

APPENDIX E

INTERAGENCY COORDINATION

BAY AQUATIC BENEFICIAL USE SITES

GALVESTON BAY, TEXAS

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
2000 Fort Point Road
Galveston, Texas 77550



**US Army Corps
of Engineers®**



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Texas Coastal and Central Plains Ecological Services Office

Houston Sub-Office

17629 El Camino Real, Suite 211

Houston, Texas 77058

PHONE: 281/286-8282

FAX: 281/488-5882



In Reply Refer To:

2025-0082490

April 16, 2025

Ms. Lisa Finn
Environmental Program Manager
Operations Division, Navigation
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550

Dear Colonel Blackmon:

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 (Act), as amended (16 U.S.C. 1531 et seq.), for the Bay Aquatic Beneficial Use Sites (BABUS). This proposed project is associated with U.S. Army Corps of Engineers (Corps) placement of operation and maintenance dredged material for the Houston Ship Channel in Galveston Bay, Chambers County, Texas. The U.S. Fish and Wildlife Service (Service) received the Corps' request for informal consultation with associated Biological Assessment (BA) on April 7, 2025.

The Corps is requesting concurrence with its determination that the proposed action *may affect is not likely to adversely affect* the West Indian Manatee (*Trichechus manatus*). The Corps made this determination based on implementation of species-specific conservation measures and monitoring protocols to reduce all effects to these species and their habitats to insignificant and/or discountable levels. Although suitable habitat for this species exists within the action area, no critical habitat for this species is designated within the action area; therefore, critical habitat is not discussed further.

The Service concurs with the Corps may affect is not likely to adversely affect determination regarding the project's effects on the West Indian Manatee. This concurrence is based on the Service's review of the BA, supporting documents, information in Service files, and implementation of the following species-specific conservation measures. Our concurrence is contingent upon implementation of the following species-specific conservation measures:

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West Indian Manatee

- A qualified biological monitor, with training on West Indian Manatee and stop work authority will be employed to oversee all phases of the pipeline installation within open water habitat.
- The monitor will continuously assess the waters surrounding the installation and will advise crews to stop work if a manatee is observed.
- All on-site project personnel will be responsible for observing water-related activities for the presence of manatee(s) and notifying the biological monitor if one is observed.
- Before construction activities occur in open water areas, a 50-foot radius of the work area will be delineated. If a manatee(s) is observed within the 50-foot radius, the biological monitor will halt all in-water operations, including vessels from entering the work area. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes has elapsed and the manatee(s) has not reappeared within 50 feet of the operation.
- West Indian Manatees must not be herded away or harassed into leaving the work area.
- All personnel associated with the project will be instructed about the presence of manatees, manatee speed zones, and the need to avoid collisions with and injury to manatees.
- All vessels associated with the project will operate at "Idle Speed/No Wake" at all times while in the immediate construction area and while in the water where the draft of the vessel provides less than a four-foot clearance from the bottom.
- All vessels associated with the project will follow access routes of deep water whenever possible.
- Temporary signs, already approved by TCCPESFO, which make vessels aware of potential presence of manatees and vessel restrictions will be posted prior to and during all in-water project activities. One sign which reads "Caution: Boaters" must be posted. A second sign measuring at least 8.5-inch by 11-inch, explaining the requirements for "Idle Speed/No Wake," and the shutdown of in-water operations, must be posted in a location prominently visible to all personnel engaged in water-related activities (see Enclosure).
- All temporary signs will be removed by the permittee upon completion of the project.
- If siltation or turbidity barriers are used, they will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment.
- Construction barriers will not impede manatee movement.
- Any manatee sightings within project workspaces or within 100 yards of the active work zone will be immediately reported to the TCCPESFO at 281-286-8282, extension 26504 or email to HoustanESFO@fws.gov.
- Any collision with or injury to a manatee will be reported immediately to the Texas Marine Mammal Stranding Network (TMMSN) Hotline at 1-888-9-MAMMAL and the TCCPESFO.

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The Corps also determined the project will have no effect on 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*), Eastern Black Rail (*Laterallus jamaicensis jamaicensis*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Whooping Crane (*Grus americana*), Wood stork (*Mycteria americana*). There is no designated critical habitat for these species in the action area. While these species are noted in our Information for Planning and Consultation database (IPaC; <https://ipac.ecosphere.fws.gov/>) to be present in the project area, the Corps does not expect them to be affected by the proposed project due to lack of suitable habitat in the action area and/or their use of the action area. The Service does not concur on "no effect" determinations therefore, we will not comment further on these species. The Service recommends that the applicant recognize the potential of sea turtles to be present in the water and to contact the National Marine Fisheries Service for best management practices and or consultation if needed. If dead, injured or cold stunned turtles are encountered in the project area, immediately report them to the Texas Sea Turtle Stranding and Salvage Network at 866-877-8535 (866-Turtle5).

The Corps also determined the proposed project is *not likely to jeopardize* the proposed endangered Tricolored Bat (*Perimyotis subflavus*), the proposed threatened Alligator Snapping Turtle (*Macrochelys temminckii*), and the proposed threatened Monarch Butterfly (*Danaus plexippus*). The Corps made this determination due to the wide range and distribution of these species. While consultations are required when the proposed action may affect listed species, a conference is required only when the proposed action is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify proposed critical habitat. Therefore, conferencing is not required at this time.

In the event the project changes or additional information on listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered. Our response is provided in accordance with Section 7(a)(2) and provisions of Act of 1973, as amended (16 U.S.C. 1513 et seq.). Please refer to the Service's consultation number 2025-0082490 in future correspondence. If you need further guidance, or have any questions concerning this letter, please contact Dr. Jan Culbertson at 281-720-8439 or jan_culbertson@fws.gov.

Sincerely,



For
Catherine Yeargan
Field Supervisor

Ms. Lisa Finn

Enclosure

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must


SHUT DOWN

Report any collision with or injury to a manatee:

Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

A detailed illustration of a manatee, showing its characteristic rounded body, small ears, and a single flipper. It is depicted in a swimming posture, facing towards the right of the frame.

From: [nmfs ser esa consultations - NOAA Service Account](#)
To: [Courtney Gerken](#)
Cc: [Finn, Lisa M SWG](#); [Marisa Weber](#)
Subject: Re: Expedited Informal Consultation, USACE BABUS, Galveston Texas
Date: Monday, April 14, 2025 2:01:38 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

National Marine Fisheries Service, Southeast Regional Office, Protected Resources Division has received your request for Endangered Species Act Section 7 consultation. Your consultation request will be logged in and assigned to a Consultation Biologist in the order it was received. Consultation requests are assigned to the next available Consultation Biologist as workload allows. Once it is assigned you will receive an email from the Consulting Biologist notifying you of their contact information.

Please note that we are running between 4-6 weeks between receiving the consultation request and assigning it to staff due to incompatible workload and staffing levels.

The project has been assigned a tracking number in our NMFS Environmental Consultation Organizer (ECO), **SERO-2025-01048**. Please refer to the ECO tracking number if you should have any future inquiries regarding this project. ECO does not have current project status at this time.

If you have any questions about the status of your request, please reply to this email.

On Fri, Apr 11, 2025 at 4:25 PM Courtney Gerken <courtney@lloydeng.com> wrote:

To whom it may concern,

Please refer to the attached letter for request for expedited informal consultation under section 7(a)(2) of the ESA for the USACE proposed BABUS Project, located in Galveston Bay Texas. Please contact me if any additional information is needed to proceed with this request.

Thank you,

Courtney Gerken | Environmental Project Manager



6565 West Loop South, Ste. 708
Bellaire, Texas 77401
832.426.4656 | 713.413.7342
x1029
✉ courtney@lloydeng.com

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CONSISTENCY WITH THE TEXAS COASTAL MANAGEMENT PROGRAM

THE APPLICANT SHOULD SIGN THIS STATEMENT AND
RETURN WITH APPLICATION PACKET TO:

TEXAS GENERAL LAND OFFICE
COASTAL RESOURCES-FEDERAL CONSISTENCY
1700 NORTH CONGRESS AVENUE, ROOM 330
AUSTIN, TEXAS 78701-1495
federal.consistency@glo.texas.gov

FOR USACE USE ONLY:

PERMIT #: _____

PROJECT MGR: _____

APPLICANT'S NAME AND ADDRESS (PLEASE PRINT):

Title First Last Suffix

Mailing Address Home

City State Zip Code Work

Country Email Mobile

Fax

The Texas Coastal Management Program (CMP) coordinates state, local, and federal programs for the management of Texas coastal resources. Activities within the CMP boundary must comply with the enforceable policies of the Texas Coastal Management Program and be conducted in a manner consistent with those policies. The boundary definition is contained in the CMP rules (31 TAC §503.1).

- To determine whether your proposed activity lies within the CMP boundary, please contact GLO Federal Consistency Staff at federal.consistency@glo.texas.gov

PROJECT DESCRIPTION:

Is the proposed activity at a waterfront site or within coastal, tidal, or navigable waters? ☒ Yes ☐ No

If Yes, name affected coastal, tidal, or navigable waters:

Is the proposed activity water dependent? ☒ Yes ☐ No (31 TAC §501.3(a)(14))

<http://tinyurl.com/CMPdefinitions>

Please briefly describe the project and all possible effects on coastal resources:

The Bay Aquatic Beneficial Use Site (BABUS) project is a beneficial use placement area to provide for the beneficial use placement of maintenance material from the Houston Ship Channel and the creation of inter-tidal oyster, marsh, aquatic and upland bird habitats within the Galveston Bay area. See Attachment 1 for description and map of project.

Indicate area of impact: ☒ acres or ☐ square feet

ADDITIONAL PERMITS/ AUTHORIZATIONS REQUIRED:

- ☐ Coastal Easement - Date application submitted: _____
- ☐ Coastal Lease - Date application submitted: _____
- ☐ Stormwater Permit- Date application submitted: _____
- ☒ Water Quality Certification - Date application submitted:
- ☐ Other state/federal/local permits/authorizations required: _____

The proposed activity must not adversely affect coastal natural resource areas (CNRAs).

PLEASE CHECK ALL COASTAL NATURAL RESOURCE AREAS THAT MAY BE AFFECTED:

- | | | |
|---|--|--|
| <input type="checkbox"/> Coastal Barriers | <input type="checkbox"/> Critical Erosion Areas | <input checked="" type="checkbox"/> Submerged Lands |
| <input type="checkbox"/> Coastal Historic Areas | <input type="checkbox"/> Gulf Beaches | <input type="checkbox"/> Submerged Aquatic Vegetation |
| <input type="checkbox"/> Coastal Preserves | <input type="checkbox"/> Hard Substrate Reefs | <input type="checkbox"/> Tidal Sand or Mud Flats |
| <input type="checkbox"/> Coastal Shore Areas | <input checked="" type="checkbox"/> Oyster Reefs | <input type="checkbox"/> Waters of Gulf of Mexico |
| <input type="checkbox"/> Coastal Wetlands | <input type="checkbox"/> Special Hazard Areas | <input checked="" type="checkbox"/> Waters Under Tidal Influence |
| <input type="checkbox"/> Critical Dune Areas | | |

The applicant affirms that the proposed activity, its associated facilities, and their probable effects comply with the relevant enforceable policies of the CMP, and that the proposed activity will be conducted in a manner consistent with such policies.

PLEASE CHECK ALL APPLICABLE ENFORCEABLE POLICIES:

<http://tinyurl.com/CMPpolicies>

<input checked="" type="checkbox"/>	§501.15 Policy for Major Actions
<input type="checkbox"/>	§501.16 Policies for Construction of Electric Generating and Transmission Facilities
<input type="checkbox"/>	§501.17 Policies for Construction, Operation, and Maintenance of Oil and Gas Exploration and Production Facilities
<input type="checkbox"/>	§501.18 Policies for Discharges of Wastewater and Disposal of Waste from Oil and Gas Exploration and Production Activities
<input type="checkbox"/>	§501.19 Policies for Construction and Operation of Solid Waste Treatment, Storage, and Disposal Facilities
<input type="checkbox"/>	§501.20 Policies for Prevention, Response and Remediation of Oil Spills
<input type="checkbox"/>	§501.21 Policies for Discharge of Municipal and Industrial Wastewater to Coastal Waters
<input type="checkbox"/>	§501.22 Policies for Nonpoint Source (NPS) Water Pollution
<input type="checkbox"/>	§501.23 Policies for Development in Critical Areas
<input type="checkbox"/>	§501.24 Policies for Construction of Waterfront Facilities and Other Structures on Submerged Lands
<input checked="" type="checkbox"/>	§501.25 Policies for Dredging and Dredged Material Disposal and Placement
<input type="checkbox"/>	§501.26 Policies for Construction in the Beach/Dune System
<input type="checkbox"/>	§501.27 Policies for Development in Coastal Hazard Areas
<input type="checkbox"/>	§501.28 Policies for Development Within Coastal Barrier Resource System Units and Otherwise Protected Areas on Coastal Barriers
<input type="checkbox"/>	§501.29 Policies for Development in State Parks, Wildlife Management Areas or Preserves
<input type="checkbox"/>	§501.30 Policies for Alteration of Coastal Historic Areas
<input type="checkbox"/>	§501.31 Policies for Transportation Projects
<input type="checkbox"/>	§501.32 Policies for Emission of Air Pollutants
<input type="checkbox"/>	§501.33 Policies for Appropriations of Water
<input type="checkbox"/>	§501.34 Policies for Levee and Flood Control Projects

Please explain how the proposed project is consistent with the applicable enforceable policies identified above. Please use additional sheets if necessary. *For example: If you are constructing a pier with a covered boathouse, then the applicable enforceable policy is: §501.24 Policies for Construction of Waterfront Facilities and Other Structures on Submerged Lands. The project is consistent because it will not interfere with navigation, natural coastal processes, and avoids/minimizes shading.*

The project is consistent with §501.15 Policy for Major Actions. The policy states that "(b) Prior to taking a major action, the agencies and subdivisions having jurisdiction over the activity shall meet and coordinate their major actions relating to the activity. The agencies and subdivisions shall, to the greatest extent practicable, consider the cumulative and secondary adverse effects, as described in the federal environmental impact assessment process, of each major action relating to the activity. and

(c) No agency or subdivision shall take a major action that is inconsistent with the goals and policies of this chapter. In addition, an agency or subdivision shall avoid and otherwise minimize the cumulative adverse effects to coastal natural resource areas of each of its major actions relating to the activity."

The project has coordinated the action with agencies and considered the cumulative and secondary adverse effects of the action as documented in the Environmental Analysis made available to GLO through inter agency joint public notice.

The project is consistent with 501.25 Policies for Dredging and Dredged Material Disposal and Placement because it will a) not lead to adverse effects to coastal waters, submerged lands, critical areas, or shore or beach areas. The proposed project provides beneficial use of dredged material that will create valuable coastal habitat. The proposed project will b) minimize adverse effects during construction using BMPs to reduce turbidity in the water and contain dispersal of sediments to the immediate project area where they will be utilized beneficially to create coastal and aquatic habitat.

All oyster reef impacted by the project are proposed to be relocated or habitat created at a minimum 1:1 ratio. Additionally the project will be creating over 3,200 acres of intertidal marsh habitat to replace any oyster habitat that is impacted.

The project is consistent with these policies because as a Beneficial Use project, the dredged material is being used according to subsection "(d) Dredged material from dredging projects in commercially navigable waterways is a potentially reusable resource and must be used beneficially in accordance with this policy." According to and consistent with the policy, this project proposes to utilize dredged material beneficially for "environmental benefits, recreational benefits, flood or storm protection benefits, erosion prevention benefits, and economic development benefits" For this reason, the project is consistent with the policy.

For all supporting documentation, please refer to the forthcoming published Environmental Assessment and appendices for the BABUS Project. Agency consultations and correspondence, and opportunity for comments will be provided during a 30-day comment period following the publication of the Joint Public Notice for the BABUS Project.

BY SIGNING THIS STATEMENT, THE APPLICANT IS STATING THAT THE PROPOSED ACTIVITY COMPLIES WITH THE TEXAS COASTAL MANAGEMENT PROGRAM AND WILL BE CONDUCTED IN A MANNER CONSISTENT WITH SUCH PROGRAM

FINN.LISA.MARIE.1300636043

Digitally signed by FINN.LISA.MARIE.1300636043
Date: 2025.03.31 16:42:07 -05'00'

Signature of Applicant/Agent

Date

Any questions regarding the Texas Coastal Management Program should be referred to:

Texas General Land Office
Coastal Resources Division
1700 North Congress Avenue, Room 330
Austin, Texas 78701-1495
Phone: (512) 475-0773
Toll Free: 1-800-998-4GLO
federal.consistency@glo.texas.gov

Print Form