



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Habitat Conservation Division
c/o Louisiana State University
Baton Rouge, Louisiana 70808-7353

February 8, 2011 F/SER46/RH:jk
225/389-0508

Mr. Michael Farabee, Chief
Regulatory Branch, Eastern Evaluation Section
Department of the Army, Corps of Engineers
Post Office Box 60267
New Orleans, Louisiana 70160

Attn: Darrell Barbara

Dear Mr. Farabee,

Reference is made to your January 20, 2011, letter that forwarded comments provided by the U.S. Fish and Wildlife Service (FWS) regarding the proposed modification to U.S. Army Corps of Engineers permit **2004-0452-EFF** for the Pelican Island Barrier Shoreline Restoration Project (BA-38). That December 23, 2011, FWS letter indicates that the National Marine Fisheries Service (NMFS) should take measures to deter nesting by migratory birds on the island during project construction.

Certain migratory bird species are protected by the FWS and the Louisiana Department of Wildlife and Fisheries (LDWF). Protected bird species most likely to be encountered include, but are not limited to, gulls, terns, black skimmers, and brown pelicans. It is unlikely that brown pelicans will nest on Pelican Island because the island is lacking sufficient nest structure; however, due to construction of the State's emergency berm, the island contains substrate that could support nesting shorebirds.

The project will be constructed under contract administered and overseen by NMFS, and the construction contract is conditioned to require patrol and surveillance of the construction site during the bird nesting season. Additionally, the construction contract requires that work shall cease immediately in the event that any evidence of nests or eggs of any protected bird species are discovered.

In the event that shorebird nesting (i.e., courtship and/or mating) is observed or discovered on the island, NMFS shall contact FWS and the following abatement measures will be employed:

1. Passive measures such as the placement of filter cloth or orange fencing material on the beach may deter birds from nesting. If unsuccessful, other measures such as dogs or continual human presence may be used. More aggressive methods of hazing (i.e., cannons, flares) could also be used if necessary.



2. Timing, persistence, organization, and diversity of abatement measures are crucial in deterring shorebirds from establishing active nesting colonies. All abatement measures would be conducted by wildlife biologists who are familiar with shorebird ecology and are familiar with the proposed abatement methods. All abatement techniques/methods would be coordinated with FWS and LDWF prior to use.
3. To increase the effectiveness of the nesting prevention program, a combination of abatement measures would be employed. Additionally, the types of abatement measures, as well as their spatial and temporal deployment, would be changed frequently to reduce the chances that shorebirds become habituated to the abatement methods.

Monitoring the effectiveness of the abatement methods and adaptive management are important to ensuring that the nesting prevention program is successful. NMFS will ensure that the effectiveness of employed abatement measures are recorded and reported to FWS and LDWF. Results of all monitoring and minimization measures will be recorded and summarized in a post-construction report.

We are requesting the New Orleans District authorize this modification at the earliest possible time. If you have any questions regarding the applications, the projects, or enclosed documents, please contact Rachel Sweeney at (225) 389-0508, extension 206. Thank you for your attention to this matter.

Sincerely,



Richard Hartman
Fishery Biologist
Baton Rouge Field Office

c:
Kenneth Bahlinger, OCPR
Patti Holland, USFWS