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GULF COAST ECOSYSTEM RESTORATION COUNCIL

Docket No.: 106072016-1111-03

Proposed Amendment to Initial Funded Priorities List

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Proposed Amendment to Initial Funded Priorities List.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) seeks public and Tribal comment on a proposal to amend its Initial Funded Priorities List (FPL) to approve implementation funding for the Apalachicola Bay Oyster Restoration project in Florida (Project). The Council is proposing to approve \$3,978,000 in implementation funding for this Project. The Council is also proposing to reallocate \$702,000 from project planning to project implementation, after any remaining planning expenses have been met. The total amount available for implementation of the Project would thus be \$4,680,000. These funds would be used to restore approximately 251 acres of oyster beds, which is an increase from the 219 acres originally proposed in the FPL.

To comply with the National Environmental Policy Act (NEPA) and other applicable laws, the Council is proposing to adopt an existing Environmental Assessment (EA) that addresses the activities in the Project. In so doing, the Council would expedite project implementation, reduce planning costs and increase the ecological benefits of this Project by using savings in planning funds to expand the Project by approximately 32 acres. The Council looks forward to public and Tribal comment on this proposal.

DATES: Comments on this proposed amendment are due *[Insert date 30 days after publication in Federal Register]*.

ADDRESSES: Comments on this proposed amendment may be submitted as follows:

By Email: Submit comments by email to *frcomments@restorethegulf.gov*. Email submission of comments ensures timely receipt and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, *www.restorethegulf.gov*, without change, including any business or personal information provided, such as names, addresses, email addresses and telephone numbers. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

By Mail: Send comments to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION: Please send questions by email to *frcomments@restorethegulf.gov* or contact Will Spoon at (504) 239-9814.

SUPPLEMENTARY INFORMATION:

I. Background

The *Deepwater Horizon* oil spill led to passage of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act

(RESTORE Act), which dedicates 80 percent of all Clean Water Act administrative and civil penalties related to the oil spill to the Gulf Coast Restoration Trust Fund (Trust Fund). The RESTORE Act also created the Council, an independent Federal entity comprised of the five Gulf Coast states and six Federal agencies. Among other responsibilities, the Council administers a portion of the Trust Fund known as the Council-Selected Restoration Component in order to “undertake projects and programs, using the best available science, which would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.” Additional information on the Council can be found here: <https://www.restorethegulf.gov>.

On December 9, 2015, the Council published the FPL, which includes projects and programs approved for funding under the Council-Selected Restoration Component, along with activities that the Council identified as priorities for potential future funding. Activities approved for funding in the FPL are included in “Category 1”; the priorities for potential future funding are in “Category 2.” In the FPL the Council approved approximately \$156.6 million in Category 1 restoration and planning activities, and prioritized twelve Category 2 activities for possible funding in the future, subject to environmental compliance and further Council and public review. The Council included planning activities for the Project in Category 1 and implementation activities for the Project in Category 2 of the FPL.

The Council reserved approximately \$26.6 million for implementing priority activities in the future. These reserved funds may be used to support some, all or none of the activities included in Category 2 of the FPL and/or to support other activities not currently under consideration by the Council. As appropriate, the Council intends to review each activity in

Category 2 in order to determine whether to: (1) move the activity to Category 1 and approve it for funding, (2) remove it from Category 2 and any further consideration, or (3) continue to include it in Category 2. A Council decision to amend the FPL to move an activity from Category 2 into Category 1 must be approved by a Council vote after consideration of public and Tribal comments.

II. Environmental Compliance

Prior to approving an activity for funding in FPL Category 1, the Council must comply with NEPA and other Federal environmental laws. At the time of approval of the FPL, the Council had not complied with NEPA and other applicable laws with respect to implementation of the Project. The Council did, however, recognize the potential ecological value of the Project, based on review conducted as part of the FPL process. For this reason, the Council approved \$702,000 in planning funds for this Project, a portion of which would be used to complete any needed environmental compliance activities. As noted above, the Council placed the implementation portion of this Project into FPL Category 2, pending the outcome of this environmental compliance work and further Council review. The estimated cost of the Project's implementation component was listed at \$3,978,000, which would fund the restoration of approximately 219 acres of oyster beds in Apalachicola Bay. Inclusion of the Project's implementation activities into Category 2 did not in any way commit the Council to subsequently approve those implementation activities for funding.

Since approval of the FPL, Florida has collaborated with the U.S. Army Corps of Engineers (USACE) to identify an existing EA that could be used to support Council approval of

implementation funding for this Project. This EA was prepared by USACE in association with a Clean Water Act Section 404 and Section 10 of the Rivers and Harbors Act of 1899 programmatic general permit (PGP) that authorizes the Florida Department of Agricultural and Consumer Services to conduct aquaculture of live rock and marine bivalves in navigable waters of the U.S. which are within the jurisdiction of the State of Florida, provided that such activities comply with the terms and conditions of the PGP.

The Council has reviewed this EA and associated documents, including an August 13, 2015, letter from the National Oceanic and Atmospheric Administration regarding compliance with the Endangered Species Act (ESA). In addition to ESA, the EA addresses compliance with other Federal environmental laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the National Historic Preservation Act and more. Based on this review, the Council is proposing to adopt this EA to support the proposed approval of implementation funds for the Project, provided that the Project is implemented in accordance with the terms and conditions of the PGP and the design criteria set forth in the associated ESA programmatic consultation. This EA and the associated ESA documentation can be found here: <https://www.restorethegulf.gov/funded-priorities-list>. (See *Apalachicola Bay Oyster Restoration Project – Implementation*.)

Apalachicola Bay Oyster Restoration Project

If approved for implementation funding, this Project would include the placement of approximately 50,258 cubic yards of suitable oyster reef substrate through the use of barges and high-pressure water. Areas to be restored would be marked with buoys or clearly marked stakes.

Following the completion of the planting, oyster density sampling would be conducted and analyzed at a minimum of six months, one year and two years after clutching at each restoration site.

Ecological benefits associated with the Project would be realized through an array of ecological services in the form of increased fishery and wildlife habitat; increased biodiversity and trophic dynamics; increased filtering capacity to improve water quality and recycle nutrients; increased structural stability to reduce coastal erosion and to protect near shore resources; protection of water quality; and the protection of healthy, diverse and sustainable living coastal marine resources. Beyond the fact that oysters and oyster reef communities represent important food sources for many species of commercially important fish and invertebrates, functioning oyster reefs are also recognized as critical structural and community components which stabilize and sustain a broad array of ecological relationships. Additional outcomes include economic benefits through harvesting, processing, and marketing fishery products locally and regionally by all who enjoy high-quality seafood.

Additional information on this Project, including metrics of success, response to science reviews and more is available in an activity-specific appendix to the FPL, which can be found here: <https://www.restorethegulf.gov>. (Please see the table on page 24 of the FPL and click on *Apalachicola Bay Oyster Restoration, Implementation*.)

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