredge.
Gulf Sturgeon CHU	At this time, no measures may be taken to minimize above listed impacts within the project area.
West Indian Manatee	All contract personnel associated with the project should be informed of the potential presence of manatees and the need to avoid collisions with manatees, which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. All construction personnel are responsible for observing water-related activities for the presence of manatee(s). Temporary signs should be posted prior to and during all construction/dredging activities to remind personnel to be observant for manatees during active construction/dredging operations or within vessel movement zones (i.e., work area), and at least one sign should be placed where it is visible to the vessel operator. Siltation barriers, if used, should be made of material in which manatees could not become entangled, and should be properly secured and monitored. If a manatee is sighted within 100 yards of the active work zone, special operating conditions should be implemented, including: no operation of moving equipment within 50 feet of a manatee; all vessels should operate at no wake/idle speeds within 100 yards of the work area; and siltation barriers, if used, should be re-secured and monitored. Once the manatee has left the 100-yard buffer zone around the work area on its own accord, special operating conditions are no longer necessary, but careful observations would be resumed. Any manatee sighting should be immediately reported to the Service's Lafayette, Louisiana Field Office (337/291-3100) and the Louisiana Department of Wildlife and Fisheries, Natural Heritage Program (225/765-2821).
Piping Plover	To induce piping plover to leave the immediate area of spoil deposition, mylar flagging should be placed at 100 foot intervals along adjacent beach habitat prior to start of operations. Flagging should be placed beginning 400 feet from start of operations and should be placed continuously to 400 feet beyond projected end-of-

	day operations. Additionally, personnel may be assigned to walk the adjacent beaches at periodic intervals to haze birds from the area.
Piping Plover CHU	At this time, no measures may be taken to minimize above listed impacts within the project area.

VIII. Effect Determination and Response Requested:

Manatee occurrences in Coastal Louisiana are uncommon during the winter months but not uncommon during the warmer months. Dredging will be occurring in non-vegetated water bottoms; as a result, it is unlikely an individual would be in the area to forage. Therefore, due to the general lack of site-specific habitat in the project area and the implementation of the above-mentioned minimization measures we believe the action is not likely to adversely affect West Indian manatees.

The Gulf sturgeon’s potential ability to avoid entrainment via burst swimming speeds, the large expanse of water surrounding the proposed dredge areas, and incorporation of protective measures, the Service has determined that the proposed project is not likely to adversely affect the Gulf sturgeon as a species or the Primary Constituent Elements (PCE) that addresses disruption of migratory pathways. Turbidity associated with dredging would be temporary in nature and there are no known contaminants in the proposed excavation sites. Effects to the PCE, abundant food items, are small in scale relative to the potential feeding area in Critical Habitat Units as a whole.

The above analysis indicates that the proposed project would have an insignificant impact on the ability of the estuarine critical habitat unit to function for the conservation of the Gulf sturgeon especially when areas having higher sand concentration thus potentially greater preferred food abundance exist elsewhere in the estuarine system.

Considering the above factors we have determined that the project’s effect on food resources in the project area would not significantly impair essential behavioral patterns and result in death or injury of Gulf sturgeon; therefore, the USFWS has determined that the proposed project is not likely to adversely affect the Gulf sturgeon or its critical habitat.

Piping plover occurrences in Coastal Louisiana are uncommon during the summer months but not uncommon during the winter months. Dredging will occur in aquatic environments not frequented by plovers and spoil deposition will initially take place in shallow nearshore waters, again, habitat not frequented by plovers. Greatest potential for individual contact is as the spoil becomes emergent and approaches adjacent shorelines. The piping plovers ability to avoid direct impact from dredge disposal by walking or flying away from activity and the large expanse of available habitat in the estuarine area make it extremely unlikely that individual birds will be physically impacted by the proposed action. Impacts to critical habitat will be the temporary burial of adjacent beaches and other sandy tidal habitats which provide foraging habitat for piping plovers. The project itself will create additional habitat and will serve to nourish and replenish similar habitats within the Chandeleur Island chain. It is expected that invertebrate

populations will colonize/recolonize disturbed areas within 1 year. The Service has determined that the proposed project is not likely to adversely affect the piping plover or its critical habitat.

Table 4. The effect determination and response requested for impacts to each proposed/listed species/critical habitat.

SPECIES/ CRITICAL HABITAT	DETERMINATION ¹			RESPONSE ¹ REQUESTED
	NE	NA	AA	
West Indian manatee		X		
Gulf Sturgeon		X		
Gulf Sturgeon Critical Habitat		X		
Piping Plover		X		
Piping Plover Critical Habitat		X		

¹DETERMINATION/RESPONSE REQUESTED:

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat. Response Requested is optional but a **AConcurrence@** is recommended for a complete Administrative Record.

NA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response Requested is a **AConcurrence@**.

AA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response Requested for listed species is **AFormal Consultation@**. Response Requested for proposed or candidate species is **AConference@**.

Ken Litzenberger 6/3/10
 Signature (originating station) date

 Title

If the project description changes or incidental take exceeds that which has been exempted under section 9 of the Act, then the Ecological Services Field Office must be contacted.

IX. Reviewing Ecological Services Office Evaluation:

A. Concurrence _____ **Non-concurrence** _____

B. Formal consultation required _____

March, 2010

C. Conference required _____

D. Informal conference required _____

E. Remarks (attach additional pages as needed):

Signature

date

Title

office