



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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May 7, 2020

Mr. Ben Pollack
Federal Emergency Management Agency
3003 Chamblee Tucker Road
Atlanta, GA 30341

Re: FWS No: 2020-FE-0346
Project: Gulf County Dune/Berm Wildlife
Beach Project
FEMA No: PA-04-FL-4399--00630
Location: Gulf County, Florida

Dear Mr. Pollack:

The Federal Emergency Management Agency (FEMA) has initiated consultation on an emergency dune/berm construction project in Gulf County designed primarily for the enhancement of fish and wildlife resources and habitats, with secondary benefits of providing structural protection for coastal development within the project area. Although largely beneficial, this project will have impacts on coastal species, including the St Andrew beach mouse (*Peromyscus polionotus peninsularis*) (SABM), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*) and nesting sea turtles. FEMA has determined the project may affect, likely to adversely affect nesting sea turtles, St. Andrew beach mouse (SABM), piping plover, and red knot. This consultation request is pursuant to the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq).

Gulf County (applicant) is seeking financial assistance from FEMA and has submitted a project description and design that will be included as additional terms and conditions in this BO amendment. FEMA and the applicant are proposing to install 305,358 cubic yards (cy) of beach quality sand on the St. Joe Beach area (86,467 cy), St. Joe Peninsula beaches (97,091 cy), and Indian Pass beaches (121,800 cy) in Gulf County (Figure 1). This project is in response to devastating erosion caused by storm surge from Hurricane Michael, which made landfall in the area on October 10, 2018. The project area falls between R1 and R15 along 3 miles on St. Joe Beach, R 77 and R 105 along 3.1 miles of beach on the St. Joe Peninsula; and R 135 and R 155 along 3.9 miles of beach on Cape San Blas/Indian Pass (also noted on Figure 1). Construction activities will entail 12,720 truckloads (St. Joe Beach 3,600; St. Joe Peninsula 4,045; and Indian Pass 5,075) entering the beach at designated existing access points and traveling to each site via the beach. The anticipated timeframe is September 2020 through April 2021, with the understanding that this timeline may be extended due to unforeseen circumstances. No work

will occur at night time; no new beach access points will be created, and sand will not be placed on existing dune habitat. The design of the project (designed by MRD Associates, Inc.) on St. Joe Peninsula and Indian Pass beaches will consist of dune-like structures that are inverted from each other, tapered off at the ends, and then over lapping shown in detail in Figure 2 (full concept drawings for Indian Pass reach can be found in Appendix A). This will create a more natural functioning ecosystem with dunes, swales, and open pockets of sand that are ideal for nesting and roosting shorebirds. The design on St. Joe beach will be the more traditional berm design due to the available space on the beach to fit the project.



Figure 1. Location of each of the 3 reaches of the project.

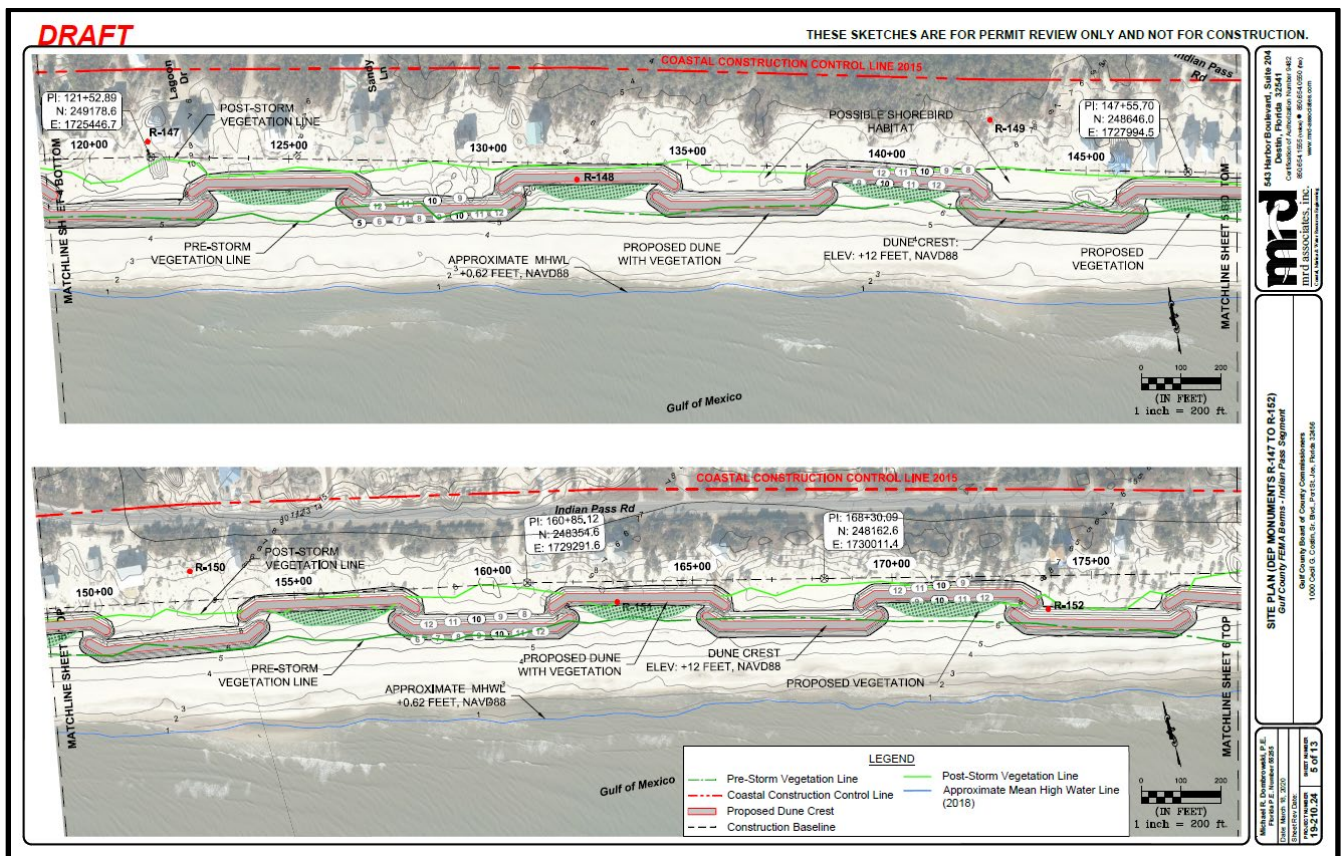


Figure 2. Conceptual design for project features on St. Joe Peninsula and Indian Pass beaches.

The U.S. Fish and Wildlife Service (USFWS) reviewed this project separately under the requirements of the ESA as well as the Coastal Barrier Resources Act (CBRA) to ensure the project design, conservation measures, and monitoring requirements were consistent with both Acts, as well as other recently permitted projects in the same area. The USFWS has been working with Gulf County (applicant) to ensure that the proposed project is focused on enhancement of fish and wildlife resources and habitats, while also meeting the needs for structural protection. On April 3, 2008, USFWS signed and implemented the FEMA Emergency Berm Repair for the Florida Coast Statewide Programmatic Biological Opinion (FEMA Berm BO) (Appendix B) which would cover the Atlantic and Gulf coastlines in Florida. The intent of the FEMA Berm BO was to provide a streamlined approach for coordination between FEMA and USFWS in the event of emergencies affecting the coastline, such as erosion from hurricanes. The USFWS, FEMA, and Gulf County decided that an amendment to the FEMA Berm BO would address the minor changes needed to ensure the project is consistent with other projects in the area and that it meets the conservation needs of the federally listed species in the St. Joseph Peninsula reach and the Indian Pass reach. The St. Joe Beach reach will solely be covered by the FEMA Berm BO as there is not enough space to alter the design. This amendment letter does not change the existing jeopardy analysis and conclusion for SABM, piping plover, and the five nesting sea turtle species stated in the FEMA Berm BO. The FEMA Berm BO does not include red knots, as they were listed in 2015. However, the analysis for impacts from berm placement is similar to a constructed dune, and therefore, we are using the piping plover and other shorebird provisions in the FEMA Berm BO to suffice the ESA consultation requirement for this project. At the request of FEMA, the USFWS has reviewed the project to include potential impacts to the red knot. While the increased human and construction presence on the beach does have the potential to directly and indirectly affect wintering red knots, the USFWS has determined that the conservation measures, reasonable and prudent measures, and terms and conditions adopted

for piping plovers and nesting shorebirds required within the FEMA Berm Bo will also cover impacts to red knots. The applicant is also currently implementing the conservation measures, reasonable and prudent measures, and terms and conditions from both the *St. Joseph Peninsula Beach Re-nourishment and Environmental Enhancement Project Biological Opinion* (dated June 30, 2017), and *Re-nourishment Amendment 1* (dated October 29, 2019) (Appendix C). These two documents cover specific requirements for red knots as well. The baseline for red knots has likely not changed significantly since Amendment 1 was issued for the St Joseph Peninsular area. We lack regular survey data to inform the number of red knots that use the Indian Pass beach during migration or winter months. A winter shorebird survey conducted statewide in early February 2020 documented 80 red knots using St. Vincent National Wildlife Refuge (SVNWR) in Franklin County but we understand that flocks on SVNWR also use the Indian Pass area for roosting and foraging. The USFWS believes that up to 80 additional red knots may be impacted by the proposed project, largely from disturbance, but with the avoidance and minimization measures adopted in each of the applicable BOs, plus the required monitoring, we should be able to better understand the status of the species in the project area. The USFWS, FEMA, and the applicant understand that the terms and conditions that were required for the beach nourishment project as well as the ongoing post-construction conditions will be the same and extra conditions will not be required unless they are specifically identified in this amendment.

The USFWS concurs with FEMA determinations of may affect, likely to adversely affect the SABM, piping plover, red knot, and nesting sea turtles. The applicant has designed the project to avoid and minimize impacts accordingly. Furthermore, the impacts to sea turtles will be minimized if the construction can be timed to occur outside of the majority of the nesting season. The impacts to federally listed shorebirds will be minimized by the conservation actions that the applicant is incorporating into the project, such as identifying and protecting undisturbed areas for feeding and roosting. The long term benefits to the SABM population will benefit from this dune/berm project, as it will provide a corridor for SABM to expand from their two core areas (St. Joe State Park and Rish Park) following the devastating impacts from Hurricane Michael. Sea turtles will see long term benefits by having a dune structure for nesting that should remain out of the high-tide line and that should help block artificial light sources from land. Shorebirds will benefit from the open sandy spaces created with the offset and overlapping created dunes which should act as a buffer from development and beachgoers.

FEMA is covered for take for all the covered species (except red knot) under the FEMA Berm BO, up to 75 miles of berm impact from emergency declaration areas within Florida. This project encompasses 7 miles and is not expected to exceed the threshold for all Florida projects under disaster declarations. This document will provide red knot coverage for FEMA. Gulf County recently finished installing a beach re-nourishment project in the same action area (some parts are still ongoing) covered under Corps permit number SAJ-2006-04471 (SP-TLW). And Gulf County is still complying with the post construction permit conditions for monitoring for sea turtles, piping plover and red knots. This proposed FEMA dune/berm project will be placing sand on an area that is still trying to establish equilibrium and relative stability within this dynamic ecosystem. It is unlikely the natural resources in this area have reestablished enough to warrant additional take on top of what was given under the Corps permit for beach nourishment. The ongoing monitoring for red knot and piping plover will suffice the requirements for this permit as well. This will preclude excessive monitoring that could causing unintentional disturbance by having extra people on the beach conducting the same work. It also prevents the perception of double dipping for monitoring the same resource. The same avoidance and minimizations measures, as well as reasonable and prudent measures, and term and conditions

incorporated in the programmatic FEMA Berm BO are still active today. Additional terms and conditions and conservation measures have been added or clarified. This updated document reflects the best available science and updated conservation measures to benefit federally listed coastal species. The following conservation actions agreed to by USFWS, FEMA, and Gulf County are the updated terms and conditions that are in addition to the programmatic FEMA Berm BO terms and conditions. They are as follows:

Design and Construction

1. Restoration of dune habitat will allow for an acceptable width and amount of primary dune and beach habitat based on the restoration protocol and the specific beach features in the project area developed in consultation with the Service.
 - a. FEMA and Gulf County have agreed to implement this measure, using a refined option 3 design, as discussed on March 27, 2020.
2. Any sand and vegetation placement projects (dunes, starter dunes, beach nourishment etc.) will be tapered 75 to 150 feet from inlet and outfall areas.
 - a. FEMA and Gulf County have agreed to implement a minimum 100-foot distance, using a refined option 3 design, as discussed on March 27, 2020.
3. Project construction activities will attempt to avoid key nesting seasons of protected species.
 - a. FEMA and Gulf County have agreed to implement this measure to the best of their ability, as discussed on March 27, 2020. Proposed project start date is September 1, 2020, with construction expected to take nine months.
4. No wrack removal will occur in the project footprint.
 - a. FEMA and Gulf County discussed this measure on March 27, 2020 and agreed that exceptions will apply when there are red tide outbreak or other natural events that may have negative impacts to human health. During such times, wrack will be deposited at the toe of the dune for natural fertilization of the dune vegetation, which is generally standard operating procedure for Gulf County.
5. For projects that affect the inter-tidal areas on the beach, shoreline segments/zones where no sand deposition is allowed will be established for survival and recovery of invertebrate food resources in identified areas with highest concentrations of shorebirds OR at a regular interval along the beach per the restoration protocol.
 - a. Not applicable
6. No sand or impacts will occur in permanent and ephemeral pools, lagoons and sand spits. These provide optimal foraging and roosting areas year around for shorebirds.
 - a. FEMA and Gulf County have agreed to implement this measure if such features occur in the project area, as discussed on March 27, 2020.
7. The USFWS discourages the use of sand fencing, but, if it is deemed necessary, Applicant will agree to follow USFWS-provided best management practices, including removal of sand fencing within 6 months of installation (see this publication: Miller, D., Thetford, M., Verlinde, C., Campbell, G., Smith, A. 2018. Dune Restoration and Enhancement for the Florida Panhandle, available at <http://edis.ifas.ufl.edu>).
 - a. FEMA and Gulf County have agreed to implement this measure, as discussed on March 27, 2020, by minimizing the use of sand fencing and, if appropriate, substituting additional planting of larger clumps of vegetation as much as practicable. The Service supports the installation of additional plantings in these areas over sand fencing for the FEMA funded project.

Maintenance and Monitoring

8. Maintenance of restoration features will occur for the life of the permit and will be the responsibility of the applicant. Following significant storm damage, these areas will be restored.
 - a. Not applicable because the project is not authorized for permanent funding at this time.
9. Monitoring is the responsibility of the applicant and protocols for listed species and habitat features such as vegetative survival, expansion, and dune growth will be detailed in the restoration protocol. Per the adaptive management protocol, if certain restoration features are not successful, modifications within the intent and scope of the original action will be made (i.e., a replanting or re-stabilization of a vegetative island).
 - a. FEMA and Gulf County have agreed to implement this measure, as discussed on March 27, 2020. If shorebird monitoring is not being conducted by other entities, it will be required every two weeks year around. Planted vegetation shall also be monitored for survival for a one-year post-installation period and replanted as needed using the 80% survivability criteria. The Service and Gulf County will work together to streamline all monitoring requirements within the project area.
10. Access will be granted for USFWS and other federally permitted personnel to conduct monitoring, surveys, predator control, and translocations.
 - a. FEMA and Gulf County have agreed to accommodate this measure, as discussed on March 27, 2020.

Compliance and Enforcement

11. Compliance and enforcement will be the responsibility of the applicant for the following rules within the habitat restoration project area:
 - a. Post and rope (and signage if needed for compliance) will be installed >10 feet seaward of the starter dune to prevent human disturbance. For large projects this may not be achievable so focus will be on documented high disturbance areas.
 - FEMA and Gulf County have agreed to work with the USFWS to apply this measure in identified key areas and key timing, as discussed on March 27, 2020.
 - b. Wildlife friendly lighting (The Dark Skies Initiative) will be used at a minimum where lighting is needed, and existing ordinances will be enforced. Lighting considerations will be incorporated throughout the entire affected coastal dune habitat to encompass all nocturnal coastal wildlife.
 - Gulf County has adopted and implements Lighting Ordinance 2001-09 and has agreed to continue to apply these measures throughout the project area covered by the Ordinance, which created regulations for the protection of sea turtles and other enumerated species, as discussed on March 27, 2020.
 - c. Flashlights used on beaches must be turtle friendly.
 - FEMA and Gulf County have agreed to educate the public, as discussed on March 27, 2020.
 - d. Nighttime activities, other than walking, will not be permitted on the beach in the project footprint (for example, fires, driving, pets on beach).
 - Gulf County already restricts night-time driving so enforcement of this provision will occur. FEMA and Gulf County agree to keep the dialogue open with the Service on developing guidelines specific to Gulf County regarding night-time fires, if not already restricted during sea-turtle nesting season (May 1 until September 30) by Florida Fish & Wildlife Conservation Commission, as discussed on March 27, 2020.

- e. Pets will not be permitted on the beach in the project footprint (although, depending on the scope of the project, some limited areas may be used by pets if already authorized).
 - FEMA and Gulf County agreed, as discussed on March 27, 2020, to keep dialogue open with the Service on ways to reduce pet impacts on the beach, while continuing enforcement of local leash laws under Animal Control Ordinance 2008-20.
- f. Driving will not be permitted on the beach in the project footprint (although, depending on the scope of the project, some areas may be used for driving if already authorized).
 - FEMA and Gulf County agreed, as discussed on March 27, 2020, to keep dialogue open with the Service on ways to reduce impacts from driving on the beach, while continuing enforcement of local beach-driving laws, such as no night-time driving while continuing to allow day-time driving in existing authorized areas.
- g. Predators will be deterred through installation of predator-proof trash receptacles at select roadside access points. No beachside trash receptacles are allowed.
 - FEMA and Gulf County have agreed to continue to apply this measure throughout the project area, as discussed on March 27, 2020, in areas where this is not already being implemented.
- h. Educational kiosks or signage will be placed at primary access points throughout the project site to provide information about coastal species and the benefit of habitat restoration, and a receptacle for fishing line will also be placed at access areas.
 - FEMA and Gulf County have agreed to apply this measure throughout the project area, as discussed on March 27, 2020, in areas where this is not already being implemented.
- i. The Leave No Trace Ordinance will be enforced.
 - Gulf County adopted and implements Leave No Trace Ordinance No. 2015-07 and have agreed to continue to apply these measures throughout the project area covered by the Ordinance, as discussed on March 27, 2020.

Staff from Gulf County and USFWS will continue to work on this project and others into the future. There remains a commitment from both entities to keep dialogue open and share important data related to Gulf County beach and federally protected species and their habitats.

These conditions are based on current species needs and are consistent with the recent nourishment project Gulf County just completed. This BO amendment addresses and incorporates the revised terms and conditions that were taken from the FEMA CBRA letter dated April 6, 2020 (Appendix D). We have attempted to provide consistency and transparency in our review process for the multiple projects and documents related to this area.

Written correspondence from the applicant stating that these new conditions are understood and will be followed is required within 30 days of receiving this amended BO. Non-compliance can result in law enforcement action, stopping of the project, or revocation of the USFWS permit.

This letter constitutes the first project specific amendment to the March 26, 2008 FEMA Emergency Berm Repair for the Florida Coast Biological Opinion and incorporates all the additional information described above per the ESA. If you have any questions or comments,

specifically about the referenced Terms and Conditions or Reasonable and Prudent Measures and their applicability, please contact Kristi Yanchis of the Panama City Field Office at kristi_yanchis@fws.gov.

Sincerely,

Sean Blomquist, PhD.
Acting Field Supervisor

Enclosure:

- Appendix A – DRAFT Permit Drawings and General Specification for Indian Pass reach.
- Appendix B – FEMA Emergency Berm Repair for the Florida Coast; April 3, 2008
- Appendix C – St. Joseph Peninsula Beach Re-nourishment and Environmental Enhancement Project Biological Opinion Amendment 1; October 29, 2019.
- Appendix D – Coastal Barrier Resource Act Consultation Letter; April 6, 2020

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Appendix A

Appendix B

Appendix C

Appendix D