United States Department of the Interior

FISH AND WILDLIFE SERVICE
646 Cajundome Blvd.
Suite 400
Lafayette, Louisiana 70506

August 22, 2005

RECEIVED
BY:

Mr. John Rapp
NOAA Restoration Center
Sea Grant Building
Louisiana State University
Baton Rouge, LA 70803

Dear Mr. Rapp:

Please reference your August 12, 2005, letter transmitting the Draft Final Regional Restoration Plan for Region 2 (RRP) and the Programmatic Biological Assessment (BA) for the RRP. You requested the Fish and Wildlife Service's (Service) concurrence with your determination that the proposed actions are not likely to adversely affect the following species under the Service's jurisdiction: the threatened bald eagle (*Haliaeetus leucocephalus*), the endangered brown pelican (*Pelecanus occidentalis*), the threatened piping plover (*Charadrius melodus*) and its critical habitat, the threatened Louisiana black bear (*Ursus ameicanus luteolus*), the endangered West Indian manatee (*Trichechus manatus*), the endangered pallid sturgeon (*Scaphirhynchus albus*), and the threatened loggerhead sea turtle (*Caretta caretta*). The draft final RRP identifies trust resources and services in the region that are likely to be or anticipated to be injured by an oil spill, appropriate restoration types for each of the potentially injured trust resources and services, and potentially available restoration projects for each of the restoration types identified in the RRP. The proposed restoration actions would be located in Ascension, Assumption, Lafourche, Jefferson, Plaquemines, St. Bernard, Orleans, St. Charles, St. John the Baptist and St. James Parishes, Louisiana. The following comments are provided in accordance with provisions of the National Environmental Policy Act (NEPA) of 1969 (83 Stat. 852, as amended; 42 U.S.C. 4321 et seq.), and the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

The BA and RRP describe the following 11 conceptual restoration projects that could be implemented for the restoration of injuries to potentially injured trust resources and services: (1) vegetative planting; (2) vegetative protection; (3) hydrologic restoration; (4) marsh management; (5) dredge and fill; (6) shoreline protection; (7) faunal stocking; (8) sediment diversion; (9) freshwater diversion; (10) outfall management; and, (11) nutrient and sediment trapping. As discussed in the BA, the restoration activities covered by the proposed plan would be designed to meet a "no effect" or "not likely to adversely affect" level for listed species. Any activities not meeting those levels would be addressed by a separate BA.

Bald Eagle

According to the BA, the proposed activities would: have negligible effects on foraging habitat, likely occur outside of the nesting season, would not occur in close proximity to potential nest trees, and would be temporary and occur at small spatial scales.

Brown pelican

According to the BA, the proposed activities would: have negligible effects on foraging habitat, likely occur outside of the nesting season, would not permanently affect suitable nesting habitat, and would be temporary and occur at small spatial scales.

Piping Plover

According to the BA, the proposed activities would: likely occur outside of the wintering season, not permanently affect wintering habitat, would be temporary and occur at small spatial scales, and would occur greater than 2,000 feet away from designated critical habitat.

Louisiana Black Bear

According to the BA, the proposed activities would: likely occur outside of the denning season, are not likely to occur in or near bottomland forests, and would be temporary and occur at small spatial scales. Furthermore, there is no occupied black bear habitat within Region 2 according to our records.

West Indian Manatee

According to the BA, the proposed activities would: be unlikely to occur in Louisiana coastal waters, would be temporary, and would occur at small spatial scales.

Loggerhead Sea Turtle

According to the BA, the proposed activities would: be unlikely to occur in Louisiana coastal waters, would be unlikely to occur near nesting areas, and would be temporary and occur at small spatial scales.

Pallid Sturgeon
According to the BA, the proposed activities would: occur in locations and during periods with the lowest probability of sturgeon presence within the river, are unlikely to entrain sturgeon in diversion structures due to the sturgeon's bottom-dwelling behavior, result in slight changes in river habitat relative to overall habitat availability, and would be temporary and occur at small spatial scales.

As previously discussed in our February 2, 2005, letter, the National Marine Fisheries Service is responsible for aquatic marine threatened or endangered species (i.e., the Gulf sturgeon and sea

turtles in the marine environment). Please contact their office (720/570-5312) in St. Petersburg, Florida, for further consultation concerning those species.

Based on the BA, the RRP, and the information above, we concur with your determination that the action as proposed, is not likely to adversely affect the above-listed species or their critical habitat. No further ESA consultation would be required for this action unless there are changes in the scope or location of the action or the action has not been initiated within one year. If the action has not been initiated within one year, follow-up consultation should be accomplished with the Service prior to making expenditures. If the scope or location of the proposed action is changed, consultation should occur as soon as such changes are made.

We appreciate the opportunity to comment on the proposed activity. If you have any questions regarding our comments, please contact Deborah Fuller (337/291-3124) of this office.

Sincerely,

James F. Boggs
Acting Supervisor
Louisiana Field Office

cc: LDWF, Natural Heritage Program, Baton Rouge, LA