



**Gulf Coast Ecosystem Restoration Council
Categorical Exclusion Determination Form**

This form is to be completed before the Gulf Coast Ecosystem Restoration Council (Council) uses one or more Categorical Exclusions (CEs) to comply with the National Environmental Policy Act (NEPA) for a specific action or group of actions, as appropriate. More information on the Council's NEPA compliance and use of CEs can be found in the Council's [NEPA Procedures](#).

Proposed Action Title:

Proposed Action Location: *(State, County/Parish)*

Proposed Action Description:

Categorical Exclusion(s) Applied:

Council Use of Member Categorical Exclusion(s)

If the Categorical Exclusion(s) was established by a Federal agency Council member, complete the following. If not, leave this section blank and proceed to the segmentation section.

Member with Categorical Exclusion(s)

Has the member with CE(s) advised the Council in writing that use of the CE(s) would be appropriate for the specific action under consideration by the Council, including consideration of segmentation and extraordinary circumstances (as described below)?

Yes No

Segmentation

Has the proposed action been segmented to meet the definition of a Categorical Exclusion? (In making this determination, the Council should consider whether the action has independent utility.)

Yes No

Extraordinary Circumstances

In considering whether to use a Categorical Exclusion for a given action, agencies must review whether there may be extraordinary circumstances in which a normally excluded action may have a significant environmental effect and, therefore, warrant further review pursuant to NEPA. Guidance on the review of potential extraordinary circumstances can be found in Section 4(e) of the Council's NEPA Procedures. The potential extraordinary circumstances listed below are set forth in the Council's NEPA Procedures.

The Council, in cooperation with the sponsor of the activity, has considered the following potential extraordinary circumstances, where applicable, and has made the following determinations. (By checking the "No" box, the Council is indicating that the activity under review would not result in the corresponding potential extraordinary circumstance.)

- | | | |
|-----|----|---|
| Yes | No | 1. Is there a reasonable likelihood of substantial scientific controversy regarding the potential environmental impacts of the proposed action? |
| Yes | No | 2. Are there Tribal concerns with actions that impact Tribal lands or resources that are sufficient to constitute an extraordinary circumstance? |
| Yes | No | 3. Is there a reasonable likelihood of adversely affecting environmentally sensitive resources? Environmentally sensitive resources include but are not limited to: |

- a. Species that are federally listed or proposed for listing as threatened or endangered, or their proposed or designated critical habitats; and
- b. Properties listed or eligible for listing on the National Register of Historic Places.

| | | |
|-----|----|--|
| Yes | No | 4. Is there a reasonable likelihood of impacts that are highly uncertain or involve unknown risks or is there a substantial scientific controversy over the effects? |
| Yes | No | 5. Is there a reasonable likelihood of air pollution at levels of concern or otherwise requiring a formal conformity determination under the Clean Air Act? |
| Yes | No | 6. Is there a reasonable likelihood of a disproportionately high and adverse effect on low income or minority populations (see Executive Order 12898)? |
| Yes | No | 7. Is there a reasonable likelihood of contributing to the introduction or spread of noxious weeds or non-native invasive species or actions that may promote the introduction, or spread of such species (see Federal Noxious Weed Control Act and Executive Order 13112)? |
| Yes | No | 8. Is there a reasonable likelihood of a release of petroleum, oils, or lubricants (except from a properly functioning engine or vehicle) or reportable releases of hazardous or toxic substances as specified in 40 CFR part 302 (Designation, Reportable Quantities, and Notification); or where the proposed action results in the requirement to develop or amend a Spill Prevention, Control, or Countermeasures Plan in accordance with the Oil Pollution Prevention regulation? |

Supplemental Information

Where appropriate, the following table should be used to provide additional information regarding the review of potential extraordinary circumstances and compliance with other applicable laws. The purpose of this table is to ensure that there is adequate information for specific findings regarding potential extraordinary circumstances.

Supplemental information and documentation is not needed for each individual finding regarding the potential extraordinary circumstances listed above. Specifically, the nature of an activity under review may be such that a reasonable person could conclude that there is a very low potential for a particular type of extraordinary circumstance to exist. For example, it would be reasonable to conclude that the simple act of acquiring land for conservation purposes (where

there are no other associated actions) does not present a reasonable likelihood of a release of petroleum, oils, lubricants, or hazardous or toxic substances.

For some types of activities, no supplemental information may be needed to support a finding that there are no extraordinary circumstances. For example, where the activity under review is solely planning (with no associated implementation activity), it may be reasonable to conclude that none of the extraordinary circumstances listed above would apply. In such cases, the table below would be left blank.

In other cases, it may be appropriate to include supplemental information to ensure that there is an adequate basis for a finding regarding a particular extraordinary circumstance. For example, it might be appropriate in some cases to document coordination and/or consultation with the appropriate agency regarding compliance with a potentially applicable law (such as the Endangered Species Act). In those cases, the table below should be used to provide the supplemental information.

| Agency or Authority Consulted | Agency or Authority Representative: Name, Office & Phone | Date of Consultation | Notes: Topic discussed, relevant details, and conclusions. (This can include reference to other information on file and/or attached for the given action.) |
|-------------------------------|--|----------------------|--|
| | | | |
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| | | | |
| | | | |

Additional supplemental information may be attached, as appropriate. Indicate below whether additional supplemental information is attached.

Additional Information Attached: Yes No

If “Yes”, indicate the subject:

Determination by Responsible Official

Based on my review of the proposed action, I have determined that the proposed action fits within the specified Categorical Exclusion(s), the other regulatory requirements set forth above are met, and the proposed action is hereby Categorically Excluded from further NEPA review.

Responsible Official (*Name*)

| | |
|---------------------|-------------------------------------|
| Ben Scaggs BENJAMIN | Digitally signed by BENJAMIN SCAGGS |
|---------------------|-------------------------------------|

Responsible Official (*Signature*)

| | |
|--------|-----------------------------------|
| SCAGGS | Date: 2020.02.13 07:34:21 -06'00' |
|--------|-----------------------------------|

Date

**Perdido River Land Conservation and Habitat Enhancements Project
Environmental Compliance Documentation
January 2020**

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Documentation supporting the use of USDA Categorical Exclusion for acquisition proposed in the Perdido Conservation and Habitat Enhancements Project

U.S. Fish and Wildlife Service Environmental Action Statement for Categorical Exclusion

U.S. Fish and Wildlife Service Endangered Species Act Concurrence Letter

**Documentation supporting the use of USDA Categorical Exclusion for Magnolia
South Tract Land Acquisition proposed in the Perdido River Land
Conservation and Habitat Enhancements Project**

Responsible Council Member: State of Alabama- Alabama Department of Conservation and Natural Resources

Partnering Council Member: United States Department of Agriculture

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Regulatory Framework

Federal agencies are required to develop procedures for implementing the National Environmental Policy Act (NEPA) to supplement those established by the CEQ at 40 CFR 1500-1508. The Gulf Coast Ecosystem Restoration Council (Council) finalized NEPA procedures on May 5, 2015 (80 FR 86, p, 25680-25691). These procedures are applicable to all Council Actions, including approving and funding projects that were proposed by and otherwise will be implemented by non-federal parties (40 CFR 1508.18).

The Council determined that certain categories of activities that have not undergone NEPA review may be categorically excluded from detailed documentation in an EA or EIS (Sec. 4(c,d)), subject to a review of extraordinary circumstances that could indicate potentially significant effects on the environment (Sec. 4(e)). The documentation below for the "Magnolia South Tract" project follows requirements described in Sec. 4(f) for categorical Exclusions (CEs), by

incorporating supporting information from the United States Department of Agriculture (USDA) Forest Service (USFS).

Description of the Proposed Activities

The proposed action is the fee-simple acquisition of approximately 11,334 acres known as the Magnolia South Tract in the Perdido Watershed, located in Baldwin County, AL (**Figures 1 and 2**).

The property is located along the north side of U. S. Highway 90, south side of Interstate Highway 10 and the western shores of the Perdido River adjacent to Seminole in Baldwin County, Alabama. The property is located in Sections 25-36, Township 5 South, Range 6 East and in Sections 6-11 & 15-18 in Township 6 South, Range 6 East. This parcel is adjacent to existing conservation lands in public ownership in the Perdido Watershed, with extensive frontage along the Perdido River. This parcel would supplement an existing 17,337 acres in public ownership in the watershed in Alabama, and roughly 12,400 acres in public ownership in the Florida portion of the watershed. The acquisition would connect with public lands to the north and south. The Perdido Wildlife Management Area (WMA) is located to the north, and Forever Wild Land Trust holdings as well as the Lillian Swamp Mitigation Bank are to the south. Together, all of these lands are under active management based on a watershed-specific management plan. More information about the Perdido Watershed Management Area can be found at <https://www.alabamaforeverwild.com/perdido-river-wma-spotlight>. The Alabama Department of Conservation and Natural Resources (ADCNR) will own and manage the property.

Existing Condition

The land proposed for acquisition is currently under the ownership of private landowners. Current use of the property is for silviculture. The land is currently undeveloped but lies along a major motorized thoroughfare and could be prime real estate for future development. This area of Baldwin County is rapidly urbanizing, with increasing development pressure. Acquiring this property can reduce the amount of land available for development and the associated ecosystem stressors that are the inevitable result of urbanization. ADCNR is currently in conversation with the landowner about potential acquisition, and a yellow-book appraisal is being prepared.

Desired Condition

Following acquisition, a management plan will be developed by ADCNR based on the existing Perdido WMA Management Plan (ADCNR 2012). The management plan will identify and prioritize management and restoration activities, with an emphasis on enhancement and protection of gopher tortoise (*Gopherus polyphemus*) habitat. The proposed project contributes toward the Council's Comprehensive Plan goal to Restore and Conserve Habitat as the proposed project will result in the placement of several thousand acres of habitat into conservation (eliminating potential for future development). Management activities will contribute to the Council's goal of Replenishing and

Protecting Living Coastal and Marine Resources through activities such as planting of native species and the enhancement of habitats to support native flora such as the longleaf pine (*Pinus palustris*) and fauna such as the gopher tortoise (*Gopherus polyphemus*), a keystone species in the longleaf ecosystem.

Public Involvement

CEQ NEPA regulations state that "There shall be an early and open process for determining the scope of the issues to be addressed and for identifying the significant issues related to a proposed action" (40 CFR 1501.7). Scoping should include interested or affected parties, potentially including "Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons."

The RESTORE ACT was signed into law October 5, 2010 as Executive Order 13554 and published in the Federal Register. In accordance with the law, The RESTORE ACT Council manages a public involvement process in order to generate input from local stakeholders, communities, public officials, and other members of the public throughout the gulf region. Widespread efforts have been made to ensure that these members of the public have had ample opportunity to share their views. The Council has hosted many public meetings and established an internet presence to accept public comments.

The Draft Priority Funding List for Council-selected restoration projects was made available for public review on August 13, 2015 and comments were accepted until September 28, 2015. In compliance with federal laws and agency policies, the USDA consulted with the U.S. Fish and Wildlife Service regarding potential effects to federally listed species.

Public comments received at the Alabama Restoration Summit (November 2018) as well as public meetings for the Council framework indicated broad support for work in the Perdido watershed. A recent (September 2019) NRDA public meeting in Alabama featured a different proposed acquisition in the Perdido Watershed, and public support for that project and projects in the watershed more generally received positive comments. Excerpt from recent (Sept 2019) public comment received on a similar project proposed in the Perdido Watershed: "You have seen me before and I'm from Florida but we share a watershed. We share a couple. And I can't thank you enough from the bottom of my heart for including the Molpus Tract in this property... if we get people out in the water and in the resource, they will understand how restoring Longleaf impacts water quality which then flows into the bay which then restores the Gulf. And the only way we are going to do that is to give people access..." As the project progresses, ADCNR will expand on the outreach and education activities. People will become increasingly aware of the environmental benefits of increased habitat connectivity, improved water quality, and maintenance of pervious cover (prevented development).

Applicable Categorical Exclusion

The authority for purchase of the land is the USDA Organic Act of August 3, 1956 (70 Stat. 1032; 7 U.S.C. 428a, Sec. 11; P.L. 84-979); the Revived Economy of the Gulf Coast Act of 2011 (or the "RESTORE the Gulf Coast Act"), 33 U.S.C. 1321; and an accompanying appropriations act when funding is received.

The acquisition as described meets the conditions for categorical exclusion as set forth in 36 CFR 220.6(d)(6).

(6) Acquisition of land or interest in land. Examples include but are not limited to:

- (i) Accepting the donation of lands or interests in land to the NFS, and
- (ii) Purchasing fee, conservation easement, reserved interest deed, or other interests in lands.

Review of Extraordinary Circumstances

The review considered all extraordinary circumstances described in 36 CFR 220.6 listed below:

- (1) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- (2) Flood plains, wetlands, or municipal watersheds;
- (3) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;
- (4) Inventoried roadless areas or potential wilderness areas;
- (5) Research natural areas;
- (6) American Indians and Alaska Native religious or cultural sites, and
- (7) Archaeological sites, or historic properties or areas.

A search of the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) provided information on threatened and endangered species that may occur in the project area and designated critical habitat. The listing includes Wood Stork (*Mycteria Americana*), threatened, Eastern Indigo Snake (*Drymarchon corais couperi*), threatened, Gopher tortoise (*Gopherus polyphemus*), candidate, and Atlantic Sturgeon (gulf subspecies) (*Acipenser oxyrinchus*), threatened. No critical habitat is listed for the acquisition area. Acquiring the proposed property would provide protection and enhancements for these species. Additional coordination with the USFWS will be

conducted as the project progresses.

A review of the USFWS National Wetlands Inventory indicates the property has extensive wetland areas associated with the rivers and tributaries (**Figure 3**). According to USDA Natural Resources Conservation Service soil information, the property has numerous soil types. Approximately 66% of the tract is made up of soils with wetland characteristics. These soil types are Bibb, Hyde, Myatt, Okenee, Plummer, Rains and Riverwash and comprise approximately 7,519 acres. According to FEMA Flood Maps 01003C0710M, 01003C0720M, 01003C0730M, 01003C0740M, and 01003C0735M with effective dates of 4-19-2019, portions of the property along the Perdido River and the Styx River are in Floodway Zone AE and adjacent areas are in flood hazard Zones AE & A. Large portions of the tract are in Zone X which is designated as areas of minimal flood chance (**Figure 4**). The proposed project is intended in part to preserve the watershed and improve local water quality and the acquisition would not adversely affect flood plains, wetlands, or municipal watersheds.

The land acquisition does not encompass congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas, inventoried roadless areas or potential wilderness areas, or research natural areas.

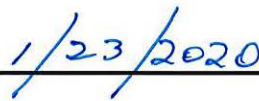
Review of the Alabama Register of Landmarks and Heritage did not show any listing at or near the proposed acquisition area. There are also no listings on the National Register of Historic places at or near the proposed acquisition location. The proposed acquisition would not impact American Indians religious or cultural sites or archaeological sites. Additional coordination with the Alabama Historical Commission will be conducted as the project progresses for management actions.

Determination

Based upon the information provided above, it is concluded the proposed Magnolia South Tract land acquisition is fully consistent and applicable to the category described in 36 CFR 220.6(d)(6); "Acquisition of land or interest in land".

It is determined there are no extraordinary circumstances associated with this acquisition project.


Ken Arney
Regional Forester
USDA Forest Service
Southern Region



Appendix A, References

Alabama Department of Conservation (ADCNR). 2012. Alabama Forever Wild Land Trust Management Plan. Available at:

http://conservationgis.alabama.gov/Documents/ManagementPlans/FW48_Perdido.pdf

Alabama Historical Commission. Accessed 11/20/2019 <https://ahc.alabama.gov/>

Draft Initial Funded Priorities List:

<https://www.restorethegulf.gov/our-work/draft-initial-funded-priorities-list-draft-fpl>

Gulf Restoration Ecosystem Restoration Council NEPA implementing procedures:

<https://www.restorethegulf.gov/sites/default/files/documents/pdf/Gulf%20Coast%20Ecosystem%20Restoration%20Council%20NEPA%20Procedures.pdf>

United States Department of Agriculture, Natural Resources Conservation Service, Web Soil Survey. Accessed 11/20/2019. <https://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

United States Fish and Wildlife Service Information for Planning and Consultation. Accessed 11/19/2019. <https://ecos.fws.gov/ipac/>

United States Fish and Wildlife Service, National Wetlands Inventory. Accessed 11/19/2019 <https://www.fws.gov/wetlands/data/mapper.html>

Appendix B, Figures

Figure 1: Location Map

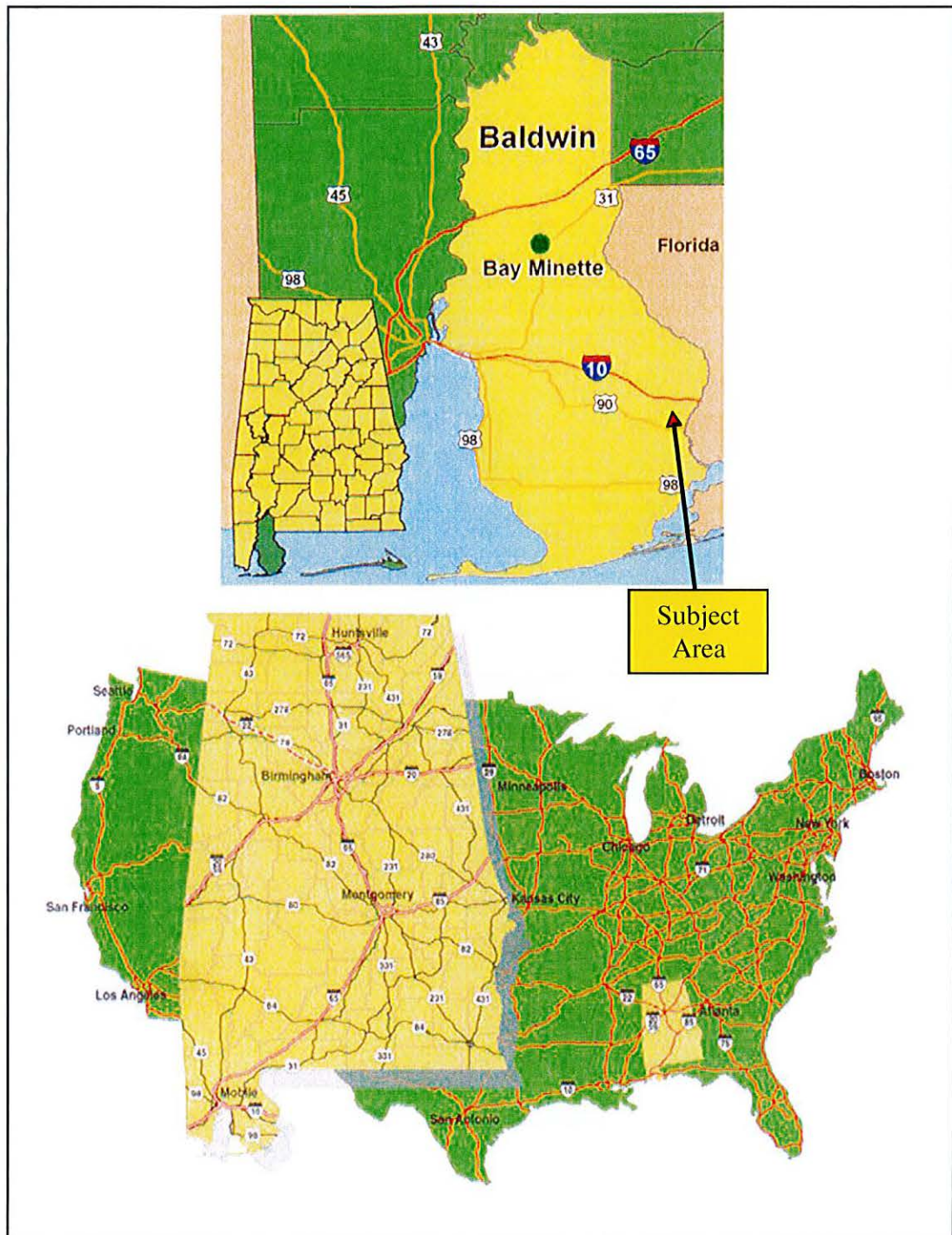


Figure 2: Magnolia South Tract

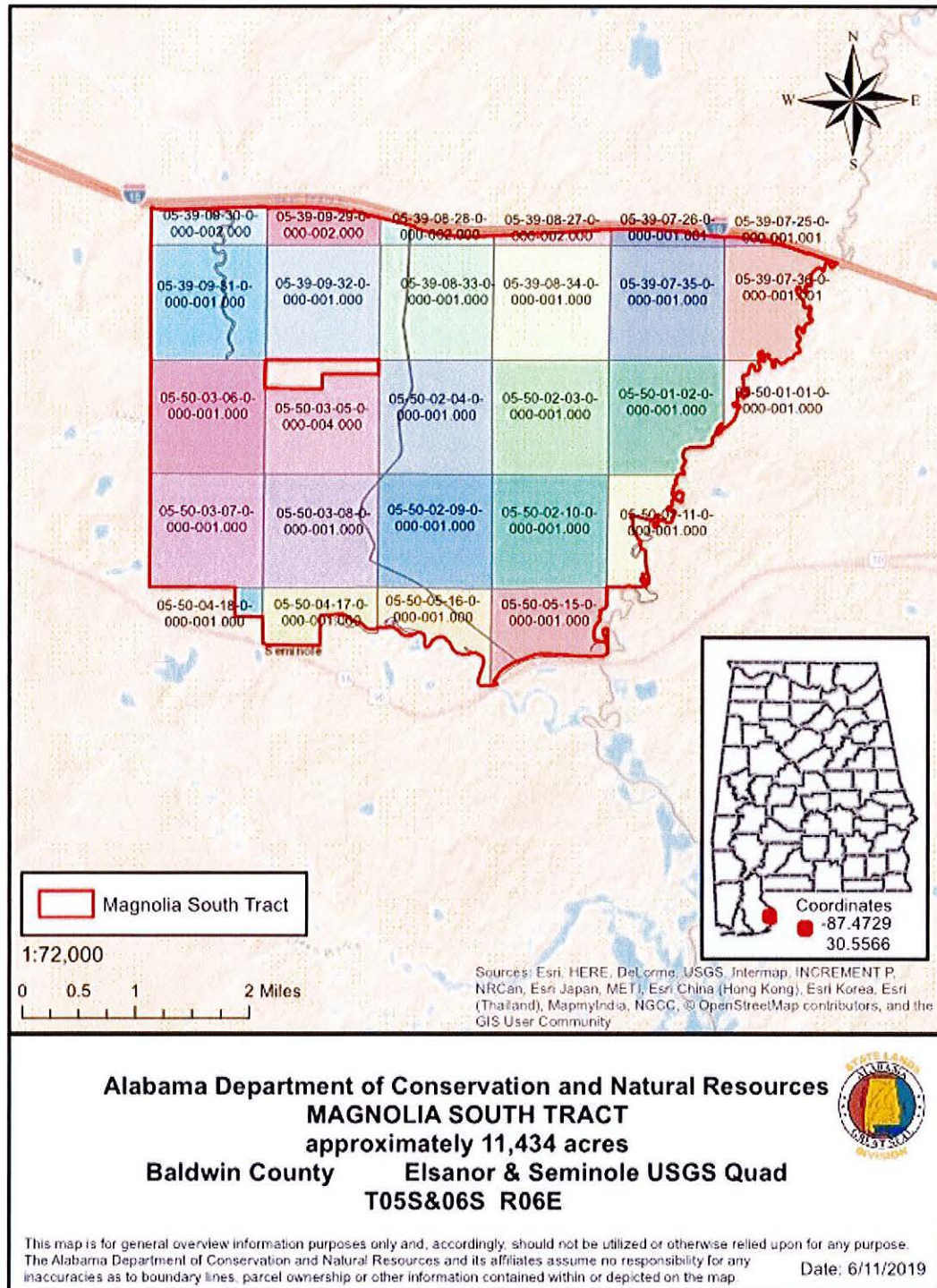


Figure 3: Wetlands

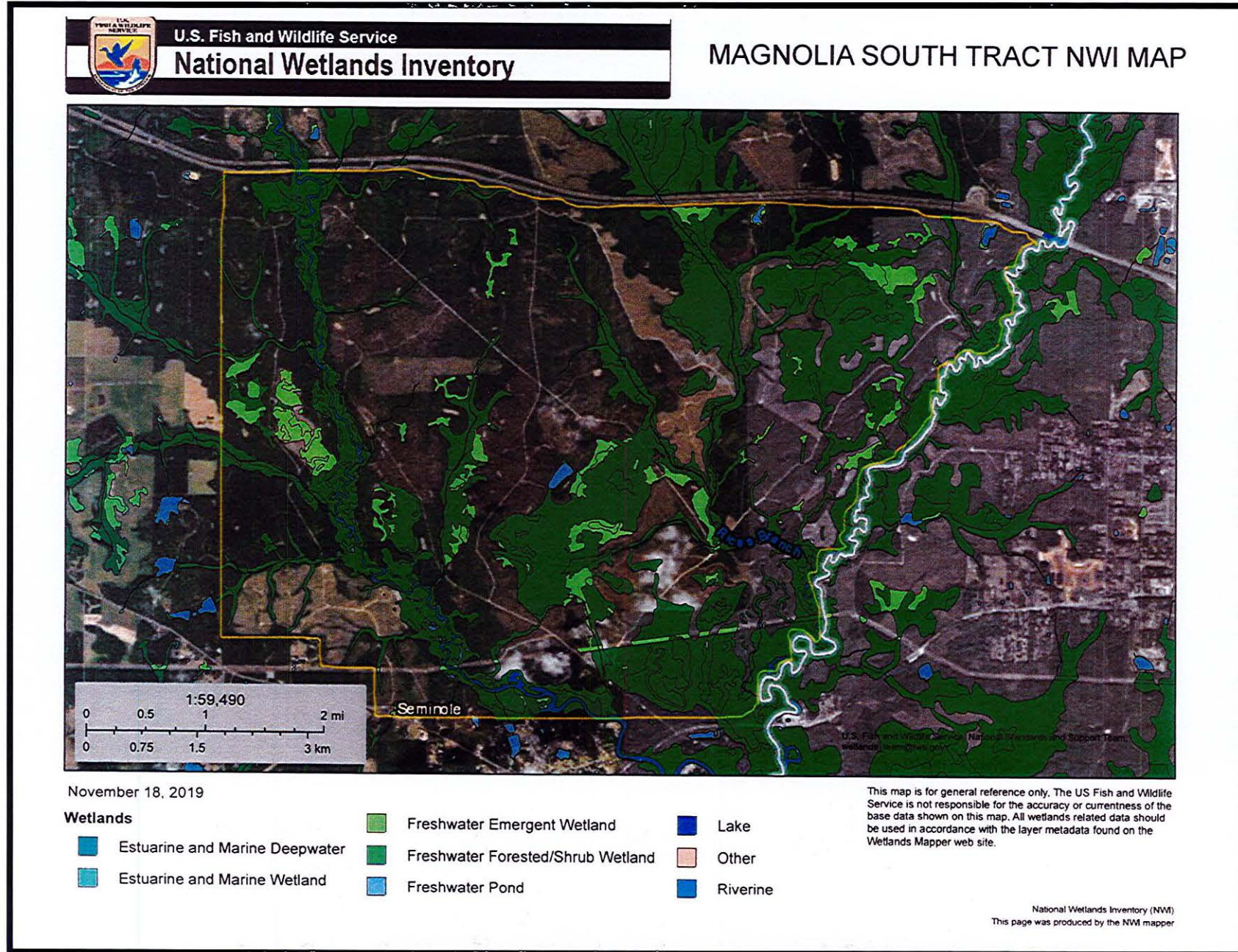
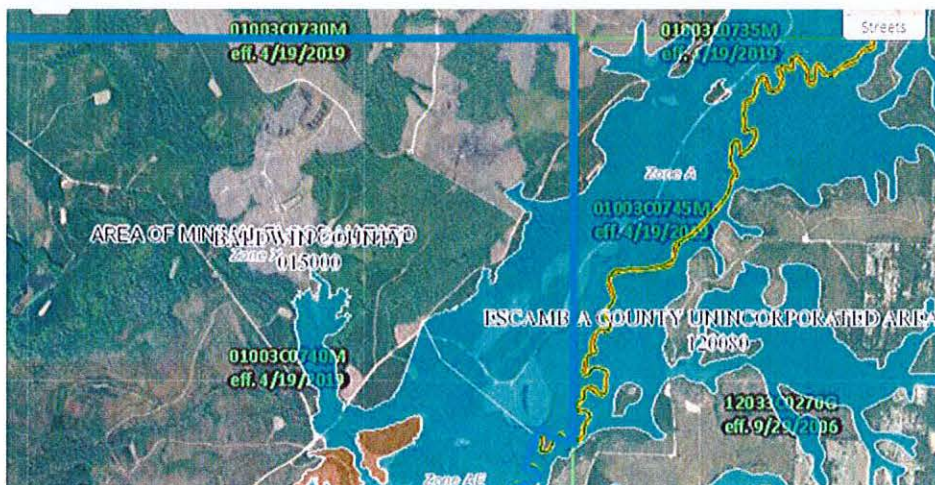
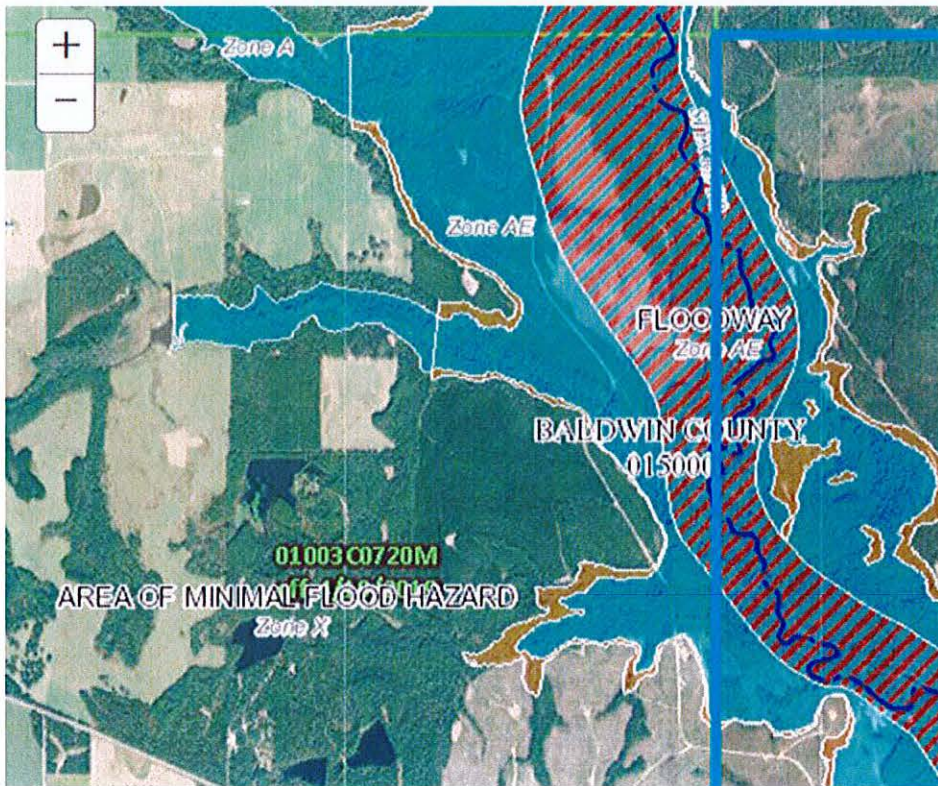


Figure 4 Floodplains (Index)









U. S. FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4, 516 DM 2.3A, 516 DM 2 Appendix 1, and 516 DM 6 Appendix 1.4.

Regulatory Framework.

Federal agencies are required to develop procedures for implementing the National Environmental Policy Act (NEPA) to supplement those established by the CEQ at 40 CFR 1500-1508. The Gulf Coast Ecosystem Restoration Council (Council) finalized NEPA procedures on May 5, 2015 (80 FR 86, 25680-25691). These procedures are applicable to all Council Actions, including approving and funding projects that were proposed by and otherwise will be implemented by non-federal parties (40 CFR 1508.18). The Council determined that certain categories of activities that have not undergone NEPA review may be categorically excluded from detailed documentation in an EA or EIS (Sec. 4(c,d)), subject to a review of extraordinary circumstances that could indicate potentially significant effects on the environment (Sec. 4(e)). Further, the Council may adopt a categorical exclusion established by another Federal agency Council member involved in the Council action, subject to documentation procedures (Sec. 4(f)). In this case, the State of Alabama - Alabama Department of Conservation and Natural Resources (ADCNR), is partnering with the Department of the Interior (DOI) to determine if specific management activities proposed for the Perdido River Land Conservation and Habitat Enhancement project (see below) are suitable for the Council to adopt DOI or its agencies categorical exclusion(s).

Proposed Action and Alternatives. *Describe the proposed action and any alternatives explored. Discuss briefly why proposed action was selected over other alternatives.*

The Perdido River Land Conservation and Habitat Enhancement Project seeks to utilize RESTORE Act funds to increase habitat connectivity and quality, enhance recreational access, and increase acreage of land under conservation protection in coastal Alabama. The proposed project contributes toward the Council's Comprehensive Plan goal to Restore and Conserve Habitat as implementation will result in the placement of approximately 11,334 acres of habitat into conservation (eliminating potential for future development). The property, known as the Magnolia South Tract, is located in the Perdido Watershed located in Baldwin County, Alabama, and will be acquired through fee simple acquisition. Management activities will contribute to the Council's goal of Replenishing and Protecting Living Coastal and Marine Resources through activities such as planting of native species and the enhancement of habitats to support native flora such as the longleaf pine (*Pinus palustris*) and fauna such as the gopher tortoise (*Gopherus polyphemus*), a keystone species in the longleaf ecosystem. Upon acquisition, the ADCNR would conduct habitat management and stewardship on the tract, which could include prescribed burning, invasive species removal, longleaf pine restoration, and protection and habitat enhancements for species including the gopher tortoise. Acquired land would become part of the Perdido Wildlife Management Area and be accessible to the public for recreational use. Timeline for completion is estimated to be up to ten years total. Acquisition activities would be complete by the end of Year 2, with immediate management activities taking place upon completion of acquisition. The management plan would be completed in Year 2 and habitat restoration, enhancement and management activities would proceed in years 3-10.

The ADCNR contemplates several activities under this project: Activities 1 and 2 include acquiring the Magnolia South Tract and developing a management plan for acquired lands, respectively. Specific management activities include: Activity 3 - protection of boundaries, marking property lines, construction of a barn for equipment storage and security, and installation of security gates. Activity 4 – Habitat enhancement and/or restoration activities includes: (a) Select, minimal thinning of existing forested areas to facilitate future management and restoration actions; (b) Conduct minimal hydrologic restoration activities to include the mitigation of impacts of ditches and/or roads that are interrupting sheet flow; (c) Prescribed burning and preparation of sites for burning, which could include vegetation management activities to reduce fuel load; (d) Invasive species removal; (e) Planting of native species including longleaf pine and groundcover species; (f) Implementation of management activities for priority species, including longleaf pine and gopher tortoise. Activity 5 incorporates an education and outreach component and Activity 6 includes identifying and prioritizing (in coordination with watershed stakeholders and entities) additional projects in the Perdido Watershed for funding in future FPLs that could further enhance habitat connectivity, improve water quality and/or facilitate the development of the assessment of restoration progress in the watershed.

Categorical Exclusion(s). *Quote and provide the Departmental Manual citation(s) for the specific Categorical Exclusions you are using; if it appears necessary, discuss why you believe the action fits as this Categorical Exclusion; mention that the action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2; and/or if it does trigger an Exception, discuss why it does not apply for this action.*

(I) Proposed Action(s): Management Activity 3 - Protection of Boundaries

CE - 516 DM 6 (B)(3) - "The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or minor changes in the use of the affected local area"

Determination: For Management Activity #3, the land parcel is large (> 11,000 acres) and a considerable distance from the ADCNR facility, so storage is required to keep equipment secure. The construction of a small storage barn (approximately 1,000 square feet or 0.023/acre) will house the equipment that will be utilized for restoration and management activities. The proposed storage barn will be adjacent to an existing access road with minimal ground disturbance and only minor disturbance expected during site preparation and construction. The delineation of property boundaries with fences and installing security gates are small structures that will protect proposed habitat restoration work. All of these minor activities are consistent with FWS CE 516 DM 6 (B)(3) and the proposed action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2.

(II) Proposed Action: Management Activity 4(c) - Prescribed burning

CE - 516 DM 6 (B)(4) - "The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and state ordinances and laws."

Determination: The prescribed burning, and vegetation management preceding it, is for the purpose of achieving habitat restoration goals. If the understory is particularly thick, the site will likely need to be managed to thin out the vegetation (via mechanical removal or other methods) in order for the burn to proceed successfully and not scorch non-targeted areas due to a heavy fuel load. Habitat restoration in this area will require both site-work to prep the area for burning and then prescribed burning at regular intervals to achieve the habitat objectives for restoration. The prescribed burning for habitat restoration is consistent with the use of FWS CE 516 DM 6 (B)(4)

and the proposed action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2.

(III) Proposed Action: Management Activity 4(e) - Planting of native species (e.g., longleaf pine)

CE - 516 DM 6 (B)(6) - "The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic range or established range where no or negligible environmental disturbances are anticipated."

Determination: Management activities, such as planting native long leaf pine, and other native ground cover species are key components for landscape restoration efforts. The planting of native species for habitat restoration will result in negligible ground disturbance and is consistent with the use of FWS CE 516 DM 6 (B)(6). This proposed action does not trigger an Exception to the Categorical Exclusions at 516 DM 2 Appendix 2.

Permits/Approvals. Discuss any additional permits/approvals needed before the proposed action can be implemented, such as a Clean Water Act section 404 permit, Endangered Species Act section 7 consultation, and/or National Historic Preservation Act section 106 clearance.

This project will be implemented by the State of Alabama - ADCNR. Through the RESTORE Council's Funded Priorities List collaborative planning process, Alabama has identified an opportunity for a large-scale, multimember, coordinated program in the Perdido Watershed. The States of Alabama and Florida both share the watershed with the Perdido River as a border. Habitat conservation work benefits both states and provides future opportunities for additional collaboration with potential projects such as the expansion of the Perdido Canoe Trail and additional water quality and habitat restoration activities throughout the watershed. The State of Alabama, via the Mobile Bay National Estuary Program, has funded the development of a Perdido watershed management plan. The Pensacola and Perdido Bay Estuary program in Florida will also work to identify priority conservation activities in the watershed. This proposed project supports existing conservation efforts and can anchor future projects throughout the watershed.

Regulatory compliance work has been completed. A section 404 Clean Water Act permit is not required. Endangered Species Act section 7 consultation has been completed and there are no expected concerns related to Fish and Wildlife Service trust resources from project implementation. Review of the Alabama Register of Landmarks and Heritage did not show any listing at or near the proposed acquisition area. There are also no listings on the National Register of Historic places at or near the proposed acquisition location. The proposed acquisition would not impact American Indians religious or cultural sites or archaeological sites. Additional coordination with the Alabama Historical Commission will be conducted as the project progresses for management actions. This proposal would require no additional federal permitting. No state permits will be needed with the exception of a prescribed burn permit from the Alabama Forestry Commission, which will be obtained when more details on the timing and acreage for the burns is determined. This is a routine, standard process for ADCNR.

Public Involvement/Interagency Coordination. Discuss the opportunities provided to the public, other agencies, and/or Tribes to get involved with the proposed action, any significant comments they may have made, and our responses.

The RESTORE ACT was signed into law October 5, 2010, as Executive Order 13554 and published in the Federal Register. In accordance with the law, The RESTORE ACT Council manages a public involvement process in order to generate input from local stakeholders, communities,

public officials, and other members of the public throughout the Gulf region. Widespread efforts have been made to ensure that these members of the public have had ample opportunity to share their views. The Council has hosted many public meetings and established an internet presence to accept public comments.

Public comments received at the Alabama Restoration Summit (November 2018) as well as public meetings for the Council framework indicated broad support for work in the Perdido watershed. A recent (September 2019) NRDA public meeting in Alabama featured a different proposed acquisition in the Perdido Watershed, and public support for that project and projects in the watershed more generally received positive comments. The RESTORE Council intends to publish a draft Funded Priorities List 3(a) of projects in the Federal Register soliciting public comments in January 2020. The appropriate weblinks to those documents would be available on the Council's website (<https://www.restorethegulf.gov/>).

Supporting Documents. Supporting documents for this determination include relevant office file material and the following key references: *(List document citations here.)*

- (1) **The RESTORE Council website FPL 3a Proposal:**
https://www.restorethegulf.gov/sites/default/files/AL_FPL3a_RevisedProposal_20191115_508.pdf
- (2) **Perdido Watershed Management Area:**
<https://www.alabamaforeverwild.com/perdido-river-wma-spotlight>.
- (3) **Alabama Department of Conservation (ADCNR). 2012. Alabama Forever Wild Land Trust Management Plan. Available at:**
http://conservationis.alabama.gov/Documents/ManagementPlans/FW48_Perdido.pdf
- (4) **Gulf Restoration Ecosystem Restoration Council NEPA implementing procedures:**
<https://www.restorethegulf.gov/sites/default/files/documents/pdf/Gulf%20Coast%20Ecosystem%20Restoration%20Council%20NEPA%20Procedures.pdf>
- (5) **Letter dated January 15, 2020, from the Service's Ecological Services Office located in Daphne, Alabama, documenting the environmental compliance review.**



(Project Leader)

1-27-2020
(date)

NEPA Extraordinary Circumstances Checklist

A. Project Information

**Project Name: Perdido River Land Conservation and Habitat Enhancements
(Implementation)**

**Project Title: Proposed Management Activities: #3 (Marking Boundaries, Security Gate,
Storage Barn); #4(c) (Prescribed Burning); #4(e) (Planting Native Species)**

Project Tracking #: RESTORE Council FPL 3(a)

Project Sponsor: State of Alabama

**Project Location: Baldwin County, Alabama
(County & State)**

- B. This proposal [is]; [is not] completely covered by categorical exclusion(s) in DOI regulations at 43 CFR and/or FWS 516 DM 6 Appendix 1 (B) (3,4,6). (check one)(Review proposed activities. An appropriate categorical exclusion [CE] must be identified before completing the remainder of the Checklist. If a CE cannot be identified, or the proposal cannot meet the qualifying criteria in the CE, or any extraordinary circumstances applies [see below], an Environmental Assessment must be prepared.)**

C. Extraordinary Circumstances:

Will This Proposal (check one for each item below):

Yes No

1. **Have significant adverse effects on public health or safety.**
2. **Have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds (EO 13186), and other ecologically significant or critical areas under Federal ownership or jurisdiction.**
3. **Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2) (E)].**
4. **Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.**
5. **Have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.**
6. **Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.**
7. **Have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau office, the State Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800.**

8. Have significant adverse on species listed, or proposed to be listed, on the List of Endangered or Threatened species, or have significant adverse effects on designated Critical Habitat for these species.

9. Have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environmental.

10. Have the possibility for a disproportionately high and adverse effect on low income or minority populations (EO 12898).

11. Have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian Religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).

12. Have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

[If included, attach any additional information or documentation supporting the Checklist.]

(If any of the above extraordinary circumstances receive a "Yes" check, an Environmental Assessment must be prepared.)

D. Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the proposal:

is a categorical exclusion as provided by DOI regulations at 43 CFR ___ and/or FWS 516 DM 6 Appendix 1 (B) (3, 4, 6). No further NEPA documentation will therefore be made.

is not completely covered by the categorical exclusion as provided by DOI regulations at 43 CFR ___ and/or FWS 516 DM 6 Appendix 1 (B) (3, 4, 6). An Environmental Assessment must be prepared.

US Fish and Wildlife signature approval:

David Horning

Date: 1/27/20

Staff Preparer:

Aimee LV

Date: 1-27-2020

Authorizing Official:



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1208-B Main Street
Daphne, Alabama 36526

JAN 15 2020

IN REPLY REFER TO:
2020-I-0363

Mr. John Ettinger
Gulf Coast Ecosystem Restoration Council
500 Poydras Street, Suite 1117
New Orleans, LA 70130

Dear Mr. Ettinger:

The Fish and Wildlife Service (Service) has reviewed the Restore Act funding proposal titled "Perdido River Land Acquisition (Magnolia South Tract), Perdido River Land Conservation and Habitat Enhancements Project", submitted by Alabama Department of Conservation and Natural Resources (ADCNR). Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The proposed project consists of the acquisition and management of approximately 11,434 acres in the Perdido Watershed, located in Baldwin County, Alabama. Habitat management and stewardship activities will include prescribed burning, invasive species, control, longleaf pine restoration, and protection and habitat enhancements. The work will be conducted by ADCNR who will be trained to recognize sensitive habitats and species and how to avoid them.

Based on the information provided in your biological evaluation, we concur with your determination that the proposed project "may affect, but is not likely to adversely affect" the Eastern indigo snake (*Drymarchon corais couperi*), gopher tortoise (*Gopherus polyphemus*), and wood stork (*Mycteria americana*). The project activities involve restoring and enhancing coastal habitats for rare species, therefore, the proposed action should result in beneficial effects to these species.

If you have any questions or comments regarding this letter, please contact Shannon Holbrook in this office at (251) 441-5871.

Sincerely,

William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office