

## **FINDING of NO SIGNIFICANT IMPACT**

for the

Alabama Dune Restoration Cooperative Project; corrective action: Veteran's Road Dune Walk-overs, Fort Morgan, Environmental Assessment

### **INTRODUCTION, PURPOSE AND NEED**

The Department of the Interior (DOI), on behalf of the Bureau of Land Management (BLM), Southeastern States District Office, conducted an environmental assessment (EA) to construct two public dune walk-over structures on the Veteran's Road tracts on the Fort Morgan Peninsula in Baldwin County, Alabama. The project will be implemented by the BLM. This project was proposed to protect designated Alabama beach mouse critical habitat, while providing essential public access to the beach. This project is considered a "corrective action" for a *Deepwater Horizon* Oil Spill (Spill) Phase I Early Restoration project that was completed in 2014. The Early Restoration Phase I Alabama Dune Restoration Cooperative Project consisted of planting native vegetation and installing dune fencing to enhance dunes injured by the Spill or response activities. However, beachgoers consistently traverse the dunes causing damage to the vegetation and Alabama beach mouse critical habitat. The dune walk-overs would alleviate that damage by giving beachgoers access via elevated boardwalks over the recently vegetated dunes to the beach. No increase in use of the area by residents or visitors is anticipated to happen because of the project.

The broader environmental analyses of these types of actions as a whole are discussed in the 2014 Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS) from which the EA is tiered. The EA provides NEPA analysis for potential impacts for site specific issues and concerns anticipated from implementation of the Proposed Action, the Fish House Road Design Alternative and the No Action Alternative. The Proposed Action and the Fish House Road Design Alternative are almost identical, with only a minor difference in design for the western walk-over. The Fish House Road Design Alternative was provided initially to determine if the general public had a preference for designs. During a public meeting that was held on September 24, 2015, no comments were received regarding preferences for the Proposed Action design or Fish House Road Design Alternative. As a result, we are proposing that the design described in the Proposed Action and shown in Figure 1 be the preferred alternative.

### **EXTERIOR SCOPING**

A public meeting was held on September 24, 2015 to inform local residents of the proposed project and to solicit their input. Letters were sent inviting residents and interested parties to attend. The meeting was held at the site of the proposed project. Interested parties were also provided telephone and email information to provide comments. Comments were generally in favor of the proposed project. The primary concern expressed was the potential for the dune walk-overs to lead to additional unauthorized parking in the area. If that occurs, BLM will address the issue in the future.

### **DETERMINATION**

Based upon a review of EA-020-2013-25-JFO and supporting documents, we have determined that the proposed action is not a major federal action, and will not significantly affect the quality of the human environment, individual or cumulatively, with other actions in the general area. No

environmental effects meet the definition of significance in context or intensity as defined in 40 CFR 1508.27. This finding is based on the context and intensity of the project as described:

**Context:** The project consists of constructing two wooden dune walk-overs intended to protect dunes and Alabama beach mouse critical habitat by funneling pedestrian foot traffic onto the walk-overs and off of the dunes. Dune walk-overs are commonly used in the region to protect dunes from foot traffic.

**Intensity:** The dune walk-overs will be constructed in designated critical habitat of the endangered Alabama beach mouse and a small portion of the project will be constructed in potential nesting habitat for threatened and endangered sea turtles.

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal:

**1. Impacts that may be both beneficial and adverse.**

**Geology and Substrates** - Some localized soil disturbance during construction is expected. With deep sand and flat terrain there is little potential for compaction or erosion.

**Air Quality** - Project implementation would require the use of equipment which would temporarily affect air quality in the project vicinity due to construction vehicle emissions. However, this impact would be short-term, only occurring during active construction activities. Any adverse impacts to air quality would be short-term and minor.

**Tourism and Recreation** - Construction could be disruptive for the residents during the anticipated 5 weeks of mobilization and construction. There would be additional traffic on the "dead-end" road. There are no public parking areas, and equipment would need to be moved to the site as needed. There would be increased noise as pilings are set and there is potential for heavy equipment to damage the gravel road. There are residents using some of the homes in the area year round, but visitation is expected to be highest during the summer, school vacations and weekends. Notification of residents should precede construction and every attempt made to minimize disruption by staging off-site.

**Migratory Birds** - Work will occur outside of bird nesting season. Wet beach immediately adjacent to the project area and supratidal zone is used for loafing. Shorebirds and wading birds may be flushed from the work area particularly as construction nears the open sand beach. These effects are expected to be short-term (days) and not result in longer term changes in use by shorebirds or wading birds. In

September 2015, DOI coordinated with the U.S. Fish and Wildlife Service (USFWS) to ensure that the corrective action does not result in violations of the Migratory Bird Treaty Act (DOI 2015).

**Habitats and Wildlife** - Native vegetation would be disturbed where pilings are placed. With “top down” construction (using newly constructed portions of the dune walk-over as staging area for additional construction), loss of vegetation would be minimized. There is likely to be some trampling within the construction footprint, but with roots left, are likely to recover and the effects are expected to be temporary. Sea oats would be planted as needed to replace or augment native plants on and around the construction site. Beneficial impacts are expected as visitors walking on a safe, easily accessible dune walk-over with educational signage would be less likely to walk through the dunes and disturb Alabama beach mouse critical habitat. Wildlife is not expected to be negatively affected. Measures used for habitat protection and protected species would benefit wildlife in general.

**Aesthetics and Visual Resources** - New structures between residences and the shoreline could alter residents’ view and experience. Dune walk-overs are a standard feature in many areas along the Gulf coast, but could detract from the uncluttered and open vistas now seen by residents and visitors. This action would be consistent with the existing visual resource management classification which recognizes that the sights and sounds of man are already evident in the environment.

**2. The degree to which the proposed action affects public health or safety.**

The proposed action would not adversely affect public health or safety. The project would meet the Americans with Disabilities Act standards, as well as USFWS and Alabama Department of Environmental Management (ADEM) dune walk-over construction parameters.

**3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.**

The EA evaluated the area of the proposed action and determined that no unique geographic characteristics such as Wild and Scenic River, Prime or Unique Farmlands, Areas of Critical Environmental Concern, Designated Wilderness areas, Wilderness Study Areas, or wetlands were present. With regard to cultural resources, archaeological sites have been reported to exist near the project area. The BLM Fort Morgan tracts have been surveyed for cultural resources. Four cultural sites were discovered and located within one-half mile of three of the highway tracts during a BLM survey in 2007. One of

the sites extends into one of the highway tracts. A second BLM survey was conducted on November 2, 2013, and no additional cultural resources were discovered. Shovel tests were conducted at the proposed project site on November 2, 2013 and no historical resources were uncovered.

**4. The degree to which the effects on the quality of the human environment are likely to be controversial.**

Effects on the quality of the human environment are not expected to be controversial. Dune walk-overs are common along the Gulf coast and protect dune habitats.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.**

The environmental effects to the human environment are fully analyzed in the EA. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.**

This project neither establishes a precedent nor represents a decision in principle about a future consideration.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.**

DOI evaluated the proposed action in the context of past, present and reasonably foreseeable actions. Due to the small scale, minor, local and temporary impacts from the project, the BLM Dune Walk-over Project is not anticipated to contribute to potential adverse cumulative impacts in combination with other relevant projects.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.**

The likelihood of cultural and/or historical resources occurring on the project site is deemed low. Shovel tests were conducted at the proposed project site on November 2, 2013 and no historical resources were uncovered. Construction activities could result in inadvertent damage if cultural resources that were undetected during surveys are unearthed during ground-disturbing activities. If any discoveries are uncovered during construction, activities would stop to minimize further damage to cultural resources. Implementation of area closure, restriction, or other mitigation requirements for the protection of these cultural values would be determined on a case-by-case basis.

A complete review of the proposed project under Section 106 of the NHPA has been conducted. Consultation with the State Historic Preservation Office has been conducted. Tribal Consultations have been conducted with all interested federally recognized tribes with no comments received. This project will be implemented in accordance with all applicable laws and regulations concerning the protection of cultural and historic resources.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.**

There are 10 species that are Federally listed, or candidate for listing as threatened or endangered with the potential to occur in, or adjacent to, the project area.

**Alabama beach mouse (endangered)** – Prior to all sand disturbance the area would be surveyed for beach mice by a qualified biologist and the project would be adapted to avoid all active burrows. If an Alabama beach mouse burrow cannot be avoided, work will stop and the USFWS Daphne Ecological Services Field Office will be consulted. There would be disturbance of critical habitat as pilings are placed during construction. While there is potential to affect beach mouse habitat, the project is not expected to adversely affect Alabama beach mouse, and in the long term would benefit the species by reducing foot traffic in the dunes that could damage burrows and potentially individual mice. Critical habitat is also expected to improve as foot-traffic decreases allowing sand to accumulate and vegetation to re-establish along the casual trails now being used. Native sea oats will also be planted in disturbed areas according to USFWS dune planting guidelines. Accordingly, DOI determined that the proposed project may affect, but is not likely to adversely affect, Alabama beach mouse. In September 2015, DOI requested concurrence from the USFWS regarding this determination (DOI 2015). The USFWS provided concurrence with this determination on October 21, 2015 (USFWS 2015).

**Piping plover and Red knot (threatened)** – The project could temporarily displace individual birds foraging or loafing in the sand beach and wet sand areas near active construction. This may temporarily flush birds from the immediate area but it is expected that they would be able to move to another nearby location to continue foraging, feeding and resting. Impacts are expected to be short term (days). Shorebirds in general tend to be flushed regularly by beach goers and the affect is expected to result in no direct harm or long term harassment.

The conservation measures below are designed to minimize exposure of piping plover and red knot to noise and human disturbance.

- Provide all individuals working on the project with information in support of general awareness of piping plover or red knot presence and means to avoid birds and their habitats.
- If piping plover or red knots are present within 150 feet of the project area, construction and the operation of any equipment will be halted until the birds leave the area of their own volition.

When these measures are properly implemented, these species generally move away from the action area and fly to nearby suitable habitat and resume normal activities. Because of nearby suitable habitat and the ability to properly implement these conservation measures, DOI determined that the proposed project may affect, but is not likely to adversely affect the piping plover or red knot. In September 2015, DOI requested concurrence from the USFWS regarding these determinations (DOI 2015). The USFWS provided concurrence with this determination on October 21, 2015 (USFWS 2015).

**Sea turtles – Loggerhead, Green (threatened), Kemp’s ridley, Leatherback, and Hawksbill (endangered)** - As per ADEM requirements, there would be no lighting installed on the dune walk-overs. Once completed the presence of the dune walk-overs will funnel foot traffic to the beach, but is not expected to increase the numbers of visitors. Construction would take place outside of sea turtle nesting season. Sea turtles nest on the beach, seaward of the dunes, and the dune walk-overs terminate at the seaward toe of the dunes. The terminus of the dune walk-over is located at the seaward vegetation line and is not expected to hamper future sea turtle nesting efforts. No destruction or adverse modification to loggerhead sea turtle critical habitat is anticipated by constructing these dune walk-overs. The small footprint of the walk-overs won't necessarily be available for turtle nesting, but the affect is considered to be negligible. The dune walk-overs are not expected to alter sea turtle nesting efforts or success rates. The location of the pilings and ramp at the seaward end of the dune walk-overs would have a negligible effect on loggerhead critical habitat. The walk-overs will funnel foot traffic across the dunes facilitating sand retention and stabilizing vegetation with overall benefits to loggerhead sea turtle critical habitat.

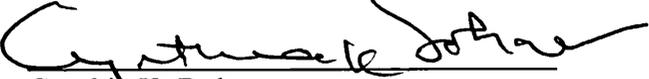
Accordingly, DOI determined that the proposed project may affect, but is not likely to adversely affect, loggerhead, green, Kemp’s ridley, leatherback and hawksbill sea turtles, and that the project would not result in adverse modification or destruction of loggerhead sea turtle critical habitat. In September 2015, DOI requested concurrence from the USFWS regarding these determinations (DOI 2015). The USFWS provided concurrence with this determination on October 21, 2015 (USFWS 2015).

**Eastern indigo snake (threatened)** - The proposed action would have no effect on the eastern indigo snake. Eastern indigo snake has not been seen in the state of Alabama since 1954. Accordingly, DOI determined that the proposed project would have no effect on Eastern indigo snake. In September 2015, DOI requested concurrence from the USFWS regarding this determination (DOI 2015). The USFWS provided concurrence with this determination on October 21, 2015 (USFWS 2015).

**Gopher tortoise (candidate)** - The proposed action would have no effect on gopher tortoise as their burrows have not been observed within the project area. In the event a burrow with a tortoise would be discovered during construction, the tortoise would be relocated to a suitable site on the refuge. Accordingly, DOI determined that the proposed project would have no effect on gopher tortoise. In September 2015, DOI requested concurrence from the USFWS regarding this determination (DOI 2015). The USFWS provided concurrence with this determination on October 21, 2015 (USFWS 2015).

**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.**

The project does not violate any federal, state, local or tribal law or requirement imposed for the protection of the environment. In addition, the project is consistent with applicable land management plans, policies and programs.

Date: 12/29/2015  
Signature:   
Cynthia K. Dohner  
Authorized Official, U.S. Department of the Interior

Date:

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Signature:

Bruce Dawson 12-9-2015

Bruce Dawson, District Manager  
Southeastern States District, Bureau of Land Management