



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:

Improving Baffin Bay Water Quality Project

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

Kenedy, Kleberg, and Nueces County, Texas

Proposed Action Description:

The Council has approved \$1,000,000 for implementation of the Improving Baffin Bay Water Quality project, which is part of the Texas Coastal Water Quality Program. project will provide funding to the Texas State Soil Water Conservation Board (TSSWCB) to implement agriculture nonpoint source best management practices (BMPs) to improve water quality in the Baffin Bay watershed in Texas. The TSSWCB will use their Water Quality Management Plan Program (WQMP) to implement these conservation BMPs on farms and ranches to address nutrient and fecal bacteria pollution that poses a significant threat to Baffin Bay, degrading water quality and contributing to long-term ecological harm. Excessive nutrient loading, or eutrophication, of bays, estuaries, and their watersheds is a chronic threat that can lead to hypoxia, harmful algal blooms, habitat degradation, and fish kills. Additionally, several tributaries in the Baffin Bay watershed fail to meet the water quality standard for contact recreation, due to elevated bacteria levels. These issues will also be addressed through WQMP implementation.

Categorical Exclusion(s) Applied:

USDA/NRCS Categorical Exclusions 7 CFR 650.6 (d)(1), 7 CFR 650.6 (d)(4), 7 CFR 650.6 (d)(8), 7 CFR 650.6 (d)(9), 7 CFR 650.6(d)(11), 7 CFR 650.6(d)(19), and 7 CFR 650.6(d)(20)

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) USDA Natural Resource Conservation Service

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.)
USFWS	Beau Hardegree, Gulf Restoration D. Off	July 2025	USFWS ESA § 7 Consultation, FWS/R2/GRPO/2025-0137399
USDA	Jon Morton	August 28, 2025	Use of USDA CEs

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:

Justification for Approval of USDA Categorical Exclusions, USFWS ESA letter

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*)

Mary S. Walker

Responsible Official (*Signature*)

Date December 17, 2025

RE: [External Email]Fwd: CE for TX Water Qulaity Baffin Bay Subproject 1

1 message

Morton, Jon - FPAC-NRCS, MS <Jon.Morton@usda.gov>

Thu, Aug 28, 2025 at 3:40 PM

To: Heather Young <heather.young@restorethegulf.gov>

Cc: "Howard, Ron - FPAC-NRCS, MS" <ron.howard@usda.gov>, "Battle, Benjamin - FS, AL" <benjamin.battle@usda.gov>, Lauren Whitehurst <Lauren.Whitehurst@tceq.texas.gov>, Denise Rodgers <denise.rodgers@tceq.texas.gov>, John Ettinger <john.ettinger@restorethegulf.gov>, "Washington, Doris - FPAC-NRCS, MS" <doris.washington@usda.gov>

Good afternoon Heather,

We've had multiple conversations with TX in the development of this project and agree that their proposed activities are fully covered under USDA/NRCS Categorical Exclusions.

We sincerely appreciate you and your team's efforts in helping get this project across the finish line! Please let us know if you need anything else on our end.

Thanks,

Jon

Jon Morton
Biologist
Gulf Coast Ecosystem Restoration

 **U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service

p: (601) 331-7327

Jon.morton@usda.gov

From: Heather Young <heather.young@restorethegulf.gov>**Sent:** Thursday, August 28, 2025 2:32 PM**To:** Morton, Jon - FPAC-NRCS, MS <Jon.Morton@usda.gov>**Cc:** Howard, Ron - FPAC-NRCS, MS <ron.howard@usda.gov>; Battle, Benjamin - FS, AL <benjamin.battle@usda.gov>; Lauren Whitehurst <Lauren.Whitehurst@tceq.texas.gov>; Denise Rodgers <denise.rodgers@tceq.texas.gov>; John Ettinger <john.ettinger@restorethegulf.gov>**Subject:** [External Email]Fwd: CE for TX Water Qulaity Baffin Bay Subproject 1

You don't often get email from heather.young@restorethegulf.gov. [Learn why this is important](#)

[External Email]

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;

Use caution before clicking links or opening attachments.

Please send any concerns or suspicious messages to: Spam.Abuse@usda.gov

Looping in Jon as I had her email address incorrect in the initial send....

----- Forwarded message -----

From: **Heather Young** <heather.young@restorethegulf.gov>

Date: Thu, Aug 28, 2025 at 2:21 PM

Subject: CE for TX Water Qulaity Baffin Bay Subproject 1

To: Battle, Benjamin L -FS <benjamin.battle@usda.gov>, Howard, Ron - NRCS, Madison, MS <ron.howard@usda.gov>, <john.morton@usda.gov>

Cc: John Ettinger <john.ettinger@restorethegulf.gov>, Denise Rodgers <denise.rodgers@tceq.texas.gov>, Lauren Whitehurst <Lauren.Whitehurst@tceq.texas.gov>

Hello Ben, Ron, and John,

We just received NEPA CE documentation (attached) for the RESTORE FPL3b Texas Coastal Water Quality Program Improving Baffin Bay Water Quality Project

Subproject 1: Implementation of Water Quality Management Plan. Thank you so much for your work with TCEQ on this. For our environmental compliance records, can you please respond as to whether USDA agrees that the proposed activities are fully covered under the USDA NRCS CEs? An email or letter response to this effect are both acceptable. Please let us know if you need any further information.

We truly value our continued partnership with USDA on use of applicable CEs.

Many thanks,

Heather

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[Heather D. Young](#)

Senior Advisor for Ecosystem Restoration and Environmental Compliance
Gulf Coast Ecosystem Restoration Council

tel. 504-252-7716

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Justification for Approval of USDA Categorical Exclusions

Improving Baffin Bay Water Quality

Program Description

The Improving Baffin Bay Water Quality Project, developed by Harte Research Institute (HRI), is proposing to provide a subaward to the Texas State Soil & Water Conservation Board (TSSWCB) to implement Agriculture Nonpoint Source (NPS) Management Measures described in planning and implementation efforts to improve water quality in the Baffin Bay Watershed in Texas, and provides additional detail on the project/program, including information regarding compliance with the RESTORE Act, background, methods, risk and uncertainties, and budget.

The Council is considering approving \$2.89M in planning and implementation funds as FPL Category 1 Improving Baffin Bay Water Quality, with \$1M targeted to address NPS from Agricultural activities. The program is proposed to be implemented over the course of 5 years in the Baffin Bay Watershed in Texas. HRI is the lead awardee of this proposed program, and TSSWCB is a sub-awardee.

If approved, FPL 3b would provide funds for work in the Baffin Bay Watershed in Texas. Conservation practices and restoration activities will be implemented to address components of several programs and projects that identify Agriculture NPS as a potential contributor to water quality impairments and concerns in Baffin Bay and the watershed or help fulfill goals and actions of specific programs. The programs include the [San Fernando and Petronila Creeks Watershed Protection Plan](#), [Texas Coastal NPS Pollution Control Program](#), [Coastal Bend Bays Plan](#) and the [Texas NPS Management Program](#).

The TSSWCB will use their [Water Quality Management Plan Program](#) (WQMP) to implement the conservation practices on farms and ranches. The WQMP includes site specific plans developed through and approved by the local Soil and Water Conservation District (SWCD) which includes appropriate land treatment practices, production practices, management measures, and technologies that prevent and abate agricultural and silvicultural nonpoint source pollution. The best management practices (BMPs) prescribed in a WQMP are defined in the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide.

The primary goal of this program is to improve and restore water quality in Baffin Bay and its upstream tributaries. Nutrient pollution poses a significant threat to these waters, degrading water quality and contributing to long-term ecological harm. Large portions of the Baffin Bay Watershed cover thousands of acres of agricultural land, used for row crop production and grazing land. These land uses have been identified as potential sources of nutrient and fecal bacteria pollution. Excessive nutrient loading, or eutrophication, of bays, estuaries, and their watersheds is a chronic threat that can lead to hypoxia, harmful algal blooms, habitat degradation, and fish kills. Additionally, several tributaries in the Baffin Bay watershed fail to meet the water quality standard for contact recreation, due to elevated bacteria levels. These issues will also be addressed through WQMP implementation.

This voluntary program will serve to assist private landowners with implementing conservation measures to improve water quality and quantity and protect soil and wildlife habitat conditions. The selected measures will be conducted with the landowner's conservation goals in mind, enabling greater ownership in conservation and management activities that affect water quality and wildlife habitat conditions within the Baffin Bay Watershed. Outcomes will include direct improvements in water quality, quantity, soil health, and wildlife habitat.

The Improving Baffin Bay Water Quality proposal for FPL 3b will be implemented in Texas. Implementation is funded at approximately \$2.89 Million for the FPL 3b proposal (\$1 Million for TSSWCB).

The planned activities fall within multiple United States Department of Agriculture Natural Resource Conservation Service (USDA/NRCS) Categorical Exclusions (CEs) as identified in Table 1 on the following page. A programmatic environmental evaluation (EE) was conducted on this program to examine the effect of implementing the program on the environment. To ensure applicable permits are obtained and consultations are conducted, including a review for extraordinary circumstances, each site will undergo a site-specific EE, in which the results will be documented on the CPA-52, Environmental Evaluation Worksheet or equivalent form. <https://www.nrcs.usda.gov/sites/default/files/2025-03/nrcs-cpa-52-worksheet-ver-02-2025-1.01-macros-enabled.xlsm>

The use of CEs does not waive or fulfill USDA compliance with any applicable legal requirements, including but not limited to the National Historic Preservation Act, Migratory Bird Treaty Act or the Endangered Species Act. These legal requirements are addressed in the programmatic EE and will also be considered in the site-specific EEs. USDA has state level programmatic agreements with the Fish and Wildlife Service relative to Section 7 of the Endangered Species Act. Also, USDA has a prototype programmatic agreement with the Advisory Council on Historic Preservation (ACHP) and programmatic agreements with the State Historic Preservation Officers (SHPOs) relative to Section 106 of the National Historic Preservation Act (NHPA).

USDA-NRCS conservation practices have been analyzed for their impact on threatened and endangered species and cultural resources. In the implementation of this program, USDA will avoid adverse impacts to threatened and endangered species and cultural resources. USDA conservation practices, where applicable, contain avoidance and minimization measures to ensure that there are no significant adverse impacts to threatened and endangered species and cultural resources.

TSSWCB will make use of the RESTORE Council CEs for planning and monitoring activities. Those activities are not being analyzed in this document. The Council has NEPA procedures for considering the planning and monitoring activities proposed by TSSWCB for this program.

Section 1: Categorical Exclusions

The USDA categorical exclusions described in Table 1 have been determined to be applicable for use in the activities described in this proposal.

Table 1: Categorical Exclusions and Associated Activities and Conservation Practices

Applicable NRCS Conservation Practice Code(s)	CE Reference	Categorical Exclusion Description / Agency Justification
309,326, 327, 328, 342, 381, 386, 390, 391, 393, 422, 490, 512, and 612	NRCS - 7 CFR 650.6 (d)(1)	Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services; Requires that the established vegetative community maintain the sites ecological functions and services, which could not be accomplished by converting native forests or grasslands.
356, 587, 643, and 646	NRCS - 7 CFR 650.6 (d)(4)	Replacing and repairing existing culverts, grade stabilization, and water control structures and other small structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required.

326, 342, 382, 391, 578, 580 and 584	NRCS - 7 CFR 650.6 (d)(8)	Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).
356, 472, 587, 643, and 646	NRCS - 7 CFR 650.6 (d)(9)	Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances
297, 314, 315, 326, 327, 338, 342, 381, 386, 383, 390, 391, 393, 394, 422, 472, 490, 512, 612, 643, 644, 645, 646, 647, 649, and 666	NRCS - 7 CFR 650.6(d)(11)	Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition. (NRCS routinely evaluates resource conditions and recommends the use of herbicides for controlling invasive species under Conservation Practices Codes 314, 315, and 666; and for site preparation prior to establishment of native species on non-federal lands under 314, 315, and 490. Restoring wildlife habitat/ecosystems is the primary objective of this category, and some of these practices may be planned as part of a Comprehensive Conservation Plan which not only addresses soil erosion, but overall ecosystem health to include plant health, animal health, and hydrologic function.)
309, 313, 314, 315, 316, 317, 318, 328, 351, 359, 360, 362, 367, 378, 381, 382, 420, 430, 436, 441, 442, 449, 460, 462, 468, 511, 516, 521A, 528, 533, 550, 554, 558, 560, 561, 574, 576, 578, 590, 595, 614, 629, 632, 633, 634, 642, and 655	NRCS - 7 CFR 650.6(d)(19)	Undertaking minor agricultural practices to maintain and restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, off-stream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes.
216, 309, 327, 329, 332, 340, 342, 345, 350, 362, 386, 390, 391, 393, 410, 412, 460, 468, 484, 512, 550, 561, 570, 600, 601, 612, 638, and 620	NRCS - 7 CFR 650.6(d)(20)	Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting.

<https://www.ecfr.gov/on/2025-07-02/title-7/subtitle-B/chapter-VI/subchapter-F/part-650>

The actions covered by the USDA CEs that are outlined in Table 1 require documentation that all connected actions—

1. meet the applicable overarching criteria, as well as CE-specific criteria, and
2. have no “extraordinary circumstances” (see sidebar, page 3) that could result in significant adverse impacts (short- or long-term or cumulative) that cannot be mitigated.

Section I: Overarching Criteria (Sideboards):

Overarching criteria, also known as “sideboards,” are considered below and in the comment box in Section R.2 of the attached CPA-52. Only applicable sideboards need to be met.

In this project, the Conservation Planner and TSSWCB staff will work with local NRCS staff to ensure the CPA-52 requirements are met.

The sideboards consideration was completed through the use of the EE process at the program level. USDA will continue to use an environmental review process to evaluate proposed activities for significant impacts. Where significant impacts are determined to exist, the Responsible Federal Official would determine that the categorical exclusion would not apply and the appropriate documentation for compliance with NEPA would be prepared.

Overarching criteria/sideboards for the categorical exclusions apply to proposed actions that (as applicable):

1. Are designed to mitigate soil erosion, sedimentation, and downstream flooding;
2. Require disturbed areas to be vegetated with adapted species that are neither invasive nor noxious;
3. Are based on current Federal principles of natural stream dynamics and processes, such as those presented in the Federal Interagency Stream Corridor Restoration Working Group document, “Stream Corridor Restoration, Principles, Processes, and Practices”;
4. Incorporate the applicable USDA - Natural Resources Conservation Service (NRCS) conservation practice standards as found in the Field Office Technical Guide (FOTG);
5. Do not require substantial dredging, excavation, or placement of fill; and
6. Do not involve a significant risk of exposure to toxic or hazardous substances.

Section II: Conservation Planning Process

Natural resources are defined by USDA to include soil, water, air, plants, animals, human, and energy considerations (SWAPAE+H). Human considerations refer to the social and economic considerations that are addressed in the planning process. Cultural resources and historic properties are included in this concept. Human considerations are considered early in the planning process and guide the planner in providing the information the client needs to make informed decisions.

The conservation planning process includes nine steps. Each step is designed to provide parts that will eventually result in a fully implemented conservation plan. These steps do not necessarily occur in a sequential order and many steps may occur simultaneously.

Step 1 - Identify Problems

The conservation planner assists the client in determining the resource problems, opportunities, and concerns in the planning area. This includes an early identification of all natural resource problems. This will be further clarified as the process continues.

Step 2 - Determine Objectives

The conservation planner must record the client's objectives. This might include how the area is to be used, what is the intended use of the property over the long term, what are the family considerations, and other factors that might influence the choice of conservation practices to be applied.

Step 3 - Inventory Resources

A comprehensive inventory will be completed of natural resources, such as the soils, plants, animals, physical structures, available labor, equipment, and anything else that might be needed to solve the conservation problems.

Step 4 - Analyze Resource Data

The information gathered in Step 3 will be analyzed to clearly define the conditions of natural resources along with the economic and social issues. The causes and effects of conservation problems will be summarized.

Step 5 - Formulate Alternatives

One or more conservation alternatives are prepared that will achieve the client's objectives, solve the natural resource problems, and take advantage of opportunities to improve or protect resource conditions. Clients will be provided with any products explaining the details of the conservation practices being considered. This would include job sheets, fact sheets, standards, or similar materials.

Step 6 - Evaluate Alternatives

Each of the alternatives is evaluated to determine if it is addressing the client's objectives and the natural resource problems. The effects of the alternatives should be evaluated both for on-site and off-site impacts. The alternative should also be acceptable to the client. Special attention will need to be given to those ecological values protected by law or Executive Order.

Step 7 - Make Decisions

The client selects the alternatives that will best serve their business. The conservationist then prepares the conservation plan of operations (CPO) for the client which includes the practices to be implemented and the schedule. The CPO is a record of conservation decisions made by the client.

Step 8 - Implement Plan

The conservation planner delivers the plan to the client and reviews it for accuracy and clarity. The plan contains a listing of the conservation practices and a schedule for implementation. Included with these practices should be a description of the impacts of the selected practices on their natural resources. Plans usually include a map, field boundaries, soil map, and other items specific to the client's property.

Step 9 - Evaluate the Plan

Clients will evaluate the effectiveness of the plan as it is implemented. Conditions often change and may bring about the need to adjust the plan.

WQMPs are the type of conservation plans that will be used in this program, and they are site specific plans with a combination of BMPs for the treatment of identified resource concerns. The technical criteria for WQMPs is the NRCS Field Office Technical Guide.

The following is the process for obtaining a WQMP:

1. An individual requests planning assistance through their local Soil and Water Conservation District (SWCD)
2. The WQMP is usually developed by the SWCD Technician with NRCS and TSSWCB assistance
3. The WQMP is approved by the landowner, the SWCD and NRCS and then certified by the TSSWCB
4. Producer implements the WQMP on their land

5. Annual status reviews are conducted to ensure that the landowner implements BMPs as agreed to in the implementation schedule

Section III: Extraordinary Circumstances Review

The use of the CEs identified in Table 1 does not constitute segmentation because the implementation of proposed activities on individual parcels do not represent a connected action. The activities will occur on distinct parcels to comprehensively restore and conserve critical habitat, water quantity, and quality. The activities that are applied to individual parcels have independent utility. While many of the activities support achieving similar objectives for the individual parcels, none of the activities are dependent on the completion of activities on a separate and distinct parcel. It is acknowledged that there is a beneficial effect to treating multiple parcels to achieve a similar goal; however, it is not a prerequisite for implementation nor achieving desired environmental benefits.

There is a low likelihood that these activities would result in a significant adverse cumulative effect either individually or collectively. Any adverse effects caused during implementation would be short-term in nature and limited to the immediate project area. These effects are consistent with what is contemplated when implementing these categorically excluded activities. The anticipated long-term effects would be positive - restoring and maintaining native ecosystems by improving water quality and quantity.

The following section addresses the extraordinary circumstance consideration for use of a CE. The extraordinary circumstance review was considered below at the program level; however, site-specific reviews will be conducted for extraordinary circumstances as a part of the planning activities for the individual parcels.

1. The proposed action cannot cause significant effects on public health or safety:

This program is expected to have an indirect positive effect on public health and safety related to fishing, swimming, and health of shellfish for consumption through a reduction of pollutants from forested and associated lands.

2. The proposed action cannot significantly affect unique characteristics of the geographic area such as proximity to historic properties or cultural resources, park lands, prime farmlands, floodplains, wetlands, wild and scenic rivers, or ecologically critical areas:

This program will have either no effect or a positive effect on unique characteristics of the geographic areas. as the practices will be applied on agricultural and forested lands to improve water quality and quantity. The area of proposed actions will be reviewed for the presence of known or potential cultural resource sites. Adverse impacts to cultural resources will be avoided in the implementation of this program. Adverse impacts to critical habitat for endangered species or prime farmlands will not be permitted in the implementation of this program. The program will not result in an increased flood hazard, incompatible development, or other adverse effect to the existing natural and beneficial values of the 100-year floodplain or lands adjacent or downstream.

3. The effects of the proposed action on the quality of the human environment cannot be highly controversial:

This program will have a net positive effect on the human environment by providing program participants with incentives to address conservation/restoration needs on their property. In the form of technical and financial assistance, this program will provide a positive economic benefit to the landowner and local community.

Adverse impacts to the human environment will be avoided in the implementation of this program. Through the conservation planning process, the impact on the landowner's economic conditions is evaluated.

4. The proposed action cannot have highly uncertain effects, including potential unique or unknown risks on the human environment:

The program is expected to generate positive impacts on the human environment by applying best management practices on the landscape; thereby, improving water quality and quantity. The conservation practices to be implemented have been reviewed by the public; therefore, no unforeseen environmental effects or unique/unknown risks to the human environment are anticipated.

5. The proposed action cannot include activities or conservation practices that establish a potential precedent for future actions with significant impacts:

This program does not establish a precedent for future actions with significant impacts as restoration/conservation programs with similar objectives are being implemented in Alabama, Florida, and Mississippi and throughout the Gulf Coast Region.

6. The proposed action is not expected to have any significant environmental impacts which would adversely alter the quality of the human environment over time:

This program is expected to have overall positive benefits on the quality of the human environment. Additionally, it will facilitate improvements to water quality and quantity – thus, resulting in a healthier environment. It will strengthen the economic viability and environmental compatibility of watersheds within the focus area.

7. The proposed action cannot cause or promote the introduction of invasive species or have a significant adverse effect on any of the following special environmental concerns (SECs) not previously identified in paragraph (c)(2)(B) of this section, such as: endangered and threatened species, wetlands, other waters of the United States, wild and scenic rivers, air quality, migratory birds, and bald and golden eagles:

USDA conservation practice standards prohibits the use of invasive species. Invasive species will not be promoted as a part of this program. There may be an opportunity to remove or eradicate existing invasive species on lands treated as a part of this program.

The CPA-52 worksheet includes the list of special environmental concerns that must be considered when conducting an EE on a proposed action. The worksheet provides detailed instructions on how to conduct the environmental evaluation and includes guidance to ensure compliance with the various SECs. There will be no significant adverse impacts to endangered and threatened species, wetlands, other waters of the United States, wild and scenic rivers, air quality, migratory birds, and bald and golden eagles through the implementation of this program.

8. The proposed action will not violate Federal or other applicable law and requirements for the protection of the environment:

Any required permits will be obtained prior to implementation of practices; however, no Federal, State, or local permits are anticipated.

Site-specific EEs are developed as part of the conservation planning process. The EE evaluates conservation planning options developed to address and mitigate potential environmental resource concerns that may exist on the property or conservation management unit. The EE also determines if protected resources exist on the property and if those resources have the potential to be affected by conservation practices outlined in the conservation plan.

Section IV: Conservation Practices

The following conservation practices will be implemented to improve water quality and quantity within the Baffin Bay Watershed.

Note: Use “Internet Explorer” in accessing the hyperlinks below. Some of the hyperlinks are not compatible with “Google Chrome” more specifically, the link that contains “AL CPS”.

- Access Control (472)
https://efotg.sc.egov.usda.gov/api/CPSFile/16703/472_TX_CPS_Access_Control_2018_pdf
- Access Roads (560)
https://efotg.sc.egov.usda.gov/api/CPSFile/32164/560_TX_CPS_Access_Road_2021_pdf
- Agrichemical Handling Facility (309)
https://efotg.sc.egov.usda.gov/api/CPSFile/37957/309_TX_CPS_Agrichemical_Handling_Facility_2022_pdf
- Animal Mortality Facility (316)
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- Brush Management (314)
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- Channel Bed Stabilization (584)
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- Conservation Crop Rotation (328)
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- Cover Crop (340)
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- Dike (356)
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- Drainage Water Management (554)
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- Fence (382)
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- Field Border (386)
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- Forage Harvest Management (511)

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- Forest Stand Improvement (666)
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- Forest Trails and Landings (655)
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- Fuel Break (383)
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- Hedgerow Planting (422)
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- Herbaceous Weed Treatment (315)
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- Irrigation Pipeline (430)
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- Irrigation Reservoir (436)
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- Irrigation System, Microirrigation (441)
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- Irrigation Water Management (449)
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- Livestock Pipeline (516)
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- Livestock Shelter Structure (576)
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- Nutrient Management (590)
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- Pasture and Hay Planting (512)
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- Pest Management Conservation System (595)
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- Pond (378)
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- Pond Sealing or Lining, Flexible Membrane (521A)
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- Prescribed Burning (338)
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- Prescribed Grazing (528)
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- Riparian Herbaceous Cover (390)
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- Shallow Water Development and Management (646)
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- Silvopasture Establishment (381)
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- Stream Crossing (578)
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- Streambank and Shoreline Protection (580)
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- Structure for Water Control (587)
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- Tree/Shrub Site Preparation (490)
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- Tree/Shrub Establishment (612)
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- Waste Treatment (629)
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- Water Well (642)
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- Watering Facility (614)
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In Reply Refer To:
FWS/R2/GRPO/
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United States Department of the Interior

FISH AND WILDLIFE SERVICE

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This letter is in response to the Texas Commission on Environmental Quality's (TCEQ) request for initiation of informal Section 7 consultation with the U.S. Fish and Wildlife Service (Service) for implementation of activities that will improve water quality in all three sub-watersheds (Petronila Creek, San Fernando Creek, and Los Olmos Creek) of Baffin Bay. This project titled "Improving Baffin Bay Water Quality, Sub-Project 1: Implementation of Water Quality Management plans" was funded through the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act). Your initiation request and project information were received on July 28, 2025.

The Service reviewed the project documents submitted by TCEQ. The overall goal of this project is to restore and protect water quality in Baffin Bay by leveraging existing partnerships to implement sub-projects in the following counties: Nueces, Kenedy and Kleberg that will reduce agricultural nutrient loadings in to Baffin Bay. Specifically, the project will: 1) implement cropland management strategies and best management practices (including but not limited to conservation, cover crops, reduced till, nutrient management, filter strips) that reduce nutrient runoff via an existing agency-led initiative led by the Texas State Soil Water Conservation Board (TSSWCB), and 2) support construction of a 240 acre wetland complex adjacent to an agriculturally-impacted creek (Petronila Creek) that flows to Baffin Bay.

At issue are the project's effects on federally listed species such as the Ocelot (E) *Leopardus pardalis*, Cactus Ferruginous Pygmy-Owl (T) *Glaucidium brasilianum cactorum*, Eastern Black Rail (T) *Laterallus jamaicensis jamaicensis*, Northern Aplomado Falcon (E) *Falco femoralis septentrionalis*, Piping Plover (T), *Charadrius melodus*, Rufa Red Knot (T) *Calidris canutus rufa*, Whooping Crane (E), *Grus americana*, Black Lace Cactus (E) *Echinocereus reichenbachii* var. *albertii*, Slender Rush-Pea (E) *Hoffmannseggia tenella*, South Texas Ambrosia (E) *Ambrosia cheiranthifolia* and the proposed Tricolored Bat (PE) *Perimyotis subflavus*, and Monarch butterfly (PT) *Danaus plexippus*. This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

This decision is based on the review of all information provided in addition to any information available to the service at the time. These findings conclude that the proposed project may affect but is not likely to adversely affect listed species identified above. The

proposed projects are not within designated or proposed critical habitat for any federally listed species. In addition, the proposed project implemented by the TSSWCB is the expansion of an existing program with the Natural Resource Conservation Service (NRCS), which protects and restores critical wildlife habitat and improves water quality in priority watersheds by assisting willing private landowners with implementing conservation measures. Outcomes will include direct improvements in water quality, wetland and upland wildlife habitat and will use NRCS conservation practices which are covered by the Services' existing programmatic consultation with NRCS (Consultation No. 02ETTX00-2020-F-3581). Furthermore, the proposed construction of the 240 acre wetland is on agricultural fields that have been previously disrupted and therefore the Service concludes that it will have no effect on listed species.

This concludes the Service's review of the proposed water quality projects. No further action pursuant to the Act is necessary unless new information reveals the proposed projects may affect listed species in a manner or to an extent not previously considered; the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this determination; or a new species is listed or critical habitat designated that may be affected by the identified action.

Should the TCEQ have any questions regarding this consultation, please feel free to contact Wildlife Biologist, Adriana Leiva at (281) 898-5686.

Sincerely,

Beau Hardegree
Field Supervisor
Gulf Restoration Program Office