



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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Suite 400  
Lafayette, Louisiana 70506

May 8, 2006

Rules Docket Clerk  
Office of General Counsel  
Federal Emergency Management Agency, Room 406  
500 C Street, SW  
Washington, D.C. 20472

Dear Rules Docket Clerk:

The U.S. Fish and Wildlife Service (Service) has reviewed the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) Notice of NEPA Alternative Arrangements for Critical Physical Infrastructure in the New Orleans Metropolitan Area, St. Bernard, Plaquemines, Jefferson, St. Charles, Lafourche, Terrebonne, St. John the Baptist, St. Tammany, and St. James Parishes, Louisiana, that was published in the Federal Register (Volume 71, No. 56, pg. 14712) on March 23, 2006 (Docket No. FEMA-2006-0005, our number 06/0293). We have reviewed the information provided, and offer the following comments in accordance with provisions of the National Environmental Policy Act (NEPA) of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.), the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act (40 Stat. 755, as amended; 16 U.S.C. 703 et seq.), and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

FEMA, a component of DHS, anticipates administering a large number of grant applications for the restoration and reconstruction of critical physical infrastructure within the New Orleans Metropolitan Area (NOMA) that was damaged by Hurricanes Katrina and Rita. The DHS and the Council on Environmental Quality have established Alternative Arrangements, in accordance with CEQ and FEMA regulations (40 CFR 1506.11 and 44 CFR 10.13, respectively), to meet the requirements of NEPA and enable timely action on administering those grants in order to restore safe and healthful living conditions in the NOMA. Critical physical infrastructure to be reconstructed with the aid of FEMA grants and reviewed under the Alternative Arrangements for NEPA compliance includes hospitals and health care facilities, utilities and wastewater treatment plants, permanent police and fire stations, government and court administration buildings, detention centers (i.e., jailhouses), and permanent schools.

FEMA will continue to provide ample opportunities for the public and stakeholders to become

involved in the review process by conducting meetings with the local officials and the applicant, developing of an internet web page (i.e., [www.fema.gov/ehp/noma](http://www.fema.gov/ehp/noma)), and becoming involved with other public forums such as state and local meetings and hearings. To assist with the environmental review, FEMA will incorporate available environmental and planning documents (e.g., Environmental Impact Statements and Master Plans) gathered by other agencies for other projects that were reviewed prior to Hurricanes Katrina and Rita.

Based on communications with our Regional Office, the Regional Director for the Service has indicated that we will consider all Hurricanes Katrina- and Rita-related Federal activities in Parishes within Presidentially-declared disaster areas to be disaster-related. Accordingly, section 7(p) of the ESA and emergency consultation provisions of the regulations that implement the ESA will be used. Within the declared disaster areas, therefore, section 7(p) of the ESA is interpreted to mean that restoring any infrastructure damaged or lost due to the hurricane back into the original footprint does not require ESA consultation with the Service. For those proposed activities that are not covered under section 7(p), however, the Service recommends that this office be contacted for further emergency consultation once specific details of the proposed projects are determined.

Several federally listed threatened and endangered species are known to occur in the NOMA, which is identified in the March 23, 2006, memorandum to include St. Bernard, Plaquemines, Jefferson, St. Charles, Lafourche, Terrebonne, St. John the Baptist, St. Tammany, and St. James Parishes, Louisiana. Below is a brief description of those species to assist FEMA in assessing potential project effects and in determining whether any of the proposed future actions are "likely or not likely to adversely affect" those species.

Federally listed as a threatened species, bald eagles (*Haliaeetus leucocephalus*) nest in Louisiana from October through mid-May. Eagles typically nest in bald cypress trees near fresh to intermediate marshes or open water in the southeastern Parishes. Areas with high numbers of nests include the Lake Verret Basin south to Houma, the southern marsh/ridge complex from Houma to Bayou Vista, the north shore of Lake Pontchartrain, and the Lake Salvador area. Eagles also winter and infrequently nest near large lakes in central, southwestern, and northern Louisiana. Major threats to the species include habitat alteration, human disturbance, and environmental contaminants (i.e., organochlorine pesticides and lead). Should any reconstruction activities encroach within 1,500 feet of an active bald eagle nest during the nesting season (i.e., October through mid-May), or damage/kill a known nest tree at any time, the Service recommends contacting this office for endangered species emergency consultation.

The endangered red-cockaded woodpecker (RCW, *Picoides borealis*) nests in open, park-like stands of mature (i.e., greater than 60 years of age) pine trees containing little hardwood understory or midstory. RCWs can tolerate small numbers of overstory hardwoods or large midstory hardwoods at low densities found naturally in many southern pine forests, but they are not tolerant of dense hardwood midstories resulting from fire suppression. RCWs excavate roost and nest cavities in large living pines (i.e., 10 inches or greater in diameter at breast height). The cavity trees and the foraging area within 200 feet of those trees are known as a cluster. Foraging habitat is defined as pine and pine-hardwood (i.e., 50 percent or more of the dominant trees are

pinus) stands over 30 years of age that are located contiguous to and within one-half mile of the cluster. Should any reconstruction activities require clearing of suitable RCW habitat (as described) within St. Tammany Parish, the Service recommends contacting this office for endangered species emergency consultation.

Federally listed as an endangered species, West Indian manatees (*Trichechus manatus*) occasionally enter Lakes Pontchartrain and Maurepas, and associated coastal waters and streams during the summer months (i.e., June through September). Manatees have been regularly reported in the Amite, Blind, Tchefuncte, and Tickfaw Rivers, and in canals within the adjacent coastal marshes of Louisiana. They have also been occasionally observed elsewhere along the Louisiana Gulf coast. The manatee has declined in numbers due to collisions with boats and barges, entrapment in flood control structures, poaching, habitat loss, and pollution. Cold weather and outbreaks of red tide may also adversely affect these animals. Should reconstruction activities involve in-stream activity within the above referenced waterbodies during the summer months, the Service recommends contacting this office for endangered species emergency consultation.

Federally listed as an endangered species, brown pelicans (*Pelecanus occidentalis*) are currently known to nest on Raccoon Point on Isles Dernieres, as well as Queen Bess Island, Plover Island (Baptiste Collette), Wine Island, Rabbit Island in Calcasieu Lake, and islands in the Chandeleur chain. Pelicans change nesting sites as habitat changes occur; thus, they may also be found nesting on mud lumps at the mouth of South Pass (Mississippi River Delta) and on small islands in St. Bernard Parish. In spring and summer, nests are built in mangrove trees or other shrubby vegetation, although occasional ground nesting may occur. Brown pelicans feed along the Louisiana coast in shallow estuarine waters, using sand spits and offshore sand bars as rest and roost areas. Should reconstruction activities directly or indirectly impact brown pelicans, the Service recommends contacting this office for endangered species emergency consultation.

Federally listed as a threatened species, the piping plover (*Charadrius melodus*), as well as its designated critical habitat, occur along the Louisiana coast. Piping plovers winter in Louisiana, and may be present for 8 to 10 months. They arrive from the breeding grounds as early as late July and remain until late March or April. Piping plovers feed extensively on intertidal beaches, mudflats, sandflats, algal flats, and wash-over passes with no or very sparse emergent vegetation; they also require unvegetated or sparsely vegetated areas for roosting. Roosting areas may have debris, detritus, or micro-topographic relief offering refuge to plovers from high winds and cold weather. In most areas, wintering piping plovers are dependent on a mosaic of sites distributed throughout the landscape, because the suitability of a particular site for foraging or roosting is dependant on local weather and tidal conditions. Plovers move among sites as environmental conditions change.

On July 10, 2001, the Service designated critical habitat for wintering piping plovers (Federal Register Volume 66, No. 132). Their designated critical habitat identifies specific areas that are essential to the conservation of the species. The primary constituent elements for piping plover wintering habitat are those habitat components that support foraging, roosting, and sheltering and the physical features necessary for maintaining the natural processes that support those habitat

components. Constituent elements are found in geologically dynamic coastal areas that contain intertidal beaches and flats (between annual low tide and annual high tide), and associated dune systems and flats above annual high tide. Important components (or primary constituent elements) of intertidal flats include sand and/or mud flats with no or very sparse emergent vegetation. Adjacent unvegetated or sparsely vegetated sand, mud, or algal flats above high tide are also important, especially for roosting plovers. Major threats to this species include the loss and degradation of habitat due to development, disturbance by humans and pets, and predation. Should reconstruction activities directly or indirectly impact piping plovers or their designated critical habitat, the Service recommends contacting this office for endangered species emergency consultation.

The Gulf sturgeon (*Acipenser oxyrinchus desotoi*), federally listed as a threatened species, is an anadromous fish that occurs in many rivers, streams, and estuarine waters along the northern Gulf coast between the Mississippi River and the Suwanee River, Florida. In Louisiana, Gulf sturgeon have been reported at Rigolets Pass, rivers and lakes of the Lake Pontchartrain basin, and adjacent estuarine areas. Spawning occurs in coastal rivers between late winter and early spring (i.e., March to May). Adults and sub-adults may be found in those rivers and streams until November, and in estuarine or marine waters during the remainder of the year. Sturgeon less than two years old appear to remain in riverine habitats and estuarine areas throughout the year, rather than migrate to marine waters. Habitat alterations such as those caused by water control structures that limit and prevent spawning, poor water quality, and over-fishing have negatively affected this species. Should reconstruction activities directly or indirectly affect Gulf sturgeon, the Service recommends contacting this office for endangered species emergency consultation.

The pallid sturgeon (*Scaphirhynchus albus*) is an endangered fish found in both the Mississippi and Atchafalaya Rivers (with known concentrations in the vicinity of the Old River Control Structure Complex); it is possibly found in the Red River as well. The pallid sturgeon is adapted to large, free-flowing, turbid rivers with a diverse assemblage of physical characteristics that are in a constant state of change. Detailed habitat requirements of this fish are not known, but it is believed to spawn in Louisiana. Habitat loss through river channelization and dams have adversely affected this species throughout its range. Should reconstruction activities occur within the Mississippi River, the Service recommends contacting this office for endangered species emergency consultation.

The gopher tortoise (*Gopherus polyphemus*), federally listed as a threatened species, is associated with areas that have well-drained, sand or gravel soils appropriate for burrow establishment, ample sunlight for nesting, and understory vegetation suitable for foraging (i.e., grasses and forbs). Gopher tortoises prefer "open" longleaf pine-scrub oak communities that are thinned and burned every few years. They also inhabit existing maintained transmission rights-of-way within Washington, Tangipahoa, and St. Tammany Parishes. The gopher tortoise is the only native tortoise found in the southeastern United States. Habitat degradation (lack of thinning or burning on pine plantations) and conversion to agriculture or urbanization have contributed to the decline of that species. That habitat decline has concentrated remaining gopher tortoise populations along pipeline and powerline rights-of-way within their range. Should reconstruction activities occur within suitable gopher tortoise habitat (as described) within St. Tammany Parish, the

Service recommends contacting this office for endangered species emergency consultation.

Federally listed as an endangered plant species, the Louisiana quillwort (*Isoetes louisianensis*) grows on sand and gravel bars on the accreting sides of streams and moist overflow channels within riparian forest communities in Washington and St. Tammany Parishes, Louisiana, as well as 10 counties in Mississippi and 2 counties in Alabama. The Louisiana quillwort is a small, semi-aquatic, facultative evergreen plant with spirally arranged leaves (sporophylls) arising from a globose, two-lobed corm. The hollow leaves are transversely septate, and measure approximately 0.12 inches wide and up to 16 inches long. Major threats to this species are habitat loss through hydrologic modifications of stream habitat, and land use practices that significantly alter stream water quality and hydrology. Apparently, it is dependent on a special hydrologic regime resulting from the presence of small springs scattered at the base of banks or bluffs. The Louisiana quillwort may be directly or indirectly impacted by construction activities that destroy their colonies, or that reduce their habitat via water quality degradation or changes in stream morphology. Should reconstruction activities occur within suitable Louisiana quillwort habitat (as described) within St. Tammany Parish, the Service recommends contacting this office for endangered species emergency consultation.

The threatened ringed map (=sawback) turtle (*Graptemys oculifera*) is endemic to the Pearl River system. In Louisiana, it occurs in the Bogue Chitto River south of Franklinton, and in the Pearl River north of Louisiana Highway 190 in St. Tammany and Washington Parishes. It is found in riverine habitats with moderate currents, channels wide enough to permit sunlight penetration for several hours each day, numerous logs for basking, and large, sandy banks that are used for nesting. Habitat loss (loss of exposed sandbars, basking areas) and water quality degradation (which decreases food supply) have contributed to the decline of this species. Should reconstruction activities occur within suitable threatened ringed map turtle habitat (as described) within St. Tammany Parish, the Service recommends contacting this office for endangered species emergency consultation.

Endangered and threatened sea turtles forage in the nearshore waters, bays and sounds of Louisiana. The National Marine Fisheries Service is responsible for aquatic marine threatened or endangered species. Please contact Bob Hoffman (727/551-5774) in St. Petersburg, Florida, for information concerning those species in the aquatic environment.

Colonial nesting waterbirds may be present in the proposed project areas. Colonies may be present that are not currently listed in the database maintained by the Louisiana Department of Wildlife and Fisheries. That database is updated primarily by monitoring the colony sites that were previously surveyed during the 1980s. Until a new, comprehensive coast-wide survey is conducted to determine the location of newly-established nesting colonies, we recommend that a qualified biologist inspect the proposed work site for the presence of undocumented nesting colonies during the nesting season. To minimize disturbance to colonial nesting birds, the following restrictions on activity should be observed:

1. For colonies containing nesting wading birds (i.e., herons, egrets, night-herons, ibis, and roseate spoonbills, anhingas, and/or cormorants), all activity occurring within 1,000 feet

of a rookery should be restricted to the non-nesting period (i.e., September 1 through February 15, depending on species present).

2. For colonies containing nesting gulls, terns, and/or black skimmers, all activity occurring within 650 feet of a rookery should be restricted to the non-nesting period (i.e., September 16 through April 1, depending on species present).
3. In addition, we recommend that on-site contract personnel be informed of the need to identify colonial nesting birds and their nests, and should avoid affecting them during the breeding season.

The proposed projects may affect wetlands within the New Orleans Corps of Engineers' (Corps) regulatory jurisdiction. Projects reviewed under the Alternative Arrangement would still be required to comply with all other environmental and historic preservations laws and executive orders, including Section 404 of the Clean Water Act. If the Corps determines that a proposed project reviewed under the Alternative Arrangement is within their jurisdiction, official Service comments would be provided in response to the corresponding Public Notice issued by the Corps.

We appreciate the opportunity to review the subject document. If you have any questions or require further information, please contact Angela Trahan (337/291-3137) of this office.

Sincerely,



James F. Boggs  
Acting Supervisor  
Louisiana Field Office

cc: FWS, Atlanta, GA (Attention: Jeff Weller)