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In Reply Refer To:
2022-0029016

May 25, 2023

Ms. Ashley Neill
Environmental Branch
Regional Planning and Environmental Center
U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston, Texas 77553-1229

Dear Ms. Neill:

This letter is in response to the U.S. Army Corps of Engineers' (Corps) request for initiation of informal consultation under Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 et seq.), for the proposed environmental impacts from changes to the Port Arthur and Vicinity Coastal Storm Risk Management (CSRM) Plan under Contract 3B (referenced as PAV03B), in Jefferson County, Texas. For the purposes of future correspondence, please reference the ECOSPHERE Consultation Code 2022-0029016. The Corps' request for informal consultation with Supplemental Biological Assessment (BA) was received by the U.S. Fish and Wildlife Service (Service) on August 8, 2022; and final revisions to the BA were received on May 22, 2023.

The Port Arthur CSRM federal action being evaluated is only one portion of the Sabine Pass to Galveston Bay (S2G) CSRM Project that was further described in the Draft Supplemental Environmental Assessment (SEA) for this project. Authorization and funding for the entire S2G CSRM Project was accomplished by the Bipartisan Budget Act of 2018, Public Law 115-123 Title IV Corps of Engineers – Civil Department of Army Construction. The federal action involves construction of approximately 4,000 linear feet of floodwall and levee on property occupied by the City of Port Arthur, Port of Port Arthur, Kansas City Southern Railroad, JBS Packing, and Entergy Texas, Inc. Construction of the new floodwall in the revised levee alignment also involves demolition and removal of the existing sheet pile floodwalls and gate

closure structures where required. Additional work will require relocation of utility pipes and construction staging areas for temporary storage of equipment and materials.

The Corps determined that the actions for PAV03B would have no effect on Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), West Indian Manatee (*Trichechus manatus*), 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 Monarch Butterfly (*Danaus plexippus*) in the action area, and would not destroy or adversely modify any critical habitats. Habitat features needed by these species are not present within the action area and therefore, no coordination with the Service is necessary at this time. However, should project plans change or additional information on the species or its distribution become available, the project should be reanalyzed for effects not previously considered.

In addition to the species identified above, the Corps determined that the actions for Contract PAV03B may affect but are not likely to adversely affect the Eastern Black Rail (*Laterallus jamaicensis jamaicensis*) (BLRA) and Whooping Crane (*Grus americana*). This determination was made based on the following information:

Eastern Black Rail

The BLRA was listed as threatened effective on November 9, 2020 (85 FR 63764); critical habitat was not designated at the time of listing. The BLRA is a cryptic marsh bird that occurs in salt, brackish, and freshwater wetlands in the eastern United States (east of the Rocky Mountains) and may be present in all of the Texas coastal counties year-round¹. The species is most vulnerable during breeding, chick rearing, and the flightless molt period². The action area contains shallow wetland depressional areas which retain water following precipitation and supports dense wetland vegetation that meets the definition of suitable BLRA habitat. (e.g., dense overhead cover, moist soils that are occasionally dry and interspersed or adjacent to shallow water, depths up to 5 centimeters (cm) but typically < 3 cm)³.

The Corps made a may affect, but not likely to adversely affect determination for BLRA based on species biologic information, aerial imagery interpretation, field site verification of suitable habitat in the action area, occupancy records in Jefferson County, and land use surrounded by industrial activities to determine that there was potential for the BLRA to occur within the action area. The Corps agreed to all Service recommendations and revised the BA to include these conservation measures and monitoring requirements that will be implemented prior to and during construction to reduce the effects on BLRA and suitable habitat identified in the action area (see

¹ Haverland, A. A., M. C. Green, F. Weckerly, and J. Wilson. 2021. Eastern Black Rail (*Laterallus jamaicensis jamaicensis*) Home Range and Habitat Use in Late Winter and Early Breeding Season in Coastal Texas, USA Waterbirds 44(2): 222-233.

² U.S. Fish and Wildlife Service. 2018. Species status assessment report for the Eastern Black Rail (*Laterallus jamaicensis jamaicensis*), v. 1.2. U.S. Department of the Interior, Fish and Wildlife Service, Atlanta, Georgia, USA.

³ U.S. Fish and Wildlife Service, October 8, 2020; Federal Register, Final, pp. 63767, 63798, 63800.

attached Biological Assessment for Federally Listed Threatened and Endangered Species for Sabine Pass to Galveston Bay, Port Arthur Contract 3B May 2023, Sections 4.1.5, 5.1 and 5.2).

Whooping Crane

The Whooping Crane was federally listed as endangered on March 11, 1967 (32 FR 4001). Critical habitat has been designated in Aransas, Calhoun, and Refugio counties in Texas, and includes the Aransas National Wildlife Refuge. The Service reintroduced a non-essential experimental population (NEP) to Vermillion Parish in southwestern Louisiana in 2011. The reintroduced population was designated as NEP under section 10(j) of the ESA of 1973, as amended.

The Corps made a may affect, but not likely to adversely affect determination for Whooping Cranes (*Grus americana*) based on species biologic information, occupancy records in Jefferson County, field site verification that suitable habitat for breeding and nesting Whooping Cranes does not exist within the action area, and review of the surrounding land use dominated by industrial activities only provides temporary resting or loafing activities within the action area. Although the Corps indicates it is unlikely that the over-wintering migratory wild Buffalo Woods National Park populations would pass through this area on their way to mid-coast wetlands, they acknowledge the year-round residents from the NEP populations, that have bred and nested in Jefferson County in close proximity to the action area, may temporarily use the action area. To ameliorate occurrence uncertainty for non-migratory Whooping Cranes within the action area, the Corps agreed to all Service recommendations and revised the BA to include these conservation measures in the BA that will be implemented prior to and during construction to reduce the effects of the proposed project actions on the Whooping Crane (see attached, Sections 5.1 and 5.3).

Conclusions

Based on the Service's field evaluation of the action area and review of the BA, there are two acres of former coastal prairie depressional wetland habitat that meet the definition of suitable habitat for BRLA in the action area but have been invaded by non-native herbaceous and woody species. The action area is surrounded by industrial activities including a temporary storage site for creosote covered telephone poles, and a railroad that restricts surface sheet flows and retains water. Although BRLA and Whooping Crane observations have been reported in close proximity to the action area, there have not been any surveys for these species conducted within the project area and the Corps has assumed presence of both species.

In accordance with Section 7(a)(2) of ESA, the Service concurs with the Corps determination that the project may affect but is not likely to adversely affect BRLA and the Whooping Crane contingent upon the Corps adherence to implementation of the conservation measures in the BA which included Service's general and species-specific conservation measures to reduce potential effects to these two species to discountable and/or insignificant levels. However, if the project changes or additional information becomes available, the project should be reanalyzed for effects to listed species and critical habitat not previously considered.

Ms. Ashley Neill

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Section 7(a)(1) of the Act requires all Federal agencies to use their authorities to further the conservation of listed species. We are available to assist the Corps in fulfilling its' responsibilities under Section 7. If you need further guidance, or have any questions concerning this letter, please contact Dr. Jan Culbertson at 281-286-8282 or jan_culbertson@fws.gov.

Sincerely,

Charles Ardizzone
Field Supervisor

Enclosure

Sabine Pass to Galveston Bay

Port Arthur Contract 3B

Biological Assessment for Federally Listed Threatened and Endangered Species

May 2023

Prepared by:

**United States Army Corps of Engineers
Regional Planning and Environmental Center**



**US Army Corps
of Engineers®**
Galveston District

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Attachment A – 2017 Sabine to Galveston Biological Assessment

Attachment B – PAV03B Texas Coastal Ecological Services Field Office Official Species List

Attachment C – Photos of Action Area

EXECUTIVE SUMMARY

This Biological Assessment discusses the presence and status of threatened and endangered species in the action area, evaluates the impacts expected to these species through project actions, and makes a final determination on the effects anticipated for those species. Based on the information presented in the Biological Assessment, there would be minimal loss of eastern black rail (BLRA) (*Laterallus jamaicensis* ssp. *jamaicensis*) suitable habitat due to vegetation clearing for construction of the Port Arthur levee. In addition, the Louisiana population of whooping crane (*Grus americana*) may also be affected by construction within the action area. Vegetation clearing could adversely affect BLRA using the habitat during the breeding and nesting season. Proposed conservation measures are included in Section 5.0 of this BA. Table 1 provides a summary of eleven Endangered Species Act listed and candidate species identified in the U.S. Fish and Wildlife Services Information for Planning and Consultation database, and four additional National Marine Fisheries Service listed species.

Table 1. USFWS and NMFS effect determination summary for proposed action.

| Species Common Name Scientific Name | Federal Status | Habitat Association | Effect Determination | Summary of Effects |
|--|----------------|--|-------------------------|---|
| Birds | | | | |
| Piping plover <i>Charadrius melodus</i> | Threatened | Bayshore tidal sand & algal flats, ocean side beaches, wash over passes, and mainland tidal mud flats. | <i>No Effect</i> | Lacks suitable habitat. |
| Rufa red knot <i>Calidris canutus rufa</i> | Threatened | Coastal marine & estuarine habitats with large areas of exposed intertidal sediments in migration & wintering areas. Supra-tidal sandy habitats of inlets for roosting. Artificial habitats that mimic natural conditions (e.g., nourished beaches, dredged spoil sites, impoundments). | <i>No Effect</i> | Lacks suitable habitat. |
| Eastern black rail <i>Laterallus jamaicensis</i> ssp. <i>jamaicensis</i> | Threatened | Salt, brackish, and freshwater marsh habitats that can be tidally or non-tidally influenced with soils that are moist to saturated, occasionally dry, and interspersed with, or adjacent to, very shallow water of 1-6 cm. Requires dense vegetation cover that allows movement underneath the canopy. | <i>NLAA</i> | <i>Negative effects:</i> Temporary impacts from construction activities (noise disturbance) on foraging/roosting habitats, resulting in avoidance or displacement to adjacent areas. Unavoidable impacts may occur during breeding and nesting season could directly impact BLRA individuals. |
| Whooping crane <i>Grus americana</i> | Endangered | Breed, migrate, and forage in coastal marshes and estuaries, inland marshes, lakes, open ponds, shallow bays, salt marsh, and sand or tidal flats, upland swales, wet meadows and rivers, pastures, and agricultural fields. | <i>NLAA</i> | <i>Negative impacts:</i> Temporary impacts from construction activities (noise disturbance) on resting habitat, resulting in avoidance or displacement to adjacent areas. |
| Mammals | | | | |
| West Indian manatee <i>Trichechus manatus</i> | Threatened | Marine, brackish, and freshwater systems in coastal and riverine areas with preference near the shore featuring underwater vegetation like seagrass & eelgrass. | <i>No Effect</i> | Lacks suitable habitat. |

| Species Common Name <i>Scientific Name</i> | Federal Status | Habitat Association | Effect Determination | Summary of Effects |
|---|----------------|---|-------------------------|-------------------------|
| Sperm whale* <i>Physeter macrocephalus</i> | Endangered | Prefer steep depth gradients, with resident populations near the Mississippi Canyon, and transient populations moving along the shelf break (2,300 – 3,280 feet) and deeper oceanic waters. | <i>No effect</i> | Lacks suitable habitat. |
| Rice's whale* <i>Balaenoptera ricei</i> | Endangered | Restricted to a very narrow depth corridor along the shelf break in the northeastern Gulf of Mexico. | <i>No effect</i> | Lacks suitable habitat. |
| Reptiles | | | | |
| Loggerhead sea turtle <i>Caretta caretta</i> | Threatened | Foraging throughout the shallow continental shelf waters, but also found in bays, estuaries, lagoons, and river mouths. Adults occupy turbid bays to clear water reefs; subadults occur in nearshore and estuarine waters. High-energy, open sandy beaches above the high-tide mark and seaward of well-developed dunes preferred for nesting. | <i>No Effect</i> | Lacks suitable habitat. |
| Green sea turtle <i>Chelonia mydas</i> | Threatened | Shallow habitats such as lagoons, bays inlets, shoals, estuaries, & other areas with abundant marine algae & seagrass. High-energy beaches with deep sand for nesting, usually coarse to fine grain sizes, with little organic content. | <i>No Effect</i> | Lacks suitable habitat. |
| Hawksbill sea turtle <i>Eretmochelys imbricata</i> | Endangered | Largely inhabit nearshore foraging grounds, especially healthy coral reefs. Hatchlings take shelter in floating algal mats & drift lines of flotsam and jetsam; juveniles migrate to shallower coastal feeding grounds and remain into adulthood. Found around rock formations, high energy shoals, and estuaries that provide habitat for sponge growth. | <i>No Effect</i> | Lacks suitable habitat. |
| Leatherback sea turtle <i>Dermochelys coriacea</i> | Endangered | Mainly pelagic, inhabiting the open ocean, where they dive to great depths continuously. Found in coastal waters during nesting or when following concentrations of jellyfish. Typically nests on beaches with a deep-water approach in Malaysia, Mexico, French Guiana, Suriname, Costa Rica, and Trinidad. | <i>No effect</i> | Lacks suitable habitat. |

| Species Common Name <i>Scientific Name</i> | Federal Status | Habitat Association | Effect Determination | Summary of Effects |
|---|----------------|---|-------------------------|-------------------------|
| Kemp's ridley sea turtle <i>Lepidochelys kempii</i> | Endangered | Shallow coastal & estuarine waters, usually over sand or mud bottoms. Adults primarily shallow-water benthic feeders; juveniles feed on <i>Sargassum</i> and associated infauna. | <i>No Effect</i> | Lacks suitable habitat. |
| Insects | | | | |
| Monarch butterfly <i>Danaus plexippus</i> | Candidate | Require milkweed and flowering plants for foraging during breeding and migration. Lay eggs on milkweed plants. | <i>No Effect</i> | Lacks suitable habitat. |
| Fish | | | | |
| Oceanic whitetip shark* <i>Carcharhinus longimanus</i> | Threatened | Reside in tropical and subtropical seas worldwide in the pelagic ocean, generally offshore, on the outer continental shelf, or around oceanic islands in water depths greater than 604 feet. | <i>No effect</i> | Lacks suitable habitat. |
| Giant manta ray* <i>Manta birostris</i> | Threatened | Known to occur along the east coast, within the Gulf of Mexico, and off the coast of the U.S. Virgin Islands, Puerto Rico, Hawaii, and Jarvis Island. Inhabits tropical, subtropical, and temperate water bodies and are commonly found offshore in oceanic waters and near productive coastlines. Can occur in estuarine waters near oceanic inlets. | <i>No Effect</i> | Lacks suitable habitat. |

NLAA = not likely to adversely affect; LAA= likely to adversely affect. Species protected solely by NMFS are demarcated with an asterisk (*). Sea turtle jurisdiction is shared jointly by USFWS (inland water and nesting beaches) and National Marine Fisheries Service (offshore marine environment).

1.0 INTRODUCTION

This Biological Assessment (BA) has been prepared in accordance with requirements outlined under Section 7 of the Endangered Species Act (ESA). Section (7)(a)(2) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that are proposed or listed as endangered or threatened, as well as their designated critical habitat, if applicable. This BA demonstrates the proposed action is in compliance with Section 7, which assures that, through consultation with the U.S. Fish and Wildlife Service (USFWS), Federal actions do not jeopardize the continued existence of any threatened, endangered or proposed species, or result in the destruction or adverse modification of critical habitat.

All descriptions regarding the original project area are included in the 2017 Sabine Pass to Galveston Bay, Texas Coastal Storm Risk Management and Ecosystem Restoration Biological Assessment (Attachment A). All of the information found in this report, unless otherwise indicated, is a new assessment of Sabine Pass to Galveston Bay Port Arthur and Vicinity Contracts 3B (PAV03B).

1.1 Study Background

Study background is included in Attachment A.

1.2 Consultation History

The species evaluated in this report were identified via informal discussion with the USFWS Texas Coastal Ecological Services Field Office (TCESFO) (consultation history shown below) and the USFWS Information for Planning and Consultation (IPaC) system website (USFWS 2022). The IPaC-generated list is included as Attachment B. USACE also queried the eBird database for occurrence records of federally listed threatened and endangered species within 10 miles of the project limits (eBird 2022). USACE's evaluation of the potential for listed species to occur in the vicinity of the action area was based on: (1) documented occurrences; (2) existing information on species distribution; and (3) qualitative comparisons of the habitat requirements of each species with vegetation communities or landscape features observed within the action area. Potential effects to these species resulting from construction of the proposed action were evaluated based on reasonably foreseeable project-related activities.

In addition to this BA, the 2017 Feasibility Study included coordination with USFWS and Texas Parks and Wildlife Department (TPWD).

- September 2015: A BA was submitted to USFWS determining “No Effect” on piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus americana*), the West Indian manatee (*Trichechus manatus*), four whale species (fin, humpback, sei, and sperm), four sea turtle species (green [*Chelonia mydas*], Kemp's ridley [*Lepidochelys kempii*], loggerhead [*Caretta caretta*], leatherback [*Dermochelys coriacea*] and hawksbill [*Eretmochelys imbricata*]), and four coral species (lobed star [*Orbicella annularis*], mountainous star [*Orbicella faveolate*], boulder star [*Orbicella franksi*], and elkhorn coral [*Acropora palmata*]). As well as “No Effect” on the following

Candidate species: Sprague’s pipit (*Anthus spragueii*), and two freshwater mussel species (smooth pimpleback [*Quadrula houstonensis*] and Texas fawnsfoot [*Truncilla macrodon*]).

Due to the change in project-construction limits, USACE has reinitiated consultation with USFWS to meet the requirements of the ESA as well as address the potential impacts to species that were listed as threatened or endangered after the 2017 Feasibility Study was completed.

- August 2, 2022: PAV03B was created in IPaC using the action area boundaries. An official species list was requested and returned from the TCESFO (2022-0029016) (Attachment B).
- August 9, 2022: An informal consultation request was submitted to the TCESFO. A “May Effect, Not Likely to Adversely Affect” determination was made for eastern black rail and a small population of whooping crane for PAV03B.
- September 19, 2022: USFWS submitted additional Conservation Measures to USACE to address potential impacts associated with the proposed action. The conservation measures are now included as part of Section 5.0 of this BA. Discussion between USACE and USFWS regarding the “May Effect, Not Likely to Adversely Affect” determination and path forward. USFWS indicated if USACE could not avoid eastern black rail (BLRA) nesting and breeding season, Formal consultation between USACE and FWS would be necessary. USFWS submitted revised Conservation Measures to USACE to clarify the previous submission.
- October 3, 2022: USACE indicated there was no assurance the nesting and breeding season of eastern black rail could be avoided; therefore, USACE would submit a Formal Consultation request as well as a revised BA to better address the direct, indirect, and cumulative impacts to BLRA resulting from the proposed action.
- November 18, 2022: USACE sent Biological Assessment and Formal Consultation request to USFWS.
- January 20, 2023: USFWS personnel stated the revised BA was missing the distinction between wetland impacts and impacts to the eastern black rail. Further, USFWS again stressed the importance of avoiding the nesting and breeding season for vegetative clearing activities for in-formal consultation.
- May 22, 2023, USACE sent revised Biological Assessment and a request for Informal Consultation request based on new conservation measures to USFWS.

2.0 DESCRIPTION OF THE ACTION AND ACTION AREA

This section describes the proposed action and a description of the action area. The information contained here is a summary of the overall project and impacts. Additional information can be found in the Draft Supplemental Environmental Assessment (USACE 2022).

2.1 Description of the Proposed Action

The Port Arthur and Vicinity (PAV), Texas Hurricane Flood Protection Project (HFPP) is located in Port Arthur, Jefferson County, TX. This project was authorized by the Flood Control Act of 1962, Public Law 87-874, substantially in accordance with House Document No. 505, 87th Congress, 2nd Session. Construction began in March 1966 and was completed in April 1982. The authorization provided for raising existing seawalls and levees, highway and street ramps, roadway and railway closures, new pumping stations, modifications of existing pumping stations and gravity drainage structures. The system reduces risk to the Port Arthur region from coastal storm surge events coming from the Gulf of Mexico. It also reduces risk from flooding from the Sabine River. The levee system consists of 27.8 miles of earthen embankment and 6.6 miles of concrete and steel sheet pile floodwalls. There is also a wave barrier on Pleasure Island. It is operated by Jefferson County Drainage District No. 7 (DD7), the project Non-Federal Sponsor (NFS).

2.1.1 Flood Wall Construction

Contract 3B (PAV03B) consists of the construction of approximately 4,000 linear feet of floodwall on property occupied by the Port of Port Arthur (POPA), Kansas City Southern Railroad (KCS), JBS Packing, and Entergy Texas, Inc. The work also includes demolition and removal of the existing sheet pile floodwall and gate closures only where required for new construction. Most of the existing alignment through the PAV03B area will remain in place but will be removed from the Federal Project, and ownership will revert to DD7. A floodwall is a man-made structure designed to shield areas from storm surge and floodwaters. The structure is usually comprised of solid concrete and does not allow any passage of water. Floodwall construction is anticipated to include clearing, grubbing, and stripping along the proposed alignments, demolition of concrete and steel sheet pile of the existing floodwall and installation of new steel piles and concrete floodwalls within the new alignment. No excavation on site is needed for source material, geotechnical analysis was performed on a selected offsite borrow source, and was found to be suitable for floodwall construction. See Figure 1 in Section 2.2 for an overview of the project location.

Contract PAV03B extends from Station 617+00 to 647+89 per the 2017 Feasibility Study, with an existing floodwall elevation through this area of 15.5 feet (ft). Based on site specific restrictions, particularly the POPA operational facilities that have been constructed over top of the existing alignment, a revised alignment location was developed by the Project Delivery Team (PDT) in coordination with the NFS and the local landowners, POPA and KCS. The new design alignment will tie into the existing system's levee at Station 617+00 and Station 655+00. The design alignment is shown in Figure 2 in Section 2.2, with each of the six closure gates called out by number. The seventh alignment crossing shown will be a ramp crossing over top of the levee.

The existing ground surface elevations throughout the contract area vary from approximately 0 ft elevation in the KCS-owned property, to 6 ft at the existing floodwall location near the docks. The first approximately 700 ft of the floodwall alignment, beginning from the northeast at

Station 617+00, will demolish the existing wall and replace the existing wall. This portion will also be built to a higher design elevation to accommodate its location along the waterway.

The first 2,800 ft of the alignment will be a pile-founded concrete T-wall. The demolition and removal of portions of the existing floodwall will be accomplished through pile and sheet driving to break up the existing concrete of the structure. Steel sheet pile will be installed to replace the existing structure. Subsurface sediment would then be excavated to depth for the concrete wall footing, which is to be cast in place. Excavated areas would be subsequently backfilled and thoroughly compacted. Cranes would likely be used to drive piles that will provide structural stability and to drive sheet pile. Existing compacted sheet pile will either be removed or left in place. Formworks would be installed to form the footing and wall stem and reinforcing steel bar would be placed. Concrete mixer trucks would pump concrete to the footing and into the stem via a concrete boom. Additional earthwork would involve tying the floodwall into adjacent earthen levees and backfilling and compacting around the completed wall.

2.1.2 New Levee Construction

The southwest 1,100 ft of PAV03B will consist of new levee construction. An additional access point to the levee system, as well as to the property outside of the new levee, will be provided at the existing Denbo Avenue. A ramp system will lead to the levee crest for operations and maintenance, and over top the levee for emergency access.

Contract 3B will tie into the existing levee system as its starting and ending points of Station 617+00 and 655+00. New stationing has been provided for PAV03B since it deviates from the existing system. The north tie-ins will be in accordance with the standard floodwall to levee transition details provided in the Sabine Pass to Galveston Bay Design Criteria. The south tie-in will be an extension of the existing levee, while meeting the new design elevations. There will be an additional tie-in at Station 7+00 to the existing I-wall system which will remain in place through the POPA's facilities.

The levee design includes a 20' wide crest, a 3:1 H:V slope on the land side, and a 6:1 H:V slope on the flood side. Turf Reinforcement will be installed on the entirety of the land side slope for overtopping protection. A 6' deep inspection trench will be located directly under the levee crest. The levee is assumed to be constructed of new clay hauled in from an offsite borrow area and is designed to account for future settlement. The design elevation of the project in this area is 16.5' (NAVD88), with overbuild for settlement the levee will be built to 17.5'. Given an average existing elevation of 4' in the area, the levee will be an average of 13.5' tall.

Levee raises and erosion protection includes clearing and grubbing of the planned alignment. Material from the excavated borrow site are pushed or stacked on top of existing levees to raise the terminal height of the barrier. Equipment such as bulldozers, short and long reach excavators, tractors with pans or discs, skid steer, compactor, barges for access to the site, offroad dump trucks, rough terrain cranes, and welding equipment are all standard tools used for levee raises. Security, turbidity, and flood control temporary barriers may be constructed with metal fencing and selection of TCEQ's BMPs.

2.1.3 Roadway Construction

2.1.3.1 Levee Roadway

An all-weather maintenance road will be located along the top of the levee, consisting of 6" flexible base material. This will tie into a similar road on the adjacent 3A levee which is being completed by others. Where the new levee crosses Denbo Ave, an asphalt access road will be constructed over top of the levee for emergency access during flood events. This road is designed for heavier traffic, using an HS-20 design vehicle as per S2G Design Criteria guidelines. Two 11' lanes will be installed to match the existing Denbo Ave in this area that is being replaced, plus 4' shoulders on each side for safety. The roadway slopes will be set at 10% on the up and downslope, with 3:1 side slope back down to the levee surface. The roadway itself will consist of three layers, 4" HMA pavement on 6" flexible base, over a compacted subgrade. The road will slope at 1/4" per 1' from the crown, and a speed limit of 15 mph will be posted for safety. For traffic larger than passenger vehicles, it is recommended that the roadway be used as one-way, with a flagger on top to direct vehicles.

2.1.3.2 Existing Roadway Improvements

There is an existing levee road that crosses into the project area and transitions from the public right-of-way into a road privately owned by KCSRR. The existing levee road will be raised over top of the new levee as this is a required emergency access point to the KCS rail yard during storm events.

2.1.3.3 Gate Construction

Gates 1, 2 and 4 shown on Figure 2 will be single-leaf swing gates. A single leaf swing gate is used to prevent access to vehicles or pedestrians on private roads. The gates are two poles that are inserted deep into either the roadway or ground and filled with concrete. The insertion of the two stability poles is the only impact to project area, the gate sits above the ground and is usually chained with private locks. The gates are typically constructed with galvanized steel to prevent corrosion along coastal communities. Gate 3, which crosses 4th Ave, will be a roller gate given the required clear crossing width of 43 ft. A roller gate is like the single-leaf swing gate in that that, it has two stability poles with wheels installed at the base of the gate; the gate can be moved either with battery wrench-pulley mechanics or through manual pushing. The typical equipment used for the gate construction is like the equipment required for the floodwall. Standard equipment is as follows: pile hammer/driver, hydraulic excavator with bucket, hydraulic crane, concrete pump, concrete vibrator, and a welder.

Gates 5 and 6 and their associated storage monoliths have been removed from PAV03B, as they require further design coordination with KCS that cannot be completed in the required schedule for this effort. An approximately 50 percent (%) design has been completed for those gates with 100% design of associated features. The draft gate design is for a specially designed large, 100 ft+ gates to provide clearance for continued operations by KCS and the POPA. Point 7 is an over the levee road crossing with no closure gate.

2.1.4 Impacts of the Action

The construction area would be cleared, grubbed, and stripped. The subsurface would then be excavated to depth for the concrete wall footing, which is to be cast in place. Excavated areas would be subsequently backfilled and thoroughly compacted. Cranes would be used to drive piles that will provide structural stability and to drive sheet pile. Formworks would be installed to form the footing and wall stem and reinforcing steel bar would be placed. Concrete mixer trucks would pump concrete to the footing and into the stem via a concrete boom. Additional earthwork would involve tying the floodwall into adjacent earthen levees and backfilling and compacting around the completed wall.

Direct and indirect impacts associated with implementing PAV03B are permanent in nature and limited in scope. Construction activities would contribute the greatest impacts to the environment and could include habitat removal and/or fragmentation; temporary habitat avoidance because of increased noise, dust generation, vibrations, and overall lower quality habitat; and losses of slow moving and less mobile species (small mammals and herpetofauna). The level and duration of the impacts is dependent on the type of equipment used and duration of construction activities. However, it is anticipated that once construction is complete, any temporary impacts related to construction activities would cease. The degraded coastal prairie habitat and cattail-dominated wetlands will be cleared from the project footprint prior to construction, and construction of the levee will convert approximately 7 acres of habitat to a manmade and maintained coastal storm risk management structure. It should be noted 8 acres of habitat will be mitigated for in Appendix A's Habitat and Mitigation plan, however, this supplemental biological assessment will only focus on the 7 acres of potential habitat within PAV03B, 1 acre resides in PAV03C which was eliminated from analysis since it was deemed not quality habitat for eastern black rail, monarch butterfly, and whooping crane and would have no effect on the species.

Further, there is a direct impact for protecting people, property, and environmental resiliency of dwindling coastal marshes due to sea level rise with construction of the project. Considering the recent damages from Hurricane Ike and even more recently Harvey, Laura, and Ida, the population and infrastructure of the region, and the national significance of the economic and environmental resources within the region, construction of the project is both an impact and benefit to the action area.

2.2 Description of the Action Area

The anticipated action area is on the southeastern boundary of Port Arthur, Texas. It is adjacent to the POPA. The action area is highly disturbed and is fragmented due to local, commercial, and industrial structures that surround the action area (Figure 1 - Figure 3). This is the anticipated alignment for PAV03B, however, minimal shifts within the evaluated habitat may occur. Should any new or additional habitats or resources be impacted outside of what is discussed in this BA, re-consultation with the managing agencies shall occur prior to any work being conducted.

Photos of the Action Area can be found in Attachment C.

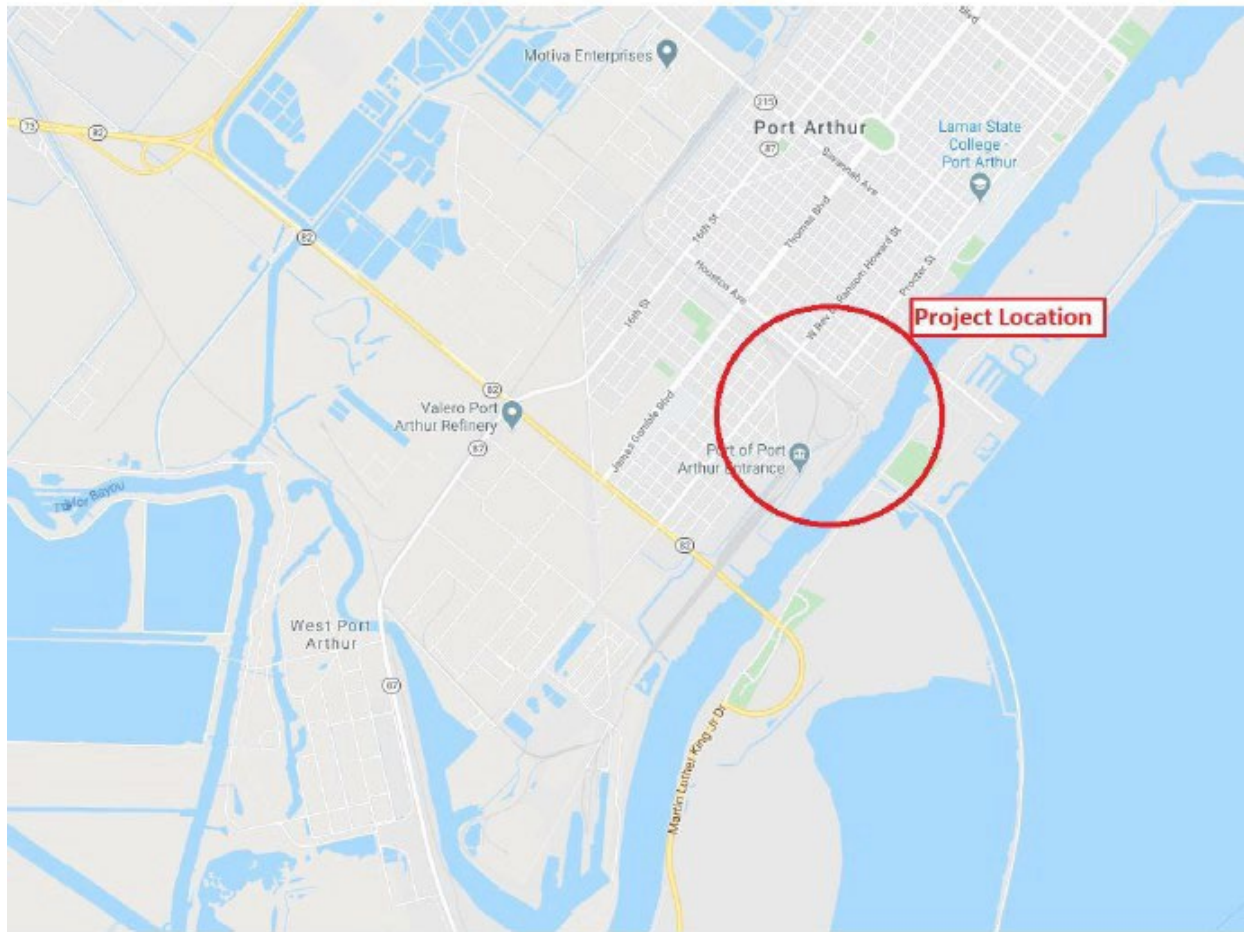


Figure 1. PAV03B Project Location



Figure 2. PAV03B Alignment

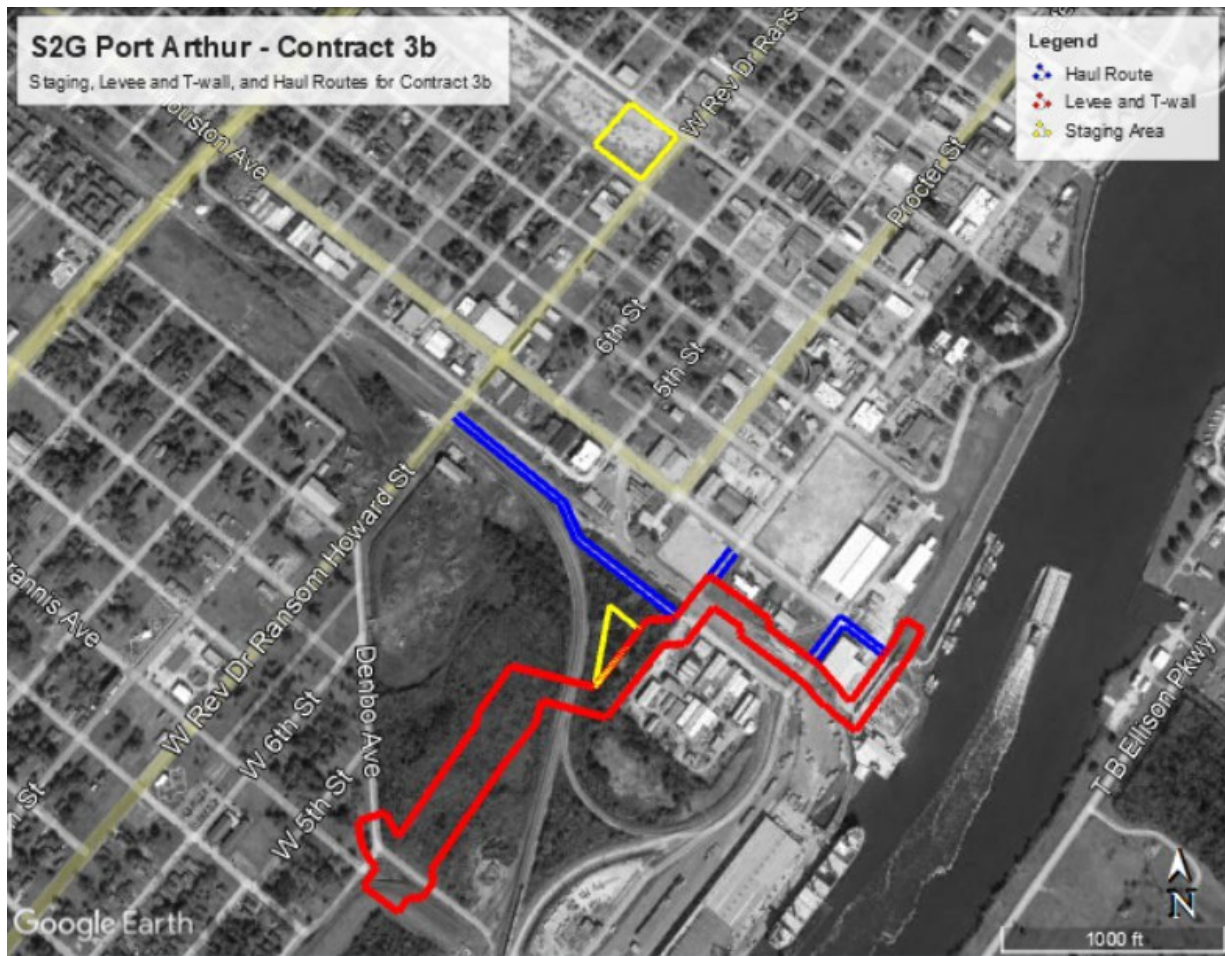


Figure 3. PAV03B Action Area

2.2.1 *Habitat and Vegetative Community Types within the Action and Location*

An initial desktop survey, as well as Google Earth imagery was used to evaluate the conditions of the action area (Figure 4 and Figure 5).

USACE conducted field reconnaissance of the action area in March and April 2022. The field reconnaissance consisted of a pedestrian visual survey to evaluate the absence or presence of suitable habitat and the potential presence of listed species within the action area. USACE and accompanying resource agencies (Texas Parks and Wildlife [TPWD] and USFWS) observed three vegetation community types within the action area including one semiaquatic community type (palustrine emergent wetland) and two terrestrial community types (invasive upland forest and non-native invasive grassland) (Figure 6). The dominant species identified within the observed vegetation community types are listed in the following paragraphs along with their location.

Palustrine Emergent Wetland: Approximately 4 acres of the action area is considered coastal prairie pondshore. The action area between gates 6 and 7 (Figure 2) has dry and shrubby wetland vegetation. Here, the depth of habitat is shallow (<one inch) after precipitation events otherwise it is dry year-round. It is assumed this area can hold water longer due to the lower elevation of

the site as compared to the uplands as well as raised elevation around the railroad (4 ft vs. 5 to 7 ft). This area is dominated by deep-rooted sedge (*Cyperus entrerianus*), Chinese tallowtree (*Triadica sebifera*), bushy bluestem (*Andropogon glomeratus*), dewberry (*Rubus spp.*) and rattlebox (*Ludwigia alternifolia*). This area does not support vascular plants (submerged aquatic vegetation [SAV]).

The action area between gates 5 and 6 is also considered palustrine emergent wetland habitat (one acre) (Figure 2). There is a drainage ditch that supports emergent wetland habitat such as cattail (*Typhus spp.*), deep-rooted sedge, black needle rush (*Juncus roemerianus*), and Chinese tallowtree. There is some standing water within the drainage ditch, but towards the southern section of this action area it becomes dry. Although the area is dry it does accommodate wetland vegetation such as soft-stem bulrush (*Schoenoplectus tabernaemontani*), deep-rooted sedge, black willow (*Salix nigra*), and rattlebox.

Invasive Upland Forest: Other habitat within the action area supports highly degraded low-quality forested areas consisting of hackberry (*Celtis occidentalis*), dewberry (*Rubus spp.*), poison ivy (*Toxicodendron radicans*), live oak (*Quercus virginia*), green ash (*Fraxinus pennsylvanica*), and black willow (2 acres). This habitat type was most likely coastal prairie before it was invaded with wooded species. It is highly unlikely this habitat would ever be restored to its original condition due to the highly industrial uses adjacent to the site and the current property ownership without the project.

Non-native Invasive Grassland: Approximately 2 acres of highly disturbed non-native invasive grassland will also be impacted by construction. This vegetation is mowed and maintained and does not reach heights greater than three inches.

The action area is used by a variety of terrestrial fauna for resting, nesting, spawning, foraging, etc. For a complete description of species commonly found in Port Arthur see the 2017 Feasibility Study.

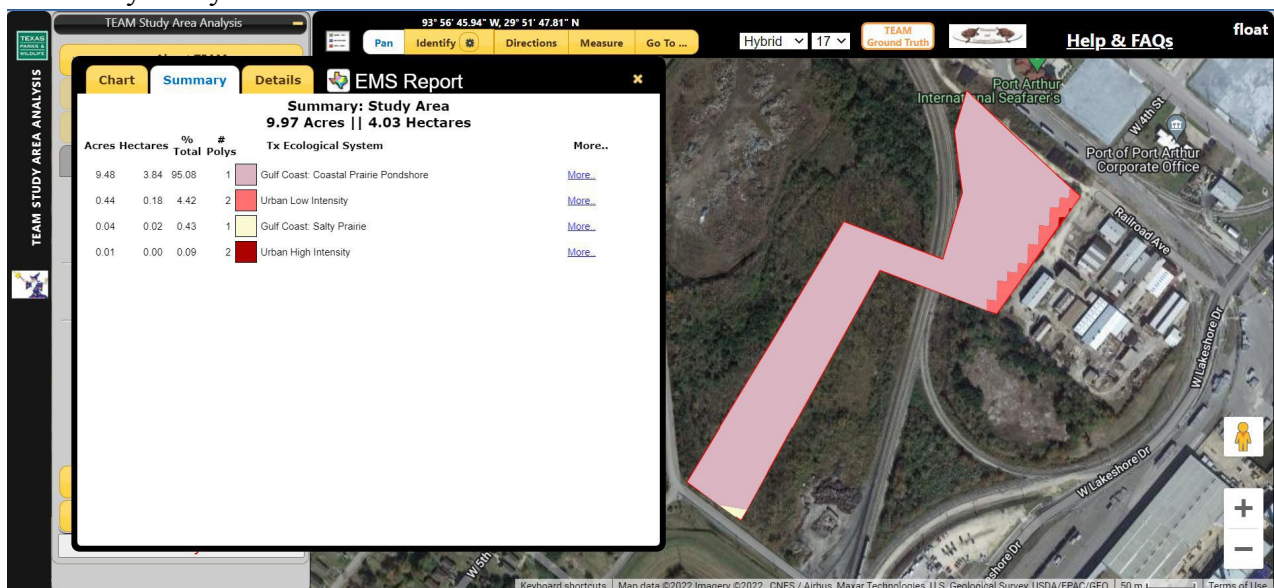


Figure 4. Initial Texas Ecosystem Analytical Mapper Study Area Analysis Desktop Survey of Action Area (TPWD, 2022)



Figure 5. National Wetlands Inventory Mapper (USFWS, 2022)



Figure 6. Layout of Habitat Types within the Action Area (Palustrine Emergent Wetland, Invasive Upland Forest, and Non-native Invasive Grassland)

3.0 LISTED SPECIES AND CRITICAL HABITAT IN THE ACTION AREA

The USFWS IPaC identified 15 threatened or endangered species of concern for the action area (USFWS 2022 and NMFS 2022). Additionally, the IPaC states that no designated critical habitat is present in the action area (USFWS 2022). Table 2 identifies the evaluated species, scientific name, jurisdiction, and status of each species.

Table 2. ESA-listed Species Identified by FWS and NMFS as Potentially Occurring in the Action Area

| Species | Scientific Name | Jurisdiction | Status |
|--------------------------|---|--------------|------------|
| Birds | | | |
| Eastern black rail | <i>Laterallus jamaicensis jamaicensis</i> | USFWS | Threatened |
| Piping Plover | <i>Charadrius melodus</i> | USFWS | Threatened |
| Red Knot | <i>Calidris canutus rufa</i> | USFWS | Threatened |
| Whooping Crane | <i>Grus americana</i> | USFWS | Endangered |
| Reptiles | | | |
| Green Sea Turtle | <i>Chelonia mydas</i> | USFWS | Threatened |
| Hawksbill Sea Turtle | <i>Eretmochelys imbricata</i> | USFWS | Endangered |
| Kemp's Ridley Sea Turtle | <i>Lepidochelys kempii</i> | USFWS | Endangered |
| Leatherback Sea Turtle | <i>Dermochelys coriacea</i> | USFWS | Endangered |
| Loggerhead Sea Turtle | <i>Caretta caretta</i> | USFWS | Threatened |
| Mammals | | | |
| West Indian Manatee | <i>Trichechus manatus</i> | USFWS | Threatened |
| Sperm whale* | <i>Physeter macrocephalus</i> | NMFS | Endangered |
| Rice's Whale* | <i>Balaenoptera ricei</i> | NMFS | Endangered |
| Fish | | | |
| Oceanic Whitetip Shark* | <i>Carcharhinus longimanus</i> | NMFS | Threatened |
| Giant Manta Ray* | <i>Manta birostris</i> | NMFS | Threatened |
| Insects | | | |
| Monarch butterfly | <i>Danaus plexippus</i> | USFWS | Candidate |

Species protected solely by the National Marine Fisheries Service (NMFS) are demarcated with an asterisk (*). Sea turtle jurisdiction is shared jointly by USFWS (inland water and nesting beaches) and NMFS (offshore marine environment).

To assess the status of species in the action area and potential impacts of the action on ESA-listed species, several sources were consulted including literature review of scientific data; on-site inspections; and compiled lists of ESA-listed species. Significant literature sources consulted include the USFWS species specific webpages; Federal status reports and recovery plans; TPWD species occurrence and monitoring reports; peer-reviewed journals, and other standard references.

3.1 Species Eliminated from the Analysis

During the review, it was found that 13 federally listed species would not be affected by the proposed action and, thus, were eliminated from further consideration because no suitable habitat exists, or the Action Area is outside of their known range(s). Because each of these species have

no potential to occur in the Action Area, only a brief description of the species range and habitat was provided to document consideration (Table 3).

Table 3. Description of Species Eliminated from the Analysis for a No Effects Determination

| Species | Habitat Association | Effect Determination | Effects Analysis |
|--------------------------|---|----------------------|------------------------|
| Birds | | | |
| Piping Plover | Along the Texas coast, piping plover use beaches, mudflats, sandflats, dunes, and offshore emergent wetland placement areas. | No Effect | Lacks suitable habitat |
| Red Knot | Along the Texas coast, red knots forage on beaches, oyster reefs, and exposed bay bottoms and roost on high sand flats, reefs, and other sites protected from high tides. | No Effect | Lacks suitable habitat |
| Reptiles | | | |
| Green Sea Turtle | Primarily uses shallow habitats such as lagoons, bays, inlets, shoals, estuaries, and other areas with an abundance of marine algae and seagrasses. | No Effect | Lacks suitable habitat |
| Hawksbill Sea Turtle | Generally inhabit coastal reefs, bays, rocky areas, passes, estuaries, and lagoons, where they occur at depths of less than 70 feet. | No Effect | Lacks suitable habitat |
| Kemp's Ridley Sea Turtle | Inhabit shallow coastal and estuarine waters, usually over sand or mud bottoms. | No Effect | Lacks suitable habitat |
| Leatherback Sea Turtle | Mainly pelagic, inhabiting the open ocean. Found in coastal waters during nesting. Typically nests on beaches with a deep-water approach in Malaysia, Mexico, French Guiana, Suriname, Costa Rica, and Trinidad | No Effect | Lacks suitable habitat |
| Loggerhead Sea Turtle | Occur in open seas as far as 500 miles from shore, but mainly over the continental shelf, and in bays, estuaries, lagoons, creeks, and mouths of rivers. | No Effect | Lacks suitable habitat |
| Mammals | | | |
| West Indian Manatee | Marine, brackish, and freshwater systems in coastal and riverine areas with preference near the shore featuring underwater vegetation like seagrass & eelgrass. | No Effect | Lacks suitable habitat |
| Sperm whale* | Prefer steep depth gradients, along the shelf break (2,300 – 3,280 feet) and deeper oceanic waters. | No Effect | Lacks suitable habitat |
| Rice's Whale* | Restricted to a very narrow depth corridor along the shelf break in the northeastern Gulf of Mexico. | No Effect | Lacks suitable habitat |
| Fish | | | |
| Oceanic Whitetip Shark* | Reside in tropical and subtropical seas worldwide in the pelagic ocean, generally offshore, on the outer continental shelf, or | No Effect | Lacks suitable habitat |

| | | | |
|-------------------|---|-----------|------------------------|
| | around oceanic islands in water depths greater than 604 feet. | | |
| Giant Manta Ray* | Prefer offshore environments in the Gulf of Mexico. Manta rays are rarely seen in Texas bays and estuaries. They can occur in waters from 0 ft to 4,000 ft, this behavior is most likely due to prey availability | No Effect | Lacks suitable habitat |
| Insects | | | |
| Monarch butterfly | Monarchs need healthy and abundant milkweed embedded within diverse nectaring habitat. Many monarchs use a variety of roosting trees along the fall migration route. Although monarch butterfly can occur within the project areas, they will not be affected by construction due to the lack of milkweed presence and unlikelihood of milkweed to occur in the PAV03B and PAV03C sites due to the severe degradation of habitat by invasive species. | No Effect | Lacks suitable habitat |

Species protected solely by NMFS are demarcated with an asterisk (*). Sea turtle jurisdiction is shared jointly by USFWS (inland water and nesting beaches) and NMFS (offshore marine environment).

3.2 Eastern Black Rail

The eastern black rail (BLRA) is a secretive marsh bird and one of the least understood species in North America. The sparrow-sized bird with slate gray plumage and red eyes lives in remote wetlands of the Midwest and along the coasts of the Atlantic and Pacific oceans and the Gulf of Mexico. Because it only comes out at night, prefers to walk hidden in tall grasses instead of fly and rarely makes a call, very little is known about its behavior and habitat needs.

Not much is known about the subspecies diet, but they are probably opportunistic foragers. Their bill shape suggests generalized feeding methods such as gleaning or pecking at individual items, thus a reliance on sight for finding food. Examination of specimens collected indicates a diet of small aquatic and terrestrial invertebrates, as well as small seeds. Foraging most likely occurs on or near the edges of stands of emerging vegetation -- both above and below the high-water line.

The BLRA was listed as threatened on October 8, 2020, with a Section 4(d) Rule (FR 63764). No critical habitat has been designated for the species. The Section 4(d) Rule allows the Service to establish prohibitions or exceptions to prohibitions for threatened species while providing for the conservation of a threatened species by allowing flexibility under ESA. None of the 4(d) Rule prohibitions or exceptions to prohibitions apply to this project.

The primary threats to BLRA are: (1) habitat fragmentation and conversion, resulting in the loss of wetland habitats across the range; (2) sea level rise and tidal flooding; (3) land management practices (i.e., incompatible fire management practices, grazing, and haying/mowing/other mechanical treatment activities); and (4) stochastic events (e.g., extreme flooding, hurricanes). Human disturbance, such as birders using excessive playback calls of black rail vocalizations, is also a concern for the species. Additional stressors to the species include oil and chemical spills and environmental contaminants; disease, specifically West Nile virus; and predation and altered

food webs resulting from invasive species introductions (fire ants, feral pigs, nutria, mongoose, and exotic reptiles).

The BLRA has a broad but poorly known breeding range that includes the Atlantic and Gulf Coasts of North America, parts of Colorado, Oklahoma and the mid-west, the West Indies including Cuba, Jamaica and historically Puerto Rico and parts of Central America from Mexico through Panama (Watts, 2016). A total of 1,937 occurrence records were found between 1836 and 2016. Credible evidence of occurrence was found for 21 of the 23 states including 174 counties, parishes and independent cities and 308 named properties. Based on breeding evidence and seasonality of occurrence, 34 (19%) counties were classified as confirmed, 97 (56%) as probable breeding and 43 (25%) as possible breeding. Many of the named properties are well-known conservation lands including 46 (15%) national wildlife refuges, 44 (14%) state wildlife management areas, 26 (8%) state and municipal parks and many named lands managed by non-governmental conservation organizations.

Since 2010, 247 black rail occurrences have been recorded within 11 of the 23 states in the potential range of the species. Records were found for 53 counties, parishes and independent cities (Figure 7). Based on breeding evidence and seasonality of occurrence, 2 (4%) counties were classified as confirmed, 35 (66%) as probable breeding and 16 (30%) as possible breeding. Records were found for 92 named properties including 2 (3%) properties classified as confirmed, 73 (79%) as probable breeding and 17 (18%) properties classified as possible breeding.

The BLRA is a wetland dependent bird requiring dense overhead cover and soils that are moist to saturated (occasionally dry) and interspersed with or adjacent to very shallow water (typically \leq three centimeters [cm]) to support its resource needs (Watts 2016). BLRAs occur across an elevational gradient that lies between lower and wetter portions of the marsh and their contiguous uplands. Their location across this gradient may vary depending on the hydrologic conditions. These habitat gradients have gentle slopes so that wetlands are capable of having large areas of shallow inundation (sheet water). These wetlands are able to shrink and expand based on hydrologic conditions and thus provide dependable foraging habitat across the wetted areas and wetland-upland transition zone for the subspecies. BLRAs also require adjacent higher elevation areas (i.e., the wetland-upland transition zone) with dense cover to survive high water events due to the propensity of juvenile and adult black rails to walk and run rather than fly and chicks' inability to fly (USFWS 2019).

The subspecies requires dense vegetation that allows movement underneath the canopy, and because they are found in a variety of salt, brackish, and freshwater wetland habitats that can be tidally or non-tidally influenced, plant structure is considered more important than plant species composition in predicting habitat suitability (Watts 2016). In terms of nest success, nests must be well hidden in a dense clump of vegetation over moist soil or shallow water to provide shelter from the elements and protection from predators. Flooding is a frequent cause of nest failure; therefore, water levels must be lower than nests during egg-laying and incubation in order for nests to be successful. In addition, shallow pools that are one to three cm deep may be the most optimal for foraging and for chick-rearing (USFWS 2019).

Texas is a black rail crossroad making it difficult to differentiate breeders from winter residents from migrants (Watts 2016). Black rail in Texas use tidal salt marshes along the barrier islands and the mainland fringe, as well as drier coastal prairie. The upper Texas coast (Jefferson, Chambers, Galveston, Harris, and Brazoria counties) has a long history of black rail records that are concentrated within national wildlife refuges and state wildlife management areas. Much of the black rail activity along the upper Texas coast has been concentrated on the Bolivar Peninsula and Brazoria, Anahuac and San Bernard National Wildlife Refuges. Within the perimeter of the new levee alignment, existing degraded coastal prairie habitat is considered suitable and could support individuals due to connectivity to upland areas for nesting and foraging, as well as the dense herbaceous cover that could be used for escape from predators.

3.3 Whooping Crane

The whooping crane is the tallest North American bird with males approaching 1.5 meters in height, is snowy white with black primary feathers on the wings, and a bare red face and crown. Whooping cranes form monogamous pairs for life and all whooping cranes return to the same breeding territory in Wood Buffalo National Park, in Canada to nest in late April or May. Whooping cranes return to wintering grounds of Aransas National Wildlife Refuge (NWR) by late October to mid-November where they migrate singly, in pairs, in family groups or in small flocks and remain until March or April.

Whooping cranes are omnivorous and forage by probing and gleaning foods from soil, water, and vegetation. Summer goods include dragonflies, damselflies, other aquatic insects, crayfish, clams, snails, grasshoppers, cricket, frogs, mice, voles, small birds, minnows, reptiles, and berries. During the winter in Texas, they eat a wide variety of plant and animal foods, with blue crabs, clams, and berries of Carolina wolfberry (*Lycium carolinianum*) being predominant in the diet. Foods taken at upland sites include acorns, snails, crayfish, and insects. Waste grains, such as barley and wheat, form an important part of the diet during the spring and fall migrations (Lewis 1995; Campbell 2003; Canadian Wildlife Service [CWS] and USFWS 2007).

The whooping crane was federally listed as endangered on March 11, 1967 (32 FR 4001). Critical habitat has been designated in Aransas, Calhoun, and Refugio counties in Texas, and includes the Aransas National Wildlife Refuge.

The main factors for the decline of the whooping crane were loss of habitat to agriculture (hay, pastureland, and grain production), human disturbance of nesting areas, uncontrolled hunting, specimen and egg collection, collisions with power lines, fences, and other structures, loss and degradation of migration stopover habitat, disease such as avian cholera, predation, lead poisoning, and loss of genetic diversity. Biological factors, such as delayed sexual maturity and small clutch size, prevent rapid population recovery. Drought during the breeding season presents serious hazards to the species. Exposure to disease is a special problem when large numbers of birds are concentrated in limited areas, as often happens during times of drought (Lewis 1995; Campbell 2003; CWS and USFWS 2007).

Whooping cranes were originally found throughout most of North America. In the nineteenth century, the main breeding area was from the Northwest Territories to the prairie provinces in

Canada, and the northern prairie states to Illinois. Only four populations of whooping cranes exist in the wild, the largest of which is the Aransas-Wood Buffalo population, which breeds in isolated marshy areas of Wood Buffalo National Park in Canada's Northwest Territories. Each fall, the entire population of whooping cranes from this national park migrates some 2,600 miles (4,183 kilometers) primarily to the Aransas NWR and adjacent areas of the central Texas coast in Aransas, Calhoun, and Refugio counties, where it overwinters in oak savannahs, salt marshes, and bays (USFWS 1995). During migration they use various stopover areas in western Canada and the American Midwest. The three other wild populations have been introduced: an eastern population that migrates between Wisconsin and Florida and two non-migratory populations, one in central Florida, the other in Louisiana.

The natural wild population of whooping cranes spends its winters at Aransas NWR, Matagorda Island, Isla San Jose, portions of Lamar Peninsula, and Welder Point on the east side of San Antonio Bay (CWS and USFWS 2007). The main stopover points in Texas for migrating birds are in the central and eastern Panhandle (USFWS 1995).

USFWS reintroduced a non-essential experimental population (NEP) to Vermillion Parish in southwestern Louisiana in 2011. The reintroduced population was designated as NEP under section 10(j) of the ESA of 1973, as amended. A NEP population is a reintroduced population believed not to be essential for the survival of the species, but important for its full recovery and eventual removal from the endangered and threatened list. Since 2011, 10-16 hatched juveniles have been released annually at White Lake Wetlands Conservation Area, and in 2016 a new release area was added 19 miles to the south at Rockefeller Wildlife Refuge. The maximum size of the non-migratory Louisiana population in 2021 was 72 individuals (36 males, 33 females, and 3 unknown) with 66 birds in Louisiana, five in Texas, and one in Oklahoma (Louisiana Department of Wildlife and Fisheries, 2021). The NEP is approximately 90 miles from the action area.

Nesting habitat in northern Canada is in poorly drained regions of freshwater marshes and wet prairies interspersed with numerous potholes and narrow-wooded ridges. Whooping cranes use a variety of habitats during migration, including freshwater marshes, wet prairies, inland lakes, small farm ponds, upland grain fields, and riverine systems. Shallow flooded palustrine wetlands and riverine habitats, such as submerged sandbars, are used for roosting, while croplands and emergent wetlands are used for feeding. The principal winter habitat in Texas is brackish bays, marshes, and salt flats, although whooping cranes sometimes feed in upland sites characterized by oak mottes, grassland swales, and ponds on gently rolling sandy soils (Lewis 1995; Campbell 2003; CWS and USFWS 2007).

Members of the NEP population are known to use typical marsh habitat along with rice and crawfish fields year-round in Orange County and a nesting pair has been documented in Jefferson and Chambers County.

4.0 EFFECTS OF THE PROPOSED ACTION

This chapter describes the potential effects of the proposed action on listed species.

4.1 Eastern Black Rail

The action area is within the known range of BLRA. There are no e-Bird records of species occurrence in the action area, but USACE identified one patch of potentially suitable habitat (i.e. appropriate substrate saturation and vegetation density) in a portion of the action area during field surveys (see Attachment C for photos). The identified potentially suitable habitat patches are not assumed to include preferred habitat (for Texas) since the areas are not dominated by gulf cordgrass (*Spartina spartinae*), salt meadow cordgrass (*S. patens*), salt grass (*Distichlis spicata*), sea oxeye (*Borrchia frutescens*), and eastern baccharis (*Baccharis halimifolia*). However, BLRA may occur in inland palustrine emergent wetlands that have dense herbaceous cover that allow tunnels for BLRA to escape predation.

No BLRA have been documented in the action area; however, call-playback auditory surveys were not performed. It is possible that BLRA may be in the vicinity of the project at the time of construction since potential habitat is present; therefore, presence of BLRA is assumed at the PAV03B project site.

4.1.1 Direct Impacts

Within the perimeter of the new levee alignment, existing degraded coastal prairie habitat is considered suitable and could support individuals due to connectivity to upland areas for nesting and foraging, as well as the dense herbaceous cover that could be used for escape from predators. Similarly, along the Texas coast, rails have utilized dense vegetative areas outside of the nesting season and it can be assumed that individuals may be at the site at all times of the year. If present during clearing activities outside of the nesting and breeding season, the eastern black rail would likely vacate the area to avoid the noise and vibrations before being impacted by the clearing/grubbing/mowing equipment by contractor personnel. However, the largest risk to the species is vegetation clearing during the nesting and breeding season in the densely vegetated portions of the action area.

The eastern black rail is one of the smallest rails in North America and their nests and chicks are not easily spotted, a chick is roughly the size of a cotton ball (USFWS, 2023). Mowing during this critical period could lead to mortality of individual BLRA, as well as their eggs due to the lack of visibility. To best minimize any impacts to the species, no vegetative clearing work will occur during the breeding season (from 01 March to September 30) within the action area and especially no mowing in the areas of concern outlined in Attachment A. Once vegetation has been cleared, BLRA are expected to continue to move away from the area to find suitable habitat due to the lack of vegetation. USACE will continue to maintain and mow the action area prior to March to September to reduce the likelihood of any individuals moving back into the construction site. Conservation measures provided by USFWS will be incorporated into the project specifications and are described in Section 5.0 of this BA.

The action will have a direct impact on potential habitat since construction of the CSRM PAV03B will modify hydrology to wetlands within and adjacent to the structure since all wetlands in the area are freshwater and not tidally influenced. There will be a direct and permanent loss for wetlands located within the planned alignment and staging areas. All losses to

wetlands and mitigation are discussed in the Supplemental Environmental Assessment and its mitigation plan.

4.1.2 Habitat and Direct Impacts to Eastern Black Rail

Habitats lie within the footprint of PAV03B, as discussed in Section 2.2.1. Based on in-field surveys and available desktop tools, approximately 7 acres of the project area for PAV03B is considered mitigatable habitat per USACE policy. 6 acres are disturbed coastal prairie split between 4 acres of disturbed coastal prairie and 2 acres of wooded coastal prairie plus 1 acre of emergent cattail wetland for a total of 7 acres. The project area is split into two sections: west of the railroad and east of the railroad. The project area west of the railroad has dry and shrubby wetland vegetation; the depth of habitat is shallow (<one inch) after precipitation events, otherwise it is dry. The soils west of the railroad are suitable for wetland vegetation and are dominated by deep-rooted sedge (*Cyperus entrerianus*), Chinese tallowtree (*Triadica sebifera*), bushy bluestem (*Andropogon glomeratus*), dewberry (*Rubus* spp.) and rattlebox (*Ludwigia alternifolia*).

The project area east of the railroad is also considered palustrine emergent wetland habitat. There is a drainage ditch that supports emergent wetland habitat such as cattail (*Typhus* spp.), deep-rooted sedge, black needle rush (*Juncus roemerianus*), and Chinese tallowtree. There is some standing water within the drainage ditch, but towards the southern section of this action area it becomes dry. Although the area is dry it does accommodate wetland vegetation such as soft-stem bulrush (*Schoenoplectus tabernaemontani*), deep-rooted sedge, black willow (*Salix nigra*), and rattlebox.

Habitat within the PAV03B project area on both sides of the railroad supports highly degraded low-quality coastal prairie consisting of hackberry (*Celtis occidentalis*), dewberry (*Rubus* spp.), poison ivy (*Toxicodendron radicans*), live oak (*Quercus virginia*), green ash (*Fraxinus pennsylvanica*), and black willow. The portions of these wetlands northeast of the railroad are not suitable to support the BLRA due to a lack of dense vegetation and topographic conditions. **Northeast habitats are not suitable for BLRA.** The wetlands west of the railroad, however, contain clustered non-native vegetation, primarily cattail. While these wetlands are not currently supporting BLRA preferred vegetation, the dense vegetation does support the species' need for sufficient canopy cover. The USFWS has advised that sufficient vegetative cover can be loosely measured by the observer's inability to see footwear while trudging through wetlands. Based on field visits, approximately 2 acres of these wetlands identified in Appendix A had vegetation meeting this height requirement. **Habitat west of the railroad, occupying 2 cumulative acres, need to be considered further.**

Post construction, the 2 acres of wetland will be permanently lost due to a loss of hydrology within and adjacent to the project alignment. Although, the area will no longer function as low-quality potential habitat, the overall impact to the species is minor since the species has several higher quality wetlands and potential habitat available in McFaddin National Refuge, J.D. Murphree Wildlife Management Area, or Texas Point National Wildlife Refuge. All wetlands identified in the project area will be fully mitigated for in the Seabreeze Wetland Mitigation

Bank as outlined in the Habitat Analysis and Mitigation Plan in the Supplemental Environmental Assessment.

4.1.3 Indirect Impacts

Construction will temporarily generate increased noise, dust, vibrations, traffic, and vehicle emissions. Indirect noise impacts from construction are not expected to be significant. Further, a consequence of CSRM structures is the indirect link to additional urbanization and industrialization of the area due to increased protection from flooding, storm surge, and other similar adverse weather events.

4.1.4 Cumulative Impacts

Construction of the Port Arthur coastal storm risk management system is ongoing throughout Port Arthur, Texas. This project along with other slowly expanding regional development the extent of urban and industrialization in coastal Texas is increasing and could contribute to the overall effect on BLRA, as well as other wildlife species. The main cause of project-induced effects to BLRA is conversion of palustrine emergent wetlands, which will be permanently replaced by the project's levee and floodwall system. Due to the project's adverse impacts on degraded wetlands, USACE will implement compensatory mitigation for the loss of this habitat. This action will provide cumulative beneficial impacts on BLRA due to the perpetual maintenance of palustrine wetlands within the mitigation area.

4.1.5 Determination

While the action area has wetlands and coastal prairie identified to be potential BLRA habitat, the wetlands only comprise 2 acres within highly urbanized and disturbed areas. The area does contain the variables needed for their life cycle including dense vegetation and access to uplands, however, the area is surrounded by shipyards, residential neighborhoods, and busy roadways. Consequently, the area is not high-quality habitat for the eastern black rail. There is other higher quality habitat adjacent to the site including the McFaddin National Wildlife Refuge, J.D. Murphree Wildlife Management Area, and Texas Point National Wildlife Refuge. The 2 acres of impact will be mitigated for within the Sea Breeze Wetland Mitigation Bank as discussed in the Habitat Analysis and Mitigation Plan in the Supplemental Environmental Assessment. Based on this information, the USACE has determined implementation of the proposed action, with the inclusion of breeding season restrictions, **"May Affect but is not Likely to Adversely Affect"** BLRA. Voluntary conservation measures, such as biological monitors and avoidance measures, have been incorporated into the plan to further minimize any potential for impacts to BLRA (section 5.2).

4.2 Whooping Crane

Although their primary migration route is to the west of the proposed action, occasionally whooping cranes may pass through the Jefferson County region due to the introduced breeding pair. The species may rest along the way in brackish bays, marshes, and salt flats, feeding primarily on blue crabs, clams, snails and insects. The Port Arthur action area contains coastal prairie pond shore habitat but is surrounded by extensive urban and industrial development. The

type of coastal marsh system these large birds prefer is not present in the area that would be affected by construction of PAV03B. However, in 2021, a pair spent significant time in Jefferson County, Texas establishing a territory and nesting three times, resulting in one successful chick hatching (Louisiana Department of Wildlife and Fisheries 2021). This pair is likely to remain and continue to nest in Texas in future years. Although the habitat is not conducive for breeding or foraging, there is a possibility of birds temporarily using the action area.

4.2.1 Direct

The type of coastal marsh system these large birds prefer is not present in the area that would be affected by construction. Whooping crane habitat is not expected to be directly affected by pre-construction and construction elements of PAV03B however, recently the species has been spotted feeding and foraging in similar parts of North-east Texas in addition to the recently introduced breeding pair. Whooping cranes could be affected by the noise of the construction equipment operating in degraded wetlands within the action area resulting in temporary area avoidance. The noise and lack of landing space make it unlikely the species will utilize the project area for feeding or stop-over due to the lack of resources available. However, whooping cranes are a mobile species and have the possibly to fly over the construction site, especially as more sittings near the project area have occurred in recent years. The largest threat to the species is strikes against tall stationary equipment; typical construction equipment includes tall equipment (15 meters or greater) and has the possibility of a strike. The species is most vulnerable to have a strike during periods of low visibility such as fog, dusk, dawn, and adverse weather. To reduce any potential strikes while also allowing variability of construction crane height, the USACE will utilize the conservation measures described in Section 5.0 to reduce the likelihood of any impacts to whooping cranes.

4.2.2 Indirect

Whooping crane would be indirectly impacted by the loss of suitable habitat loss and alteration. However, the habitat within the action area is not suitable for whooping crane and therefore, indirect impacts to this species would be negligible.

4.2.3 Cumulative

Construction of the Port Arthur coastal storm risk management system is ongoing throughout Port Arthur, Texas. The extent of urban and industrialization in coastal Texas is increasing and this project, along with other slowly expanding regional development, could contribute to the overall effect on whooping cranes, as well as other wildlife species.

4.2.4 Determination

The type of coastal marsh system these large birds prefer is not present in the area that would be affected by construction. The area is surrounded by urban, residential, and industrial features and does not provide the resources needed for feeding or foraging. The species historically did not utilize the area, however, recent siting of the species near and adjacent to the action area in addition to a recently introduced population in LA changed the original assumption of No Effect. While it is still unlikely the species will use the action area due to a lack of resources, the

possibility of impact due to strikes of construction equipment is a reasonably foreseen risk to the species. Further, the generation of dust and noise could lead to avoidance or increased risk of strikes, however, the equipment, noise, and dust will be resolved once construction is complete. All impacts to the species will be temporary in nature and discountable to the species with the implementation of conservation measure during construction. In addition, conservation measures such as biological monitors will monitor the site actively for the presence/absence of the species should any whooping cranes stop in the action area. The whooping cranes are large and easy to stop, if spotted, all work will stop until the whooping crane has left of its own volition per the conservation measures. Therefore, USACE has determined that PAV03B **“May Affect but is Not Likely to Adversely Affect”** whooping crane. Voluntary conservation measures, such as biological monitors and avoidance measures, have been incorporated into the plan to further minimize any potential for impacts (section 5.3).

5.0 VOLUNTARY CONSERVATION MEASURES AND MONITORING

The USACE acknowledges the potential usage and occurrence of the previously discussed threatened and endangered species within the PAV03B action area. The USACE commits to minimizing effects of the project to the greatest extent possible in both the planning and construction phases of the project and will include the general and species-specific conservation measures below.

5.1 General Conservation Measures

The following conservation measures would be incorporated into operations for the protection of all listed species:

1. The Corps and other project proponents will ensure the crew chiefs, crews, supervisors, and biological monitor(s) attend training prior to initiation of, or their participation in project construction activities.
2. A qualified biologist will conduct this training and the scope of training will include:
 - a. Recognition of Eastern Black Rail and Whooping Cranes, and their habitats.
 - b. Avoidance and minimization measures to be implemented during construction.
 - c. Reporting criteria.
 - d. Contact information for different rescue agencies in the area; by use of wildlife monitoring checklists coordinated with the Service prior to construction.
3. Training will include a half-day training session coordinated with the Service on bird identification. Documentation of this training, including a list of attendees will be submitted to the Service prior to the start of construction activity, and as new members are trained.
4. A trained, or qualified biological monitor will inspect the active work areas prior to the start of work every day for BLRA or Whooping Cranes.
5. Biological monitor's qualifications will be submitted to Service prior to start of each construction project.

6. The Corps will provide the Service with the name of a single point of contact (POC) responsible for communicating with the crew and biological monitor(s) and reporting on endangered species issues during project construction.
7. The biological monitor(s) will be on site to ensure Eastern Black Rail and Whooping Cranes are not affected by construction activities.
8. Prior to start of work each day, the biological monitor(s) will inspect the project area's existing wetlands, adjacent to and along work areas before work begins each morning.
9. Biological monitor(s) will communicate all activities to the POC and the POC will coordinate that information with the Corps and Service as required.
10. Prior to start of work each day, all contractors, and work crews will attend a brief training on recognition of Eastern Black Rail and Whooping Cranes, and their habitats, and be updated on the previous day's encounters with these species, if any have occurred, and any observations of nesting or injured wildlife (including other migratory birds or colonial waterbirds).
11. The POC and/or biological monitor(s) will be on site to ensure Eastern Black Rail or Whooping Cranes are not affected by construction activities. The POC and/or monitors will ensure that nesting Eastern Black Rail or foraging or nesting Whooping Cranes are not in the project area prior to initiation of construction activities every morning.
12. Construction workers will immediately notify the POC and/or monitor(s) if Eastern Black Rail or Whooping Cranes are observed in the immediate or active work area.
13. If Eastern Black Rail are found within 100 feet of the work area, all work will be stopped until the bird(s) leaves the construction site. If Whooping Cranes are found within 1,000 feet of the work area, all work will be stopped until the bird(s) leaves the construction site. In addition, all personnel will be vacated from the site and all equipment be powered off and remain until the bird(s) leave the area. Bird(s) must not be herded away or harassed into leaving the area. If the bird(s) do not relocate (e.g., injured bird(s)) the POC will contact the Service to solicit additional guidance.

5.2 Easter Black Rail (*Laterallus jamaicensis jamaicensis*) Conservation Measures

1. Pre-Construction and construction disturbance activities within the action area will be prohibited during Eastern Black Rail post-breeding molt periods when they are unable to fly, and nesting/chick rearing periods between July 1 and September 30.
2. If construction cannot be prohibited during this critical time period, vegetation clearing will be restricted to not removing all suitable BLRA habitat (dense emergent vegetation) between July 1 through September 30. When vegetation is removed, all vegetation will not be removed in one day and only from areas within the marked or flagged sections of the construction corridors so that a pathway remains open for the birds to escape. Pockets of suitable BLRA habitat (refugia) encompassing 10 feet by 20 feet will remain uncleared and/or a biological monitor will ensure dense herbaceous covered pathways are maintained into unaffected areas. The refugia remaining within the project area may be cleared after two days, as needed after the biological monitor verifies no occupancy within these refugia.

3. Proposed construction and work easement corridors through suitable BLRA habitat will be marked with biodegradable flagging or posts, and all suitable habitat within a 100-foot buffer from these boundary markers will be surveyed by approved biological monitor prior to any clearing activities.
4. A biological monitor qualified to identify Eastern Black Rail (has completed training requirements previously identified) and with stop work authority will be on site while construction is in progress. The biological monitor will stop construction work immediately upon discovery of any Eastern Black Rail (alive, injured, or dead). The Texas Coastal Ecological Service's Office should be contacted immediately at 281-286-8282 and the species lead Mary (Sandra) Lee at 361-225-7316.
5. The biological monitor will ensure a sufficiently slow pace of all equipment moving through potential suitable habitat to allow birds to escape ahead of equipment or dredge material placement activities. This secretive species will run to escape oncoming disturbance and are not likely to fly to avoid collisions with equipment or materials being deposited within the project area.
6. Workers, temporary or permanent, should be educated on the importance and protection allocated to this species, including but not limited to not collecting feathers or eggs, not disturbing nests, and not touching or harassing this species.
7. Efforts to mitigate noise and vibration will be implemented within and adjacent to Eastern Black Rail suitable habitat including planning and performing work outside of peak breeding call times (e.g., one hour before and after dawn and one hour before and after dusk).
8. Project activity will be limited to daylight hours to the maximum extent possible. If nighttime work is required, aim lighting at work zone and turn off when not needed. All permanent lighting should be pointed away from potential Eastern Black Rail suitable habitat, down shielded, and follow the International Dark-Sky Association (<https://www.darksky.org/>) or Bird City Texas (<https://tpwd.texas.gov/wildlife/birding/bird-city-texas>) guidelines.

5.3 Whooping Crane (*Grus americana*) Specific Conservation Measures

1. A biological monitor qualified to identify Whooping Cranes (that has completed training requirements previously identified) and stop work authority will be present when any construction work is being done in the action area if the work is performed during the non-essential whooping crane population breeding/nesting season (January through June) or the non-essential and wild whooping crane population's wintering season (October 1 through April 15).
2. The biological monitor will stop construction work immediately upon discovery of any Whooping Cranes (alive, injured, or dead). The Texas Coastal Ecological Service's Office should be contacted immediately at 281-286-8282; in addition to Mary (Sandra) Lee (Service Species Lead) at Sandra Lee at Mary_Lee@fws.gov, Trey Barron (TPWD) at Trey.Barron@tpwd.texas.gov, and Eva Szyszkoski (Louisiana Wildlife and Fisheries Department) at ESzyszkoski@wlf.la.gov, or by phone at 337-536-9596.
3. A 1,000 foot-radius of the work site must be delineated before work begins. If a whooping crane is observed within the 1,000-foot radius, the biological monitor shall halt construction activities, including shutting down any running equipment until the bird has vacated the radius of the work area.

4. If construction equipment is over 15 feet tall, the equipment must be marked with visual flagging as bird avoidance measures when equipment is in use and laid horizontally on the ground when not in use.

5. Workers, temporary or permanent, should be educated on the importance and protection allocated to this species, including but not limited to not collecting feathers or eggs, and not touching or harassing this species.

6. Project activity will be limited to daylight hours to the maximum extent possible. If nighttime work is required, aim lighting at work zone and turn off when not needed. All permanent lighting should be pointed away from adjacent piping plover critical habitat, down shielded, and follow the International Dark-Sky Association (<https://www.darksky.org/>) or Bird City Texas (<https://tpwd.texas.gov/wildlife/birding/bird-city-texas>) guidelines.

6.0 Conclusions

Based upon the findings of this BA, USACE has made the following effects determination for species that were identified as occurring or potentially occurring in the PAV03B action area:

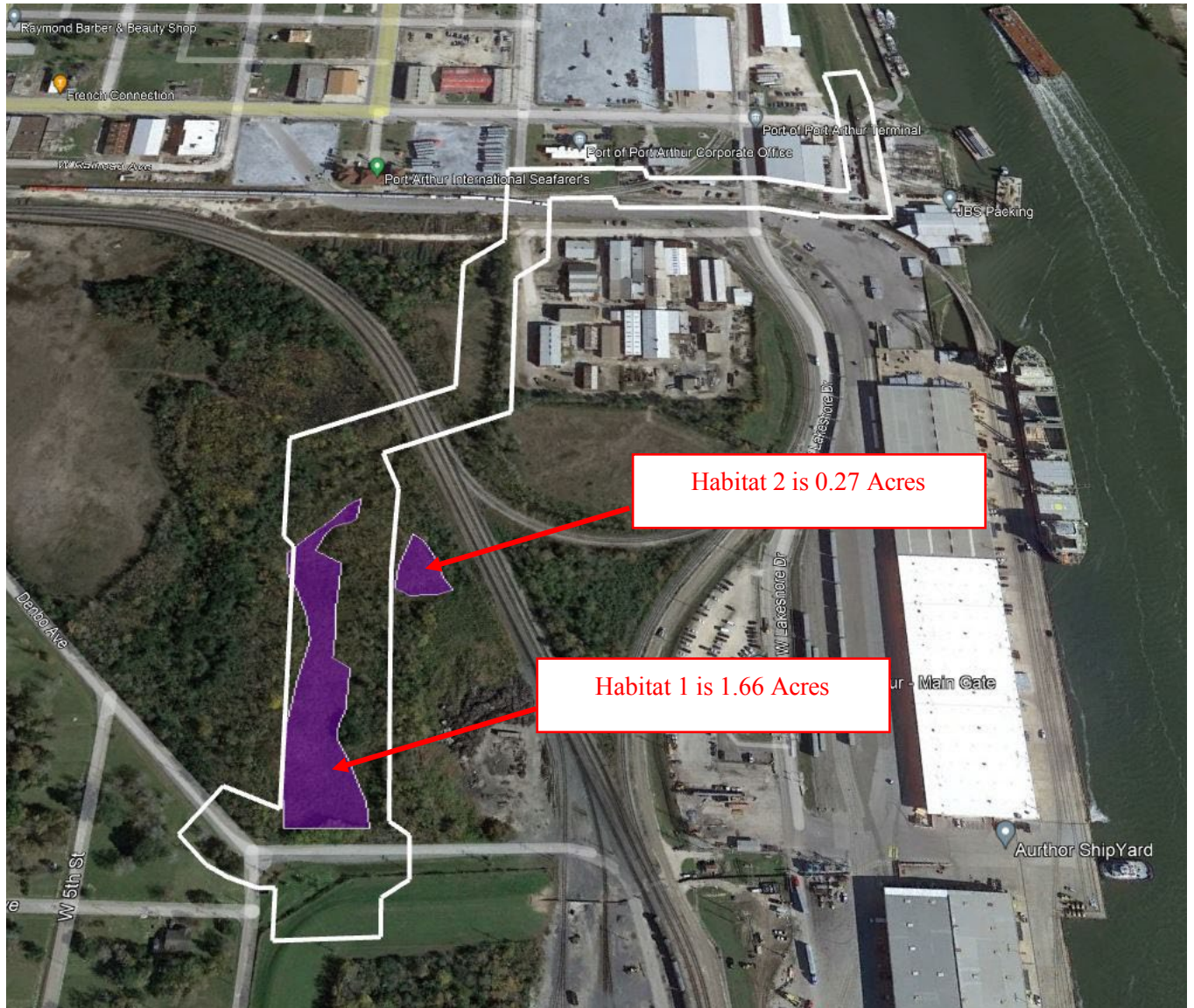
Table 4. Effect Determinations

| Species | Scientific Name | Jurisdiction | Effect Determination |
|--------------------------|---|--------------|--------------------------------|
| Birds | | | |
| Piping Plover | <i>Charadrius melodus</i> | USFWS | No Effect |
| Red Knot | <i>Calidris canutus rufa</i> | USFWS | No Effect |
| Eastern black rail | <i>Laterallus jamaicensis jamaicensis</i> | USFWS | Not Likely to Adversely Affect |
| Whooping Crane | <i>Grus americana</i> | USFWS | Not Likely to Adversely Affect |
| Mammals | | | |
| West Indian Manatee | <i>Trichechus manatus</i> | UFWS | No Effect |
| Sperm Whale* | <i>Physeter macrocephalus</i> | NMFS | No Effect |
| Rice's Whale* | <i>Balaenoptera ricei</i> | NMFS | No Effect |
| Fish | | | |
| Oceanic whitetip shark* | <i>Carcharhinus longimanus</i> | NMFS | No Effect |
| Giant manta ray* | <i>Manta birostris</i> | NMFS | No Effect |
| Reptiles | | | |
| Green Sea Turtle | <i>Chelonia mydas</i> | USFWS | No Effect |
| Kemp's Ridley Sea Turtle | <i>Eretmochelys imbricata</i> | USFWS | No Effect |
| Loggerhead Sea Turtle | <i>Lepidochelys kempii</i> | USFWS | No Effect |
| Hawksbill Sea Turtle | <i>Dermochelys coriacea</i> | USFWS | No Effect |
| Leatherback Sea Turtle | <i>Caretta caretta</i> | USFWS | No Effect |
| Insects | | | |
| Monarch Butterfly | <i>Danaus plexippus</i> | USFWS | No Effect |

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7.0 APPENDIX A- AREAS OF CONCERN FOR THE BLBR



ATTACHMENT A

**Sabine Pass to Galveston Bay, Texas
Coastal Storm Risk Management and Ecosystem
Restoration
Final Integrated Feasibility Report and
Environmental Impact Study**

Appendix J

**BIOLOGICAL ASSESSMENT
FOR ENDANGERED SPECIES ACT COORDINATION**

May 2017



**US Army Corps
of Engineers®**
Galveston District

BIOLOGICAL ASSESSMENT FOR
FEDERALLY-LISTED
THREATENED AND ENDANGERED SPECIES

SABINE PASS TO GALVESTON BAY, TEXAS
COASTAL STORM RISK MANAGEMENT AND ECOSYSTEM RESTORATION PROJECT
TENTATIVELY SELECTED PLAN (SABINE AND FREEPORT REGIONS)
ORANGE, JEFFERSON AND BRAZORIA COUNTIES, TEXAS

PREPARED BY U.S. ARMY CORPS OF ENGINEERS
GALVESTON DISTRICT
2000 FORT POINT ROAD
GALVESTON, TEXAS 77550

September 2015

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LIST OF ATTACHMENTS

Attachment A: USFWS and NMFS species lists

List of Acronyms

Biological Assessment (BA)
Coastal Storm Risk Management (CSRM)
Distinct Population Segment (DPS)
Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS)
Ecosystem Restoration (ER)
Essential Fish Habitat (EFH)
Endangered Species Act (ESA)
National Marine Fisheries Service (NMFS)
National Wildlife Refuge (NWR)
Padre Island National Seashore (PINS)
Relative sea-level rise (RSLR)
Submerged aquatic vegetation (SAV)
Tentatively Selected Plan (TSP)
Texas General Land Office (GLO)
United States (U.S.)
United States Army Corps of Engineers (USACE)
United States Fish and Wildlife Service (USFWS)
Wildlife Management Area (WMA)

1 INTRODUCTION

1.1 PURPOSE OF THE BIOLOGICAL ASSESSMENT

This Biological Assessment (BA) is being prepared for the purpose of fulfilling the U.S. Army Corps of Engineers (USACE) requirements as outlined under Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended, and to assist the National Marine Fisheries Service (NMFS) and United States Fish and Wildlife Service (USFWS) personnel in fulfilling their obligations under the ESA. The proposed Federal action (also referred to as the tentatively selected plan or TSP) consists of coastal storm risk management projects in Orange, Jefferson and Brazoria Counties, Texas. The proposed action was identified during the Sabine Pass to Galveston Bay, Texas, Coastal Storm Risk Management (CSRM) and Ecosystem Restoration (ER) Study, conducted by USACE and the non-Federal sponsor for the study, the Texas General Land Office. USACE and GLO are in the process of completing a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR-EIS) for the study. A Notice of Intent to prepare an EIS was published on November 24, 2014. The DIFR-EIS is currently scheduled to be released for public review in September, 2015. Further engineering refinement of the TSP will be conducted after comments are received on the DIFR-EIS. USACE Headquarters review will confirm the final recommended plan. If impacts of the final plan are greatly different from that presented in the DIFR-EIS, USACE will prepare a revised biological assessment and consult further with USFWS and the NMFS. Depending upon the scale and significance of the plan revisions, USACE may also prepare a revised DEIS. Currently, the Final IFR-EIS is scheduled for release in August 2016.

1.2 PROJECT SETTING

The Sabine Pass to Galveston Bay feasibility study is evaluating CSRM and ER problems in a six-county (Orange, Jefferson, Chambers, Harris, Galveston and Brazoria) study area along the upper Texas coast (Figure 1). The study area is located in the northwest Gulf of Mexico, which has a higher probability risk for occurrence of severe hurricanes and storm surge than other areas of the Gulf. Over five million people reside in these six counties, including the 4th largest U.S. city (Houston), and three other large metropolitan areas (Beaumont/Port Arthur/Orange, Galveston/Texas City and Freeport/Lake Jackson/Surfside). The population of these six counties is projected to increase to over nine million within the next 50 years. In addition to the potential population at risk, three of the world's nine largest oil refineries, 40 percent of the nation's petrochemical industry, 25 percent of the nation's petroleum-refining capacity, and three of the 10 largest U.S. seaports are also located in the study area. Waterborne commerce statistics data show that \$232 billion in cargo transits the study area annually. The growing population, communities

and nationally significant industries are extremely vulnerable to risks from coastal storm events with approximately 2.26 million people in the study area living within a storm-surge inundation zone.

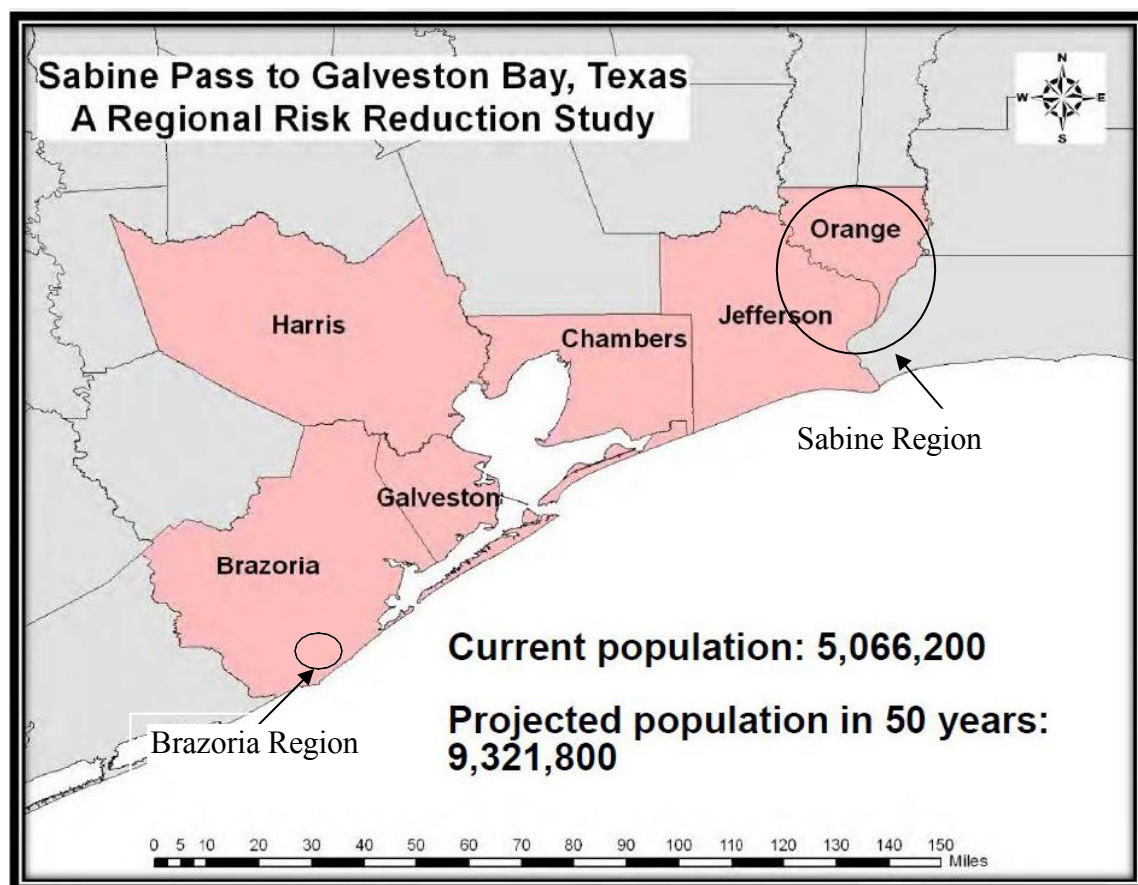


Figure 1: S2G Study and Project Areas Vicinity Map

The study area consists of three watershed-based regions: the Sabine, Galveston, and Brazoria Regions. The Sabine Region is focused on Orange and Northeast Jefferson Counties, including the three communities known as the Golden Triangle – Beaumont, Port Arthur, and Orange, Texas. The Galveston Region includes all of the Galveston Bay system, including the Gulf shoreline along Bolivar Peninsula and Galveston Island from High Island to San Luis Pass. The Brazoria Region includes the lower Brazos River Diversion and Old River Channels in the vicinity of Freeport, Texas.

In this assessment, the footprint of proposed CSRM projects and the areas affected by these systems will be referred to as the “project areas.” This Biological Assessment evaluates two geographically separate project areas in detail – the Sabine Region and the Brazoria Region. The general extent of the two regions is circled on Figure 1. The DIFR-EIS has identified a Tentatively

Selected Plan (TSP) with three separate elements. The Orange-Jefferson CSRM Plan and the Port Arthur and Vicinity CSRM Plan are located in the Sabine Region, and the Freeport and Vicinity CSRM Plan is located in the Brazoria Region.

The DIFR-EIS will present a programmatic overview of coastal storm risk problems and opportunities in the entire six-county study area, but will fully evaluate only the three plans in the Sabine and Brazoria regions. A programmatic overview of coastal storm risk problems and opportunities in the Galveston Region (Chambers, Harris and Galveston Counties) will be presented in the DIFR-EIS. This overview will provide recommendations for future studies in the Galveston Region; no in-depth alternative analyses will be conducted and no recommendations for project construction will be made for this region. The study report will also present a programmatic overview of ER opportunities for the entire six-county study area. None of the ER proposals will be fully developed or recommended for construction in this report. This Biological Assessment does not evaluate potential impacts on listed species for recommended future studies in the Galveston Region or the programmatic overview of ER opportunities in the six-county study area. Assessments will be developed in the future for specific recommended projects covered by subsequent feasibility reports.

1.3 DESCRIPTION OF THE ECOLOGICAL REGION

1.3.1 General Overview

The study area lies within the Gulf Prairie and Marsh ecological region, which extends along the Texas Gulf Coast from the Sabine River south to the Rio Grande (Gould et al. 1960). The prominent features of this coastal ecosystem include tidal, micro-tidal, and freshwater coastal marshes; bays and lagoons which support extensive seagrass beds, tidal flats and reef complexes; barrier islands; tallgrass prairie with small depressional wetlands, and forest riparian corridors, oak mottes and coastal woodlots, and dense brush habitats. Wetland habitats provide important wintering and migration stopover habitat for migratory birds including Central Flyway waterfowl, shorebirds, wading birds, and marsh and waterbirds. A string of refuges and wildlife management areas (WMAs) along the coast serve as critical staging areas for waterfowl migrating to and from Mexico (TPWD, 2013; USFWS, 2013).

Natural forces, which shape the system, include dominant south to southeast winds, tropical weather systems, and a substantial rainfall of over 60 inches per year. Flooding and freshwater inflows are key systemic processes, which buffer salinity and provide nutrients and sediments to extensive estuaries in the Sabine and Galveston regions. In contrast to these regions, the Brazos River discharges directly into the Gulf of Mexico, and deltaic and barrier island processes have formed extensive coastal wetlands along the coast in Brazoria County. While highly impacted by

human activities, this ecosystem remains very productive for a wide variety of fish and wildlife.

The Sabine and greater Galveston Bay estuaries and extensive coastal wetlands in the Brazos delta region are a vital habitat for 75 percent of the fish and shellfish species found in the Gulf of Mexico. The marshes and rice prairies over the entire study area are a major wintering area for waterfowl of the central flyway. On average, 1.3 to 4.5 million ducks, or 30 to 71 percent of the total flyway population, winter annually on the Texas Gulf coast (Stutzenbaker and Weller 1989). This area also winters 90 percent of the snow, Canada, and greater white-fronted geese in the Central Flyway. On average, 180,000 pairs of colonial-nesting waterbirds nest annually in Texas coastal habitats. Near coastal forests are critically important for the nation's songbird resources as the vast majority utilize this habitat during their trans- and circum-Gulf migrations (USFWS 2008).

1.3.2 Biological Communities in the Project Areas

Coastal prairies

Remnant tracts of tall grass and salty prairies are present in the study area, often interspersed within coastal marshes. Slightly higher in elevation, the grass and prairie tracts offer a different type of habitat (USFWS 2008). Woolly rosemallow, bushy bluestem, and gulf cordgrass thrive here and provide important nesting habitat for mottled ducks, dickcissels, and other species. Black rails, short-eared owls, and LeConte's sparrow find shelter and feed within these prairie habitats. Almost all of the region's historic native coastal tall grass prairie and its associated prairie wetlands have been lost through conversion to agricultural uses and urban development (USFWS, 2008).

Coastal marshes

Salt marsh is located along the Gulf shoreline and higher salinity areas of the estuarine systems. Subjected to regular tidal inundation, low saline marsh is dominated by smooth cordgrass/oystergrass (*Spartina alterniflora*) and often accompanied by seashore saltgrass (*Distichlis spicata*), blackrush (*Juncus roemerianus*), saline marsh aster (*Aster tenuifolius*), and marshhay cordgrass/wiregrass (*S. patens*). The dominant species in high salt marsh, which is subject to less-frequent tidal inundation, is glasswort (*Salicornia* spp.). Brackish marshes grade inland from salt marsh. The dominant species in low brackish marsh is saltmarsh bulrush (*Scirpus robustus*); seashore saltgrass and marshhay cordgrass are co-dominant species in high brackish marsh. Intermediate marshes are subjected to periodic pulses of salt water and maintain a year-round salinity in the range of 3 to 4 ppt. They grade inland from brackish marshes and dominate interior marshes of the Sabine and coastal Brazoria systems. The diversity and density of plant species are relatively high with marshhay cordgrass the most dominant species in high marsh. Co-dominant species in low marsh are seashore paspalum (*Paspalum vaginatum*), Olney bulrush (*S.*

americanus), California bulrush/giant bulrush (*S. californicus*), and common reedgrass/roseau cane (*Phragmites australis*); bulltongue (*Sagittari lancifolia*) and sand spikerush (*E. montevidensis*) are also frequent. Freshwater marshes dominate in upstream reaches of the Sabine and Brazos Rivers. They are heterogeneous, with local species composition governed by frequency and duration of flooding, topography, substrate, hydrology, and salinity. Co-dominant species in low marsh are maidencane (*P. hemitomen*), giant cutgrass (*Zizaniopsis milacea*), and bulltongue. Co-dominant species in high marsh are squarestem spikerush (*E. quadrangulata*) and marshhay cordgrass. Other characteristic species include American lotus (*Nelumbo lutea*), watershield (*Brasenia screben*), duckweed (*Lemna* spp.), and fanwort (*Cabomba caroliniana*). Salinity rarely increases above 2 ppt., with a year-round average of approximately 0.5 to 1 ppt. Tidal fresh marshes support extremely high densities of wildlife, such as migratory waterfowl. Marsh serves as nursery areas for many important commercial and recreational fish and shellfish species including white and brown shrimp, blue crab, red drum, flounder, and speckled sea trout.

Coastal marsh habitats provide important functions of improving water quality in the estuarine ecosystem, providing flood control benefits, and buffering inland habitats from tropical storm-generated tidal surges. In addition, marshes are extremely biologically productive and diverse and provide detrital input, which is the basis for the estuarine food chain (USFWS 2008). The shallow Gulf of Mexico waters, tidal flats, and beaches provide important shallow water feeding, breeding, and nesting habitat utilized by a host of colonial and migrating waterfowl and shorebirds (USFWS 2008).

Forested Wetlands

Upstream of the coastal marshes in the Sabine-Neches estuary, the study area is dominated by dense bottomland hardwood forests and cypress-tupelo swamps. These wetland forests cover an intricate network of sloughs and sandy ridges formed within the rivers' relict meander belts. Bald cypress (*Taxodium distichum*) – tupelo-gum (*Nyssa aquatica*) swamps grow in the inundated areas between the ridges, and floodplain hardwood forest of oaks (*Quercus nigra*, *Q. phellos*, *Q. alba*, *Q. lyrata*), sweetgum (*Liquidambar styraciflua*), hickories (*Carya* spp.), American elm (*Ulmus americanus*), maple (*Acer rubrum*), green ash (*Fraxinus pennsylvanica*), American holly (*Ilex opaca*), and loblolly pine (*Pinus taeda*) grow atop the sandier ridges and on the Pleistocene terrace uplands which border the floodplains. In general, these are healthy, stable habitats. The hardwoods, and especially the cypress trees, have been logged repeatedly since the turn of the century and as recently, perhaps, as the 1950s (USACE 1998). Though much of the forest is secondary growth, the swamp and bottomland hardwood habitats have medium to high value for food and cover to resident and migratory fish and wildlife. Inland from the coastal zone, forested wetlands in the Brazos River system are dominated by bottomland hardwood communities.

Aquatic Habitats

Large estuarine aquatic habitats are present in the Sabine Lake area. Sabine Lake is the drowned valley of the converged Sabine and Neches River systems. In contrast to the Sabine Region, the Brazos River discharges directly into the Gulf of Mexico. Both the Sabine and Brazoria regions contain essential fish habitat (EFH), which is considered necessary for spawning, breeding, feeding, or growth to maturity of species managed by Regional Fishery Management Councils, as described in a series of Fishery Management Plans, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The study area contains EFH for larval, juvenile, and adult brown and white shrimp (*Penaeus aztecus* and *Penaeus setiferus*); juvenile king mackerel (*Scomberomorus cavalla*), vermillion snapper (*Rhomboplites aurorubens*), Warsaw grouper (*Epinephelus nigritus*), and Wenchman snapper (*Pristipomoides aquilonaris*); juvenile and adult red drum (*Sciaenops ocellatus*), Almaco jack (*Seriola rivoliana*), and gray triggerfish (*Balistes capriscus*); adult gag grouper (*Mycteroperca microlepis*) and gray snapper (*Lutjanus griseus*); larval, juvenile, and adult red snapper (*Lutjanus campechanus*), lane snapper (*Lutjanus synagris*), greater amberjack (*Seriola dumerili*), and cobia (*Rachycentron canadum*). The categories of EFH that occur within the study area include estuarine emergent marsh, estuarine submerged aquatic vegetation (SAV), estuarine hard bottom, and estuarine mud/soft bottoms.

1.3.3 Protected Lands

In or Adjacent to the Sabine Region

McFaddin NWR covers about 58,861 acres in Jefferson and Chambers Counties (USFWS 2012 and 2013). Along with the J.D. Murphree WMA, it protects the largest expanse of remaining freshwater marsh on the Texas Coast and thousands of acres of intermediate marsh. The Refuge's southern boundary consists of over 15 miles of Gulf of Mexico shoreline. Remnant dune/beach systems exist along the coastline, although much has been lost through erosion and shoreline retreat, leaving only a low-lying washover terrace (TPWD, 2013).

J.D. Murphree WMA comprises 24,498 acres of fresh, intermediate, and brackish marsh on the Chenier plain in Jefferson County (TPWD, 2013). Extending north and south of the GIWW west of the Sabine-Neches Waterway, the WMA is highly diverse in coastal wetland communities.

Texas Point NWR in Jefferson County encompasses 8,952 acres of fresh to saline marshes and some wooded uplands and prairie ridges (USFWS, 2012 and 2013). The Refuge's southern boundary consists of over 6 miles of Gulf of Mexico shoreline. The Chenier plain is characterized by relict beach fronts that form ridges paralleling the Gulf shore. The term derives from the French name for live oak trees (*chenier*), which typically are found growing atop these ridges.

The Lower Neches River WMA is comprised of 7,998 acres located near Bridge City in Orange

County (TPWD, 2015). The Nelda Stark and Old River units are located adjacent to the lower Neches River. The Nelda Stark Unit is primarily shallow open-water which resulted from the degradation of a former marsh system by saltwater intrusion and subsidence. The Old River Unit, near Bridge City at the mouth of the Neches River, is a mixture of intermediate marsh and open water. The Adams Bayou Unit is located on Adams Bayou, a tributary of the lower Sabine River. This unit was formerly a placement area; it is much higher than surrounding wetland habitats and remains hydrologically isolated.

The Tony Houseman WMA, managed as a cooperative effort between the TxDOT and TPWD, is located on the Sabine River at Interstate 10 (TPWD, 2015). A 600-foot boardwalk leads from the center into the swamp. Outdoor recreation includes public hunting opportunities, fishing, wildlife viewing, hiking, and canoeing. The WMA extends from the western bank of the Sabine River just north of the community of Echo, down to the confluence of Little Cypress Bayou and the Sabine River south of I-10 at Orange. More than 80 percent is cypress-tupelo swamp.

In or Adjacent to the Brazoria Region

The Brazoria NWR is a 44,414-acre wildlife conservation area along the coast in Brazoria County (USFWS, 2015). It borders the GIWW, behind Follets Island in Brazoria County. Refuge habitats are made up of salt water, fresh water, and brackish wetlands. In addition, there are prairies, woody thickets, salt and mud flats, and lakes and streams. The refuge also contains 5,000 acres of rare, native bluestem prairie, representing one of the last coastal prairies in Texas. Brazoria NWR has a key location on the Texas Gulf, which helps Freeport draw one of the highest Audubon Christmas bird counts in the nation - more than 200 species.

Justin Hurst WMA (Bryan Beach Unit) is located on the Gulf shoreline on the eastern shore of the Brazos River Diversion Channel. The unit is 440 acres dominated by a 90-acre embayment, which is flooded by Gulf waters during high tides and storms. Large vegetated coastal dunes surround the embayment and separate it from the Gulf.

The San Bernard NWR in Brazoria County serves as the end point of the Central Flyway for waterfowl in winter and an entry point for neotropical migratory songbirds tired from a 600-mile Gulf crossing from the Yucatan Peninsula (USFWS, 2015). The 57,698-acre refuge contains salt and freshwater marshes, sloughs, ponds, coastal prairies, and bottomland forest. Refuge bottomland forests and willow trees attract high numbers of warblers migrating north. Several remote islands in a sheltered bay between the GIWW and the Gulf come alive every nesting season with herons, egrets, terns, and gulls.

1.4 ALTERNATIVES CONSIDERED

A lengthy array of alternatives was considered during plan formulation. The alternatives were developed from ideas provided by the public, resource agencies, USACE, and the non-Federal sponsor. Four public scoping meetings were held in February and March 2012 to gather ideas and information on coastal storm risks and ecosystem restoration opportunities in the study area. Comments were captured in a list of about 250 initial measures, which were organized geographically by the Sabine, Galveston Bay, and Brazoria regions of the study area.

An initial array, an evaluation array, and a final array of alternatives were screened to identify the TSP. Criteria applied to evaluate the alternatives included performance related to planning objectives, potential economic benefits, preliminary environmental benefits and/or impacts, and cost. Structural alternatives evaluated for the Sabine region include Gulf shoreline protection and restoration measures such as beach nourishment, dune restoration, Chenier ridge restoration, sediment management, shoreline armoring, and submerged near-shore breakwaters. Structural alternatives evaluated for the Brazoria area include various Gulf shoreline protection and restoration measures such as beach nourishment, dune restoration, sediment management, shoreline armoring, and submerged near-shore breakwaters. Non-structural alternatives, such as raising structures to reduce surge impacts and targeted buy-outs, were also evaluated for both the Sabine and Brazoria regions. No ER alternatives will be evaluated in detail for these regions.

The following plans are being evaluated in detail in the DIFR-EIS:

The TSP in the Sabine Region is comprised of two elements, which together would provide storm surge protection to Orange and Northeast Jefferson County: 1) the Orange-Jefferson CSRM Plan, and 2) the Port Arthur and Vicinity CSRM Plan. Upgrades to the existing Port Arthur and Vicinity HFP system would, in combination with the new Orange-Jefferson levee system, reduce the risk of storm surge impacts over all of the most densely populated parts of Jefferson and Orange Counties.

The TSP in the Brazoria Region, the Freeport and Vicinity TSP Plan, would consist of improvements to the existing the Freeport HFP System.

1.5 DESCRIPTION OF THE TENTATIVELY SELECTED PLAN

1.5.1 Orange-Jefferson CSRM Plan

The TSP would include a new levee/floodwall system constructed along the upland-floodplain margin of the Sabine and Neches Rivers in south Orange County and along the Neches River in northeast Jefferson County. The maximum length of the full system in Orange County would be about 42 miles; in Jefferson County, the maximum length would be about 16.5 miles. Further evaluations are likely to result in a reduction in the overall length. The new system would protect several communities in Orange County, including Bridge City, West Orange, and Orange, as well as an area known as “Chemical Row” where Dupont, Chevron-Phillips Chemical Company, Honeywell, and Lanxess facilities are located. In northeast Jefferson County, several large petrochemical facilities such as ExxonMobil, Dupont, ChemTreat, Oil Tanking-Beaumont, Huntsman Performance Products, Texaco, and Calabrian would be protected, in addition to some Nederland and Port Neches residential and commercial areas.

For earthen levee segments of the new system (up to a maximum of about 43 miles system-wide), dozers and front-end loaders would clear, grub, and strip the ground within the identified construction right-of-way in preparation for levee construction. Dump trucks would haul and place commercially-obtained fill material to construct the levees. All fill material would be compacted and the levee crown would be covered with crushed limestone or gravel to provide a paved surface. Revetment (riprap, reinforced concrete slab and/or articulated concrete block mattresses) would be installed along the levee embankment where necessary to prevent erosion. Construction would be conducted using equipment such as bulldozers, excavators, front-end loaders, scrapers, graders, and cranes. Best management practices such as silt curtains would be utilized to prevent fill material from entering wetlands, streams, and larger waterways during construction. It is estimated that construction of the new system could take 5 to 7 years to complete. Figure 2 illustrates the largest potential footprint of the new levee system in Orange and Northeast Jefferson County; the earthen levee is in yellow and floodwalls in red.

Some segments will require use of a floodwall rather than an earthen levee, generally because of right-of-way width constraints. The maximum length of floodwalls to be included in the system would be about 16 miles. The foundation area would be cleared, grubbed, and stripped. The subsurface would then be excavated to depth for the concrete wall footing, which is to be cast in place. Excavated areas would be subsequently backfilled and thoroughly compacted. Cranes would be used to drive piles that will provide structural stability and to drive sheet pile. Formworks would be installed to form the footing and wall stem and reinforcing steel bar would be placed. Concrete mixer trucks would pump concrete to the footing and into the stem via a

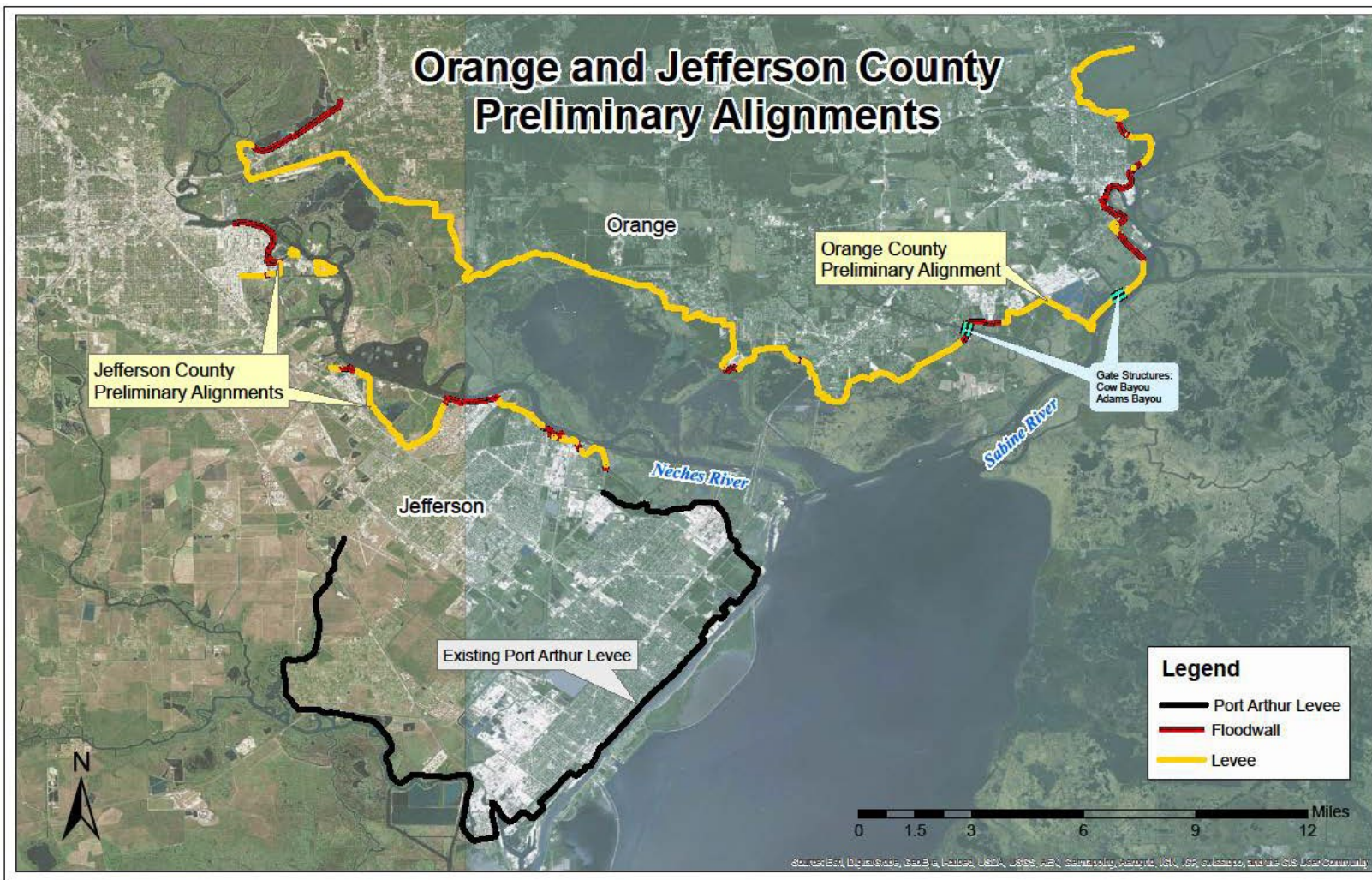


Figure 2: Orange-Jefferson Levee Alternative (Maximum Potential Length)

concrete boom. Additional earthwork would involve tying the floodwall into adjacent earthen levees and backfilling and compacting around the completed wall.

Two new navigable surge gates would be constructed on Cow and Adams Bayous. The gate locations are shown on Figure 2. Both gates would be similar to the structure shown in Figure 3. Since both streams currently accommodate barge traffic, there would be sector gates on the navigation channels with one or more flanking vertical lift gates to maintain flows on one or both sides of the navigation gates. An aerial view of this type of structure is shown in Figure 3. Cofferdams would be constructed around the gate sites so they could be constructed in the dry. A temporary navigation channel would be excavated to the side of the coffer dam to allow navigation and tidal flows to continue unobstructed during construction.



Figure 3: Conceptual Plan View of Adams and Cow Bayou Structures

Desk-top modeling was conducted to determine if operation of these gates in their normal, open condition would adversely affect water surface elevations, velocities, and salinities in the bayous (USACE 2015). The results indicate negligible impacts within Adams and Cow Bayous from potential constrictions to the channel cross-section with the proposed surge gates in their normal, open condition. This was determined by a sensitivity analysis conducted on the inlet size for each bayou, based on the assumption that construction of the gates would result in some reduction of the cross-section in their normal, open condition. In the analysis, bayou cross-sections were reduced by a wide range of estimated parameters, up to a maximum 75 percent constriction. It was determined that the limited tidal prism associated with the bayous results in minimal energy loss across the connection between the bayous and the Sabine River, and therefore, constriction of this access point results in little change in the tidal energy passing into the bayou. The insensitivity of the water surface elevation and salinity gives high confidence that the general conclusion

associated with this study is robust; constriction of the inlet, even significant constriction, results in minimal impacts on water surface elevation and salinity within the bayous. With high flows such as those occurring with tropical storms, velocities through the gated structures would be somewhat higher than the existing condition; these can be managed with appropriate armoring.

The extent to which these constrictions would impound storm water within the bayous was also examined by evaluating the effects of a significant rainfall event (Tropical Storm Allison) that had been captured in the median flow simulation. Once again, this analysis applies to the normal, open condition of the gate and evaluated the impacts of rainfall not associated with a significant storm surge event. Given the type of structures currently being evaluated (sector gates on the navigation channels with one or more flanking vertical lift gates to maintain flows on one or both sides of the navigation gates), it is estimated that existing flows may be reduced by a maximum of 50 percent. The DOWSMM analysis showed that, even for a 50 percent constriction, the volume of water resulting from such a storm could still pass through the constriction with little impact on upstream stage.

Impacts on the floodplain, both upstream and downstream of the levee system, would be minimized to the greatest extent possible. Culverts have been designed to maintain existing flows for a 100-year rainfall event, with an additional 10 percent to account for the predicted increase in rainfall due to climate change over the period of analysis. In addition, they will be designed with longer spans and lesser heights than would typically be used in an attempt to replicate the natural opening. In the existing condition, freshwater inflows from the upland areas to marshes and forested wetlands in the floodplain are being conveyed primarily through existing stream channels. The majority of the time, flows are directed toward channels and ditches that discharge into the floodplain through existing drainages. Water flows into the major rivers through those channels that have an incised bed, and in some cases flows spread out directly into wetland areas. Overland sheet flow is temporary, occurring during intense or long-duration rain events, as the majority of the area upstream of the levee is undeveloped and permeable. The degree to which shallow groundwater aquifers may contribute flows to the floodplain is unknown, but they are assumed to be a minor contributor. It is believed that marshes in the floodplain rely primarily on rainfall and tidal push for inundation.

Just before and during a surge event, the Adams and Cow Bayou surge gates and sluice gates in the levee system would be closed; pumps would be used to pump rainfall runoff from the interior to the exterior. The pumps are being conservatively sized to avoid floodplain impacts on the interior of the levee system, and to allow overbank flooding in the streams in the floodplain outside of the levee during high flow events. Hydrologic flows in the FWP condition would thus be very similar to FWOP flows and in location, duration, and magnitude, both inside and outside of the

levee system. It is assumed that the Adams and Cow Bayou gates would be closed for an estimated two weeks every 10-15 years to protect the area from surge impacts during tropical storms. The operating plan for the gates has not yet been developed, but even a worst case estimate of closure time would result in only minor and temporary impacts on fisheries access for gates with tidal flows.

New pump stations would be installed to ensure that the levee does not result in flooding upstream of the levee alignment, and the extensive system of large, new drainage structures would ensure that tidal ebb and flow in the area remains essentially the same as the FWP condition. Sluice gate culverts are planned for use everywhere there are tidal flows; flap gate culverts may be utilized in upstream areas above tidal influence. Gated culverts would be placed everywhere the red drainage lines intersect the yellow levee alignment, as shown on Figure 4. The sluice gates would remain open except when surge protection is needed; they would be closed temporarily for a short period before and after a storm occurs. Flap gate culverts would provide for one-way flow downstream from the levee system.

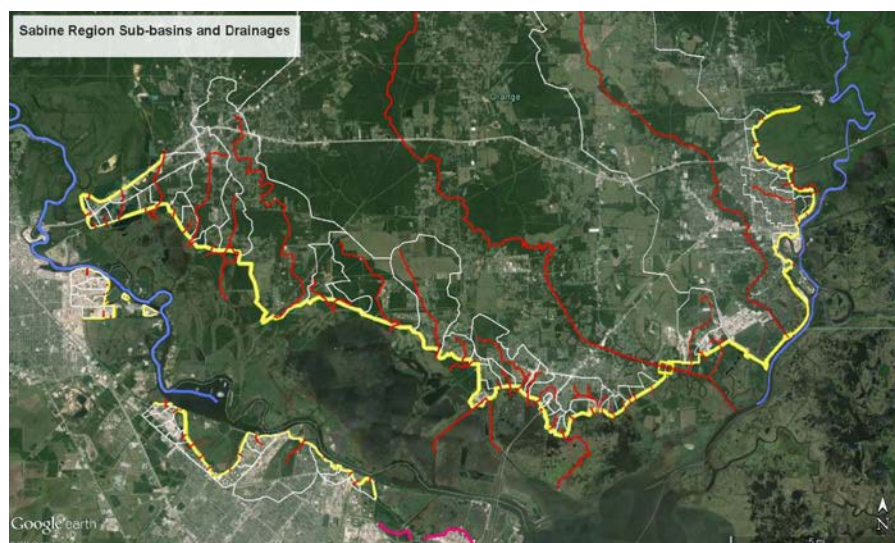


Figure 4: Sabine Region Sub-Basins and Drainages

1.5.2 CSRM Plan Improvements for Port Arthur and Freeport

Improvements to the existing HFP systems would consist of measures which increase the resiliency of the existing system features, and to accommodate future RSLR. Improvements would likely include replacement of outmoded I-Wall-type flood walls with newer, more resilient T-Wall-type floodwalls, repairs to existing earthen levees as needed, levee raisings where needed to reduce the risk of storm surge impacts under intermediate RSLR conditions, and armoring of levee toes and transitions as needed to provide resiliency during over-topping. Based on engineering

information developed to date, it is assumed that proposed improvements to the existing HFP systems can be made largely within the existing project alignments. Impacts on wetlands or fish and wildlife and their habitat from improvements to the existing Freeport and Port Arthur HFPs are not anticipated.

1.5.2.1 Port Arthur and Vicinity CSRM Plan

This existing HFP system, located west of Sabine Lake in Jefferson County, protects the Port Arthur area from coastal storm surge. The non-Federal partner for the existing project is the Jefferson County Drainage District No. 7. The system was designed and constructed in the mid-1960's to protect the area from a 100-year storm surge event. The levee system consists of 27.8 miles of earthen embankment, 6.6 miles of floodwall including 3.5 miles of coastal cantilever I-wall, and a wave barrier on Pleasure Island. In addition to residential and commercial areas in Port Arthur, the system protects the Motiva Enterprises refinery, the largest refinery in the United States. Lying adjacent to the HFP, this facility was initially constructed in 1903 during the Spindletop oil boom and now has a capacity of 600,000 barrels of crude oil per day. In addition to residential and commercial areas in Port Arthur, Nederland, and Groves, the area protected by the HFP also includes Valero Refining, Total/BASF, and the Port of Port Arthur.



Figure 5: Existing Port Arthur HFP System

Sections of floodwall fronting the deep-draft navigation Sabine-Neches Canal would be modified

or reconstructed to accommodate intermediate RSLR and to meet current engineering standards. Other sections of earthen levee along the Sabine-Neches Canal may also be raised to match floodwall elevations. All construction activities would be conducted within the existing project right-of-way and therefore, no wetland impacts are anticipated. Construction equipment and methods would be similar to those described for the new levee system.

1.5.2.1 Freeport and Vicinity CSRM Plan

The Velasco Drainage District is the non-Federal sponsor for the existing system. Located in south-central Brazoria County, the system was designed and constructed in the early 1960's to protect the area from a 100-year storm surge event. The system consists of approximately 43 miles of levees and wave barriers, seven pump stations and multiple gates, culverts, and related facilities. Protection is provided for Dow Chemical, Dow Chemical Shipping, Gulf Chemical, and Port Freeport. Although the system primarily protects industrial areas, some residential areas in Freeport, Oyster Creek, Clute, and Lake Jackson are also protected.

Improvements to the existing system would consist of contracting a surge gate and I-wall reconstruction at the mouth of the Dow Barge Canal, raising approximately 2.5 miles of earthen levee in the East Storm/Oyster Levee to accommodate intermediate RSLR, raising approximately one-third mile of the Oyster Creek Levee, and raising approximately 3.2 miles of the Old River North Levee at the Dow Thumb. Most of the improvements can be made within the existing right-of-way. However, about 1 mile of the Oyster Creek Levee would require a minor amount of additional right-of-way; no wetland or aquatic impacts are anticipated in this area. Construction equipment and methods would be similar to those described for the new levee system.

The new navigable surge gate at the mouth of the Dow Barge Canal would be similar to the structure shown in Figure 3. This is a man-made canal with no natural habitat along the channel. A sector gate would be constructed on the navigation channel to allow barge-traffic access, with one or more flanking vertical lift gates to maintain flows. A coffer dam would probably be needed to construct the gate; existing tidal access would be maintained during construction and after construction. The gate would be constructed with bulldozers and draglines; no hopper dredges would be used to construct this gate.



Figure 6: Existing Freeport HFP System

2.0 FEDERALLY-LISTED THREATENED AND ENDANGERED SPECIES AND CRITICAL HABITAT

Descriptions of ESA species and habitats are combined for the two geographic areas (Sabine and Brazoria Regions) being studied in detail because most of the species are present in both areas. USACE contacted the USFWS and NMFS by email, requesting information on threatened and endangered species in the project areas. The agency lists are provided in Appendix A. Endangered or threatened species listed in Table 1 are those that the agencies list as possibly occurring in the general vicinity of the two regions. The status, range, habitat, and presence are discussed separately for each species following the table order. There is no designated Critical Habitat in either region.

2.1 PIPING PLOVER

USFWS listed the piping plover (*Charadrius melodus*) as threatened and endangered on 11 December 1985 (50 FR 50726, December, 11 1985). The piping plover is an endangered species in the northern Great Plains and Great Lakes where it breeds in the summer. Piping plovers wintering in Texas are part of the northern Great Plains and Great Lakes populations and, therefore, are listed as threatened (USFWS, 2009). The wintering range on the Atlantic and Gulf coasts stretches from North Carolina to Mexico (AOU, 1998; 50 FR 50726, December, 11 1985). Migration occurs both through the interior of North America east of the Rocky Mountains (especially in the Mississippi Valley), and along the Atlantic Coast (AOU, 1998). Approximately 35 percent of the known global population of piping plovers winters along the Texas Gulf Coast, where they spend 60 to 70 percent of the year. Piping plover concentrations in Texas are believed to occur in Brazoria and Jefferson counties, primarily restricted to areas along the Gulf shoreline. On their wintering grounds, piping plover use beaches, mudflats, sandflats, dunes, and offshore emergent placement areas (USFWS, 1995; AOU, 1998), as well as sandflats in existing USACE placement areas. Piping plovers are known to frequent the area immediately south of the Brazoria study area; they occur less frequently in the more inland Sabine study area.

Threats to piping plovers and their habitat in their migration and wintering ranges indicate a continuing loss and degradation of habitat due to sand placement projects, inlet stabilization, sand mining, groins, seawalls and revetments, exotic and invasive vegetation, and wrack removal (USFWS, 2009). There is also concern with projects that would impede the ability of barrier islands to respond to natural habitat building processes in the context of accelerating sea-level rise.

Table 1: Threatened and Endangered Species, Orange, Jefferson and Brazoria Counties

| Common Name | Scientific Name | Listing Status | Jurisdiction |
|--------------------------|-------------------------------|----------------|--------------|
| BIRDS | | | |
| piping plover | <i>Charadrius melodus</i> | Threatened | USFWS |
| red knot | <i>Calidris canutus rufa</i> | Threatened | USFWS |
| whooping crane | <i>Grus americana</i> | Endangered | USFWS |
| MAMMALS | | | |
| West Indian manatee | <i>Trichechus manatus</i> | Endangered | USFWS |
| fin whale | <i>Balaenoptera physalus</i> | Endangered | NMFS |
| humpback whale | <i>Megaptera novaeangliae</i> | Endangered | NMFS |
| sei whale | <i>Balaenoptera borealis</i> | Endangered | NMFS |
| sperm whale | <i>Physeter macrocephalus</i> | Endangered | NMFS |
| REPTILES | | | |
| green sea turtle | <i>Chelonia mydas</i> | Threatened | USFWS; NMFS |
| Kemp's ridley sea turtle | <i>Lepidochelys kempii</i> | Endangered | USFWS; NMFS |
| loggerhead sea turtle | <i>Caretta caretta</i> | Threatened | USFWS; NMFS |
| hawksbill sea turtle | <i>Eretmochelys imbricata</i> | Endangered | USFWS; NMFS |
| leatherback sea turtle | <i>Dermochelys coriacea</i> | Endangered | USFWS; NMFS |
| INVERTEBRATES | | | |
| lobed star coral | <i>Orbicella annularis</i> | Threatened | NMFS |
| mountainous star coral | <i>Orbicella faveolata</i> | Threatened | NMFS |
| boulder star coral | <i>Orbicella franksi</i> | Threatened | NMFS |
| elkhorn coral | <i>Acropora palmata</i> | Threatened | NMFS |
| CANDIDATE SPECIES | | | |
| Sprague's pipit | <i>Anthus spragueii</i> | Candidate | USFWS |
| smooth pimpleback clam | <i>Quadrula houstonensis</i> | Candidate | USFWS |
| Texas fawnsfoot clam | <i>Truncilla macrodon</i> | Candidate | USFWS |

Sources: USFWS and NMFS websites:

http://www.fws.gov/southwest/es/ES_Lists_Main.cfm (accessed May 21, 2015)

<http://sero.nmfs.noaa.gov/pr/esa/specieslst.htm> (accessed May 21, 2015)

<http://www.nmfs.noaa.gov/pr/species/esa/candidate.htm> (accessed May 21, 2015)

There is no piping plover critical habitat in the Sabine and Brazoria project areas. However, critical habitat is located in the general area, the nearest being approximately 2 miles southwest of the project area in Brazoria County (74 FR 23476, May 19, 2009).

2.2 RED KNOT

Red knots of the *rufa* subspecies (*Calidris canutus rufa*) are medium-sized shorebirds that breed only in Arctic Canada and migrate approximately 18,500 miles annually between Arctic breeding grounds and primary wintering areas in Tierra Del Fuego, at the southern tip of South America.

They also winter in three other distinct coastal areas of the Western Hemisphere: the southeastern United States (mainly Florida and Georgia, with smaller numbers in South Carolina), the Gulf of Mexico coast of Texas, and Maranhão in northern Brazil (USFWS, 2011). The USFWS began proposing that this species be considered a Candidate for listing in 2008, and published a final designation of threatened status in 2014 (79 FR 73706, December 11, 2014).

In South American wintering areas, red knots are found principally in intertidal marine habitats, especially near coastal inlets, estuaries, and bays, or along intertidal earthen shelf formations. The Delaware Bay area (in Delaware and New Jersey) is the largest known spring migration stopover area, with far fewer migrants congregating elsewhere along the Atlantic coast. The concentration in the Delaware Bay area occurs from the middle of May to early June, corresponding to the spawning season of horseshoe crabs. The knots feed on horseshoe crab eggs, rebuilding energy reserves needed to complete migrations to the Arctic. Surveys at wintering areas and at Delaware Bay during spring migration indicate a substantial decline in the red knot in recent years. Research shows that since 1998, a high proportion of red knots leaving the Delaware Bay failed to achieve threshold departure masses needed to fly to breeding grounds and survive an initial few days of snow cover, and this corresponded to reduced annual survival rates (73 FR 75176, December 10, 2008).

The primary factor threatening the red knot is destruction and modification of its habitat, particularly the reduction in key food resources resulting from reductions in horseshoe crabs, which are harvested primarily for use as bait and secondarily to support a biomedical industry. Counts of red knots within the principal wintering areas in Chile and Argentina declined by nearly 75 percent from 1985 to 2007 and declined by an additional 15 percent in the past year (2007 to 2008).

Along the Texas coast, red knots forage on beaches, oyster reefs, and exposed bay bottoms and roost on high sand flats, reefs, and other sites protected from high tides (NatureServe, 2013). They are believed to use the beaches in Brazoria County, near but not in the project area. In wintering and migration habitats, red knots commonly forage on bivalves, gastropods, and crustaceans. It has been reported that Coquina clams (*Donax variabilis*) serve as a frequent and often important food resource for red knots along Gulf beaches. Reports of the size of flocks of along the Gulf of Mexico coast vary considerably, from highs of about 2,800 to 700 (USFWS 2011).

2.3 WHOOPING CRANE

The whooping crane (*Grus americana*) was Federally listed as endangered on March 11, 1967 (32 FR 4001). Critical habitat has been designated in Aransas, Calhoun, and Refugio counties in Texas, and includes the Aransas National Wildlife Refuge (NWR). The main factors for the decline of the whooping crane are loss of habitat to agriculture, human disturbance of nesting areas, uncontrolled hunting, and collisions with power lines (NatureServe, 2015). Biological factors, such as delayed sexual maturity and small clutch size, prevent rapid population recovery. Drought during the breeding season presents serious hazards to this species (Campbell, 1995). Whooping cranes are vulnerable to loss of habitat along their long migration route (NatureServe, 2015), along which they are still subject to cataclysmic weather events, accidental shooting, collision with power lines, and predators. They are susceptible to avian tuberculosis, avian cholera, and lead poisoning (Campbell, 1995). Exposure to disease is a special problem when large numbers of birds are concentrated in limited areas, as often happens during times of drought.

The principal winter habitat in Texas is brackish bays, marshes, and salt flats, although whooping cranes sometimes feed in upland sites characterized by oak mottes, grassland swales, and ponds on gently rolling sandy soils (NatureServe, 2015). Summer foods include large insect nymphs or larvae, frogs, rodents, small birds, minnows, and berries. During the winter in Texas, they eat a wide variety of plant and animal foods. Blue crabs, clams, and berries of Carolina wolfberry (*Lycium carolinianum*) comprise the diet. Foods taken at upland sites include acorns, snails, crayfish, and insects.

Whooping cranes were originally found throughout most of North America. In the nineteenth century, the main breeding area was from the Northwest Territories to the prairie provinces in Canada, and the northern prairie states to Illinois. A nonmigratory flock existed in Louisiana, but is now extirpated. Whooping cranes wintered from Florida to New Jersey along the Atlantic Coast, along the Texas Gulf Coast, and in the high plateaus of central Mexico. They now breed in isolated, marshy areas of Wood Buffalo National Park, Northwest Territories, and Canada. They winter primarily in the Aransas NWR and adjacent areas of the central Texas Gulf Coast (USFWS, 1995). During migration they use various stopover areas in western Canada and the American Midwest.

The natural wild population of whooping cranes spends its winters at the Aransas NWR, Matagorda Island, Isla San Jose, portions of the Lamar Peninsula, and Welder Point on the east side of San Antonio Bay (NatureServe, 2015). The main stopover points in Texas for migrating birds are in the central and eastern Panhandle (USFWS, 1995).

Brazoria County is on the extreme margin of the species' migration corridor. The species is

unlikely to occur in the Brazoria project area because of the absence of suitable habitat. TPWD (2006) indicates documented records of whooping cranes from marshes west of the Brazos River; however, these likely represent vagrant birds, and no wintering populations are present in the project area.

2.4 WEST INDIAN MANATEE

Manatees (*Trichechus manatus*) are marine mammals found in marine, estuarine, and freshwater environments. The manatee ranges from the southeastern U.S. and coastal regions of the Gulf, through the West Indies and Caribbean, to northern South America. U.S. populations occur primarily in Florida, where they are effectively isolated from other populations by the cooler waters of the northern Gulf and the deeper waters of the Straits of Florida (NatureServe, 2013).

USFWS listed the West Indian manatee as endangered in 1967 (32 FR 4001, March 11, 1967). Later it received protection under the ESA of 1973. Critical habitat has been designated in Florida, but none in Texas.

The West Indian manatee inhabits shallow coastal waters, estuaries, bays, rivers, and lakes. Throughout most of its range, it appears to prefer rivers and estuaries to marine habitats. It is not averse to traveling through dredged canals or using quiet marinas. Manatees are apparently not able to tolerate prolonged exposure to water colder than 68 degrees Fahrenheit. In the northern portions of their range, during October through April, they congregate in warmer water bodies, such as spring-fed rivers and outfalls from power plants. They usually avoid areas with strong currents (NatureServe, 2013). Manatees are primarily dependent upon submergent, emergent, and floating vegetation, with the diet varying according to plant availability.

The largest known human-related cause of manatee mortality is collisions with hulls and/or propellers of boats and ships. The second-largest human related cause of mortality is entrapment in floodgates and navigation locks. Other known causes of human-related manatee mortality include poaching and vandalism, entrapment in shrimp nets and other fishing gear, entrapment in water pipes, and ingestion of marine debris (USFWS, 2001). Hunting and fishing pressures were responsible for much of its original decline because of the demand for meat, hides, and bones, which resulted in near extirpation of the species (USFWS, 1995). A prominent cause of natural mortality in some years is cold stress, and major die-offs associated with the outbreaks of red tide have occurred (USFWS, 2001). The low reproductive rate and habitat loss make it difficult for manatee populations to recover.

The West Indian manatee historically inhabited the Laguna Madre, the Gulf, and tidally influenced portions of rivers. It is currently, however, extremely rare in Texas waters and the most recent sightings are likely individuals migrating or wandering from Mexican waters. Historical records from Texas waters include Copano Bay, the Bolivar Peninsula, and the mouth of the Rio Grande River (Schmidly, 2004). In November, 2014, a live manatee was rescued from Trinity Bay (USFWS, 2015). The occurrence of the West Indian manatee in the study area is possible but not likely.

2.5 WHALES

NMFS identifies four endangered whale species of potential occurrence in the Gulf. These are the sei whale (*Balaenoptera borealis*), fin whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), and sperm whale (*Physeter macrocephalus*) (NMFS, 2015). These species are generally restricted to deeper offshore waters; therefore, it is unlikely that any of these five species would regularly occur in either the Brazoria or Sabine project areas.

2.6 SEA TURTLES

NMFS and USFWS identify five sea turtle species of potential occurrence in both the Brazoria and Sabine regions.

2.6.1 Green Sea Turtle

The green turtle (*Chelonia mydas*) is a circumglobal species in tropical and subtropical waters. In U.S. Atlantic waters, it occurs around the U.S. Virgin Islands, Puerto Rico, and continental U.S. from Massachusetts to Texas. Major nesting activity occurs on Ascension Island, Aves Island (Venezuela), Costa Rica, and in Surinam. Relatively small numbers nest in Florida, with even smaller numbers in Georgia, North Carolina, and Texas (NMFS and USFWS, 1991a; Hirth, 1997).

The green turtle was listed in 1978 as threatened, except for Florida and the Pacific Coast of Mexico (including the Gulf of California) where it was listed as endangered (43 FR 32800, July 28, 1978). In 1998, NMFS designated critical habitat to include the coastal waters around Culebra Island, Puerto Rico (63 FR 46693, September 2, 1998). On March 23, 2015, NMFS and USFWS proposed to revise the existing listing to identify 11 green sea turtle distinct population segments (DPS) worldwide (80 FR 15271 (March 23, 2015)). The proposed DPS rule would list the North Atlantic DPS as threatened.

The green turtle primarily utilizes shallow habitats such as lagoons, bays, inlets, shoals, estuaries, and other areas with an abundance of marine algae and seagrasses. Hatchlings often float in masses of sea plants (e.g., rafts of sargassum) in convergence zones. Coral reefs and rocky outcrops near

feeding pastures often are used as resting areas. The adults are almost exclusively herbivorous, while the juveniles consume more invertebrates. Foods consumed include seagrasses, macroalgae and other marine plants, mollusks, sponges, crustaceans, and jellyfish (Mortimer, 1982).

Terrestrial habitat is typically limited to nesting activities (Balazs, 1980). They prefer high-energy beaches with deep sand, which may be coarse to fine, with little organic content. Most green turtles nest in Florida and in Mexico. Green turtle nests are rare in Texas. In 1987, the first confirmed nesting of a green sea turtle on the Texas coast was recorded (Shaver and Amos, 1988). More recently, two green turtle nests were documented in 2006 and three in 2007; all but one in 2007 were from the Padre Island National Seashore (PINS). In 2012, six green sea turtle nests were reported from PINS and two from South Padre Island.

The principal cause of the historical, worldwide decline of the green turtle is long-term harvest of eggs and adults on nesting beaches, and juveniles and adults on feeding grounds. These harvests continue in some areas of the world and compromise efforts to recover this species. Incidental capture in fishing gear, such as gillnets and trawls, is a serious ongoing source of mortality that also adversely affects the species' recovery (NMFS, 2013). Incidental take of green turtles has been documented with hopper dredges.

Of the green turtle strandings reported from 2004 through 2007 (last year reported) along the Texas Coast, 374 were from Zone 21, which extends from the mouth of the Rio Grande to the vicinity of Yarbrough Pass (STSSN, 2013). In 2007, 233 green turtles were reported stranded; of these, at least 147 were cold-stunned turtles resulting from a strong cold front that passed in January (Sea Turtle, Inc., 2008).

The USACE Sea Turtle Data Warehouse (USACE, 2013) maintained records of documented incidental takes of sea turtles as a result of hopper dredging activities throughout southeastern coastal waters. USACE is currently developing a new system, called Operations and Dredging Endangered Species System (ODESS), to centralize and archive data regarding T&E species and impacts from dredging activities. The system is being coordinated with NMFS SERO staff. Incidences involving impacts on two green sea turtle individuals within Freeport Harbor Channel were recorded in 2006. One incident regarding impact on an individual green sea turtle within the Freeport Harbor Entrance Channel was documented in 2007. These documented events provide clear indication that swimming green turtles may be found in the entrance channel and near the Freeport Harbor jetties. They are not likely to be found in the inland channels near the Freeport CSRM project area. The project area does not include the Gulf shoreline. The southernmost extent of the Port Arthur CSRM Plan project area is 15 stream-miles inland from the Gulf shoreline; there is very little likelihood that green turtles would be found in that study area.

2.6.2 Kemp's Ridley Sea Turtle

The Kemp's ridley sea turtle (*Lepidochelys kempii*) is the smallest of the sea turtles, with adults reaching about 2 feet in length and weighing up to 100 pounds. Adults are primarily restricted to the Gulf, although juveniles may range throughout the Atlantic Ocean. Important foraging areas include Campeche Bay, Mexico, and Louisiana coastal waters. Almost the entire population of Kemp's ridleys nests on an 11-mile stretch of coastline near Rancho Nuevo, Tamaulipas, Mexico, approximately 190 miles south of the Rio Grande. A secondary nesting area occurs at Tuxpan, Veracruz, and sporadic nesting has been reported from Mustang Island, Texas, southward to Isla Aquada, Campeche. Several scattered isolated nesting attempts have occurred from North Carolina to Colombia.

The Kemp's ridley sea turtle was listed as endangered throughout its range in 1970 (35 FR 18319, December 2, 1970). It is considered to be the most seriously endangered of all sea turtles (USFWS and NMFS, 1992). No critical habitat has yet been designated.

Kemp's ridleys inhabit shallow coastal and estuarine waters, usually over sand or mud bottoms. Adults are primarily shallow-water benthic feeders that specialize on crabs while juveniles feed on sargassum and associated infauna, and other epipelagic species of the Gulf (USFWS and NMFS, 1992). In some regions, blue crab (*Callinectes sapidus*) is the most common food item of adults and juveniles. Other food items include shrimp, snails, bivalves, sea urchins, jellyfish, sea stars, fish, and occasional marine plants (Pritchard and Marquez, 1973; Shaver, 1991; Campbell, 1995).

Populations of this species have declined since 1947, when an estimated 42,000 females nested in one day, to a total nesting population of approximately 1,000 in the mid-1980s. The decline of this species was primarily the result of human activities including collection of eggs, fishing for juveniles and adults, killing adults for meat and other products, and direct take for indigenous use. In addition to these sources of mortality, Kemp's ridleys have been subject to high levels of incidental capture in fishing gear, primarily in shrimp trawls, but also in gill nets, longlines, and traps (USFWS and NMFS, 1992; NMFS, 2013b). The National Research Council's (NRC) Committee on Sea Turtle Conservation estimated in 1990 that 86 percent of the human-caused deaths of juvenile and adult loggerheads and Kemp's ridleys resulted from shrimp trawling (Campbell, 1995).

Further threats to this species include collisions with boats, explosives used to remove oil rigs, and entrapment in coastal power plant intake pipes (Campbell, 1995). Dredging operations affect Kemp's ridley turtles through incidental take and by degrading the habitat. Incidental take of ridleys has been documented with hopper dredges. In addition to direct take, channelization of the

inshore and nearshore areas can degrade foraging and migratory habitat through dredged material placement, degraded water quality/clarity, and altered current flow (USFWS and NMFS, 1992). Sea turtles are also especially subject to human impacts during the time the females come ashore for nesting.

Nesting beaches were afforded official protection in 1966 and this, together with the requirement to use TEDs in shrimp trawls and other measures to reduce turtle bycatch, are some of the primary factors in recovery of this species (NMFS, 2013). Kemp's ridley appears to be in the earliest stages of recovery. In 2006, a record number of nests were recorded since monitoring began in 1978; 12,143 nests were documented in Mexico, with 7,866 of those at Rancho Nuevo (NMFS, 2013).

Kemp's ridleys may have nested sporadically in Texas in the last 50 years; however, the number of nests over recent years has shown an ever-increasing trend (NPS, 2012 and 2013). Some of these nests were from headstarted ridleys. The majority of the Kemp's ridley nests recorded in Texas were at the PINS. Such nestings, together with the proximity of the Rancho Nuevo rookery, probably account for the occurrence of hatchlings and subadults in Texas.

Kemp's ridley has been recorded from the general vicinity of the Brazoria region. The USACE Sea Turtle Data Warehouse (USACE, 2010) documents the taking of two Kemp's ridley turtles within the Freeport Harbor Entrance Channel in 2007. Documented records of Kemp's ridleys exist from Jefferson County, Texas (Dixon, 2000); however, they would not be expected to occur as far inland as the Port Arthur and Orange-Jefferson CSRM project areas.

2.6.3 Loggerhead Sea Turtle

Loggerhead sea turtles (*Caretta caretta*) were named for their relatively large heads, which support powerful jaws and enable them to feed on hard-shelled prey, such as whelks and conch. The loggerhead is widely distributed in tropical and subtropical seas, being found in the Atlantic Ocean from Nova Scotia to Argentina, the Gulf, Indian, and Pacific oceans (although it is rare in the eastern and central Pacific), and the Mediterranean Sea (Rebel, 1974; Ross, 1982; Iverson, 1986), and is the most abundant sea turtle species in U.S. coastal waters (NMFS, 2013). In the continental U.S., loggerheads nest along the Atlantic coast from Florida to as far north as New Jersey and sporadically along the Gulf Coast. In recent years, a few have nested on barrier islands along the Texas coast.

The Northwest Atlantic Ocean population of the loggerhead turtle was listed as threatened in 2011 (76 FR 58868, September 22, 2011). In 2011, the NMFS and USFWS determined that the loggerhead sea turtle is composed of nine distinct population segments (DPSs) that constitute

“species” that may be listed as threatened or endangered under the ESA. Formerly, all populations of the loggerhead were determined threatened throughout its range (43 FR 32808, July 28, 1978). In the 2011 final rule, four DPSs were listed as threatened and five as endangered under the ESA. The four threatened DPSs are located in the Northwest Atlantic Ocean, the South Atlantic Ocean, the Southeast Indo-Pacific Ocean, and the Southwest Indian Ocean. The five endangered DTSSs are located in the Mediterranean Sea, the North Indian Ocean, the North Pacific Ocean, the Northeast Atlantic Ocean, and the South Pacific Ocean. NMFS and USFWS also announced they intend to propose the designation of critical habitat for the two loggerhead sea turtle DPSs occurring within the U.S. (the Northwest Atlantic and North Pacific Oceans) in a future rulemaking. Proposed critical habitat is located in coastal counties in North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi (78 FR 17999, March 25, 2013).

The loggerhead occurs in the open seas as far as 500 miles from shore, but mainly over the continental shelf, and in bays, estuaries, lagoons, creeks, and mouths of rivers. It favors warm temperate and subtropical regions not far from shorelines. The adults occupy various habitats, from turbid bays to clear waters of reefs. Subadults occur mainly in nearshore and estuarine waters. Hatchlings move directly to sea after hatching, and often float in masses of sargassum (NMFS and USFWS, 1991). Commensurate with their use of varied habitats, loggerheads consume a wide variety of both benthic and pelagic food items, which they crush before swallowing. Conches, shellfish, horseshoe crabs, prawns and other crustacea, squid, sponges, jellyfish, basket stars, fish (carion or slow-moving species), and even hatchling loggerheads have all been recorded as loggerhead prey (Rebel, 1974; Hughes, 1974; Mortimer, 1982).

Nesting occurs usually on open sandy beaches above the high-tide mark and seaward of well-developed dunes. They nest primarily on high-energy beaches on barrier islands adjacent to continental land masses in warm-temperate and subtropical regions. Steeply sloped beaches with gradually sloped offshore approaches are favored.

Recent analyses of nesting data from southeast Florida show the population is declining. Similarly, long-term nesting data show loggerhead nesting declines in North Carolina, South Carolina, and Georgia (NMFS, 2013). The decline of the loggerhead, like that of most sea turtles, is the result of overexploitation by man, and inadvertent mortality associated with fishing and trawling activities. The most significant threats to its population are incidental capture in fishing gear, directed harvest, coastal development, increased human use of nesting beaches, and pollution (NMFS, 2013). Incidental take of loggerheads has been documented with hopper dredges.

The loggerhead is the most abundant turtle in Texas marine waters, preferring shallow inner continental shelf waters and occurring only very infrequently in the bays. It often occurs near

offshore oil rig platforms, reefs, and jetties. Loggerheads are probably present year-round but are most noticeable in the spring when a favored food item, the Portuguese man-of-war (*Physalia physalis*), is abundant. Loggerheads constitute a major portion of stranded turtles on the Texas coast each year (STSSN, 2013). A large proportion of these deaths are the result of accidental capture by shrimp trawlers, where caught turtles drown and their bodies are dumped overboard.

Before 1977, no positive documentation of loggerhead nests in Texas existed. Since that time, several nests have been recorded along the Texas coast. During the last decade, nesting has remained relatively stable on the Texas coast, with 0-6 nests per year. Although nests have been found state-wide, the largest numbers have been located at the PINS (NPS, 2013).

This species has been recorded in the Brazoria study area. Between 1995 and 2000, eight loggerheads were caught in Freeport Harbor Channel, and during the Freeport Harbor Project (July 13 to September 24, 2002), a relocation trawler captured one loggerhead (NMFS, 2003). More recently, an additional loggerhead was incidentally taken in the Freeport Harbor Entrance Channel in 2006 as a result of dredging activities (USACE, 2013). No nests have been recorded in the study area. Documented records of loggerheads exist from Jefferson County, Texas (Dixon, 2000); however, potential for its occurrence in the Sabine study area is low.

2.6.4 Hawksbill Sea Turtle

The hawksbill sea turtle (*Eretmochelys imbricata*) is circumtropical, occurring in tropical and subtropical seas of the Atlantic, Pacific, and Indian oceans (Witzell, 1983). This species is probably the most tropical of all marine turtles, although it does occur in many temperate regions. The hawksbill sea turtle is widely distributed in the Caribbean Sea and western Atlantic Ocean, with representatives of at least some life history stages regularly occurring in southern Florida and the northern Gulf (especially Texas), south to Brazil (NMFS, 2013d). In the continental U.S., the hawksbill largely nests in Florida, where it is sporadic at best (NFWL, 1980). However, a major nesting beach exists on Mona Island, Puerto Rico.

The hawksbill sea turtle was Federally listed as endangered in 1970 on (35 FR 84952, June 2, 1970b). In 1998, NMFS and USFWS designated critical habitat near Mona Island and Isla Monito, Puerto Rico, seaward to 5.6 kilometers (km) (63 FR 46693, September 2, 1998).

Hawksbills generally inhabit coastal reefs, bays, rocky areas, passes, estuaries, and lagoons, where they occur at depths of less than 70 feet. Like some other sea turtle species, hatchlings are sometimes found floating in masses of marine plants (e.g., sargassum rafts) in the open ocean (NFWL, 1980). Hawksbills reenter coastal waters when they reach a carapace length of approximately 20 to 25 centimeters. Coral reefs are widely recognized as the resident foraging

habitat of juveniles, subadults, and adults. This habitat association is undoubtedly related to their diet of sponges, which need solid substrate for attachment. Hawksbills also occur around rocky outcrops and high-energy shoals, which are also optimum sites for sponge growth.

While this species is omnivorous, it prefers invertebrates, especially encrusting organisms, such as sponges, tunicates, bryozoans, mollusks, corals, barnacles, and sea urchins. Pelagic species consumed include jellyfish and fish, and plant material such as algae, sea grasses, and mangroves (Rebel, 1974; Pritchard, 1977; Mortimer, 1982). The young are reported to be somewhat more herbivorous than adults (Ernst and Barbour, 1972). Terrestrial habitat is typically limited to nesting activities. The hawksbill, which is typically a solitary nester, nests on undisturbed, deep-sand beaches, from high-energy ocean beaches to tiny pocket beaches several meters wide bounded by crevices of cliff walls. Typically, the sand beaches are low energy, with woody vegetation, such as sea grape (*Coccoloba uvifera*), near the waterline (NRC, 1990).

The primary global threat to hawksbills is habitat loss of coral reef communities. There remains a continuing demand for the hawksbill's shell, as well as other products, including leather, oil, perfume, and cosmetics. Additionally, hawksbills are harvested for their eggs and meat, while whole stuffed turtles are sold as curios in the tourist trade. In addition to directed harvest, increased human presence is a threat to hawksbills. In particular, increased recreational and commercial use of nesting beaches, general harassment of turtles, and loss of nesting habitat from human activities negatively impact hawksbills. Incidental capture in fishing gear, primarily gillnets, and vessel strikes also adversely affect this species' recovery (NMFS, 2013).

Texas is the only state outside of Florida where hawksbills are sighted with any regularity. Most of these sightings involve posthatchlings and juveniles, and are primarily associated with stone jetties. These small turtles are believed to originate from nesting beaches in Mexico (NMFS, 2013). On June 13, 1998, the first hawksbill nest recorded on the Texas coast was found at PINS. This nest remains the only documented hawksbill nest on the Texas coast (NPS, 2013). Stranding data from 2004 through 2007 show that 59 hawksbills were found along Texas waters or shorelines (STSSN, 2013). No documented records of hawksbills exist from Brazoria, Jefferson, or Orange counties (Dixon, 2000) and they are not expected to be present in the project area.

2.6.5 Leatherback Sea Turtle

Leatherback sea turtles (*Dermochelys coriacea*) are named for their appearance. They do not have shells as other sea turtles do. Instead, their backs are covered by a slate black to bluish-black leathery skin with irregular white or pink patches. They are the largest turtles in the world, reaching over 6 feet in length and 650-1,200 pounds in weight (NPS, 2013).

The leatherback sea turtle was listed as endangered throughout its range in 1970 (35 FR 84952, June 2, 1970), with critical habitat designated in the U.S. Virgin Islands in 1978 and 1979 (43 FR 43688, September 26, 1978, and 44 FR 17710, March 23, 1979, respectively). In 2011, USFWS announced that revision of the critical habitat to include the coastline and offshore waters of the Northeast Ecological Corridor of Puerto Rico may be warranted and that assessment of the need for revisions to critical habitat would be conducted during a future planned status review (76 FR 47133, August 4, 2011).

The leatherback is probably the most wide-ranging of all sea turtle species. It occurs in the Atlantic, Pacific, and Indian oceans; as far north as British Columbia, Newfoundland, Great Britain, and Norway; as far south as Australia, the Cape of Good Hope, and Argentina; and in other water bodies such as the Mediterranean Sea (NFWL, 1980). The leatherback migrates further and ventures into colder water than any other marine reptile. Adults appear to engage in routine migrations between boreal, temperate, and tropical waters, presumably to optimize both foraging and nesting opportunities. During the summer, leatherbacks tend to occur along the east coast of the U.S. from the Gulf of Maine south to the middle of Florida.

Leatherbacks nest primarily in tropical regions; major nesting beaches include Malaysia, Mexico, French Guiana, Surinam, Costa Rica, and Trinidad (Ross, 1982). Leatherbacks nest only sporadically in some of the Atlantic and Gulf states of the continental U.S., with one nesting reported as far north as North Carolina (Schwartz, 1976). The U.S. Caribbean, primarily Puerto Rico and the U.S. Virgin Islands, and southeast Florida support minor nesting colonies, but represent the most significant nesting activity within the U.S. (NMFS, 2013).

The leatherback sea turtle is mainly pelagic, inhabiting the open ocean, and seldom approaches land except for nesting (Eckert, 1992). It is most often found in coastal waters only when nesting or when following concentrations of jellyfish, when it can be found in inshore waters, bays, and estuaries. It dives almost continuously, often to great depths. Despite their large size, the diet of leatherbacks consists largely of jellyfish and sea squirts. They also consume sea urchins, squid, crustaceans, fish, blue-green algae, and floating seaweed (NFWL, 1980). The leatherback typically nests on beaches with a deepwater approach (Pritchard, 1971).

Its decline is attributable to overexploitation by man and incidental mortality associated with commercial shrimping and fishing activities. Nesting populations of leatherback sea turtles are especially difficult to estimate because the females frequently change nesting beaches; however, Spotila et al. (1996) estimated the 1995 worldwide population of nesting female leatherbacks at 26,000 to 42,000. Major threats include egg collecting and mortality associated with bycatch in

longline, trawl, and gillnet fisheries throughout their range; although they are jeopardized to some extent by harvesting of adult females, destruction or degradation of nesting habitat, and ingestion of floating trash (Nature Serve, 2013). This species is probably more susceptible than other turtles to drowning in shrimp trawlers equipped with turtle extruder devices (TEDs) because adult leatherbacks are too large to pass through the TED exit opening. Because leatherbacks nest in the tropics during hurricane season, a potential exists for storm-generated waves and wind to erode nesting beaches, resulting in nest loss (NMFS and USFWS, 1992).

Apart from occasional feeding aggregations such as the large one of 100 animals reported by Leary (1957) off Port Aransas in December 1956, or possible concentrations in the Brownsville Eddy in winter, leatherbacks are rare along the Texas coast, tending to keep to deeper offshore waters where their primary food source, jellyfish, occurs. In the Gulf, the leatherback is often associated with two species of jellyfish: the cabbagehead (*Stomolophus sp.*) and the moon jellyfish (*Aurelia sp.*) (NMFS and USFWS, 1992). According to USFWS (1981), leatherbacks never have been common in Texas waters. Leatherback nests were recorded on Padre Island in the 1930's to 40's. One leatherback nest was located at PINS in 2008. Since then, no leatherback nests have been located anywhere in Texas (NPS, 2013).

No leatherbacks have been taken by dredging activities in Texas (USACE, 2013). This species is unlikely to occur in either the Brazoria or Sabine regions.

2.7 CORALS

On October 20, 2009, NMFS received a petition from the Center for Biological Diversity to list 83 species of coral as either threatened or endangered under the ESA. On September 10, 2014 (70 FR 53852), NMFS published a final rule listing 20 of the petitioned coral species as threatened under the Endangered Species Act. Of these 20, the following five Caribbean species are listed as threatened on the NMFS list for Texas – lobed star (*Orbicella annularis*), mountainous star (*Orbicella faveolata*), boulder star (*Orbicella franksi*), and elkhorn coral (*Acropora palmata*) retained their listing status as threatened species. Relatively high human population densities and a long history of pervasive human impacts on coral reef systems exist across the Caribbean region (NMFS, 2012). Nearly two-thirds of Caribbean coral reefs are threatened by at least one form of human activity, with continuing threats of region-wide damage due to rising sea temperatures and disease. Additionally, none of the Caribbean's three keystone species indicative of reef health (the corals *Acropora palmata* and *A. cervicornis*, and the urchin *Diadema antillarum*) show significant recovery over decadal time scales. The region is also susceptible to strengthening storms and hurricanes, and suffers mass bleaching events, hampering ecosystem recovery. None of five species listed for Texas are known to occur in the Brazoria or Sabine regions, and their potential

range does not extend into these areas.

2.8 CANDIDATE SPECIES

2.8.1 Sprague's Pipit

The Sprague's pipit (*Anthus spragueii*) is a small passerine endemic to the Northern Great Plains and is one of the few bird species endemic to the North American prairie (75 FR 56028, September 15, 2010). Sprague's pipits are strongly tied to native prairie throughout their life cycle but will utilize nonnative planted grassland. These birds are sensitive to fragmentation and require relatively large grassland patches to form breeding territories.

USFWS initiated a status review in response to a petition filed in 2009 (74 FR 63337, December 3, 2009), which resulted in the Sprague's pipit being considered a Candidate for listing. In 2010, USFWS found that listing was warranted but precluded by higher priority listing actions (75 FR 56028, September 15, 2010).

The Sprague's pipit breeding range extends throughout North Dakota, except for the easternmost counties, northern and central Montana east of the Rocky Mountains, northern portions of South Dakota, northwestern Minnesota, southeastern Alberta, the southern half of Saskatchewan, and into southwest Manitoba. Its wintering range includes south-central and southeast Arizona, Texas, southern Oklahoma, southern Arkansas, northwest Mississippi, southern Louisiana, and northern Mexico. Migration and wintering ecology are poorly known, but migrating and wintering Sprague's pipits are found in both densely and sparsely vegetated grassland and pastures; they are rarely found in fallow cropland. Sprague's pipits exhibit a strong preference for grassland habitat during the winter and an avoidance of areas with too much shrub encroachment. They eat a wide variety of insects during the breeding season and a very small percentage of seeds (74 FR 63337, December 3, 2009).

The primary threats to the Sprague's pipit are habitat fragmentation on the breeding grounds, energy development, roads, and inadequacy of existing regulatory mechanisms. Native prairie is one of the most imperiled habitats worldwide, with loss rates approximating 70 percent in the United States and Canada, and prairie loss is accelerating. There is less specific information available on the wintering grounds, but the data available indicate that large areas of the wintering grounds are being converted from grassland habitat. The 40-year trend in Christmas Bird Count data shows an annual decline of 2.54 percent of this species in Texas. Adequate regulations are not in place at the local, State, or Federal level to adequately minimize the threat of habitat degradation and fragmentation.

While most of the population winters in Mexico, the vast majority of the winter sightings in the U.S. have been in Texas, and the majority of those were on the central and south Texas coastal plain, south of the Brazoria region (USFWS 2014). They prefer native grassland prairie but will use other grasslands if the areas are sufficiently large. They avoid edges between grassland and landscape features that are structurally different than grassland such as wetlands, cropland, trees and shrubs, and burned or mowed areas. The shape of the patch is also important; grassland areas with a low edge-to-area ratio provide optimal habitat and thus, a linear patch may not be suitable.

No native prairie has been identified in either the Brazoria or Sabine project areas, but some pasture and other grassland is present. Many of these areas are regularly grazed, mowed, or cultivated. The landscape is highly fragmented with small patches of grassland, forest, scrub-shrub, and coastal marsh distributed across the landscape in both areas. No large grassland areas have been identified that would be attractive to this species, which appears to prefer large patch sizes and specific grassland structure.

2.8.2 Freshwater Mussels

2.8.2.1 Smooth Pimpleback Clam

USFWS added the smooth pimpleback clam (*Quadrula houstonensis*) to its candidate species list in 2011 (76 FR 62166, October 6, 2011) and subsequently has confirmed that status in annual reviews. The smooth pimpleback is a nearly round, thick-shelled freshwater mussel that generally reaches at least 2.6 inches in length. It has been found in mixed mud, sand, and fine gravel substrate in medium-to-large rivers and some reservoirs throughout its range. Adult freshwater mussels are filter-feeders, siphoning algae, bacteria, detritus, microscopic animals, and dissolved organic matter. Mussels tend to grow relatively rapidly for the first few years, and then slow appreciably at sexual maturity, when energy presumably is being diverted from growth to reproductive activities. They are extremely long lived, living from two to several decades.

The smooth pimpleback is native to the Brazos and Colorado River basins of central Texas. Within the Brazos River basin, the species historically occurred throughout the length of the mainstem of the Brazos River, as well as in the Clear Fork Brazos, Leon, Navasota, Little Brazos, San Gabriel, Lampasas, and Little Rivers and Yegua Creek (USFWS 2014). The reduction in numbers and range of the smooth pimpleback is primarily the result of the long-lasting effects of habitat alterations caused by impoundments, sedimentation, dewatering, sand and gravel mining, and chemical contaminants. Impoundments occur throughout the range of the species and have far-reaching effects on riverine habitat, both upstream and downstream of the dams. The Colorado and Brazos River systems have experienced a large amount of sedimentation from agriculture, instream mining, and urban development. Sand and gravel mining affects smooth pimpleback habitat by increasing sedimentation and channel instability downstream and by causing

headcutting upstream. Chemical contaminants exceeding the standards developed to support aquatic life have been documented throughout the range of the species and may represent a significant threat to the smooth pimpleback. However, the large populations in the San Saba River, lower Brazos River, Navasota River, Leon River, and Yegua Creek indicate that some smooth pimpleback populations are not currently as vulnerable to habitat loss as others. Climate change could also affect the smooth pimpleback through the combined effects of global and regional climate change, along with the increased probability of long-term drought.

Recent surveys suggest a greater abundance and distribution of the smooth pimpleback in the central and lower Brazos River drainage than was indicated by collections from the past 40 years. The smooth pimpleback historically occurred in the Brazos River system from Haskell and Throckmorton Counties downstream to Austin and Waller Counties, as well as in numerous tributaries. Although not extirpated from the middle Brazos River, the smooth pimpleback occurs only in low numbers. Smooth pimpleback are more numerous in the lower mainstem Brazos River; however, far fewer have been reported from farther downstream in Austin and Fort Bend Counties. None are known to have occurred in Brazoria County.

2.8.2.2 Texas Fawnsfoot Clam

USFWS added the Texas fawnsfoot clam (*Truncilla macrodon*) to its candidate species list in 2011 (76 FR 62166, October 6, 2011) and subsequently has confirmed that status in annual reviews. The Texas fawnsfoot is a small, relatively thin-shelled freshwater mussel that can reach 2.4 inches in length but is usually much smaller. Since Texas fawnsfoot were not found alive for many years, very little information is available about its habitat preferences. In the past only Texas fawnsfoot shells and recently dead individuals were occasionally found along rivers following drought-related dewatering or bank deposition after high floods. These shells and recently dead individuals indicated that the Texas fawnsfoot occurs in flowing water, as it was never found in ponds, lakes, or reservoirs, suggesting that it is intolerant of deep, low-velocity waters created by artificial impoundments. The recently discovered live population in the Brazos River indicates that the species occurs in rivers with soft, sandy sediment with moderate water flow (USFWS 2014).

The Texas fawnsfoot is endemic to the Brazos and Colorado Rivers of central Texas. Until recently, relatively few Texas fawnsfoot have been documented since the species was first described in 1859, and few live individuals have been found in recent decades. It was not until 2008 when the first live population of Texas fawnsfoot was discovered in the Brazos River near its confluence with the Navasota River. In the Brazos River system, the Texas fawnsfoot persists in the mainstem Brazos River, Clear Fork Brazos River, Navasota River, and possibly in Deer Creek. It has also been found further downstream in Austin, Waller and Fort Bend Counties, the

latter being the furthest downstream collection in the mainstem of the Brazos River on record in recent years. There is no record at this time of it being found in Brazoria County.

3 EFFECTS ON LISTED SPECIES

3.1 PIPING PLOVER

On their wintering grounds, piping plovers use beaches, mudflats, sandflats, dunes, and may also use sandflats in existing USACE PAs near the coast. There is one placement area located inside of the existing Freeport HFP levee system where temporary sandflats could be attractive to piping plover. However, the Freeport CSRM project construction right-of-way does not affect this PA. None of the other landscape features attractive to plovers are present in or adjacent to the construction right-of-way. The general area is heavily industrialized with substantial disturbances from ship and roadway traffic, and plant and port activities. The Port Arthur and Orange-Jefferson CSRM project areas are located well inland from the coast and do not contain piping plover habitat, making it highly unlikely that piping plovers would occur in the area.

Construction activities associated with the TSP in both the Sabine and Brazoria regions would not occur in the placement areas; they would be confined to the levee system right-of-way. It is unlikely that piping plovers would frequent the TSP project areas because of the lack of acceptable habitat and extensive urban and industrial disturbances. Therefore, USACE has determined that the TSP would have no effect on piping plovers.

3.2 RED KNOT

The red knot winters along the Texas coast, foraging on beaches, oyster reefs, and exposed bay bottoms and roosting on high sand flats, and reefs, utilizing the same areas as piping plovers. The potential for occurrence in the TSP project areas is the same as that of the piping plover. It is unlikely that red knots would frequent the TSP project areas because of the lack of acceptable habitat and extensive urban and industrial disturbances. Therefore, USACE has determined that the TSP would have no effect on red knots.

3.3 WHOOPING CRANE

Although their primary migration route is to the west, occasionally whooping cranes may pass through the Brazoria region on the way to and from their principal winter habitat in and around the Aransas National Wildlife Refuge in the Texas coastal bend region. They may rest along the way in brackish bays, marshes, and salt flats, feeding primarily on blue crabs, clams, snails and insects. The Freeport CSRM project area is located in upland areas and the levee system surrounds extensive urban and industrial development. The type of coastal marsh system these large birds prefer is not present in the area that would be affected by construction of the TSP. The migratory

route does not extend to the Sabine region. Therefore, USACE has determined that the TSP would have no effect on whooping cranes.

3.4 WEST INDIAN MANATEE

Sightings of West Indian manatees are very rare along the Texas coast. The construction right-of-way in the Sabine and Brazoria regions would cross only three bodies of water where manatees could potentially occur, and these are the locations where surge gates are proposed. The Orange-Jefferson CSRM Plan includes the construction of tidal surge gates on Cow and Adams Bayous, and the Freeport CSRM plan includes construction of a surge gate on the Dow Barge Canal. All other construction right-of-way water crossings are shallow upland ponds or streams to which manatees would not have access. The Dow barge canal does not contain preferred habitat such as seagrass and manatees would have to traverse a heavily utilized, deepwater channel to gain access to the area. To reach the locations of the Cow and Adams Bayou structures, manatees would have to travel more than 30 miles from the Gulf through a pass with high water velocities, and waters without seagrass and preferred habitat. Given these considerations, USACE has determined that the manatee is not likely to occur in the project areas, and that the TSP would have no effect on the West Indian manatee.

3.5 WHALES

Whales occur in offshore waters and none of these species are likely to wander into shallow coastal estuaries. Therefore, USACE has determined that the Sabine and Brazoria TSPs would have no effect on these species.

3.6 SEA TURTLES

The leatherback is the not likely to occur in the project areas due to its preference for deep marine waters. No documented records of hawksbills exist from Brazoria, Jefferson or Orange counties. Green, Kemp's ridley, and loggerhead sea turtles occur in and around the Entrance Channel of the Freeport Harbor Navigation Channel and the Entrance Channel of the Sabine-Neches Waterway, but they are unlikely to occur in the inland channels of either system. They are not likely to occur near the construction rights-of-way for the Freeport, Port Arthur and Orange-Jefferson CSRM plans. Furthermore, project construction will not utilize hopper dredges, which are known to adversely impact sea turtles. Inasmuch as it would be unlikely that sea turtles would visit the area, USACE has determined that the TSP would have no effect on sea turtles.

3.7 CORALS

Corals occur in offshore waters; none of these species occur in the Sabine and Brazoria regions. Therefore, USACE has determined that the TSP would have no effect on these species.

3.8 CANDIDATE SPECIES

3.8.1 Sprague's Pipit

No native prairie, preferred habitat for Sprague's pipits, has been identified in either the Brazoria or Sabine regions, but some pasture and other grassland is present. Many of these areas are regularly grazed, mowed or cultivated. The landscape is highly fragmented with small patches of grassland, forest, scrub-shrub and coastal marsh distributed across the landscape in both regions. No large grassland areas have been identified that might be utilized by this species, which appears to prefer large patch sizes and specific grassland structure. None are known to have utilized the study areas. Therefore, USACE has determined that the TSP would have no effect on wintering Sprague's pipits

3.8.2 Freshwater Mussels

Although they are present farther upstream in the main stem of the Brazos River, neither the smooth pimpleback nor Texas fawnfoot clam has been reported anywhere near the TSP construction area in Brazoria County. The range of these mussels does not extend to the Sabine region. Therefore, USACE has determined that the TSP would have no effect on these species.

4 SUMMARY OF EFFECT

This Biological Assessment has determined that the TSP of the Sabine-Pass to Galveston Bay, Texas DIFR-EIS (specifically the Orange-Jefferson, Port Arthur and Vicinity, and Freeport and Vicinity CSRM Plans) would have no effect on the following listed animal species – piping plover, red knot, whooping crane, the West Indian manatee, four whale species (fin, humpback, sei, and sperm), four sea turtle species (green, Kemp’s ridley, loggerhead and hawksbill), and four coral species (lobed star, mountainous star, boulder star and elkhorn). USACE has also determined that the TSP would have no effect on the following Candidate species: Sprague’s pipit, and two freshwater mussel species (smooth pimpleback and Texas fawnsfoot).

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- _____. 2014. U.S. Fish and Wildlife Service Species Assessment and Listing Priority Assignment Form (*Truncilla macrodon*, Texas Fawnsfoot). Prepared by Region 6 (Southwest Region), dated 5/30/2014. Accessed on May 22, 2015 at http://ecos.fws.gov/docs/candidate/assessments/2014/r2/F04E_I01.pdf
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APPENDIX A
NMFS AND USFWS SPECIES LISTS



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Texas Coastal Ecological Services Field Office

17629 EL CAMINO REAL, SUITE 211

HOUSTON, TX 77058

PHONE: (281)286-8282 FAX: (281)488-5882

URL: www.fws.gov/southwest/es/TexasCoastal/;

www.fws.gov/southwest/es/ES_Lists_Main2.html

Consultation Code: 02ETTX0-2015-SLI-0415

May 21, 2015

Event Code: 02ETTX0-2015-E-00460

Project Name: Sabine Pass to Galveston Bay

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 6300 Ocean Drive, Unit 5837, Corpus Christi, Texas 78412.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list is provided by the Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation for updates to species list and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

Section 7 of the Act requires that all Federal agencies consult with the Service to ensure that actions authorized, funded or carried out by such agencies do not jeopardize the continued existence of any listed threatened or endangered species or adversely modify or destroy critical habitat of such species. It is the responsibility of the Federal action agency to determine if the proposed project may affect threatened or endangered species. If a "may affect" determination is made, the Federal agency shall initiate the section 7 consultation process by writing to the office that has responsibility for the area in which your project occurs.

Is not likely to adversely affect — the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

Is likely to adversely affect — adverse effects to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also is likely to cause some adverse effects to individuals of that species, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires the Federal action agency to initiate formal section 7 consultation with this office.

No effect — the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel

conducting the evaluation, habitat conditions, site photographs, and any other related articles.

Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Act requirements for your projects at:

http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf

Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at

<http://www.fws.gov/midwest/endangered/permits/hcp/hcphandbook.html>.

Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Candidate Species

Several species of freshwater mussels occur in Texas and five are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: <http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html>.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the golden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidelines, we recommend you review information provided at <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at <http://www.aplic.org/>.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at: <http://www.fws.gov/habitatconservation/communicationtowers.html>, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at: <http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html>.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to

ood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the oodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory yways or corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at:

http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005 if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay

Official Species List

Provided by:

Texas Coastal Ecological Services Field Office

17629 EL CAMINO REAL, SUITE 211

HOUSTON, TX 77058

(281) 286-8282

<http://www.fws.gov/southwest/es/TexasCoastal/>

http://www.fws.gov/southwest/es/ES_Lists_Main2.html

Consultation Code: 02ETTX0-2015-SLI-0415

Event Code: 02ETTX0-2015-E-00460

Project Type: ** OTHER **

Project Name: Sabine Pass to Galveston Bay

Project Description: Coastal storm risk management study for Beaumont/Orange Tx region.

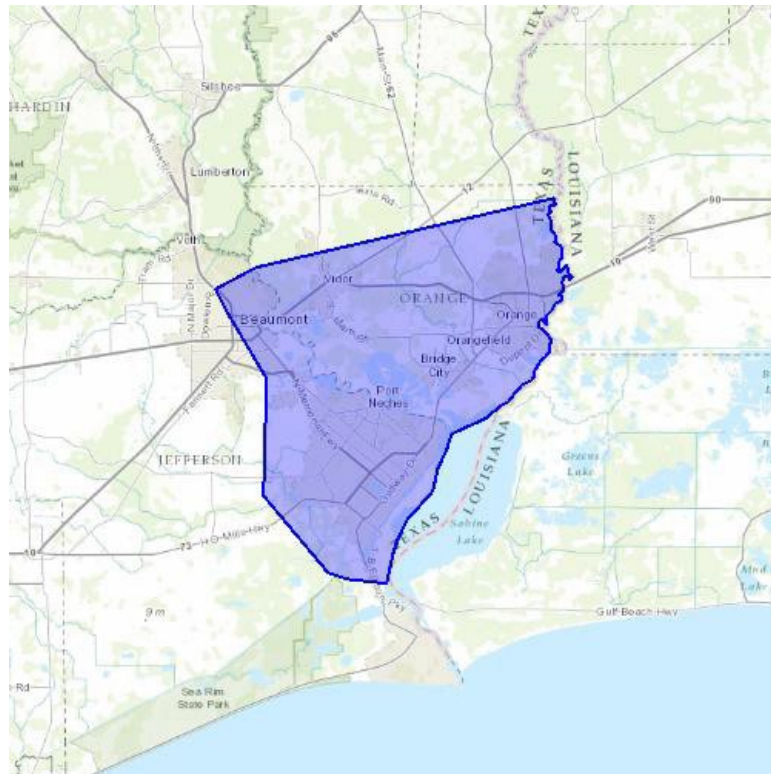
Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay

Project Location Map:



Project Coordinates: The coordinates are too numerous to display here.

Project Counties: Jefferson, TX | Orange, TX



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay

Endangered Species Act Species List

There are a total of 9 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 3 of these species should be considered only under certain conditions. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

| Birds | Status | Has Critical Habitat | Condition(s) |
|---|------------|----------------------|---|
| Least tern (<i>Sterna antillarum</i>) Population: interior pop. | Endangered | | Wind related projects within migratory route. |
| Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed | Threatened | Final designated | Wind related projects within migratory route. |
| Red Knot (<i>Calidris canutus rufa</i>) | Threatened | | Wind related projects within migratory route. |
| Mammals | | | |
| West Indian Manatee (<i>Trichechus manatus</i>) Population: Entire | Endangered | Final designated | |
| Reptiles | | | |
| Green sea turtle (<i>Chelonia mydas</i>) Population: Except where endangered | Threatened | Final designated | |
| Hawksbill sea turtle (<i>Eretmochelys imbricata</i>) | Endangered | Final designated | |



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay

| | | | |
|--|------------|----------------------------|--|
| Population: Entire | | | |
| Kemp's Ridley sea turtle (<i>Lepidochelys kempii</i>) Population: Entire | Endangered | | |
| Leatherback sea turtle (<i>Dermochelys coriacea</i>) Population: Entire | Endangered | Final designated | |
| Loggerhead sea turtle (<i>Caretta caretta</i>) Population: Northwest Atlantic Ocean DPS | Threatened | Proposed, Final designated | |



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay

Critical habitats that lie within your project area

There are no critical habitats within your project area.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Texas Coastal Ecological Services Field Office

17629 EL CAMINO REAL, SUITE 211

HOUSTON, TX 77058

PHONE: (281)286-8282 FAX: (281)488-5882

URL: www.fws.gov/southwest/es/TexasCoastal/;

www.fws.gov/southwest/es/ES_Lists_Main2.html

Consultation Code: 02ETTX0-2015-SLI-0103

May 21, 2015

Event Code: 02ETTX0-2015-E-00459

Project Name: Sabine Pass to Galveston Bay - Freeport

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 6300 Ocean Drive, Unit 5837, Corpus Christi, Texas 78412.

The enclosed species list identifies federally threatened, endangered, and proposed to be listed species; designated critical habitat; and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list is provided by the Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information from updated surveys, changes in the abundance and distribution of species, changes in habitat conditions, or other factors could change the list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website <http://ecos.fws.gov/ipac/> at regular intervals during project planning and implementation for updates to species list and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Candidate species have no protection under the Act but are included for consideration because they could be listed prior to the completion of your project. The other species information should help you determine if suitable habitat for these listed species exists in any of the proposed project areas or if project activities may affect species on-site, off-site, and/or result in "take" of a federally listed species.

"Take" is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. In addition to the direct take of an individual animal, habitat destruction or modification can be considered take, regardless of whether it has been formally designated as critical habitat, if the activity results in the death or injury of wildlife by removing essential habitat components or significantly alters essential behavior patterns, including breeding, feeding, or sheltering.

Section 7

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Is not likely to adversely affect — the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all of the information and documentation used to reach your decision with your request for concurrence. The Service must have this documentation before issuing a concurrence.

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No effect — the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for the species occurring in the project county is not present in or adjacent to the action area). No further coordination or contact with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel

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Please be advised that while a Federal agency may designate a non-Federal representative to conduct informal consultations with the Service, assess project effects, or prepare a biological assessment, the Federal agency must notify the Service in writing of such a designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

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Section 10

If there is no federal involvement and the proposed project is being funded or carried out by private interests and/or non-federal government agencies, and the project as proposed may affect listed species, a section 10(a)(1)(B) permit is recommended. The Habitat Conservation Planning Handbook is available at

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Service Response

Please note that the Service strives to respond to requests for project review within 30 days of receipt, however, this time period is not mandated by regulation. Responses may be delayed due to workload and lack of staff. Failure to meet the 30-day timeframe does not constitute a concurrence from the Service that the proposed project will not have impacts to threatened and endangered species.

Candidate Species

Several species of freshwater mussels occur in Texas and five are candidates for listing under the ESA. The Service is also reviewing the status of six other species for potential listing under the ESA. One of the main contributors to mussel die offs is sedimentation, which smothers and suffocates mussels. To reduce sedimentation within rivers, streams, and tributaries crossed by a project, the Service recommends that that you implement the best management practices found at: <http://www.fws.gov/southwest/es/TexasCoastal/FreshwaterMussels.html>.

Candidate Conservation Agreements (CCAs) or Candidate Conservation Agreements with Assurances (CCAAs) are voluntary agreements between the Service and public or private entities to implement conservation measures to address threats to candidate species. Implementing conservation efforts before species are listed increases the likelihood that simpler, flexible, and more cost-effective conservation options are available. A CCAA can provide participants with assurances that if they engage in conservation actions, they will not be required to implement additional conservation measures beyond those in the agreement. For additional information on CCAs/CCAAs please visit the Service's website at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Migratory Birds

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions for the protection of migratory birds. Under the MBTA, taking, killing, or possessing migratory birds is unlawful. Many may nest in trees, brush areas or other suitable habitat. The Service recommends activities requiring vegetation removal or disturbance avoid the peak nesting period of March through August to avoid destruction of individuals or eggs. If project activities must be conducted during this time, we recommend surveying for active nests prior to commencing work. A list of migratory birds may be viewed at <http://www.fws.gov/migratorybirds/regulationspolicies/mbta/mbtandx.html>.

The bald eagle (*Haliaeetus leucocephalus*) was delisted under the Act on August 9, 2007. Both the bald eagle and the golden eagle (*Aquila chrysaetos*) are still protected under the MBTA and BGEPA. The BGEPA affords both eagles protection in addition to that provided by the MBTA, in particular, by making it unlawful to "disturb" eagles. Under the BGEPA, the Service may issue limited permits to incidentally "take" eagles (e.g., injury, interfering with normal breeding, feeding, or sheltering behavior nest abandonment). For more information on bald and golden eagle management guidelines, we recommend you review information provided at <http://www.fws.gov/midwest/eagle/pdf/NationalBaldEagleManagementGuidelines.pdf>

The construction of overhead power lines creates threats of avian collision and electrocution. The Service recommends the installation of underground rather than overhead power lines whenever possible. For new overhead lines or retrofitting of old lines, we recommend that project developers implement, to the maximum extent practicable, the Avian Power Line Interaction Committee guidelines found at <http://www.aplic.org/>.

Meteorological and communication towers are estimated to kill millions of birds per year. We recommend following the guidance set forth in the Service Interim Guidelines for Recommendations on Communications Tower Siting, Constructions, Operation and Decommissioning, found online at: <http://www.fws.gov/habitatconservation/communicationtowers.html>, to minimize the threat of avian mortality at these towers. Monitoring at these towers would provide insight into the effectiveness of the minimization measures. We request the results of any wildlife mortality monitoring at towers associated with this project.

We request that you provide us with the final location and specifications of your proposed towers, as well as the recommendations implemented. A Tower Site Evaluation Form is also available via the above website; we recommend you complete this form and keep it in your files. If meteorological towers are to be constructed, please forward this completed form to our office.

More information concerning sections 7 and 10 of the Act, migratory birds, candidate species, and landowner tools can be found on our website at: <http://www.fws.gov/southwest/es/TexasCoastal/ProjectReviews.html>.

Wetlands and Wildlife Habitat

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to

ood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, major construction, or earth disturbance. Executive Order 11990 asserts that each agency shall provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out the agency's responsibilities. Construction activities near riparian zones should be carefully designed to minimize impacts. If vegetation clearing is needed in these riparian areas, they should be re-vegetated with native wetland and riparian vegetation to prevent erosion or loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental re-establishment of herbaceous vegetation at the proposed work sites. Denuded and/or disturbed areas should be re-vegetated with a mixture of native legumes and grasses. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711. The Service also urges taking precautions to ensure sediment loading does not occur to any receiving streams in the proposed project area. To prevent and/or minimize soil erosion and compaction associated with construction activities, avoid any unnecessary clearing of vegetation, and follow established rights-of-way whenever possible. All machinery and petroleum products should be stored outside the oodplain and/or wetland area during construction to prevent possible contamination of water and soils.

Wetlands and riparian areas are high priority fish and wildlife habitat, serving as important sources of food, cover, and shelter for numerous species of resident and migratory wildlife. Waterfowl and other migratory birds use wetlands and riparian corridors as stopover, feeding, and nesting areas. We strongly recommend that the selected project site not impact wetlands and riparian areas, and be located as far as practical from these areas. Migratory birds tend to concentrate in or near wetlands and riparian areas and use these areas as migratory yways or corridors. After every effort has been made to avoid impacting wetlands, you anticipate unavoidable wetland impacts will occur; you should contact the appropriate U.S. Army Corps of Engineers office to determine if a permit is necessary prior to commencement of construction activities.

If your project will involve filling, dredging, or trenching of a wetland or riparian area it may require a Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers (COE). For permitting requirements please contact the U.S. Corps of Engineers, District Engineer, P.O. Box 1229, Galveston, Texas 77553-1229, (409) 766-3002.

Beneficial Landscaping

In accordance with Executive Order 13112 on Invasive Species and the Executive Memorandum on Beneficial Landscaping (42 C.F.R. 26961), where possible, any landscaping associated with project plans should be limited to seeding and replanting with native species. A mixture of grasses and forbs appropriate to address potential erosion problems and long-term cover should be planted when seed is reasonably available. Although Bermuda grass is listed in seed mixtures, this species and other introduced species should be avoided as much as possible. The Service also recommends the use of native trees, shrubs, and herbaceous species that are adaptable, drought tolerant and conserve water.

State Listed Species

The State of Texas protects certain species. Please contact the Texas Parks and Wildlife Department (Endangered Resources Branch), 4200 Smith School Road, Austin, Texas 78744 (telephone 512/389-8021) for information concerning fish, wildlife, and plants of State concern or visit their website at:

http://www.tpwd.state.tx.us/huntwild/wild/wildlife_diversity/texas_rare_species/listed_species/.

If we can be of further assistance, or if you have any questions about these comments, please contact 281/286-8282 if your project is in southeast Texas, or 361/994-9005 if your project is in southern Texas. Please refer to the Service consultation number listed above in any future correspondence regarding this project.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay - Freeport

Official Species List

Provided by:

Texas Coastal Ecological Services Field Office

17629 EL CAMINO REAL, SUITE 211

HOUSTON, TX 77058

(281) 286-8282

<http://www.fws.gov/southwest/es/TexasCoastal/>

http://www.fws.gov/southwest/es/ES_Lists_Main2.html

Consultation Code: 02ETTX0-2015-SLI-0103

Event Code: 02ETTX0-2015-E-00459

Project Type: ** OTHER **

Project Name: Sabine Pass to Galveston Bay - Freeport

Project Description: The Sabine Pass to Galveston Bay feasibility study is evaluating coastal storm risk management (CSRM) and ecosystem restoration (ER) problems in in two separate areas on the upper Texas coast - Orange-NW Jefferson counties and the Freeport area in Brazoria County. This official species list request is for the Freeport area only.

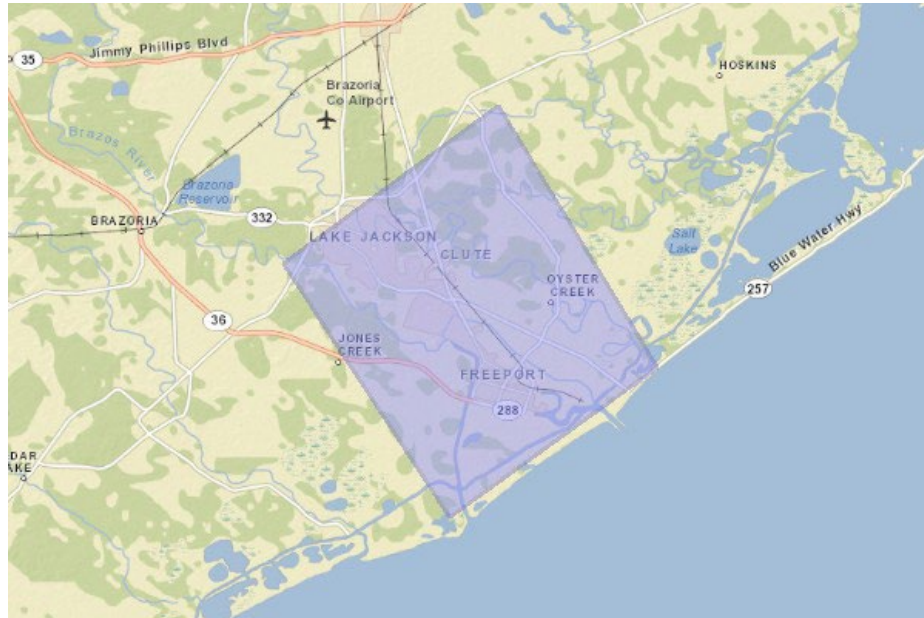
Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay - Freeport

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-95.4867573 29.0253992, -95.3624744 29.1166206, -95.2704639 28.9653712, -95.3906269 28.8788264, -95.4867573 29.0253992)))

Project Counties: Brazoria, TX



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay - Freeport

Endangered Species Act Species List

There are a total of 12 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

| Birds | Status | Has Critical Habitat | Condition(s) |
|---|------------|----------------------|--------------|
| Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed | Threatened | Final designated | |
| Red Knot (<i>Calidris canutus rufa</i>) | Threatened | | |
| Sprague's Pipit (<i>Anthus spragueii</i>) | Candidate | | |
| Whooping crane (<i>Grus americana</i>) Population: except where EXPN | Endangered | Final designated | |
| Clams | | | |
| Smooth Pimpleback (<i>Quadrula houstonensis</i>) | Candidate | | |
| Texas Fawnsfoot (<i>Truncilla macrodon</i>) | Candidate | | |
| Mammals | | | |
| West Indian Manatee (<i>Trichechus manatus</i>) Population: Entire | Endangered | Final designated | |
| Reptiles | | | |
| Green sea turtle (<i>Chelonia mydas</i>) | Threatened | Final designated | |



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay - Freeport

| | | | |
|--|------------|------------------|--|
| Population: Except where endangered | | | |
| Hawksbill sea turtle (<i>Eretmochelys imbricata</i>) Population: Entire | Endangered | Final designated | |
| Kemp's Ridley sea turtle (<i>Lepidochelys kempii</i>) Population: Entire | Endangered | | |
| Leatherback sea turtle (<i>Dermochelys coriacea</i>) Population: Entire | Endangered | Final designated | |
| Loggerhead sea turtle (<i>Caretta caretta</i>) Population: Northwest Atlantic Ocean DPS | Threatened | Final designated | |



United States Department of Interior
Fish and Wildlife Service

Project name: Sabine Pass to Galveston Bay - Freeport

Critical habitats that lie within your project area

There are no critical habitats within your project area.



NOAA FISHERIES

Southeast Region

Protected Resources Division

Texas' Threatened and Endangered Species

For more information on listed species please visit:

<http://www.nmfs.noaa.gov/pr/species/esa/listed.htm>

http://sero.nmfs.noaa.gov/protected_resources/index.html

Marine Mammal Species

| | Scientific Name | Status |
|----------------|-------------------------------|------------|
| fin whale | <i>Balaenoptera physalus</i> | Endangered |
| humpback whale | <i>Megaptera novaeangliae</i> | Endangered |
| sei whale | <i>Balaenoptera borealis</i> | Endangered |
| sperm whale | <i>Physeter macrocephalus</i> | Endangered |

Sea Turtle Species

| | | |
|--------------------------|-------------------------------|-------------------------|
| green sea turtle | <i>Chelonia mydas</i> | Threatened ¹ |
| hawksbill sea turtle | <i>Eretmochelys imbricata</i> | Endangered |
| Kemp's ridley sea turtle | <i>Lepidochelys kempii</i> | Endangered |
| leatherback sea turtle | <i>Dermochelys coriacea</i> | Endangered |
| loggerhead sea turtle | <i>Caretta caretta</i> | Threatened ² |

Invertebrate Species

| | | |
|------------------------|----------------------------|-------------------------|
| lobed star coral | <i>Orbicella annularis</i> | Threatened |
| mountainous star coral | <i>Orbicella faveolata</i> | Threatened |
| boulder star coral | <i>Orbicella franksi</i> | Threatened |
| elkhorn coral | <i>Acropora palmata</i> | Threatened ³ |

Critical Habitat Designations

For final rules, maps, and GIS data please visit:

http://sero.nmfs.noaa.gov/maps_gis_data/protected_resources/critical_habitat/index.html

Loggerhead sea turtle: There are 38 designated marine areas that occur throughout the Southeast Region.

¹ Florida's breeding population is listed as endangered.

² Northwest Atlantic distinct population segment.

³ Colonies located at Flower Garden Banks National Marine Sanctuary.



NOAA FISHERIES

Southeast Region

Protected Resources Division

Species Proposed for Listing Under the Endangered Species Act

Federal action agencies are encouraged to include species proposed for listing under the Endangered Species Act (ESA) in their Section 7 consultation requests. Species that are proposed for listing are those which have been found to warrant federal protection under the ESA, but a final rule formally listing the species has not yet published. By including these species in your Section 7 consultation, reinitiating consultation after the ESA listing is finalized may not be necessary.

For more information on species proposed for listing under the ESA, please visit:

<http://www.nmfs.noaa.gov/pr/species/esa/candidate.htm#proposed>



NOAA FISHERIES

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION


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Candidate and Proposed Species Under the Endangered Species Act (ESA)

Candidate species are any species that are undergoing a status review that we have announced in a *Federal Register* notice, whether or not they are the subject of a petition. For detailed definitions and explanations, please refer to the 2006 [Candidate Species Definition](#) (71 FR 61022, 10/17/2006).

Proposed species are those candidate species that were found to warrant listing as either threatened or endangered and were officially proposed as such in a *Federal Register* notice after the completion of a status review and consideration of other protective conservation measures. We always seek public comment on a proposal to list species under the ESA. We generally have one year after a species is proposed for listing under the ESA to make a final determination whether to list a species as threatened or endangered.

Candidates for Listing (25 candidate "species")

| Species | Year | Federal Register notice |
|--|------|-------------------------|
| Fishes | | |
| 2 bony fish species | | |
| <ul style="list-style-type: none"> grouper, comb (<i>Mycteroperca fusca</i>) grouper, Gulf (<i>Mycteroperca jordani</i>) | 2014 | 79 FR 10104 |
| clownfish, orange (<i>Amphiprion percula</i>) | 2014 | 79 FR 52276 |
| cusk (<i>Brosme brosme</i>) | 2007 | 72 FR 10710 |
| ray, Caribbean electric (<i>Narcine bancroftii</i>) | 2014 | 79 FR 4877 |
| seahorse, dwarf (<i>Hippocampus zosterae</i>) | 2012 | 77 FR 26478 |
| shad, Alabama (<i>Alosa alabamae</i>) | 2013 | 78 FR 57611 |
| shark, common thresher (<i>Alopias vulpinus</i>) | 2015 | 80 FR 11379 |
| shark, porbeagle (<i>Lamna nasus</i>) | 2015 | 80 FR 16356 |
| 8 shark species | | |
| <ul style="list-style-type: none"> Daggernose (<i>Isogomphodon oxyrinchus</i>) Striped smooth-hound (<i>Mustelus fasciatus</i>) Narrownose smooth-hound (<i>Mustelus schmitti</i>) Sawback angelshark (<i>Squatina aculeata</i>) Argentine angelshark (<i>Squatina argentina</i>) Angular angel shark (<i>Squatina guggenheim</i>) Smoothback angelshark (<i>Squatina oculata</i>) Common angel shark (<i>Squatina squatina</i>) | 2013 | 78 FR 69376 |
| 4 skate & ray species | | |
| <ul style="list-style-type: none"> guitarfish (<i>Rhinobatos rhinobatos</i>) guitarfish, blackchin (<i>Rhinobatos cemiculus</i>) guitarfish, Brazilian (<i>Rhinobatos horkelii</i>) skate, greytail (<i>Bathyraja griseocauda</i>) | 2014 | 79 FR 10104 |

| Marine Mammals | | |
|--|------|-------------|
| 2 marine mammal species <ul style="list-style-type: none"> dolphin, common bottlenose (1 candidate DPS) (<i>Tursiops truncatus</i>) <ul style="list-style-type: none"> Fiordland dolphin, Hector's (<i>Cephalorhynchus hectori</i>) | 2014 | 79 FR 9880 |
| seal, Pacific harbor (1 candidate DPS) (<i>Phoca vitulina richardii</i>) <ul style="list-style-type: none"> Iliamna Lake | 2013 | 78 FR 29098 |
| whale, Bryde's (1 candidate DPS) (<i>Balaenoptera edeni</i>) <ul style="list-style-type: none"> Gulf of Mexico | 2015 | 80 FR 18343 |

Proposed for Listing (23 proposed "species")

| Species | Year Proposed | Status |
|--|---------------|---------------------|
| Fishes | | |
| cardinalfish, Banggai (<i>Pteropogon kauderni</i>) | 2014 | proposed threatened |
| coelacanth, African (1 DPS) (<i>Latimeria chalumnae</i>) <ul style="list-style-type: none">Tanzanian DPS | 2015 | proposed threatened |
| grouper, Nassau (<i>Epinephelus striatus</i>) | 2014 | proposed threatened |
| shark, Harrison's dogfish (<i>Centrophorus harrissoni</i>) | 2014 | proposed threatened |
| Marine Invertebrates | | |
| 3 coral species <ul style="list-style-type: none">(<i>Cantharellus noumeae</i>)(<i>Siderastrea glynni</i>)(<i>Tubastraea floreana</i>) | 2014 | proposed endangered |
| Marine Mammals | | |
| whale, humpback (4 DPSs) (<i>Megaptera novaeangliae</i>) <ul style="list-style-type: none">Central AmericaWestern North Pacific | 2015 | proposed threatened |
| <ul style="list-style-type: none">Arabian SeaCape Verde Islands/Northwest Africa | | proposed endangered |
| Marine Reptiles | | |
| sea snake, dusky (<i>Aipysurus fuscus</i>) | 2014 | proposed endangered |
| sea turtle, green (11 DPSs) (<i>Chelonia mydas</i>) <ul style="list-style-type: none">Central North PacificEast Indian-West PacificEast PacificNorth AtlanticNorth IndianSouth AtlanticSouthwest Indian | 2015 | proposed threatened |
| <ul style="list-style-type: none">Central South PacificCentral West PacificMediterranean | | proposed endangered |

Endangered and Threatened Species Under NMFS' Jurisdiction:

- [All Endangered and Threatened Species under NMFS Jurisdiction](#)
 - » [Marine Mammals](#)
 - » [Sea Turtles](#)
 - » [Fish \(Marine & Anadromous\)](#)
 - » [Marine Invertebrates & Plants](#)

Additional Species:

- [Species Petitioned for Listing under the ESA](#) (awaiting 90-day findings)
- [Candidates for ESA Listing](#)
- [Species Proposed for ESA Listing](#)
- [Species with "Not Warranted" 12-month findings](#) (we reviewed the status, but determined that listing was not warranted)
- [Delisted Species and Species Under Review or Proposed for Delisting](#)

Updated: May 11, 2015

| | | | | |
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ATTACHMENT B



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Texas Coastal Ecological Services Field Office
4444 Corona Drive, Suite 215
Corpus Christi, TX 78411
Phone: (281) 286-8282 Fax: (281) 488-5882



In Reply Refer To:
Project Code: 2022-0029016
Project Name: S2G Port Arthur Contract 3b

August 03, 2022

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The U.S. Fish and Wildlife Service (Service) field offices in Clear Lake, Tx, and Corpus Christi, Tx, have combined administratively to form the Texas Coastal Ecological Services Field Office. A map of the Texas Coastal Ecological Services Field Office area of responsibility can be found at: <http://www.fws.gov/southwest/es/TexasCoastal/Map.html>. All project related correspondence should be sent to the field office responsible for the area in which your project occurs. For projects located in southeast Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; 17629 El Camino Real Ste. 211; Houston, Texas 77058. For projects located in southern Texas please write to: Field Supervisor; U.S. Fish and Wildlife Service; P.O. Box 81468; Corpus Christi, Texas 78468-1468. For projects located in six counties in southern Texas (Cameron, Hidalgo, Starr, Webb, Willacy, and Zapata) please write: Santa Ana NWR, ATTN: Ecological Services Sub Office, 3325 Green Jay Road, Alamo, Texas 78516.

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and

implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities

that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
 - Migratory Birds
 - Marine Mammals
 - Wetlands
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Texas Coastal Ecological Services Field Office

4444 Corona Drive, Suite 215

Corpus Christi, TX 78411

(281) 286-8282

Project Summary

Project Code: 2022-0029016

Project Name: S2G Port Arthur Contract 3b

Project Type: Levee / Dike - New Construction

Project Description: Contract 3b - Staging, haul routes, levee, and T-wall.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@29.86660855,-93.936820374995,14z>



Counties: Jefferson County, Texas

Endangered Species Act Species

There is a total of 11 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

| NAME | STATUS |
|--|------------|
| West Indian Manatee <i>Trichechus manatus</i> There is final critical habitat for this species. The location of the critical habitat is not available. <i>This species is also protected by the Marine Mammal Protection Act, and may have additional consultation requirements.</i> Species profile: https://ecos.fws.gov/ecp/species/4469 | Threatened |

Birds

| NAME | STATUS |
|---|------------|
| Eastern Black Rail <i>Laterallus jamaicensis ssp. jamaicensis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10477 | Threatened |
| Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/6039 | Threatened |
| Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/1864 | Threatened |
| Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/758 | Endangered |

Reptiles

| NAME | STATUS |
|---|------------|
| Green Sea Turtle <i>Chelonia mydas</i> Population: North Atlantic DPS There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/6199 | Threatened |
| Hawksbill Sea Turtle <i>Eretmochelys imbricata</i> There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/3656 | Endangered |
| Kemp's Ridley Sea Turtle <i>Lepidochelys kempii</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/5523 | Endangered |
| Leatherback Sea Turtle <i>Dermochelys coriacea</i> There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/1493 | Endangered |
| Loggerhead Sea Turtle <i>Caretta caretta</i> Population: Northwest Atlantic Ocean DPS There is final critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/1110 | Threatened |

Insects

| NAME | STATUS |
|--|-----------|
| Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743 | Candidate |

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\)](#) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

| NAME | BREEDING SEASON |
|---|-------------------------|
| Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626 | Breeds Sep 1 to Jul 31 |
| Black Skimmer <i>Rynchops niger</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/5234 | Breeds May 20 to Sep 15 |

| NAME | BREEDING SEASON |
|--|-------------------------|
| Brown Pelican <i>Pelecanus occidentalis</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/6034 | Breeds Jan 15 to Sep 30 |
| Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. | Breeds Mar 15 to Aug 25 |
| Common Loon <i>gavia immer</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/4464 | Breeds Apr 15 to Oct 31 |
| Dickcissel <i>Spiza americana</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA | Breeds May 5 to Aug 31 |
| Gull-billed Tern <i>Gelochelidon nilotica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9501 | Breeds May 1 to Jul 31 |
| Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679 | Breeds elsewhere |
| Ring-billed Gull <i>Larus delawarensis</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. | Breeds elsewhere |
| Royal Tern <i>Thalasseus maximus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. | Breeds Apr 15 to Aug 31 |
| Ruddy Turnstone <i>Arenaria interpres morinella</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA | Breeds elsewhere |
| Sandwich Tern <i>Thalasseus sandvicensis</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA | Breeds Apr 25 to Aug 31 |

| NAME | BREEDING SEASON |
|---|------------------------|
| Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480 | Breeds elsewhere |
| Willet <i>Tringa semipalmata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. | Breeds Apr 20 to Aug 5 |
| Wilson's Plover <i>Charadrius wilsonia</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. | Breeds Apr 1 to Aug 20 |

Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (1)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

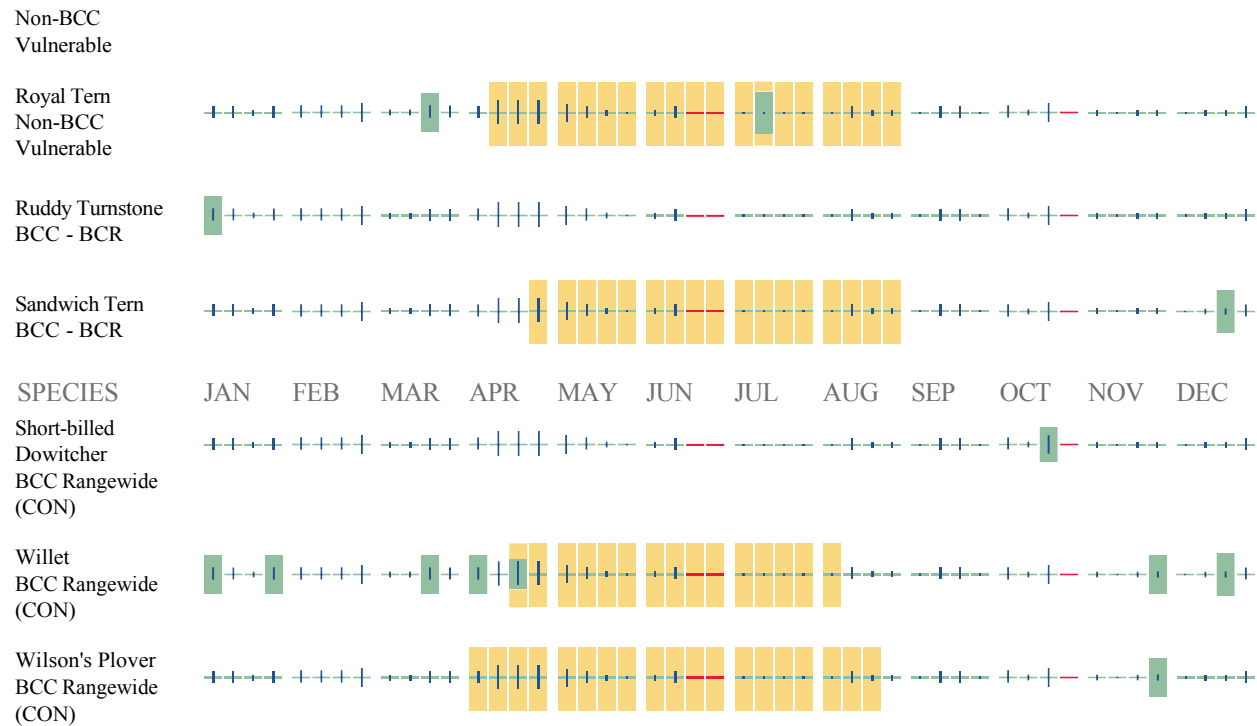
No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Additional information can be found using the following links:

- Birds of Conservation Concern <https://www.fws.gov/program/migratory-birds/species>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
 2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
 3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).
-

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Marine Mammals

Marine mammals are protected under the [Marine Mammal Protection Act](#). Some are also protected under the Endangered Species Act¹ and the Convention on International Trade in Endangered Species of Wild Fauna and Flora².

The responsibilities for the protection, conservation, and management of marine mammals are shared by the U.S. Fish and Wildlife Service [responsible for otters, walruses, polar bears, manatees, and dugongs] and NOAA Fisheries³ [responsible for seals, sea lions, whales, dolphins, and porpoises]. Marine mammals under the responsibility of NOAA Fisheries are **not** shown on this list; for additional information on those species please visit the [Marine Mammals](#) page of the NOAA Fisheries website.

The Marine Mammal Protection Act prohibits the take of marine mammals and further coordination may be necessary for project evaluation. Please contact the U.S. Fish and Wildlife Service Field Office shown.

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1. The [Endangered Species Act](#) (ESA) of 1973.
 2. The [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (CITES) is a treaty to ensure that international trade in plants and animals does not threaten their survival in the wild.
 3. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

NAME

West Indian Manatee *Trichechus manatus*

Species profile: <https://ecos.fws.gov/ecp/species/4469>

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER EMERGENT WETLAND

- [Palustrine](#)
-

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ATTACHMENT C



Field Visit Sampling Locations



PAV03B 01 North



PAV03B 01 East



PAV03B 01 South



PAV03B 01 West



PAV03B 02 North



PAV03B 02 East



PAV03B 02 South



PAV03B 02 West



PAV03B 03 North



PAV03B 03 East



PAV03B 03 South



PAV03B 04 North



PAV03B 04 East



PAV03B 04 South



PAV03B 04 West



PAV03B 06 North



PAV03B 06 East



PAV03B 06 South



PAV03B 06 West



PAV03B 06.5 North



PAV03B 06.5 East



PAV03B 06.5 South



PAV03B 06.5 West