UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Centers for Coastal Ocean Science
Silver Spring, Maryland 20910

MEMORANDUM FOR: The Record

FROM: Lauren Latchford
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SUBJECT: Categorical Exclusion (CE) for the RESTORE Act Project "Fisheries on the Move"

The National Environmental Policy Act (NEPA or the Act), 42 U.S.C. §§ 4321 et seq., establishes the national environmental policy of the Federal Government to use all practicable means and measures to foster and promote the general welfare, create and maintain conditions under which humans and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. The purpose and function of NEPA is satisfied if Federal agencies have considered relevant environmental information and if the public has been informed regarding the decision-making process.

NOAA Administrative Order (NAO) 216-6A, Environmental Review Procedures, requires all proposed projects to be reviewed with respect to environmental consequences on the human environment in compliance with NEPA. This memorandum addresses the determination that the project activities as described qualify to be categorically excluded from further National Environmental Policy Act review.

Description of the Proposed Action:

NOAA's RESTORE Science Program proposes to fund the University of Florida to conduct the project "Fisheries on the Move." Project activities include estimating long-term trends and variability in fish stocks and predicting changes in their targeting, distribution, growth, and sexual maturity in relation to a changing climate, ultimately leading to adaptive, future management of recreational and commercial fisheries important to coastal fishing communities. Abiotic and biotic driving factors of these trends include water parameters (e.g., temperature, oxygen), habitat and depth suitability, and food web linkages.

Four sentinel sites (Figure 1) will be monitored to detect changes and ground-truth predictions of species distribution models. These sites are adjacent to estuaries sampled by the long-term Florida Fish and Wildlife Commission Fisheries Independent Monitoring (FIM) program - Tampa Bay, Cedar Key, Apalachicola and a TBD site in southwest FL to detect influxes of tropical species. Cedar Key will be monitored every 3 months. Other sites will be sampled twice a year (once in summer, once in winter) for 4 years. Each survey effort is 6 days long.

Visual census will be conducted via SCUBA and video (dropcams and Go Pros mounted on fishing poles) to record abundance and size of fishery species. Surveys will be 50x5m transects

counting fish at 5, 10, and 20m depth on SCUBA over 6 days. Other water parameter measurements will be collected using archival HOBO temperature loggers deployed at each depth for long-term temperature recording. Opportunistic censusing may occur during extreme warming events or cold snaps.

Artificial Recruitment Modules (ARM) (Figure 2) will be deployed at sites to survey invertebrate fauna. ARMs are wire cages 60x120cm filled with stacks of 20 cinderblocks that provide recruitment substrate for invertebrate prey. A new ARM is deployed during each survey, and the ARM previously deployed is retrieved (ARMS are "soaked" for ~6 months to allow invertebrate prey to colonize them). ARMs have been used by Davis (1995) and Kushner et al (2013).

Other project activities are qualitative and quantitative social science methods, meetings, model development, laboratory work, and data analysis which have no potential to impact the environment or protected resources.

Site Code	Site Location	Corner	Lat	Long
AP	Apalachicola	NW	29.675475	-85.250174
AP	Apalachicola	NE	29.675475	-84.765775
AP	Apalachicola	SE	29.375475	-84.765775
AP	Apalachicola	SW	29.375475	-85.250174
CK	Cedar Key	NE	29.164635	-83.158402
CK	Cedar Key	SE	28.895666	-83.158402
CK	Cedar Key	SW	28.895666	-83.809565
CK	Cedar Key	NW	29.164635	-83.809565
TM	Tampa Bay	NE	27.862348	-82.819259
TM	Tampa Bay	SE	27.585059	-82.819259
TM	Tampa Bay	SW	27.585059	-83.456537
TM	Tampa Bay	NW	27.862348	-83.456537
SW	Naples	SE	25.906734	-81.794703
SW	Naples	NE	26.15693	-81.794703
SW	Naples	NW	26.15693	-82.490814
SW	Naples	SW	25.906734	-82.490814

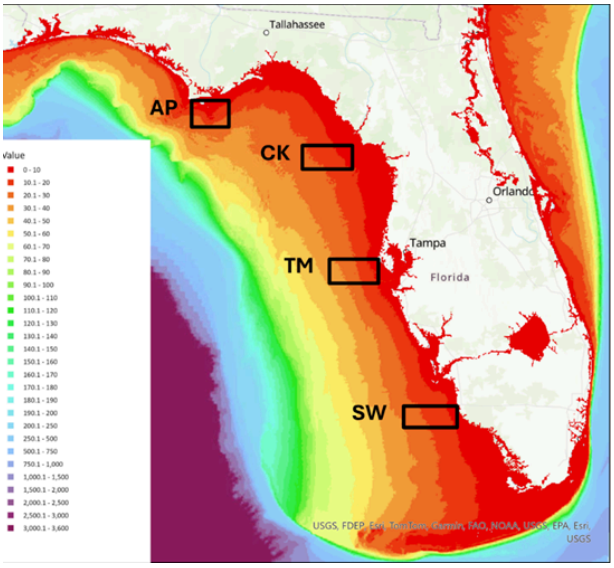

Figure 1: Sampling sites will be contained in the areas surrounded by the red polygons.

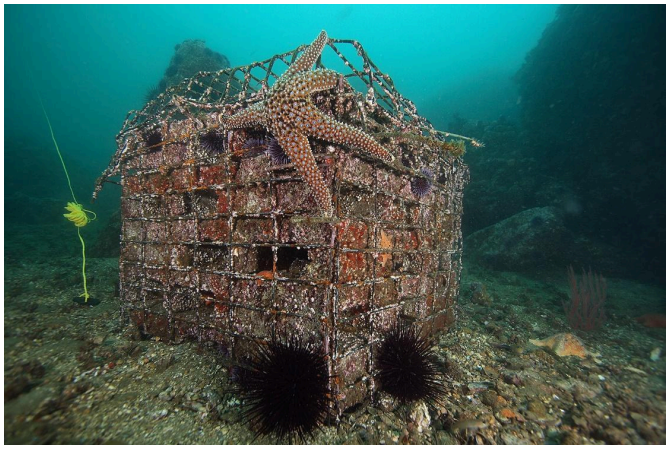

Figure 2: Artificial Recruitment Module (ARM)

Categorical Exclusion Determination

NCCOS determines that the activities described in this memo are covered under the E4 Categorical Exclusion described as: Activities that remotely survey or observe living resources in the field using non-invasive techniques, which have little to no potential to adversely affect the environment or interfere with organisms or habitat. Project activities consist of a category of actions that does not normally have a significant effect on the quality of the human environment; is not connected to a larger action (40 C.F.R. 1501.3(b)); and does not involve extraordinary circumstances precluding use of the CE. As such, NCCOS has determined that it is categorically excluded from further NEPA review.

Effects of the Proposed Action

Project activities are designed to conduct in-water visual surveys in a noninvasive and nondestructive manner. This includes fish monitoring on SCUBA and with stationary cameras that would be conducted on hard bottom habitats at depths of between 1 and 30m, and observing 60x120m Artificial Reef Modules (ARMs) that will be removed at the end of the experiment. Potential environmental impacts are expected to be minimal. Project activities are limited temporally and spatially. Project staff will obtain a Saltwater Activities License from FWC and a Letter of Acknowledgement from the National Marine Fisheries Service.

Endangered Species: Section 7(a)(2) of the Endangered Species Act (ESA) states that each federal agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. In fulfilling these requirements, each agency must use the best scientific and commercial data available.

Species	ESA Status	Jurisdiction	Critical Habitat
Marine Mammals			
Blue whale (*Balaenoptera musculus*)	E – 35 FR 18319	NMFS	none
Fin whale (*Balaenoptera physalus*)	E – 35 FR 18319	NMFS	none
Sei whale (*Balaenoptera borealis*)	E – 35 FR 18319	NMFS	none
Sperm whale (*Physeter macrocephalus*)	E – 35 FR 18319	NMFS	none
Rice's Whale *(Balaenoptera ricei)*	E - 86 FR 47022	NMFS	Proposed - 50 CFR 224 and 226
West Indian Manatee *(Trichechus manatus)*	T - 50 CFR Part 17	USFWS	81 FR 7413*

Sea Turtles			
Green sea turtle (*Chelonia mydas*) North Atlantic distinct population segment (DPS) NMFS link	T – 81 FR 20057	NMFS/USFWS	50 CFR 223-226 (proposed)
Hawksbill sea turtle (*Eretmochelys imbricata*)	E – 35 FR 8491	NMFS/USFWS	57 FR 38818*
Kemp's Ridley sea turtle (*Lepidochelys kempii*)	E – 35 FR 18319	NMFS/USFWS	N/A
Loggerhead sea turtle (*Caretta caretta*) Northwest Atlantic Ocean DPS	T – 76 FR 58868	NMFS/USFWS	79 FR 39856
Leatherback sea turtle (*Dermochelys coriacea*)	E – 35 FR 8491	NMFS/USFWS	63 FR 28359*
Fishes			
Scalloped Hammerhead Shark (*Sphyrna lewini*) Southwest Atlantic DPS	T-79 FR 38213	NMFS	None
Shortnose sturgeon (*Acipenser brevirostrum*)	E – 32 FR4001	NMFS	None
Nassau Grouper (*Epinephelus striatus*)	T – 81 FR 42268	NMFS	N/A
Oceanic Whitetip Shark (*Carcharhinus longimanus*)	T – 83 FR 4153	NMFS	N/A
Giant manta ray (*Manta birostris*)	T – 83 FR 2916	NMFS	N/A
Gulf Sturgeon (*Acipenser oxyrinchus desotoi*)	T – 56 FR 49653	NMFS	68 FR 13370
Smalltooth Sawfish (*Pristis pectinata*)	E – 68 FR 15674	NMFS	74 FR 45353

In-water visual surveys of fish and ARMs would not affect ESA-listed species that could occur in the project action area. Project activities involve the temporary and non-destructive employment of SCUBA divers, transects, and cameras with limited temporal and geographic scales. The equipment will have no potential to entangle marine life as no lines or buoys are involved. Marine mammals, sea turtles, and fish easily can avoid SCUBA divers and equipment.

All efforts will be made to avoid marine mammals and sea turtles by maintaining minimum approach distances and not deploying divers or instruments in the presence of marine mammals or turtles.

Critical habitat for the smalltooth sawfish, gulf sturgeon, and proposed critical habitat for the green sea turtle are in the action area. Project activities of remotely surveying fish in the field have no potential to affect navigation pathways, food sources, or other primary constituent elements of critical habitat.

There are at least 13 rivers and their associated estuaries designated as Gulf sturgeon critical habitat within Florida, Alabama, Mississippi and Louisiana (Figure 3). PCEs include 1. abundant food items, 2. riverine spawning sites, 3. riverine aggregation areas, 4. adequate riverine flow regime, 5. adequate water quality, 6. adequate sediment quality, and 7. safe and unobstructed migratory pathways. Project activities and vessel transit will not adversely affect critical habitat or its PCEs.

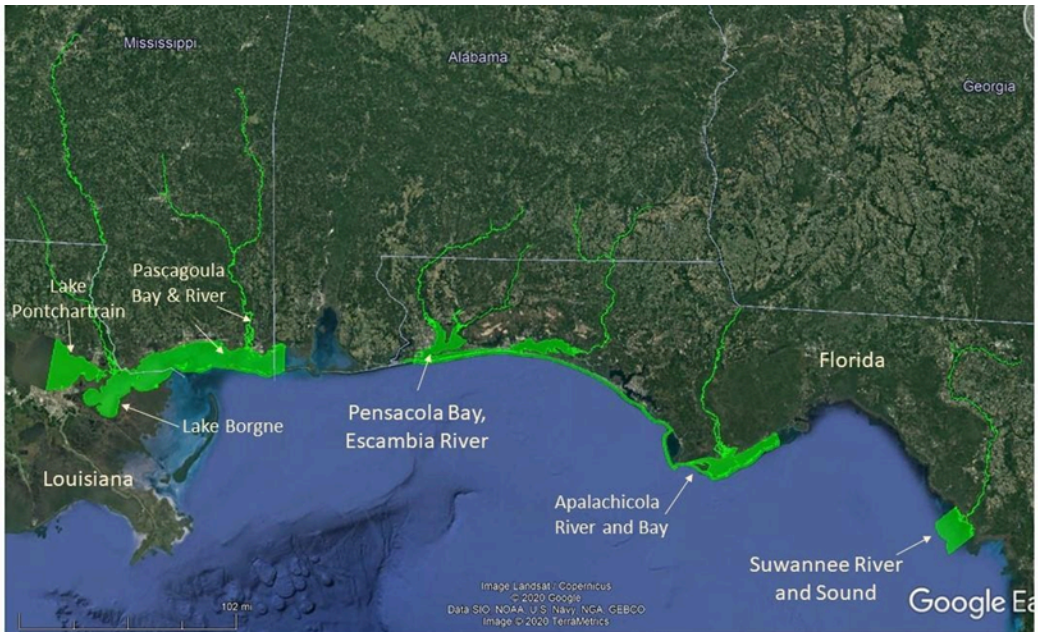

Figure 3: Gulf sturgeon critical habitat in the northern Gulf coast shown as green polygons

Proposed Green Sea Turtle North Atlantic DPS critical habitat (Figure 4) includes nearshore waters (from the MHW to 20m depth) off the coast of Florida. PCEs are sufficiently unobstructed waters that allow for unrestricted transit of reproductive individuals between benthic foraging/resting and reproductive areas. Project activities are temporally and spatially limited, and will not adversely affect critical habitat and PCEs.

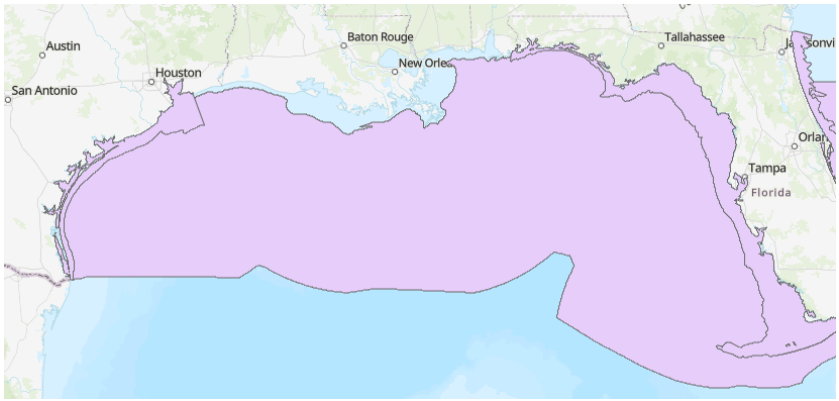

Figure 4: Proposed Green Sea Turtle critical habitat shown as a pink polygon

There is critical habitat designated for Smalltooth sawfish off the southwest tip of Florida (Figure 5). NMFS determined that the habitat features essential to the conservation of the species are red mangroves and shallow euryhaline habitats characterized by water depths between the Mean High Water line and 3 ft (0.9 m) measured at Mean Lower Low Water (MLLW).

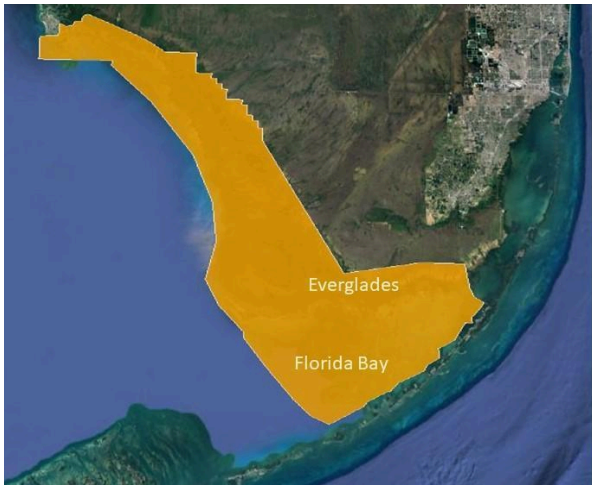

Figure 5: Critical habitat for the Smalltooth sawfish shown as an orange polygon

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act requires that federal agencies consult with the National Marine Fisheries Service on actions that "may adversely affect" essential fish habitat (EFH) (16 U.S.C. § 1855(b)(2)). Essential fish habitat (EFH) describes all waters and substrate necessary for fish for spawning, breeding, feeding, or growth to maturity (16 U.S.C. 1802 sec. 3(10)).

Visual surveys will not adversely affect EFH. EFH features will be avoided in deployment of the ARMs. Surveys at sites are limited spatially and temporally, so any disturbance from project activities would be temporary and small scale.

Coastal Zone Management Act: The federal consistency provision of the Coastal Zone Management Act (CZMA, 16 U.S.C. §1451) requires federal actions (inside or outside a state's coastal zone) that affect any land or water use or natural resource of a state's coastal zone, to be consistent with the enforceable policies of the state coastal management program (CMP).

This action falls within subpart F of the federal consistency regulations. Based on the analysis of project activities and the employment of BMPs described above NCCOS determines that this action will not have reasonably foreseeable effects on coastal use or resources. In addition, the proposed activities are not on the Federal Consistency lists for Florida (https://coast.noaa.gov/data/czm/consistency/media/fl.pdf. Therefore, no negative determination is required and no further action is required by NCCOS.

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National Historic Preservation Act: Section 106 of the National Historic Preservation Act of 1966 (NHPA) (54 U.S.C. § 300101 et seq.) requires federal agencies to take into account the effects of their undertakings on historic properties in accordance with regulations issued by the Advisory Council on Historic Preservation (ACHP) at 36 C.F.R. Part 800. The regulations require that federal agencies consult with states, tribes, and other interested parties (consulting parties) if project activities have any potential to impact cultural resources.

According to the National Park Service cultural resources data layer there are no Historic Sites that would be impacted by site activities as none occur in the areas where sampling would occur. Therefore, NCCOS determines that this project's activities would not result in any impact to National Historic Sites.

Extraordinary Circumstances

Project activities described above are temporally and spatially limited in 4 sites on the Gulf coast of Florida. Based on the limited temporal and spatial extent of the activities, incorporation of best management practices, project activities would have negligible or beneficial effects on areas with unique environmental characteristics, on geographically or ecologically critical areas, (sanctuaries, wetlands, watersheds), and National Historic Sites. NCCOS determines that project activities will have no adverse impacts to marine mammals, EFH, and ESA-listed and MBTA protected birds that are not negligible or discountable.

Further, vessel operators have decades of experience working in the field locations and will employ Best Management Practices to avoid interactions with protected species; such as 100% observer coverage (operator may double as observer), minimum approach distances and reducing speed if protected species (e.g., sea turtles, marine mammals) are observed. In addition, there is no potential to contribute to the introduction, continued existence or spread of non-native species as only native species would be used in planting activities and gear used would be local to the area or rinsed thoroughly between water bodies as appropriate.

There would be no adverse effects on human health or safety that are not negligible or discountable. No chemicals would be transported as a result of this work and laboratory activities abide by the appropriate SOPs, as applicable to the activity and the facilities abide by all safety and disposal regulations such as; waste chemicals are disposed of through a licensed hazardous waste Treatment, Storage, and Disposal (TSD) facility and transported by a licensed transportation contractor. Therefore, there is no potential to generate, use, store, transport, or dispose of hazardous or toxic substances in a manner that may have a significant effect on the environment.

Finally, there are no uncertain environmental impacts or unknown risks as project activities and methods are routinely used for the purposes of research. These actions are not uncertain, unique or unknown, have no potential to establish a precedent for future action or to be controversial or to have cumulative impacts when combined with other past, present or reasonably foreseeable future actions. There is no potential to violate Federal State or local laws or requirements imposed for the protection of the environment.

The proposed action is not connected to a larger action and can therefore be reviewed independently from other actions under NEPA.

Protective Measures and Best Management Practices

The following BMPs should be employed where applicable, incorporated into project instructions and communicated to the vessel operator and field party.

1. During transit a vessel operator and crew will maintain a look out for protected species and reduce speed as necessary to avoid protected species.

2. Upon sighting, vessel operator will maintain minimum approach distances for:
    a. Cetaceans:
        i. 200 yards from large whales,
        ii. 100 yards from all other species.
    b. Sea turtles: 50 yards
    c. Sawfishes: 50 yards
    d. Sturgeon: 50 yards
    e. Manatees: 50 yards

3. Minimize vessel disturbance and ship strike potential
    a. Reduced speeds (<13 knots) when ESA-listed cetaceans are sighted (unless otherwise required, e.g., NOAA Sanctuaries);
    b. Reduced speeds (<13 knots) while transiting through designated critical habitat (unless slower speeds are required, e.g., < 10 knots in right whale critical habitat and management areas);
    c. Trained observers aboard all vessels; 100% observer coverage; and
    d. Species identification keys (for marine mammals, sea turtles, corals, abalone, and seagrasses) available on all vessels.

4. Minimize impacts to seagrasses and other Essential Fish Habitat (EFH) by:
    a. Anchoring in mud or sand (avoid seagrass or other EFH)
    b. Minimizing anchor drag (i.e., provide adequate scope)
    c. Avoid grounding by raising prop or reducing speed as necessary

5. SCUBA/Snorkeling/Swimming
    a. At least one person should maintain a visual watch for mobile protected species to ensure none are sighted within the working area. If a listed species moves into the area of work, cease operation of any moving equipment within 15m (50ft) of the animal. Activities may resume once the species has departed the project area of its own volition.
    b. Divers/snorkelers/swimmers should not stand or rest on live corals/coral reefs. Bottom contact should only be in unconsolidated areas or non-living hardbottom.
    c. SCUBA divers/snorkelers involved in in-water activities should have proper training and be capable of responsible dive/snorkel practices (e.g., proper buoyancy) such that they minimize injury to organisms, avoid unnecessary habitat impacts, and avoid injury to sensitive archaeological materials. Ensure that divers/snorkelers are trained to a level commensurate with the type and conditions of the diving activity being undertaken. Divers shall use appropriate dive equipment and tools, expert boat anchoring, and have diver awareness. Project crews must have the capacity to oversee all proposed diving/snorkeling activities. SCUBA divers will avoid inadvertent disturbance to the sea floor.

6. Injured or Dead Protected Species Reporting.
    a. In the unlikely event of an animal death or injury, vessel operators should immediately contact FWC staff:
        i. If you find a dead, sick, or injured manatee or sea turtle, call the 24-hour FWC Wildlife Alert Hotline: 888-404-3922.
        ii. Report a fish kill, diseased fish, or fish with other abnormalities at https://survey123.arcgis.com/share/2485ecbeded748689725da57b1bc319a or call 800-636-0511