Gulf Coast Ecosystem Restoration Council
Finding of No Significant Impact
Bahia Grande Wetland System Restoration - Implementation (DOC_RESTORE_001_001_Cat1)

The Gulf Coast Ecosystem Restoration Council (Council) is hereby adopting Deepwater Horizon Oil Spill Texas Trustee Implementation Group Final Restoration Plan/Environmental Assessment #2: Restoration of Wetlands, Coastal, and Nearshore Habitats; Nutrient Reduction; Oysters; Sea Turtles; and Birds dated July 2022 (Final RP/EA #2). The Council is adopting the Final RP/EA #2 in order to address requirements of the *National Environmental Policy Act* (NEPA) (42 U.S.C. §§ 4321 et seq.) associated with the approval of implementation funding for the "Bahia Grande Wetland System Restoration" project (Bahia Grande project) sponsored by National Oceanic and Atmospheric Administration (NOAA) and located in Cameron County, Texas.

The Council has reviewed the Final RP/EA #2 and determined that it addresses the environmental effects of the activity to be funded. On February 2, 2023, the Council opened a public comment period on this proposed project and the associated environmental compliance documentation, including the Final RP/EA #2. This public notice also sought comment on the Council's proposal to approve funding for the separate "River Reintroduction Into Maurepas Swamp" project in the state of Louisiana. The public comment period was 32 days and ended on March 6, 2023. The Council received five comments, all of which were supportive of approving funding for one or both of the proposed projects. The Council received no comments objecting to the proposed funding approvals.

The Council has determined that approval of funding for the Bahia Grande project would not result in a significant effect on the human environment. The following is a brief description of the activity to be funded, the Final RP/EA #2 being adopted by the Council, and contact information pertaining to this action.

Funded Activity

The Council is approving $968,863 for implementation of the Bahia Grande project as part of the Council's Initial Funded Priority List (Initial FPL), which has been developed pursuant to the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012* (RESTORE Act) (33 U.S.C. 1321(t) and *note*). The Bahia Grande project, located in Cameron County, Texas, is part of NOAA's "Connecting Coastal Waters" initiative. If approved by the Council, implementation funding would be used to restore freshwater flows to 600 acres of aquatic habitat (wetlands and shallow openwater) by re-routing freshwater flow north of Highway 100 into the Bahia Grande wetland system. The Bahia Grande is a large coastal wetland ecosystem that has been greatly affected by hydrological modifications such as channelization, ditching, and road construction. This project would implement restoration activities, conduct monitoring to assess restoration outcomes, and engage in outreach and education with restoration practitioners and stakeholders. The restoration of

freshwater flows would be accomplished by installing properly sized and located culverts under Highway 100, diverting water flow through the culverts, and excavating a conveyance channel to direct the water into the northern portion of the Bahia Grande system.

More information on the RESTORE Act, the Initial FPL, and the Bahia Grande project can be found at www.restorethegulf.gov.

Environmental Assessment Adopted

The Final RP/EA #2 is hereby incorporated by reference into this Council finding, consistent with the Council's NEPA Procedures (80 FR 25680-25691 (May 5, 2015)). Prepared pursuant to NEPA, the Final RP/EA #2 analyzes the environmental impacts and cumulative effects of and alternatives for a portfolio of projects, including the Bahia Grande project, to address the diverse suite of injuries that occurred at both regional and local scales from the Deepwater Horizon spill. This Final RP/EA #2 tiers off the *Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement*. In addition to the analysis of environmental consequences included in the Final RP/EA #2, NOAA has also completed additional environmental compliance coordination for the *Endangered Species Act* (ESA), the *Magnuson-Stevens Fishery Conservation and Management Act* (MSA), and the *National Historic Preservation Act* (NHPA) in coordination with the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the Texas State Historic Preservation Office.

Environmental Conditions

In addition to NEPA, the Council has an independent responsibility to comply with all other applicable Federal laws. The Council has received concurrence on adoption of the EA and the associated FPL funding approval from the Federal agencies with responsibility for administering the laws applicable to this action. To ensure compliance with ESA, MSA, NHPA, and other relevant laws, the Council would require that the sponsors of the project comply with all applicable conditions listed in the Final RP/EA #2 and the associated environmental compliance documents. Compliance with these conditions is mandatory and serves to limit the environmental effects of an action to those that are insignificant, discountable or beneficial, and never result in take or adverse effects to designated critical habitat. NOAA is also responsible for ensuring that any contractors who may work on this project are aware of and comply with all of these environmental compliance requirements.

Finding of No Significant Impact

Based on an independent review of the information and analysis provided in the Final RP/EA #2, the Council hereby issues this Finding of No Significant Impact (FONSI) for the Bahia Grande project. This determination is based on consideration of the factors listed in Section 1508.27 of the Council on Environmental Quality's (CEQ) NEPA regulations (40 CFR Parts 1500 Through 1508). Consistent with Section 1508.13 of the CEQ regulations, the Final RP/EA #2 is incorporated herein by reference. In making this determination, the Council has coordinated with NOAA, the sponsor of the activity. The Council authorized the Executive Director of the Council to execute the FONSI on its behalf.

Determination by Responsible Official

Based on the foregoing, on March 29, 2023, the Council voted to (i) adopt the Final RP/EA #2, (ii) amend Initial FPL by moving the Bahia Grande project implementation activities from Category 2 to Category 1,

and (iii) approve $968,863 in implementation funding. In addition, any previously approved Bahia Grande project RESTORE planning funds not necessary to complete final planning activities would also be available for use during restoration implementation.

I have determined that this proposed activity would not have a significant effect on the human environment.

Mary Walker
Executive Director, Gulf Coast Ecosystem Restoration Council
(Signature) MARY WALKER Digitally signed by MARY WALKER Date: 2023.03.29 14:58:34 -04'00'

For Further Information

For further information, please contact Heather Young, Senior Advisor for Ecosystem Restoration and Environmental Compliance, Gulf Coast Ecosystem Restoration Council, at (504) 252-7716 or by e-mail at heather.young@restorethegulf.gov.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MEMORANDUM FOR: FILE

FROM: Christy Fellas, DWH Environmental Compliance Coordinator
NOAA Restoration Center

DATE: February 2, 2022

SUBJECT: ESA No Effect Determinations for Restoration Projects in Texas TIG Restoration Plan and Environmental Assessment #2

Based on my review of project materials including the Biological Evaluation forms (Winter 2021), and in coordination with representatives from NOAA's Protected Resource Division (PRD) in the Southeast Regional Office, the NOAA Restoration Center (RC) determined that the projects listed below will have no effect on species or habitats listed under the Endangered Species Act (ESA) under the jurisdiction of National Marine Fisheries Service (NMFS).

- Bahia Grande Channel F Hydrologic Restoration
- Follets Island CMA Additions
- Galveston Island Habitat Acquisition
- Petronilla Creek Constructed Wetlands (E&D only)
- Petronilla Creek Watershed Nutrient Reduction
- Texas Breeding Shorebird and Seabird Stewardship Project
- Upper TX Coast Sea Turtle Rehabilitation Facility

These projects only include land acquisition, engineering and design activities at this time or are taking place in upland locations. These types of activities are not expected to have any effects to protected species or habitats under NMFS' ESA jurisdiction.

Once engineering and design is complete, some projects may be considered for implementation in a future NRDA restoration plan. At that point, projects selected for implementation would be analyzed for potential effects from construction that may affect ESA-listed habitats or species and any necessary consultations would be completed.

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Gulf Restoration Program Office
4444 Corona Dr #215
Corpus Christi, Texas 78411
361-994-9005

In Reply Refer To:
FWS/R2/GRPO/
02ETCP00-2022-
0073927

August 11, 2022

Memorandum

To: Michael Barron, Wildlife Biologist Compliance Coordinator, Gulf Restoration Office, U.S. Fish and Wildlife Service, Fairhope, Alabama

From: Beau Hardegree, Project Leader, Gulf Restoration Office, U.S. Fish and Wildlife Service, Corpus Christi, Texas

BILLY HARDEGREE Digitally signed by BILLY HARDEGREE
Date: 2022.08.11 16:31:03 -05'00'

Subject: Informal Section 7 Consultation on the Bahia Grande Channel F Wetland Restoration project within Laguna Atascosa National Wildlife Refuge in Cameron County, Texas

This letter is in response to the Texas Trustee Implementation Group's (TX TIG) request for informal Section 7 consultation with the U.S. Fish and Wildlife Service (Service) on the Restoration Plan #2: Wetland, Coastal and Nearshore Habitats, Living Coastal and Marine Resources, and Water Quality. Your initiation request and project information were received on April 1, 2022.

The Service reviewed the Biological Evaluation (BE) forms submitted by the Deepwater Horizon TX TIG for nine (9) projects to be implemented throughout the Texas coast funded as part of the legal settlement reached with British Petroleum in 2016. In a previous letter signed on April 28, 2022, the Service provided concurrence determinations for (8) eight of the (9) projects submitted. The Service did not have all the necessary information to conduct a comprehensive evaluation of effects for the Bahia Grande Channel F Wetland Restoration project within Laguna Atascosa National Wildlife Refuge (refuge). The Service requested more detailed project plans for alignment, construction methods, access corridors, staging areas and disposal sites for excavated material. This information was received by the Service on June 13, 2022. At issue are the project's effects on federally listed species such as the piping plover (*Charadrius melodus*), red knot (*Calidris canutus*), eastern black rail (*Laterallus jamaicensis jamaicensis*), Northern aplomado falcon (*Falco femoralis*), Ocelot (*Leopardus pardalis*), and the Gulf Coast Jaguarundi (*Herpailurus yagouaroundi*).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).

Pursuant to 50 CFR 402.12(j), you submitted a letter that included a biological assessment for our review and requested concurrence with the findings presented therein. The Service has reviewed all information provided along with additional surveys collected by Service staff. These findings conclude that the proposed project may affect but is not likely to adversely affect listed species identified above. In addition, the proposed project is not within designated or proposed critical habitat for any federally listed species. The TX TIG has determined that the proposed project would have no effect on listed or proposed species that do not occur in the proposed project area, including the west Indian manatee (*Trichechus manatus*), all five species of sea turtles present in the Gulf of Mexico, south Texas ambrosia (*Ambrosia cheiranthifolia*) and the Texas ayenia (*Ayenia limitaris*).

In considering your request, we based our evaluation on the following: 1) the April 1, 2022, letter requesting initiation of informal consultation with the accompanying BE form; 2) Bahia Grande Hydrological Restoration Project Laguna Atascosa National Wildlife Refuge Waters of the U.S. Report (Freese and Nichols, Inc.); 3) Review of 186 hours of sound files collected by two autonomous recording units (ARUs) placed at sites adjacent to the Channel F route between May 6 and May 25; 4) A site visit to the proposed project area on July 6, 2022, to assess potential habitat; 5) the August 11, 2022, email from TX TIG updating the project description; and 5) other information available to the Service.

The proposed project is located south of State Highway 100 (SH 100) in the upper Bahia Grande System of the refuge and would restore hydrology to the area between SH 100 and Laguna Larga by allowing surface runoff from the highway to drain into the wetland potentially enhancing 101.4 acres of palustrine wetlands south of SH 100 and 800 acres of shallow open water of Laguna Larga. The natural drainage of this wetland was previously altered to move water out of the area. Current water inflow to the system is from rainfall and surface water runoff creating ephemeral freshwater ponds surrounded by coastal wetland prairie. The type of prairie found in this is known as *"Gulf Coast Salty Prairie,"* which is at or near sea level, and includes salt-tolerant plants such as leatherleaf (*Maytenus phyllanthoides*), seepweed (*Sueda linearis*), glasswort (Salicornia bigelovii), saltwort (*Batis maritima*), shoregrass (*Distichlis littoralis*), salt grass (*D. spicata*), sea ox-eye daisy (*Borrichia frutescens*), and sea lavender (*Limonium nashii*). On slightly higher elevations, the coastal prairie consists of Gulf cordgrass (*Spartina spartinae*), which may be interspersed with woody vegetation such as yucca (*Yucca treculeana*), honey mesquite (*Prosopis glandulosa*), and prickly pear cactus (*Opuntia engelmannii var. lindheimeri*) to form a savannah.

Proposed project activities include modifying the existing culvert under SH 100 and excavating a 1.6-mile-long and 70-feet wide earthen channel to allow for more complete water passage from the drainage areas north of the highway into the wetlands complex and ultimately into the Laguna Larga. Channel F will have 5:1 side slope and a bottom width of 30 feet. A fixed-crest weir would be constructed near the southern terminus of the channel to

maintain water levels in existing palustrine wetlands and allow freshwater flows into Laguna Larga. The weir structure will consist of an articulated concrete block mat that will be constructed to the north and south of an existing unimproved road. Additionally, there is an existing ditch located to the east of the proposed channel that currently drains north toward SH 100 and deprives the wetlands complex of freshwater flows. This project proposes to plug the ditch to prevent flows from draining away from the wetlands complex. The total excavated area of the channel is 10.75 acres, which includes 9.34 acres of wetland habitat and 1.41 acres of upland vegetation. Construction of the excavated channel would result in a net increase of 1.41 acres of freshwater emergent wetland. The excavated material will be placed in disturbed uplands at the site. Equipment staging and access will be from SH 100 or from areas designated with upland habitat. The overall project is expected to improve retention of water that used to drain away from the site and increase the potential depth of water and extend the hydroperiod of the wetlands that are present.

Prior to project implementation, the State Historic Preservation Office (SHPO) requested a cultural resources survey of the potential area of effect in order to comply with Section 106 of the National Historic and Preservation Act of 1966, as amended in 36 CFR 800.4. This deep trench survey will take place within the project footprint and will not require any additional impacts than what is proposed by project activities.

The TX TIG proposed the following conservation measures in the BE forms submitted to minimize or avoid adverse effects of proposed actions on listed species for the following species: Piping Plover and Red Knot

- All individuals working on the project will be provided information on how to identify the piping plover and red knot and means to minimize disturbance to the species and their habitat.

Eastern Black Rail

- Provide all individuals working on a project with information in support of general awareness of eastern black rail presence and means to avoid these species and their habitat.
- Efforts will be made to reduce noise and vibration within and adjacent to black rail habitat (i.e., within the action area), especially during the breeding season (March 1 – September 1). These efforts include planning and performing work outside of peak breeding call times (i.e., one hour before and after dawn and one hour before and after dusk) for black rail.
- Temporary clearing of black rail habitat must be done in a way that allows for the escape of the birds toward refugia areas which will remain after the completion of the project. Project managers should avoid clearing in a way that creates isolated pockets of suitable black rail habitat. In part this is done by linear clearing in the direction of refugia and avoiding clearing by decreasing concentric circles.
- Areas of dense herbaceous vegetation habitat should be left intact to provide temporary refugia for the black rail to ensure escape access routes.
- Marking the project boundary will be conducted in cases where there is a risk of

damage to areas outside the project area but within the action area. If used, marked fencing should remain up through all activities, once a project is completed, the fencing will be removed and disposed of properly off-site.

- Biological monitor or qualified personnel will be needed to assist construction crews with avoidance and minimization to black rail habitats once work begins. The biological monitor or qualified personnel will have authority to stop work immediately if black rail chick or eggs are observed within the project area. In addition, the Service should be contacted immediately.

Northern Aplomado Falcon

- Provide all individuals working on a project with information in support of general awareness of presence of aplomado falcons and the means to minimize disturbance to the species and their habitat.
- During March through June, project sites should be evaluated for suitable habitat and all large stick nests should be examined from a distance for signs of adults incubating eggs or brooding chicks. A 1,000-foot buffer shall be maintained around the nest or perch depending on the sensitivity of the individual bird to keep human impacts to a minimum.

Ocelots

- All contract personnel associated with the project would be informed of the potential presence of ocelots and the means to avoid impacts to protected species and their habitats present at or near the specific project site.
- Contractors will be advised of speed restrictions to minimize potential negative effects on ocelots. Vehicular speeds within the refuge will be restricted to 15 mph or less.
- Work will only be conducted during daylight hours (i.e., between one hour after sunrise and one hour before sunset) to reduce the chances of vehicle activity during the primarily nocturnal activity period of ocelots.
- If an ocelot approaches the construction area within 75 feet, work will stop until they leave the construction site. Service should be contacted for additional guidance.

Piping Plover and Red Knot

Piping plover and red knot occur in coastal South Texas during their wintering and migrating periods. Neither species nests along the Gulf Coast, but rather uses the area as an important wintering and stopover habitat. During these periods, piping plover and red knot could occasionally occur on the southern end of the project where the channel connects with Laguna Larga, where suitable habitat occurs. The majority of the project area occurs away from Laguna Larga, and the rest of the project area contains no suitable habitat for these species. Because of the limited nature of available habitat near the project area, their presence in the majority of the project area is extremely unlikely, and the potential for adverse effects to these species is limited to noise disturbance from project activities to adjacent habitat. If present, these birds may be disturbed by work activities and may move to adjacent undisturbed areas causing temporary displacement of individuals as a result of project activities. There is a large amount of available habitat within the Laguna Larga area

outside of the project area. The potential for displacement due to project activities is very low, but if it were to occur, it would be temporary and because of the large amount of habitat available, would not adversely affect foraging or other activities. The Service has determined that the proposed project may affect, but is not likely to adversely affect these species.

Eastern Black Rail

Eastern black rails are cryptic species that occur in fresh, brackish, and saltwater marshes with clumping grass, rushes, or sedges. Eastern black rails require dense vegetative cover that allows movement underneath the canopy, and, because birds are found in a variety of salt, brackish, and freshwater marsh habitats that can be tidally or non-tidally influenced, plant structure is considered more important than plant species composition in predicting habitat suitability. Based on desktop habitat analysis of aerial imagery and a site visit conducted on July 6, 2022, potential suitable eastern black rail habitat is present in the proposed project area. The Service estimated that 1.16 acres of suitable habitat fall within the footprint of Channel F and the ditch that will be filled. Even though suitable vegetation communities are currently present in the proposed project area, shallow water required for suitable habitat is not likely to persist given the rainfall patterns of the region.

Eastern black rails have been documented in estuarine locations in units of the refuge north of SH 100 about 16 miles to the north of the proposed project area. While there are no comprehensive surveys of the region, all confirmed detections within the refuge are associated with persistent water on the landscape. Review of 186 hours of sound files from ARUs placed in two different sites near potential suitable black rail habitat within the proposed project area, did not identify any positive detections. The completed project should result in current wetlands having more persistent water which could benefit black rails. Overall, the project is anticipated to result in net ecological benefits to the estuarine ecosystem of the Bahia Grande unit. Prolonging the hydro-period of these wetlands will lead to more persistent water and expand the transitional black rail habitat surrounding each of the wetland depressions. Because no black rails were detected in the ARU data or during the site visit during the season when most vocalizations should occur, the Service has determined that project activities may affect but are not likely to adversely affect eastern black rail.

Northern Aplomado Falcon

Northern aplomado falcons have been re-introduced to Cameron County and regularly nest within the refuge, using either stick platforms built by other birds or artificial nesting platforms. The species nests only once a year during the dry season (January-June) with most nesting activities occurring in April and May. The two closest known nesting structures are 5,000 ft to the west of the Channel and about 4,000 ft to the north of SH 100. Adverse effects to nesting aplomado falcons will be avoided by close project coordination with Service staff and other avoidance measures. Noise disturbance due to project activities could cause temporary displacement of foraging or roosting aplomado falcons, but the potential for disturbance would be temporary, infrequent, and localized. A large amount of foraging and

roosting habitat occurs throughout the area, and temporary displacement would not measurably affect the aplomado falcons. Therefore, project activities may affect, but are not likely to adversely affect aplomado falcons.

Ocelot and Gulf Coast Jaguarundi

Core habitat area for the Ocelot and Gulf Coast Jaguarundi is within the refuge and is mostly found north SH 100. Both species require dense Tamaulipan thornscrub habitat, which does not occur within or adjacent to the proposed project area. In order to prevent the possibility of vehicle collisions with ocelot and jaguarundi when traveling to and from the proposed project area, contractors will be educated prior to carrying out activities and strictly adhere to speed limits (15 MPH) and driving restrictions while within the refuge. Due to the extremely low probability of encountering an ocelot or jaguarundi in the proposed project area due to lack of suitable habitat, project activities may affect, but are not likely to adversely affect the ocelot or the jaguarundi.

This concludes the Service's review of the proposed Bahia Grande Channel F Wetland Restoration project. No further action pursuant to the Act is necessary unless new information reveals effects of the proposed project that may affect listed species or critical habitat 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 TX TIG have any questions regarding this consultation, please feel free to contact Wildlife Biologist, Adriana Leiva at (281) 898-5686.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

MEMORANDUM FOR: FILE

FROM: Christy Fellas, DWH Environmental Compliance Coordinator
NOAA Restoration Center, Southeast Region

February 3, 2022

SUBJECT: Projects Proposed in Texas Trustee Implementation Group Restoration Plan #2 and Environmental Assessment: EFH No Further Consultation Necessary

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), established procedures designed to identify, conserve, and enhance Essential Fish Habitat (EFH) for those species regulated under a Federal fisheries management plan (FMP). A Federal agency must prepare an EFH Assessment for any Federal action that may adversely affect EFH (50 CPR 600.920(e)(l)). A Federal agency must first determine whether their action may adversely impact EFH. If a Federal agency determines that a Federal action may adversely impact EFH, then the Federal agency must prepare an EFH assessment. If a Federal agency determines that a Federal action will not adversely affect EFH, then the Federal agency is not required to prepare an EFH Assessment.

Based on my review of project materials (Winter 2021) in coordination with representatives from NOAA's Habitat Conservation Division (HCD) in the Southeast Regional Office (SERO), the NOAA Restoration Center determined that the projects listed below, proposed for implementation in the in the Texas Trustee Implementation Group Restoration Plan #2 and Environmental Assessment, will have minimal effects on EFH.

Consultation is complete and HCD did not provide any conservation recommendations and none of the projects below require further EFH evaluation.

- Bahia Grande Channel F Hydrologic Restoration
- Bird Island Cove Habitat Restoration Project Phase II
- Follets Island CMA Additions
- Galveston Island Habitat Acquisition
- Jones Bay Oystercatcher Habitat Restoration
- Lancha Sea Turtle Mitigation Plan
- Landscape Scale Oyster Restoration in Galveston Bay
- Petronilla Creek Constructed Wetlands (E&D only)
- Petronilla Creek Watershed Nutrient Reduction
- Texas Breeding Shorebird and Seabird Stewardship Project
- Upper TX Coast Sea Turtle Rehab Facility

Should any project be modified in a way that could adversely impact EFH, this determination will be reevaluated as appropriate and future consultation could be necessary.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Deepwater Horizon Gulf Restoration Office
341 Greeno Road North, Suite A
Fairhope, Alabama 36532

In Reply Refer To:
FWS/R4/DH NRDAR

December 16, 2022

Jamie Schubert
Marine Habitat Resource Specialist
NOAA Restoration Center
4700 Avenue U
Galveston, Texas 77551

Re: Bahia Grande Hydrological Restoration Project, *Deepwater Horizon* Oil Spill Natural Resource Damage Assessment and Restoration (NRDAR)

Dear Mr. Schubert:

The Department of the Interior (DOI), on behalf of the National Oceanic and Oceanographic Administration, the U.S. Department of Agriculture, and the U.S. Environmental Protection Agency, has completed a review of the Bahia Grande Hydrological Restoration Project under section 106 of the National Historic Preservation Act. As part of this review, DOI consulted with the Texas State Historic Preservation Office (SHPO) and all affected Native American Tribes. DOI has concluded that this project will have "no adverse effect" on historic properties.

The Texas State Historic Preservation Office has requested that contracts involving ground disturbing activities include the following special condition regarding unexpected discoveries during those activities: If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building material, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of the discovery. The applicant shall contact the Emily Dylla at the Texas SHPO (Emily.Dylla@thc.texas.gov 512-463-5915) as well as George Macdonell, the Fish and Wildlife Service Regional Archaeologist (george_macdonell@fws.gov. 505-248-7396). Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during the permitted activities, all work shall stop immediately and the

above noted proper authorities notified.

Additionally, if any cultural or historic resources are discovered during the implementation of this project, work must cease in the vicinity of the discovery and staff must contact Daniel J. Polito, DOI Deepwater Horizon Oil Spill NRDAR Section 106 Coordinator, at (256) 263-0455 or daniel_polito@fws.gov. The discovery of cultural or historic resources may necessitate additional review of this project under NHPA Section 106.

If you have any questions, please contact Daniel J. Polito using the contact information listed above.

Sincerely yours,

Benjamin Frater
Compliance Supervisor

TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

May 25, 2022

Tim Landers
U.S. Environmental Protection Agency
Office of Wetlands, Oceans, and Watersheds
DWH NRDA Team
Washington, D.C. 20460

Re: Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #2: Restoration of Wetlands, Coastal, and Nearshore Habitats; Nutrient Reduction; Oysters; Sea Turtles; and Birds (Draft RP/EA #2)
Projects located in Texas Coastal Management Zone
Texas CMP#: 22-1192-F2

Dear Mr. Landers:

The Deepwater Horizon (DWH) Oil Spill Texas Trustee Implementation Group (TIG) is comprised of federal and state Trustees: the U.S. Department of the Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality. The Texas TIG is proposing thirteen projects for implementation in a restoration plan titled Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #2: Restoration of Wetlands, Coastal, and Nearshore Habitats; Nutrient Reduction; Oysters; Sea Turtles; and Birds (Draft RP/EA #2). Twelve of the proposed projects require consistency review.

Wetlands, Coastal, and Nearshore Habitats projects under review are: Bird Island Cove Habitat Restoration – Construction, Bahia Grande Channel F Hydrologic Restoration, Follets Island Habitat Acquisition Phase 2 and Galveston Island Habitat Acquisition. The Nutrient Reduction project under review Petronila Creek Watershed Nutrient Reduction Initiative. The Oyster project under review is Landscape Scale Oyster Restoration in Galveston Bay. Sea Turtle projects under review are the Upper Texas Coast Sea Turtle Rehabilitation Facility and the Lancha Sea Turtle Mitigation Plan. Bird projects under review are: Laguna Vista Rookery Island Habitat Protection, Jones Bay Oystercatcher Habitat Restoration, San Antonio Bay Bird Island and Texas Breeding Shorebird and Seabird Stewardship.

On February 25, 2022, the EPA published the Notice of Availability of the Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #2:

Restoration of Wetlands, Coastal, and Nearshore Habitats; Nutrient Reduction; Oysters; Sea Turtles; and Birds in the Federal Register. On February 22, 2022, the EPA submitted a consistency determination to the GLO, as required for proposed federal activities in the state's coastal zone. EPA's Consistency Determination asserted that the proposed activities were consistent, to the maximum extent practicable, with the applicable, enforceable policies of the Texas Coastal Management Program (TCMP). Upon being deemed administratively complete the GLO posted the matter for public notice and comment in the Texas Register. The GLO did not receive any comments.

After close coordination between EPA and GLO staff, GLO can confirm that at this phase, the projects are consistent to the maximum extent practicable with the TCMP. Because the plan is at the EA stage, detailed information about project design and construction, and the potential effects on coastal resources, has not yet been generated for some alternatives. For the alternatives that will require a USACE individual permit, the GLO will conduct a full consistency review of those projects when the USACE publishes them for public or interagency comments.

I look forward to continuing a close collaboration between our organizations. If you have any questions or concerns, please contact me at (512) 463-7497 or at federal.consistency@glo.texas.gov.

Sincerely,

Leslie Koza

Leslie Koza
Federal Consistency Coordinator
Texas General Land Office

Cc: James Bove, EPA