Filing # 63727010 E-Filed 11/03/2017 02:05:08 PM

IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT IN AND FOR ESCAMBIA COUNTY, FLORIDA

DANIEL D. LINDEMANN and
GERALD W. HOLZWORTH

Plaintiffs,

v.

Case No. 2017 CA 001704
Division: K

THE CITY OF PENSACOLA,
THE CITY OF PENSACOLA COMMUNITY REDEVELOPMENT AGENCY, and
THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Defendants.
_____/

COMPLAINT FOR DECLARATORY RELIEF

COMES NOW, Plaintiffs, DANIEL D. LINDEMANN ("Lindemann") and GERALD W. HOLZWORTH ("Holzworth", and collectively with Lindemann "Plaintiffs") and in support of this Complaint for Declaratory Relief state as follows:

Background Facts

1. Plaintiffs seek declaratory relief that is within the jurisdiction of the Court pursuant to Chapter 86, Florida Statutes, or pursuant to other law.

2. Lindemann is a resident of Escambia County, Florida.

3. Lindemann is an owner of certain real property in Escambia County, Florida commonly known as 24 N. Palafox Street, Pensacola, Florida ("Lindemann Property").

4. Holzworth is a resident of Escambia County, Florida.

5. Holzworth is an owner of certain real property in Escambia County, Florida commonly known as 729 W. Zarragossa Street, Pensacola, Florida ("Holzworth Property").

6. Defendant, The City of Pensacola ("City") is a Florida municipal corporation within Escambia County, Florida.

7. Defendant, The City of Pensacola Community Redevelopment Agency, is a Florida body corporate and politic within Escambia County, Florida.

8. Defendant, The Florida Fish and Wildlife Conservation Commission ("Commission") is an agency of the State of Florida with its principal office in Leon County, Florida.

9. Venue is proper in Escambia County, Florida.

10. The City acquired title to certain real estate located in Pensacola, Florida, consisting of approximately 44 acres immediately south of Main Street and east of Clubbs Street, by virtue of those certain conveyances recorded on January 17, 1945 in Deed Book 195, Page 595 and on August 21, 1974 in Book 829, Page 382, respectively, of the Official Records of Escambia County, Florida. Such real estate is commonly known and hereinafter referred to as "Bruce Beach."

11. In or about 1980, the City designated certain areas of downtown Pensacola as a "blighted area" under Chapter 163, Part III Florida Statutes, and simultaneously identified such areas as the Pensacola Inner City Community Redevelopment Area (as such area has been amended from time to time, the "Redevelopment Area").

12. Bruce Beach is located within the Redevelopment Area.

13. The Lindemann Property is located within the Redevelopment Area.

14. The Holzworth Property is located within the Redevelopment Area.

15. In or about 1980, the City created and declared the Pensacola City Council to be the City of Pensacola Community Redevelopment Agency (hereinafter, the "CRA"), subject to all rights, powers, duties, privileges immunities, responsibilities and liabilities vested in and imposed upon a community redevelopment agency under Chapter 163, Part III Florida Statutes.

16. Despite its common membership, the CRA exists as a separate, distinct and independent legal entity from the Pensacola City Council.

17. The City dedicated and assigned Bruce Beach to the CRA in or about 1980 by virtue of Pensacola City Council Resolutions 36-80 and 55-80, for the purpose of promoting, planning, packaging and accomplishing Bruce Beach's redevelopment. Such dedication and assignment has not since been rescinded or modified and remains in full force and effect.

18. The City, as landlord, and the Commission, as tenant, purported to enter into that certain Lease Agreement for Bruce Beach dated May 12, 2014 (the "Lease"), whereby the Commission agreed to construct and maintain the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center ("Hatchery"). A true and accurate copy of the purported Lease is attached hereto as Exhibit A and incorporated herein by reference.

19. The Pensacola City Council approved the purported Lease on behalf of the City at or about the May 8, 2014 Pensacola City Council meeting.

20. The purported Lease was not signed by the mayor of the City as called for by its terms, but rather by the City Administrator, Colleen Castell, whose authority to sign on behalf of the mayor and bind the City is uncertain.

21. The CRA neither approved nor signed the purported Lease.

22. On information and belief, the public notice and invitation for proposals required by Section 163.380(3) Florida Statute were not provided prior to the City's attempted execution of the purported Lease.

23. The purported Lease is for a 30 year term with an annual rent payment due to the City of $50.

24. As of the date of the purported Lease, the assessed value of Bruce Beach in Escambia County was $6,959,217.

25. On information and belief, no public hearing was conducted regarding the disparity between the value of Bruce Beach relative to the rental payment called for under the purported Lease, as required under Section 163.380(2) Florida Statutes.

26. Section 20 of the purported Lease relevantly provides as follows:

> . . . Commission shall commence construction on the [Hatchery], the public waterfront access and public recreation facilities no later than three (3) years following the execution date of this Lease. **Should Commission fail to commence construction, or become reasonably aware of the inability to commence construction, on or before three (3) years of the execution date of this Lease, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises and the Lease shall be void** (emphasis added).

27. May 12, 2017 was the Commission's construction commencement deadline under the terms of the purported Lease.

28. Construction at Bruce Beach has not commenced.

29. To the contrary, bids for work construction work on the Hatchery are not due until on or about December 12, 2017.

Count I – Declaration that the purported Lease is void *ab initio*

30. Paragraphs 1-29 are hereby realleged and incorporated herein by reference.

31. The CRA is a necessary party to effectively dispose of all or any portion of Bruce Beach.

32. The CRA neither approved nor signed the purported Lease.

33. The City, by the purported Lease, attempted to dispose of Bruce Beach for less than its fair value; however, no duly noticed public hearing regarding the forgoing was held prior to the City's attempted execution of the purported Lease, as required by Section 163.380(2) Florida Statutes.

34. The public notice and invitation for proposals required by Section 163.380(3) Florida Statute were not given prior to the City's attempted execution of the purported Lease.

35. Because of the forgoing critical deficiencies, the purported Lease was void from its inception.

WHEREFORE, Plaintiffs respectfully request the Court enter its judgment declaring the purported Lease to be void, *ab initio*, and granting Plaintiffs all further relief just and proper in the premises.

Count II – Declaration that the Lease is void by its terms

36. Paragraphs 1-29 are hereby realleged and incorporated herein by reference.

37. The Commission failed to commence construction as required under the terms of the Lease.

38. As a result of such failure, under the express terms of Section 20 of the Lease, referenced above, the Lease became void as of May 12, 2017.

WHEREFORE, Plaintiffs respectfully request the Court enter its judgment declaring the Lease to be void by its terms, ordering the Commission to immediately forfeit all property interests and any rights under the Lease and occupation of Bruce Beach, and granting Plaintiffs all further relief just and proper in the premises.

Respectfully submitted,

/s/ Robert A. Emmanuel
Robert A. Emmanuel
Fla. Bar. No. 283797
Adam C. Cobb
Florida Bar No. 0124642
Emmanuel, Sheppard and Condon
30 South Spring Street
Pensacola, FL 32502
Phone: 850-433-6581
Fax: 850-434-7163
rae@esclaw.com, acobb@esclaw.com
Attorneys for Plaintiffs

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made on May 12, 2014, by and between THE CITY OF PENSACOLA, FLORIDA ("City"), with a mailing address of 222 West Main Street, Pensacola, Florida 32502 and FISH AND WILDLIFE CONSERVATION COMMISSION ("Commission"), with a mailing address of 620 South Meridian Street, Tallahassee, Florida 32399.

WHEREAS, City agrees to lease to Commission the property detailed in Attachment A ("Premises") for the purposes of building and maintaining the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center ("Center"), as further described in Section 12.19 and Section 12.20 of the Deepwater Horizon Oil Spill Natural Resource Damage Assessment Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement dated December, 2013 ("Draft Phase III ERP/PEIS") attached hereto as Attachment B and incorporated herein by this reference, for the propagation of marine organisms, public education and outreach respecting natural marine resources, and a marine research component to include the Commission partnering in research with governmental, university or non-profit entities for the purpose of maintaining the project as an on-going concern.

NOW THEREFORE, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, and the mutual covenants and obligations set forth in this Lease, City and Commission do hereby agree as follows:

Section 1. Recitals. The recitals above are true and correct, are material inducements to entering into this Lease Agreement, and are hereby made a part of this Lease.

Section 2. Leased Premises. City leases to Commission, and Commission leases from City, the Premises consisting of approximately 44.45 acres, legally described as LTS 14 TO 22 DONL NO BLK 44 DONELSON AND 19 ARPENT AND ALL BLKS 61 TO 69 86 87 108 109 127 131 248 WATERFRONT OR 829 P 382 CONSERVATION EASEMENT OR 6417 P 1666 SEC 43/44 T 2S R 30 CA 98, Escambia County Property Appraiser Parcel Identification Number 000S009070014044, as aerially depicted on Attachment A hereto.

Section 3. Development of the Leased Premises. In deciding to enter the Lease, the City has materially relied on the proposed Center and the public waterfront access and public recreation facilities as described in the Draft Phase III ERP/PEIS attached hereto as Attachment B. The Commission shall use the Premises for the sole purpose of creation and operation of the Center and the creation and operation of the public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities as contemplated in the Draft Phase III ERP/PEIS. Any improvements on the Premises shall be subject to the development plan review and approval procedures specified for the Waterfront Redevelopment District in the City's land development code. Title to the improvements shall vest with the City upon termination or expiration of the lease. Prior to commencing construction

of any improvements on the Premises, the Commission shall submit to the City for the City's review and prior approval the design of the Center, and the public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities. The Commission shall not construct any additional improvements or alterations or alter or add to any exterior improvements without prior written consent of City.

Section 4. "As-Is" Condition. The Premises are being leased by City to Commission "as is" and City is not obligated whatsoever with regard to development of the Premises, nor development, construction, operation, maintenance or other activities associated with the Center, the public waterfront access, public education and outreach respecting marine resources, marine research component, or the public recreation facilities. Commission shall make any changes and improvements on the Premises, with prior City review pursuant to this Lease, as is necessary for the creation and operation of the Center, and the additional public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities on the Premises, including but not limited to removal of debris, contouring of the site to facilitate construction of buildings, ponds, and man-made wetlands, and delineation of protected plant communities on site to ensure their protection during construction. Neither the City, nor the City's officers, employees or agents have made any representations or promises whatsoever with respect to the Premises or services to be provided by the City in connection with their use.

Section 5. Term. The term of this Lease ("Term") shall begin on the full execution of this Lease and shall expire thirty (30) years later, unless terminated sooner pursuant to the provisions of this Lease.

Section 6. Rent. During the Term, Commission shall pay to City annual rent in the amount of Fifty Dollars ($50.00) per year (the "Rent"). The Commission is solely responsible for full and prompt payment of the Rent.

Section 7. Project Costs and Operating Expenses. The Commission shall be responsible for all expenses relating to the development, construction, operation, maintenance, insurance, repair, replacement, and upkeep of the Premises, including any improvements on the Premises, and including, but not limited to such unexpected expenses as cost overruns or remediation, for the full term of Lease.

Section 8. Quiet Enjoyment and Right of Use. Commission shall have the right of ingress and egress to, from and upon the Premises for all purposes necessary to the full quiet enjoyment by Commission of the rights conveyed herein. It is the intent of the Commission to create opportunities for public use of and access to the Premises in partnership with the City, and in furtherance of such the City reserves the right to enter into separate agreements with the Commission to provide waterfront recreational facilities, public education and outreach respecting marine resources, the marine research component, and public access compatible with the Center and permitted use of this Agreement. Parking and traffic management activities will be coordinated with the City, upon mutual agreement of the parties, to ensure appropriate access while minimizing potential negative impacts on the community.

Section 9. Memorandum of Understanding. Additional details regarding the operation of the Center will be addressed in a subsequent memorandum of understanding between the Commission and the City, to be completed prior to operations commencing on the Premises ("Memorandum of Understanding").

Section 10. Unauthorized Use. Commission shall, through its agents and employees, prevent the unauthorized use of the Premises or any use thereof not in conformance with this Lease. Authorized use includes activities related to the creation and operation of the Center, the public waterfront access and public recreation facilities, and associated ponds and wetlands, for the propagation of marine organisms, public education and outreach respecting natural marine resources, and a marine research component to include the Commission partnering in research with governmental, university or non-profit entities for the purpose of maintaining the project as an on-going concern.

Section 11. Right of Inspection. City or its duly authorized agents shall have the right, upon reasonable notice, to inspect the Premises and the works and operations thereon of Commission in any matter pertaining to this Lease.

Section 12. Surrender of Premises. Upon termination or expiration of this Lease, Commission shall surrender the Premises to City. In the event no further use of the Premises or any part thereof is needed by the Commission, the Commission shall notify the City in writing of the Commission's request to release all or any part of the Premises. Such written request shall be made to the City of Pensacola, City Administrator, P.O. Box 12910, Pensacola, Florida 32521, at least six (6) months prior to the release of all or any part of the Premises. Release shall only be valid through execution of a release of lease instrument in the same formality as this Lease. Execution of the release shall be in the mutual discretion of the parties. Upon release of all or any part of the Premises or upon termination or expiration of this Lease, all fixed improvements, including both physical structures and modifications of the Premises, shall become the property of City, unless the City, in the City's sole discretion, determines that best use for the Premises would include removal of the fixed improvements and in such case the Commission shall remove the fixed improvements at the Commissions sole cost and expense within six (6) months. Unless otherwise agreed to by the Commission and the City, removable equipment and removable improvements placed on Premises by Commission, which do not become a permanent part of the Premises will remain the property of Commission to be removed by Commission at the Commission's sole expense upon termination of this Lease, unless the City, in the City's sole discretion, determines that the best use for the Premises would include continuing similar operations that necessitate use of the removable equipment and removable improvements and in such case the Commission shall forfeit the removable equipment and removable improvements to the City at no cost and such shall be deemed as owned by the City.

Section 13. No Assignment. Commission shall not assign or otherwise transfer any of the rights or obligations under this Lease, assign or otherwise transfer any interest in or to the Premises or any improvement located thereon, without prior written consent of the City.

Section 14. Subletting. Commission shall not sublease any interest in or to the Premises or any improvement located thereon to any third party without the prior written consent of the City, which consent shall not be unreasonably withheld. No sublease will release the Commission

from any of Commission's obligations or responsibilities under this Lease.

Section 15. Net Lease. Notwithstanding anything contained herein to the contrary, the parties agree that this Lease shall be construed as a "net lease" whereby the Commission shall be solely responsible for any expense or cost relating to the Premises, this Lease, or the Commission's use of the Premises during the Term of this Lease, including, without limitation: insurance; utilities; repairs, replacement and maintenance; and security requirements.

Section 16. Utilities. The Commission shall be responsible for procuring all utility services including, but not limited to, water service, sewer service, electrical service, gas service, janitorial service, trash removal service, data communication service and telephone service. The Commission shall be responsible for procuring all utility services necessary for Commission's operation on the Premises and shall be responsible for promptly paying those persons or entities furnishing or providing the services. Construction, installation and maintenance of any improvements to utility infrastructure required to support the Commission's operations shall be at the sole cost and expense of the Commission.

Section 17. Environmental Laws. Commission shall comply with all federal, state, municipal and county laws, statutes, ordinances, codes, administrative orders, rules and regulations and permits relating to environmental matters, storm water, and other pollution control applicable to the construction, occupancy, use and operation of the Premises ("Environmental Laws").

Section 18. Events of Default. Any of the following events shall constitute an "Event of Default" of this Lease by the Commission:

(i) If the Commission fails to observe, keep or perform any of the other terms, covenants, agreements or conditions of this Lease for a period of ten (10) business days after receipt of written notice from City; or

(ii) If any act occurs which deprives the Commission permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Center, the public waterfront access, public education and outreach respecting marine resources, marine research component, or public recreation; or

(iii) If at any time the Commission abandons and ceases to use the Premises for a period of ninety (90) consecutive days, except when such abandonment and cessation is due to *force majeure*; or

(iv) If at any time the Commission uses or permits the Premises to be used for any purpose which has not been authorized by this Lease; or

(v) If the Commission uses or permits the use of the Premises in violation of any law, rule or regulation; or

(vi) If the Commission's interest under this Lease is being modified or altered by any assignment or unauthorized subletting or by operation of law; or

(vii) Commission's failure to take occupancy of the Premises when same is tendered by City to Commission.

Section 19. Remedies Upon Default. Upon the happening and/or during the continuance of any Event of Default specified above, the City will provide written notice to the Commission identifying the specific Event of Default ("Notice of Default Event"). The Commission shall

have thirty (30) days following receipt of such written notice to correct the Event of Default. If said Default remains and/or is not corrected within this time period, the City may then, at its sole and absolute discretion, avail itself of any remedy provided by law and/or equity, including without limitation, any one or more of the following remedies:

(i) Without initially terminating this Lease, City may reenter and take possession of the Premises, and the Commission shall continue to timely make such payments as required under this Lease. The City may thereafter enter into a sale or new lease of the Premises with any party, or operate the same on its own behalf. Immediately prior to commencement of the City's operation of the Premises or the effective date of the new lease, as applicable, the City shall notify the Commission of such event;

(ii) The City may immediately terminate this Lease and enter the Premises and exclude the Commission from possession of the Premises, declare all rents, fees, taxes and other charges and amounts which are then due and payable and costs of the City to prepare the Premises for reletting or sale to be immediately due and payable; and

(iii) The City may take whatever other action at law or in equity that City considers to be necessary or desirable in order to enforce performance and observance of any obligation, agreement or covenant of the Commission under this Lease, or may exercise all rights and remedies that are available under Florida and federal law. No method of entry authorized herein and made by the City shall cause or constitute a default of this Lease or be deemed to constitute an interference with the possession or use of the Premises by the Tenant if made in accordance with the terms of this Lease and applicable law.

Section 20. Performance Schedule. Time is of the essence of this Lease, and in case the Commission shall fail to perform the covenants on its part to be performed at the time fixed for the performance of such respective covenants by the provisions of this Lease, City may declare Tenant to be in default of such Lease and immediately terminate the Lease. Barring any unforeseen delays due to site conditions or Force Majeure as defined in Section 36 below, Commission shall commence construction of the Center, the public waterfront access and public recreation facilities no later than three (3) years following the execution date of this Lease. Should Commission fail to commence construction, or become reasonably aware of the inability to commence construction, on or before three (3) years of the execution date of this Lease, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises, and the Lease shall be void. Commission shall complete construction of the Center, the public waterfront access and public recreation facilities no later than three (3) years of the date of commencement of construction. Should Commission fail to complete construction, or become reasonably aware of the inability to complete construction, on or before three (3) years of the date of commencement of construction, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises, and the Lease shall be void.

Section 21. Notices. Notices by City and Commission shall be given to each other at the following addresses:

City:

City Administrator
P.O. Box 12910
Pensacola, Florida 32521

Commission:

Fish And Wildlife Conservation Commission
100 Eighth Avenue SE
St. Petersburg, Florida 33701-5020
Attn: Gil McRae, Director, Florida Fish and Wildlife Research Institute

Section 22. Compliance with Laws. Commission agrees that this Lease is contingent upon and subject to Commission obtaining all applicable permits and complying with all applicable local, State or Federal permits, regulations, ordinances, rules and laws.

Section 23. Governing Law. This Lease shall be governed by an interpreted according to the laws of the State of Florida.

Section 24. No Waiver of Breach. The failure of either party to insist in any one or more instances upon strict performance of anyone or more of the covenants, terms and conditions of this Lease shall not be construed as a waiver of such covenants, terms, and conditions, but the same shall continue in full force and effect, and no waiver of either party of any one of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by the waiving party.

Section 25. Authority. Each person executing this Lease on behalf of City and Commission, respectively, warrants and represents that the entity for whom he or she is acting has duly authorized the transactions contemplated herein and the executing this Lease by him or her, and that upon its execution, this Lease shall constitute a valid and binding obligation of the party on whose behalf it is so executed.

Section 26. Insurance. The State of Florida is self-insured for general liability and property insurance.

HOLD HARMLESS. The parties hereto, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other party. The City of Pensacola, as a local governmental body of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the Commission and agrees to be fully liable for any damages proximately caused by said acts or omissions. The Commission, as a subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the City and agrees to be fully liable for any damages caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or the Commission and nothing herein shall be construed as consent by the City or the Commission to be sued by third parties in any matter arising out of this Lease.

Section 27. Damages. In the event the Premises are damaged or destroyed due to fire, flood, hurricane, force majeure event or other disaster, casualty or cause whether or not due to the fault of Commission, its officers, employees, contractors, agents, or invitees, Commission shall be responsible for all necessary repairs or reconstruction and shall undertake all such repairs or reconstruction as expediently as practical.

Repair, reconstruction or replacement of any and all improvements installed, constructed or placed by or for the benefit of Commission shall be the responsibility of the Commission. Additionally, the City shall have no liability or responsibility for any damage to or loss of any gear, equipment, supplies, materials or other product owned by Commission or being stored at any facility assigned for the use and benefit of the Commission on behalf of a customer, client or invitee of the Commission.

In the event that the Premises should be totally destroyed by fire, hurricane or other casualty, or in the event the Premises should be so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days after the date of such damage, either City or Commission may, at its option, by written notice to the other given not more than thirty (30) days after the date of such fire or other casualty, terminate this Lease.

Section 28. No Partnership. The parties hereto agree that the Commission not subject to the direction or control of the City. This Lease shall not be construed so as to establish a joint venture or partnership between the parties hereto.

Section 29. No Individual Liability. No City official, officer, agent, director, employee or representative shall be held contractually or personally liable under this Lease because of any breach of the Lease or operation of the Lease.

Section 30. Permits and Licenses. The Commission shall be responsible for obtaining all local, state and federal permits, approvals, and/or licenses as may be necessary for it to operate the Premises according to the terms of this Lease. The Commission shall maintain, in accordance with applicable law, permits, approvals and licenses it has obtained throughout the Term and shall submit copies to the City if requested to do so at no cost to the City.

Section 31. Compliance with Government. The Commission shall comply with and shall cause its officers, employees, agents, invitees, guests, contractors and any other persons over whom it has control (including, but not limited to all persons invited or welcomed by the Commission for any purpose) to comply with all applicable municipal, state and federal laws, ordinances, and rules and regulations.

Section 32. No Third Party Beneficiaries. Nothing in this Lease, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Lease.

Section 33. Entire Agreement. The parties hereto understand and agree that this Lease contains the entire agreement and understanding between the parties for the use of the Premises by the Commission. The parties understand and agree that neither party nor its agents have made any representations or promises with respect to this Lease except as expressly set forth herein;

and that no claim or liability shall arise for any representations or promises not expressly stated in this Lease. Any other written or oral agreement regarding the Premises is expressly nullified upon the execution of this Lease unless otherwise specifically provided herein.

Section 34. Amendments. This Lease may not be altered, changed or amended, except by written instrument signed by both parties hereto in the same formality as the execution of this Lease. No provision of this Lease shall be deemed to have been waived by City, unless such waiver be in writing signed by City and addressed to Commission, nor shall any custom or practice which may grow up between the parties in the administration of the provisions hereof be construed to waive or lessen the right of City to insist upon the performance by Commission in strict accordance with the terms hereof. The terms, provisions, covenants, and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise expressly provided herein.

Section 35. Counterparts. This Lease may be signed in any number of counterparts, each of which shall be deemed an original so long as it bears the signature of the authorized representatives of each party.

Section 36. Force Majeure. Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available.

[remainder of page blank – signature page follows]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

CITY:

THE CITY OF PENSACOLA

Witnesses:

Print Name: Rebecca McClellan

By: _____
Print Name: Ashton J. Hayward, III
Title: Mayor

Print Name: Latasha Buchanan

ATTEST:

_____
Asst. City Clerk

COMMISSION:

Witnesses:

Print Name: Hollie Kimsey

FISH AND WILDLIFE CONSERVATION COMMISSION

By: _____
Print Name: ERIC SUTTON
Title: ASSISTANT EXECUTIVE DIRECTOR

Print Name: Becky Owens

ATTEST:

_____

FISH AND WILDLIFE CONSERVATION COMMISSION STATE OF FLORIDA

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Commission Attorney

ATTACHMENT A

PREMISES

ATTACHMENT B

Draft Phase III ERP/PEIS

ECPA Home

Chris Jones
Escambia County Property Appraiser

Real Estate Search | Tangible Property Search | Sale List | Amendment 1/Portability Calculations

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Navigate Mode ◉ Account ○ Reference

Printer Friendly Version

General Information

Reference:	000S009070014044
Account:	152190000
Owners:	PENSACOLA CITY OF
Mail:	PO BOX 12910 PENSACOLA, FL 32521
Situs:	
Use Code:	VACANT COMMERCIAL
Taxing Authority:	PENSACOLA CITY LIMITS
Tax Inquiry:	Open Tax Inquiry Window

Tax Inquiry link courtesy of Janet Holley
Escambia County Tax Collector

2013 Certified Roll Assessment

Improvements:	$0
Land:	$6,959,474
Total:	$6,959,474
Save Our Homes:	$0

Disclaimer

Amendment 1/Portability Calculations

Sales Data

Sale Date	Book	Page	Value	Type	Official Records (New Window)
12/15/2008	6417	1666	$100	QC	View Instr
01/1974	829	382	$15,000	WD	View Instr

Official Records Inquiry courtesy of Pam Childers
Escambia County Clerk of the Circuit Court and Comptroller

2013 Certified Roll Exemptions
MUNICIPAL OWNED

Legal Description
LTS 14 TO 22 DONL NO BLK 44 DONELSON AND 19 ARPENT AND ALL BLKS 61 TO 69 86 87 108 109 127 131 248 WATERFRONT...

Extra Features
None

Parcel Information

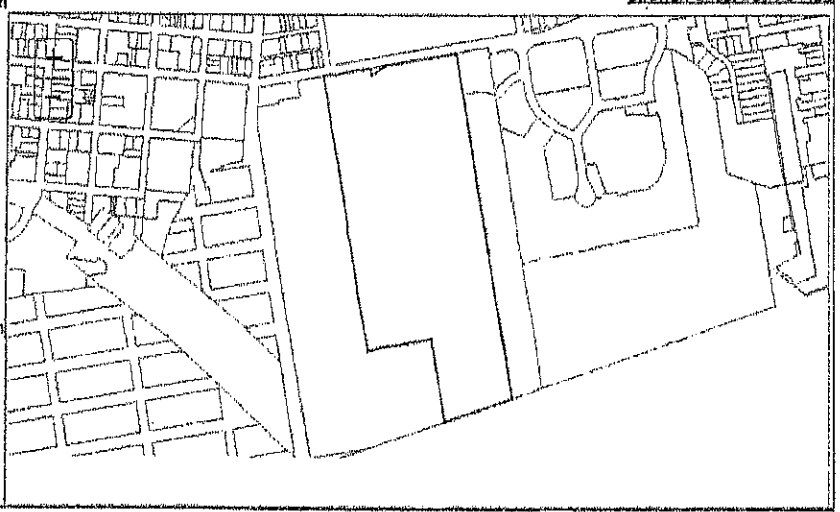
Launch Interactive Map

Section Map Id: CA09R

Approx. Acreage: 44.5500

Zoned: M-1 WRD

Evacuation & Flood Information Open Report



Buildings

Images

None

The primary use of the assessment data is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.

Last Updated: 04/18/2014 (tc.2114)

12.19 Florida Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center: Project Description

12.19.1 Project Summary

The proposed Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center project would involve constructing and operating a saltwater sportfish hatchery in Pensacola, Florida. This project would enhance recreational fishing opportunities. The total estimated cost for this project is $18,793,500.

12.19.2 Background and Project Description

The Trustees propose to construct and operate a saltwater sportfish hatchery in Pensacola (Escambia County), Florida (see Figure 12-35 for a conceptual design, Figure 12-36 for facility location). The objective of the proposed Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center project is to enhance and/or increase the public's use and/or enjoyment of the natural resources by producing and releasing highly sought-after sportfish species such as red snapper, red drum, and spotted seatrout. The restoration work proposed includes the construction and operation of a saltwater hatchery. Hatchery production (with a potential for up to 5,000,000 fish released annually) will be based on the use of intensive (i.e., indoor, tank-based) recirculating aquaculture systems that reduce water usage and effluent discharge (i.e., most of the water is re-used). Effluent will flow through a small constructed filtration marsh composed of native coastal wetland plant species to recycle nutrients from the aquaculture facility as plant biomass which can be used to support ongoing regional coastal habitat restoration efforts.

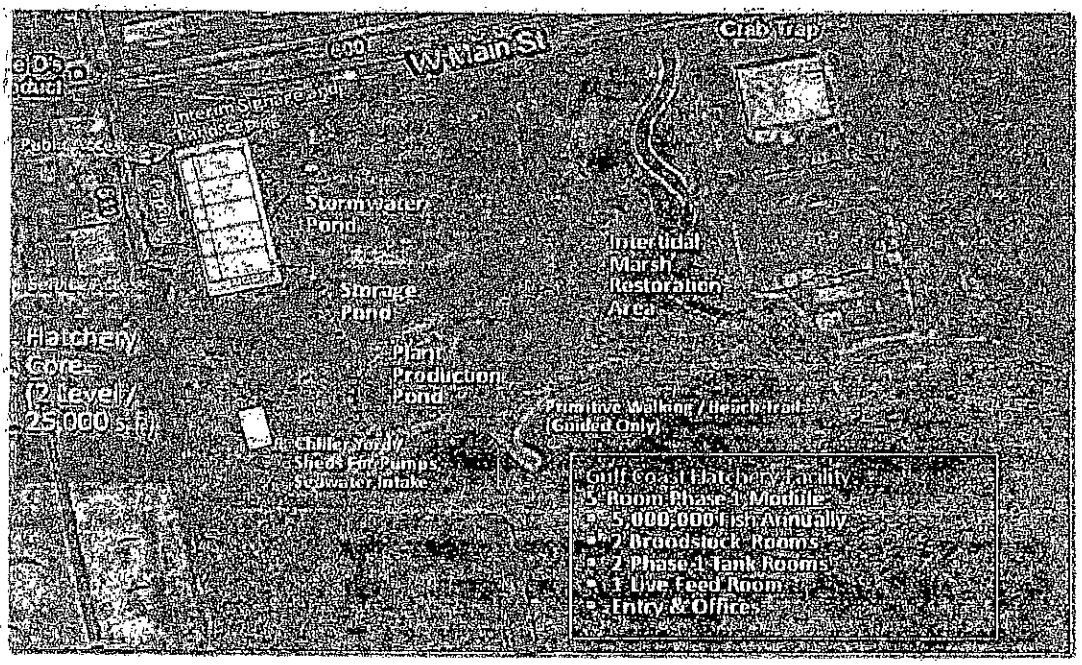


Figure 12-35. Conceptual design for the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center Project.

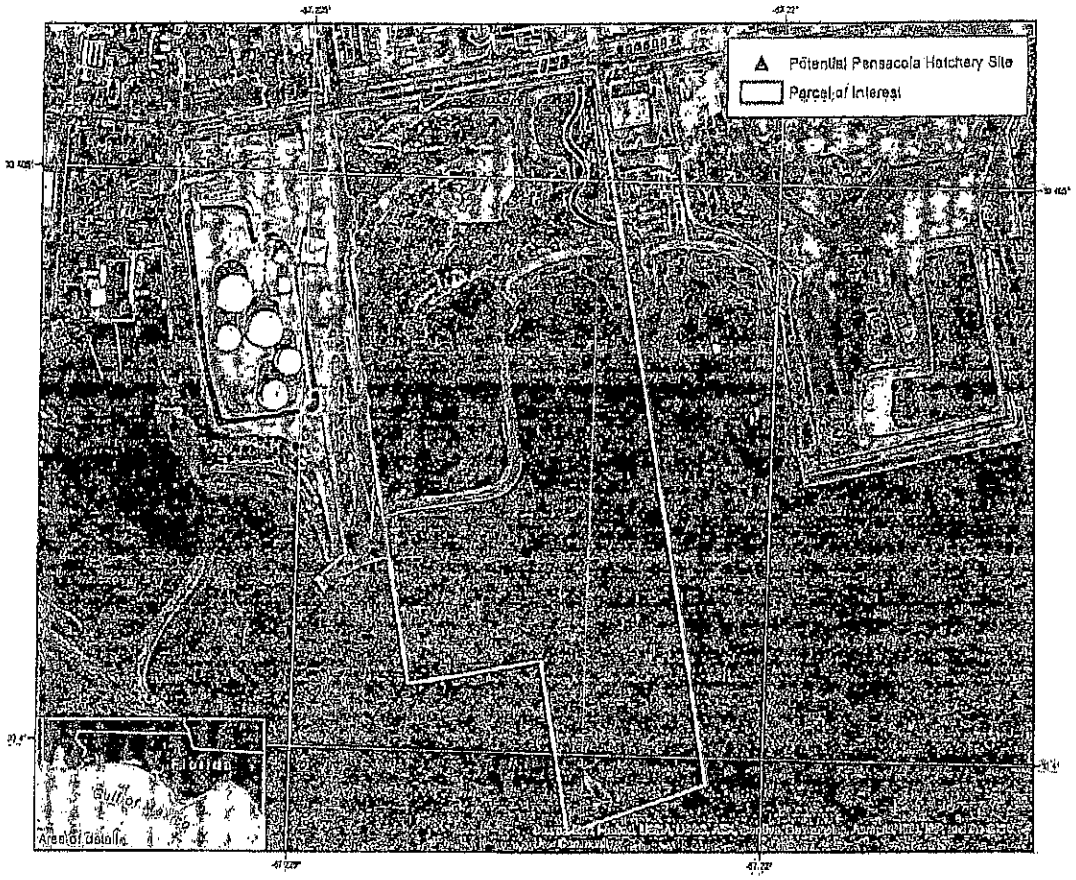


Figure 12-36. Location for the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center Project.

12.19.3 Evaluation Criteria

This proposed project meets the evaluation criteria for the Framework Agreement and OPA. As a result of the Deepwater Horizon oil spill and related response actions, the public's access to and enjoyment of their natural resources along Florida's Panhandle was denied or severely restricted. The project would enhance and/or increase the public's use and/or enjoyment of natural resources, helping to offset adverse impacts to such uses caused by the Spill and related response activities. Thus, the nexus to resources injured by the Spill is clear. See 15 C.F.R. § 990.54(a)(2); and Sections 6a-6c of the Framework Agreement.

The project is technically feasible and utilizes proven techniques with established methods and documented results. The State of Florida has constructed a similar style hatchery on a smaller scale and has been operating it successfully for multiple decades. For these reasons, the project has a high likelihood of success. See 15 C.F.R. § 990.54(a)(3); and Section 6e of the Framework Agreement. Furthermore, the cost estimates are based on the similar past project and therefore the project can be

conducted at a reasonable cost. See 15 C.F.R. § 990.54(a)(1); and Section 6e of the Framework Agreement. This proposed project is not anticipated to negatively affect regional ecological restoration and is therefore not in consistent with the long-term restoration needs of the State of Florida. See Section 6d of the Framework Agreement.

Many recreational use projects, including ones similar to this project, have been submitted as restoration projects on the NOAA website (http://www.gulfspillrestoration.noaa.gov) and submitted to the State of Florida (http://www.deepwaterhorizonflorida.com). In addition to meeting the evaluation criteria for the Framework Agreement and OPA, Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center project also meets the State of Florida's additional criteria that Early Restoration projects occur in the 8-county panhandle area that deployed boom and was impacted by response and SCAT activities for the Spill.

12.19.4 Performance Criteria, Monitoring and Maintenance

As part of the project costs, monitoring will be conducted to ensure project plans and designs were correctly implemented. Monitoring has been designed around the project goals and objectives. The project objective is to enhance and/or improve the public's use and/or enjoyment of the natural resources by constructing and operating a saltwater sportfish hatchery. Performance monitoring will evaluate the construction and operation of the hatchery. Specific success criteria include: 1) the completion of the construction as designed and permitted; 2) operation of the hatchery as permitted; and 3) enhanced and/or increased public access provided to natural resources, which will be determined by observation that the hatchery is open and operational.

A detailed project timeline and associated monitoring framework will be developed as the first step in the initial project design phase. Overall project quality control and assurance will be overseen by the Florida Fish and Wildlife Conservation Commission and quarterly progress reports will be prepared to help track the successful implementation, performance, and completion of the various goals and objectives outlined in the scope of work. Existing fisheries monitoring programs will be leveraged to provide information on recreational catch and effort, and abundance of select sportfish species. The project proposal provides for five years of Trustee data collection during which detailed data on fisheries abundance, catch, effort and angler preferences will be collected to define the impact of the project on recreational fishing.

The project proposal also provides for five years of Trustee operation and maintenance which will provide for regular facility maintenance and repair (electrical, plumbing, physical facility, etc.) as well as periodic maintenance and repair of aquaculture systems (including tanks, filtration systems, and specialized instrumentation). After five years, upkeep and repair of facility buildings as well as maintenance of stormwater and effluent retention ponds, and filtration marsh will be provided by FWC and its governmental, university, or non-profit partners.

12.19.5 Offsets

The Trustees and BP negotiated a BCR of 2.0 for the proposed recreational use project. NRD Offsets are $37,587,000 expressed in present value 2013 dollars to be applied against the monetized value of lost

recreational use provided by natural resources injured in Florida, which will be determined by the Trustees' assessment of lost recreational use for the Oil Spill. Please see Chapter 7 of this document (Section 7.2.2) for a description of the methodology used to develop monetized Offsets.[20]

12.19.6 Cost

The total estimated cost to implement this project is $18,793,500. This cost reflects current cost estimates developed from the most current information available to the Trustees at the time of the project negotiation. The cost includes provisions for planning, engineering and design, construction, monitoring, and contingencies.

[20] For the purposes of applying the NRD Offsets to the calculation of injury after the Trustees' assessment of lost recreational use for the Spill, the Trustees and BP agree as follows:

- The Trustees agree to restate the NRD Offsets in the present value year used in the Trustees' assessment of lost recreational use for the Spill.
- The discount rate and method used to restate the present value of the NRD Offsets will be the same as that used to express the present value of the damages.

12.20 Florida Fish Hatchery: Environmental Review

12.20.1 Introduction and Background

In April 2011, the Natural Resource Trustees (Trustees) and BP Exploration and Production, Inc. (BP) entered into the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement). Under the Framework Agreement, BP agreed to make $1 billion available for Early Restoration project implementation. The Trustees' key objective in pursuing Early Restoration is to achieve tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term injury and damage assessment is underway. The Framework Agreement is intended to expedite the start of restoration in the Gulf of Mexico in advance of the completion of the injury assessment process. Early restoration is not intended to, and does not, fully address all injuries caused by the Spill. Restoration beyond Early Restoration projects would be required to fully compensate the public for natural resource losses from the Spill.

Pursuant to the process articulated in the Framework Agreement, after public review of a draft, the Trustees released a Phase I Early Restoration Plan (ERP) in April 2012. In December 2012, after public review of a draft, the Trustees released a Phase II ERP. On May 6, 2013, the National Oceanic and Atmospheric Administration (NOAA) issued a public notice in the *Federal Register* on behalf of the Trustees, announcing the development of additional future Early Restoration projects for a Draft Phase III ERP (ERP). Construction of the Gulf Coast Marine Fisheries Hatchery and Enhancement Center (the hatchery) in Pensacola Bay was submitted as an Early Restoration project on the NOAA website (http://www.gulfspillrestoration.noaa.gov) and submitted to the state of Florida.

The Florida Fish and Wildlife Conservation Commission (FWC) is proposing to construct a saltwater sport fish hatchery in Pensacola (Escambia County), Florida, to supplement the Port Manatee Stock Enhancement Research Facility (SERF)—the lone State-operated saltwater sportfish hatchery operated in Florida. SERF currently produces juvenile redfish for release statewide. The facility uses mating pairs of redfish, caught in the wild, as brood stock to produce hundreds of thousands of eggs that are incubated until they hatch. The fingerlings are transferred to outdoor ponds or raised in tanks and are tagged and released when they reach the targeted size. Since 1988, six million juvenile redfish have been released, with the majority of them released in Tampa and Biscayne Bays (FWC 2013a). With only one hatchery in the state, it is difficult for the FWC to meet the demand from sport and commercial fishing.

The *Deepwater Horizon* Oil Spill directly affected beaches and estuaries through oil intrusion, which resulted in the closure of state and federal waters for months and had a large impact on Florida's coastal economy.

The proposed hatchery project would fund construction activities to develop a former industrial site into a saltwater sport fish hatchery and support its operation and maintenance activities for a period of 5 years. The proposed hatchery facility would focus on restoring lost recreational fishing use experienced by resident and visiting anglers in Florida. The facility would release up to five million juvenile sportfish

such as red snapper (*Lutjanus campechanus*), red drum (*Sciaenops ocellatus*), and spotted sea trout (*Cynoscion nebulosus*) annually into state waters in the Gulf of Mexico.

This hatchery project would be consistent with FWC's efforts over the past 25 years to develop a statewide series of marine hatcheries to enhance fishing and promote marine conservation. The FWC has been actively pursuing this goal since development of SERF in Manatee County as a response, in part, to the declines in the harvest of popular sport fish species, particularly red drum, earlier in the 1980s. This commitment to incorporating marine hatcheries into FWC's fishery management activities was further recognized in 2006 with the implementation of the Florida Marine Fisheries Enhancement Initiative, or FMFEI (FWC 2013a).

The proposed hatchery would draw on lessons the FWC has learned in the 25 years of operation of SERF, and incorporate the latest technological advances in fish culture. The state-of-the-art facility would be designed to incorporate intensive aquaculture techniques and approaches, including the use of an indoor-tank-based rearing system where approximately 80% of the initial saltwater withdrawals from Pensacola Bay would be reused. In addition, the water that is eventually discharged from the facility would go through a treatment process that focuses on the recycling of nutrients. Effluent from the facility would flow through a small filtration marsh composed of native coastal wetland plant species (to be built as part of the hatchery project); the nutrients would provide fertilizer to support an adjoining nursery. Plants produced at the nursery and in the wetland would be used to support ongoing regional coastal habitat restoration efforts.

Developing the hatchery would help satisfy FMFEI's objectives of increasing recreational fishing opportunities and promoting marine conservation, while providing an economic boost to the Pensacola economy.

This proposed project meets the evaluation criteria of the Framework Agreement and the Oil Pollution Act (OPA). As a result of the *Deepwater Horizon* Oil Spill and related response actions, the public's access to and enjoyment of natural resources along Florida's panhandle was denied or severely restricted. The project would enhance and/or increase the public's use and enjoyment of natural resources, helping to offset adverse impacts to such uses caused by the Spill and related response activities.

12.20.2 Project Location

The proposed hatchery project area is located on 10 acres in Escambia County at the southeast corner of Main Street and Clubbs Street in Pensacola, Florida (Figure 12-37 and Figure 12-38). The hatchery facilities and ponds will be constructed on the upland portion of the site. According to the Wetland Sciences, Inc. report (2013), there are three areas immediately adjacent and within the subject property that have been developed as wetland mitigation areas: the Bruce Beach marsh immediately to the south, the City of Pensacola Southern Bulkhead Mitigation Area immediately to the east, and the Community Maritime Park (CMP) wetland mitigation area immediately south of the Bruce Beach marsh (Figure 12-40). Finally, a bulk petroleum storage facility (Transmontaigne Product Services., FDEP Facility ID No. 178508201) is located immediately west of the proposed project site (Figure 12-39).

Records indicate the Bruce Beach marsh was planted in 1991 by the Florida Department of Environmental Protection's Ecosystem Restoration Section. This mitigation area was formed by the construction of an L-shaped breakwater and infill of submerged lands of Pensacola Bay. Originally, smooth cordgrass (Spartina alterniflora) was established on one-meter centers throughout the entire created area. Hydrology within the site was established through tidal ebb and flow whose influences are manifested by a gap in the constructed breakwater which effectively connected the mitigation site to Pensacola Bay (Wetland Sciences, Inc. 2013).

The Southern Bulkhead Mitigation Area site was designed to compensate for wetland losses incurred with the construction of the southern bulkhead along the waterfront of what is now the Community Maritime Park. This mitigation site was once a channelized canal formerly used to discharge treated effluent from a now decommissioned wastewater treatment plant. The mitigation site is comprised of a meandering tidal channel and low/high marsh areas planted with smooth coordgrass and marsh hay (Spartina patens) (Wetland Sciences, Inc. 2013).

The Community Maritime Park (CMP) wetland mitigation area was established in 2012 to compensate for loss of wetland functions that were eliminated by the construction of the Pensacola Community Maritime Park. The wetland mitigation plan included the creation of a salt marsh consisting of 0.86 acres of oyster reef habitat/breakwaters, 1.96 acres of planted salt marsh, and 1.72 acres of tidal creeks and pools which serve as a waterward extension of the existing Bruce Beach mitigation area. The mitigation plan also included modifications to the existing Bruce Beach Mitigation Area. These modifications included the re-grading of adjacent uplands to intertidal elevations for additional marsh creation and opening the southern end of the site to enhance tidal exchange between Bruce Beach and the CMP mitigation areas. This mitigation site is protected via a conservation easement recorded in OR Book 6417 Pages 1666- 1680 in the official records of Escambia County (Figure 12-40) (Wetland Sciences, Inc. 2013).

These three mitigation areas will not be affected by the construction activities and should benefit from the improved quality of the water returned to the bay through the hatchery's treatment processes relative to the uncontrolled nature of the current surface water runoff from the site.

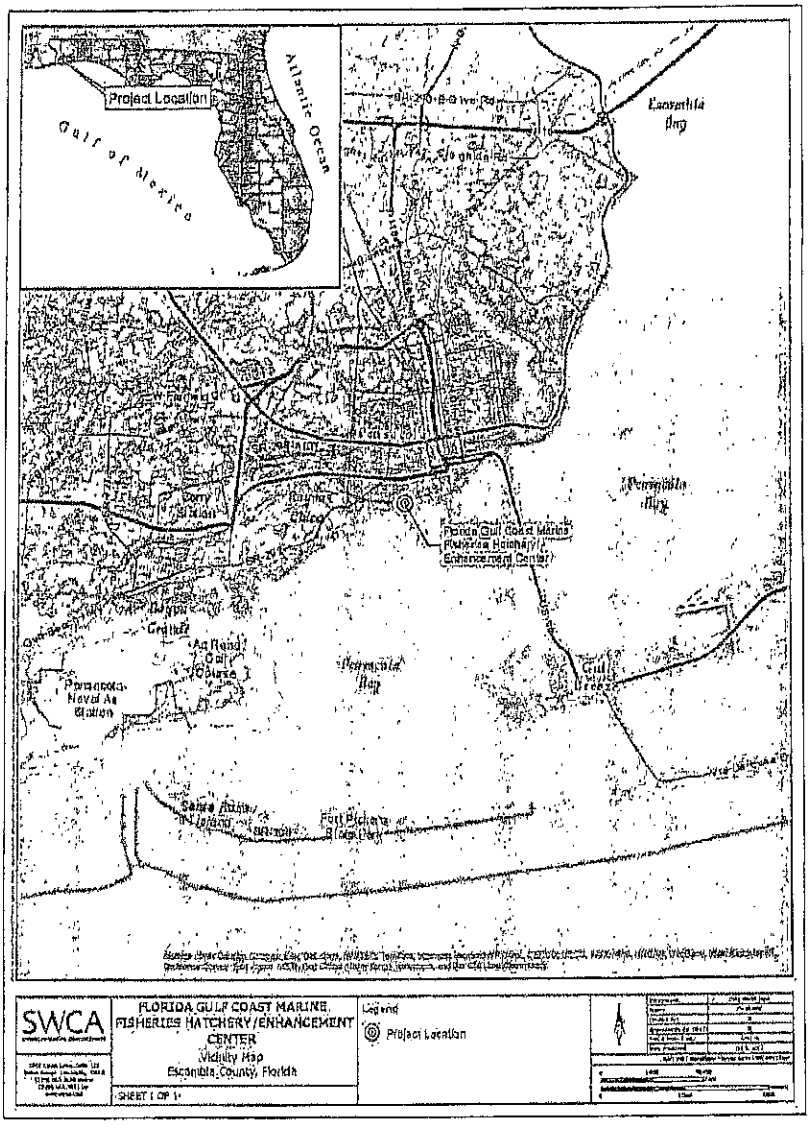


Figure 12-37. Vicinity map of the proposed hatchery project in Pensacola, Florida.

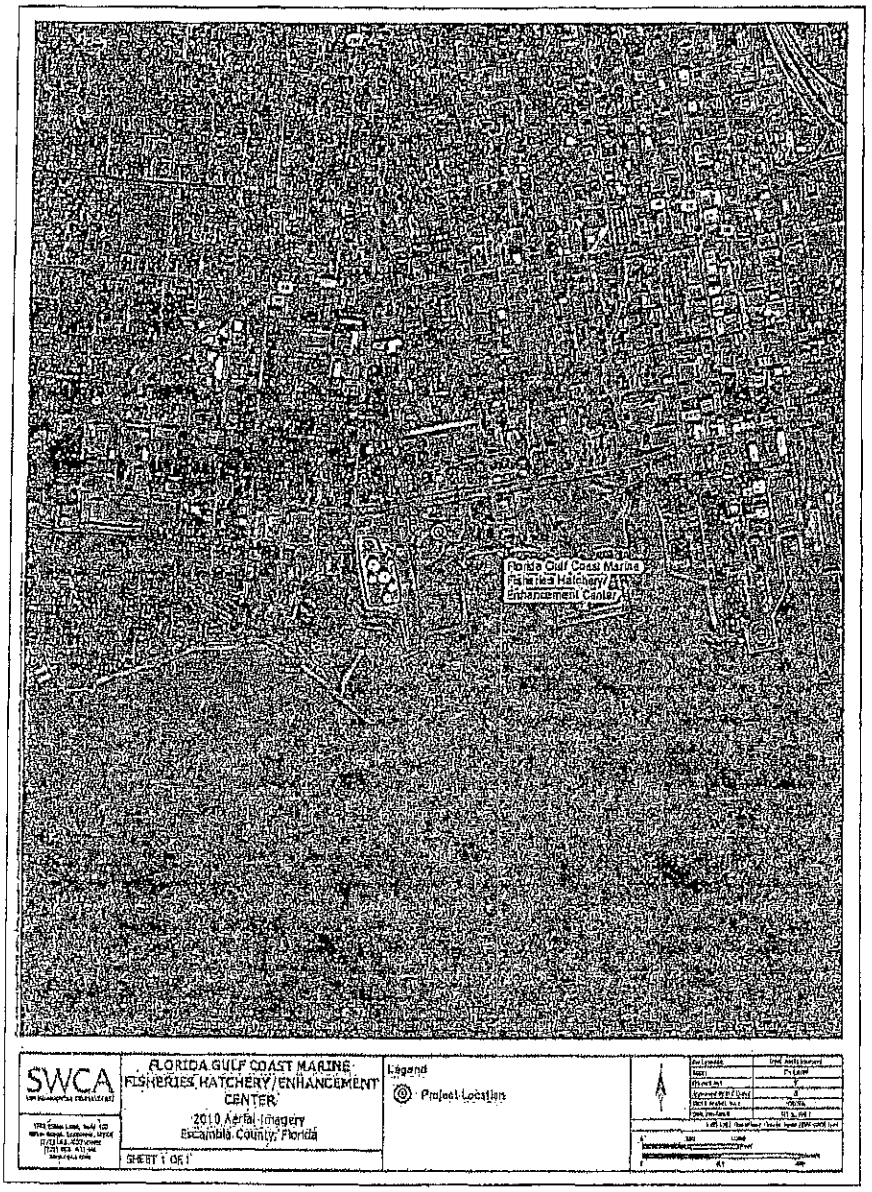


Figure 12-38. Aerial map of proposed hatchery project in Pensacola, Florida.

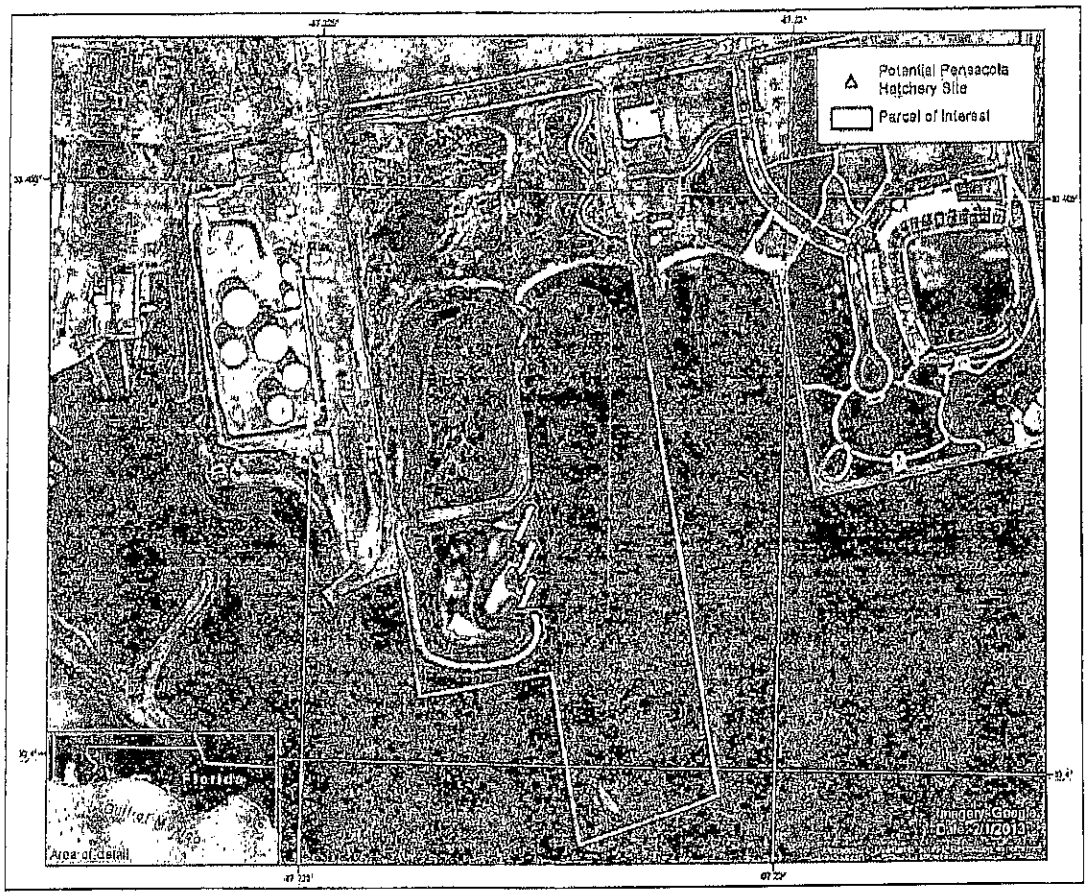


Figure 12-39. Approximate boundary of the proposed hatchery project location in Pensacola, Florida.

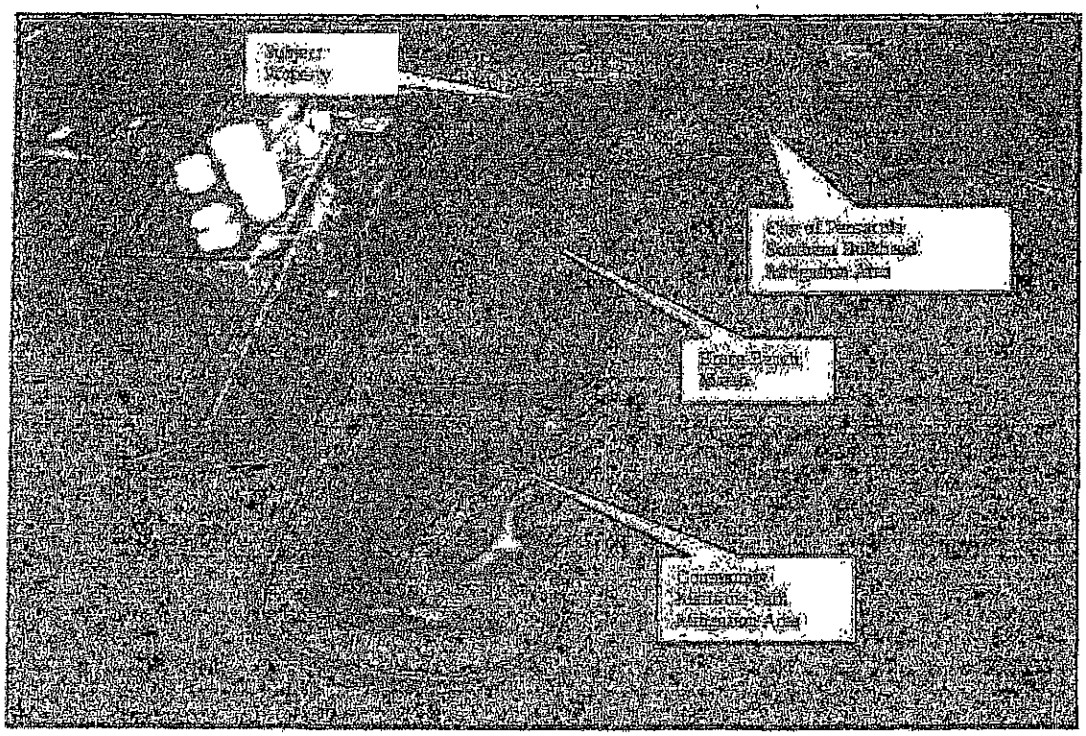


Figure 12-40. Wetland mitigation areas near the proposed hatchery project in Pensacola, Florida.

12.20.3 Construction and Installation

Figure 12-41 provides a conceptual rendering of the proposed hatchery.

Critical indoor project elements identified in Figure 12-41 include:

- Five-Room, Phase 1 Module Building (illustrated in white, adjacent to parking area):
  - Entrance and offices: A portion of the main facility building would contain offices for the staff. An entrance located adjacent to the parking lot would be developed for access by staff and visitors. A separate service entrance would be developed for the delivery of hatchery and administrative supplies.
  - Brood stock rooms (2): There would be two rooms where adult fish would be held in 115,000-gallon tanks for spawning. These broodstock fish would produce the fertilized eggs that the hatchery would then grow in the phase I tank rooms (see below) until they are large enough for release.
  - Phase 1 tank rooms (2): There would be two rooms where hatchery-raised fish would complete their grow-out to the Phase 1 size of approximately 1.25 inches in length, at which point they would be ready for release. The Phase 1 tanks would be 95,000-gallon capacity.

Live feed room (1): This room would contain smaller tanks that would grow the food necessary to feed the cultured sport fish. Depending on the species, this could include various species of phytoplankton and zooplankton.

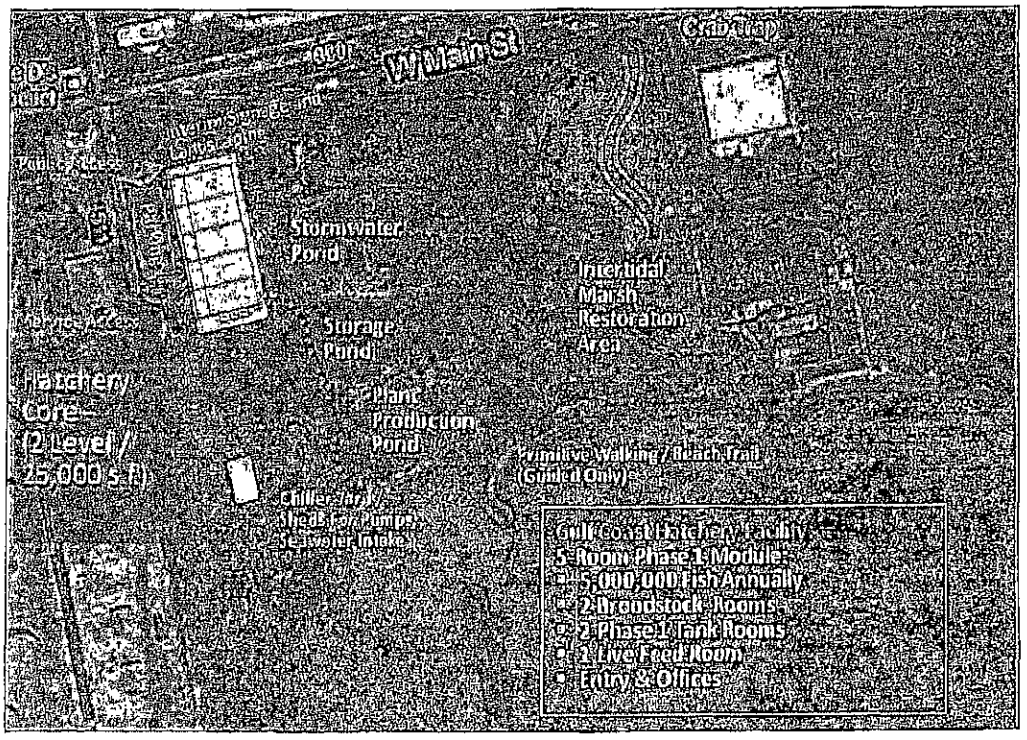


Figure 12-41. Conceptual rendering of the proposed hatchery project in Pensacola, Florida.

Critical outdoor project elements identified in Figure 12-41 include:

- Stormwater pond: A stormwater retention pond would be developed to capture rain water flowing from impervious surfaces on and near the site during storm events. This pond would be used to settle solids and allow for some groundwater recharge. Pond discharge would be integrated into the surface waters being directly returned to Pensacola Bay from the site. The exact size of the pond and conditions and mechanisms of the return flow to Pensacola Bay (e.g., size of pond related to the amount of impervious surface in the final design) would be defined in the final engineering plans.
- Storage pond: A lined storage pond up to 1 acre in size would be used to store hatchery fish production effluent. Effluent would be diverted to the pond after initially filtering out solids inside the facility. The pond would allow for additional settling of solids entrained in the hatchery's fish production water, and the liner would facilitate removal of fish waste and other biological material. Water from the storage pond would flow into the plant production pond.
- Plant production pond/filtration marsh: This approximately 2-acre pond or marsh would receive discharge from the storage pond and be planted with native wetland species, including

Spartina alterniflora, to uptake nutrients that improve water quality before water would be returned to Pensacola Bay as sheet flow. The wetland plants would be harvested to remove nutrients from the marsh and used to support other coastal restoration projects. To the maximum extent possible, this constructed marsh would be integrated with the existing wetland and marsh mitigation areas that are on and adjacent to the proposed hatchery location.

- **Parking lot:** An on-site lot of approximately 90,000 square feet would be developed to provide parking for hatchery staff and visitors. Access to the lot would be via Clubbs Street, which has minimal traffic and would dead-end at the facility parking lot.

Permitting and construction to complete these hatchery elements would take place over approximately 12 to 18 months. Heavy equipment (e.g., excavators, backhoes, graders) would be needed to clean, excavate, and develop the site. Additional equipment (e.g., lifts, cranes) would be used in the construction of the building and the aquaculture facilities. Assumed equipment use and manpower requirements derived from the conceptual design phase are detailed in Table 12-33.

Table 12-33. Assumed equipment use and worker needs.

EQUIPMENT	NO. USED	NO. OF DAYS USED	NO. OF WORKER DAYS	ASSUMPTIONS
Cranes (pile driving and lifting)	2	180	360	8 hr/day, 5 days/week, 9 months
Front-end loader	2	120	240	8 hr/day, 5 days/week, 6 months
Backhoe	1	60	60	8 hr/day, 5 days/week, 3 months
Triple axel dump trucks	6	75	450	75 trips
Motorgrader	1	20	20	8 hr/day, 5 days/week, 1 month
Bulldozer (D-7)	1	60	60	8 hr/day, 5 days/week, 3 months
Portable pump (dewatering system)	1	56	56	24 hr/day, 7 days/week, 2 months
Tractor trailer (material delivery)	1	104	104	2 trips/week, 12 months (52 weeks)
Concrete trucks	4	128	512	2 trips/week, 4 months (16 weeks)
Generator	2	180	N/A	8 hr/day, 5 days/week, 9 months
Small power tools (saws, drills, nail guns)	26	180	50 skilled/semi-skilled	8 hr/day, 5 days/week, 9 months
Total	-	-	**1,912**	-

At least 26 small tools (e.g., nail guns, saws, drills) would be needed and would be operated approximately 8 hours per day, 5 days per week, for up to 9 months. A generator would be needed to power the small tools, which would operate for about 8 hours per day, 5 days per week, for up to 9 months. In addition, a pumping station would operate intermittently during the final phases of constructing the facility, and once the facility is running would be operating 24 hours a day for the life of the facility, with the exception of maintenance and other potential shutdowns.

Habitat features associated with the treatment of the hatchery's production waters would be first designed based on a maximum possible production level. Once these features were constructed, remaining funding would be evaluated to adjust the initial scale of the operation according to resource

availability. This process would ensure the hatchery's environmental features would be capable of meeting their treatment demands. Subsequently, the size and characteristics of the stormwater pond would be scaled according to the amount of impervious surface (e.g., facility roof, parking lot) in the final design for the hatchery.

Construction equipment and activities would be managed to ensure sensitive and regulated resources, including existing wetland mitigation areas, would not be disturbed. The hatchery project would be designed with the intent of saving live oaks and pecan trees protected by city preservation ordinances (Wetland Sciences, Inc. 2013). In addition, FWC would collaborate with the FDEP, a co-Trustee in Florida, to ensure the hatchery project would not affect the existing mitigation areas covered by FDEP permits.

Environmental Protection Agency (EPA) permitting requirements for operating a fish hatchery are detailed in 4 C.F.R. 122, in Sections 1(b)(2)(ii), 24, and Appendix C. Hatcheries producing less than 100,000 pounds of warm-water species per year, as would be the case with the proposed facility, are exempt from obtaining a National Pollutants Discharge Elimination System permit. The hatchery project would be required to obtain an Industrial Wastewater Permit from FDEP. An Aquaculture Certification (Section 597.004, Florida Statute [FS]) would also be required from the Florida Department of Agriculture and Consumer Services (FDACS) Division of Aquaculture. Development of the hatchery project would adhere to the FDACS Aquaculture Best Management Practices Rule (Chapter 5L-3, Fla. Admin. Code). Building construction would use standard methods and follow general state and local permitting requirements regarding hours of activity, noise, site maintenance, and disposal of materials (see Hydrology and Water Quality section for more details).

12.20.4 Operations and Maintenance

The proposed hatchery would be operated and maintained by a team of 9 to 15 staff to support the production and release of up to five million marine sport fish (juvenile red snapper, red drum, and spotted sea trout) annually into Florida waters of the Gulf of Mexico. The production of sport fish would be conducted in a manner consistent with the relevant rules and best management practices (BMPs) that have been developed for the release of marine organisms in the state of Florida (FWC 2009a, 2009b, 2009c). These rules and guidance describe conditions under which marine organisms may be collected, as well as considerations to be addressed prior to the release of any marine organisms into the environment (e.g., genetic risk from the release). FDACS regulates aquaculture operations and enforces compliance with relevant regulations. FWC has had a long-term, productive working relationship with FDACS in regard to operations at the current hatchery at Port Manatee, including permitting of effluent discharge according to state aquaculture guidelines. FWC has authority derived from the state constitution to conduct the types of operations associated with the proposed hatchery.

Production of reared fish would take place indoors at the hatchery, rather than in outdoor holding and rearing ponds common to similar facilities. Hatchery fish production would be based on the use of intensive (i.e., indoor, tank-based) recirculating aquaculture systems that reduce water usage and effluent discharge (i.e., most of the water is reused). Effluent would flow through a small constructed filtration marsh composed of native coastal wetland plant species to recycle nutrients from the

aquaculture facility as plant biomass, which can be used to support ongoing regional coastal habitat restoration efforts.

Successful production of fish and hatchery operations would require three general activities:

- Collection of brood stock;
- Rearing of captive spawned sport fish from brood stock eggs; and
- Release of hatchery fish to marine environments.

These steps are further described below.

12.20.4.1 Collection of Brood Stock

Brood stock (adult male and female fish of the targeted species) would be collected from Florida's state waters under existing research and species collection permits held by FWC. Generally, these adult fish would be collected using standard fishing gear (e.g., baited lines, nets). Once collected, the adult fish would be transported to the hatchery and transferred to the brood stock room tanks. Spawning of these fish would be stimulated by adjusting environmental cues (e.g., day length, water temperature) to simulate natural spawning cycles.

12.20.4.2 Rearing of Captive Spawned Sport Fish

Fertilized eggs in the brood stock tank would be buoyant which facilitates collection from the water surface of the tanks. This collection technique has been used successfully for more than 25 years at SERF and would be modified as needed, based on site-specific conditions at the proposed hatchery. The fertilized eggs would be transferred to incubation chambers and maintained until their yolk sacs are absorbed. At that time they would be transferred to phase 1 grow-out tanks.

In the grow-out tanks, the fish would be raised on a diet of live feed, phytoplankton and/or zooplankton, which would be produced on-site in the separate live feed room. Growth of hatchery fish would be monitored and graded by size. Fish would be transferred over time to a series of tanks to minimize cannibalism until they reach the desired size for release. The goal for the phase 1 size is approximately 1.25 inches. When the fish reach this size, they would be collected from the tanks and transported by truck and/or boat to release sites identified by FWC staff. These sites would be located in suitable habitat for juvenile fish such as seagrass beds located throughout the northern Gulf of Mexico.

12.20.4.3 Seawater Management

A critical component of the proposed hatchery is taking in seawater needed for operating the rearing tanks before returning the water to Pensacola Bay. The proposed facility would incorporate intensive aquaculture systems that recirculate the water and minimize withdrawal requirements. The goal would be to reduce the volume of water requiring treatment prior to discharge to Pensacola Bay by reusing 80% of the intake water. Seawater would be supplied to the facility through underground piping from a seawater pump station. A pumping station, preferably land based, would supply power and protect the pump(s). Details of this structure would be addressed in the development of final site plans, but would include an occlusion device at the water intake to prevent harm to or uptake of specific marine organisms. Any proposed structure would comply with relevant city, state, and federal permit

requirements. Seawater would be treated prior to use. The seawater treatment may include disinfection, either through chlorine or ozone, a settling tank to remove suspended solids, mechanical filtration, and a water distribution system (valves and plumbing) to direct water to specific areas of the hatchery.

Water that is not reused would be treated in two phases. The first phase would consist of on-site filtration to remove large solids. The solids would be disposed of by Emerald Coast Utilities Authority. Next, the water would flow to the storage pond to allow the settling of additional solids. The remaining effluent would be transported to the plant production pond or filtration marsh where nutrients would be removed by native plants before the water is returned as sheet flow back to Pensacola Bay.

The marsh or wetland would be designed to distribute water equally to the marsh wetland plants to facilitate uniform growth of plants and nutrient uptake by the plants from the waste stream. Several species would be planted in the marsh at strategic elevations to provide the appropriate water inundation or exposure to the plants. The marsh would serve the additional purpose of supplying wetland plants for restoration projects.

12.20.4.4 Additional Operation Considerations

Additional operational guidelines and programs for the facility would be developed, implemented, and refined over time as needed and based on the FWC's more than 25 years of experience operating the SERF hatchery in Port Manatee. For example, SERF has a power outage protocol that could be reviewed for relevance and then adopted or modified as needed for the proposed hatchery.

12.20.4.5 Maintenance

The project proposal provides for 5 years of Trustee operation and maintenance, which would provide for regular facility maintenance and repair (electrical, plumbing, physical facility, etc.) as well as periodic maintenance and repair of aquaculture systems (including tanks, filtration systems, and specialized instrumentation). After 5 years, upkeep and repair of facility buildings as well as maintenance of stormwater and effluent retention ponds and filtration marsh would be provided by FWC and its governmental, university, or non-profit partners.

A hatchery maintenance plan would be developed that provides specific plans for short- and long-term equipment inspection, repair, and replacement. Short-term maintenance would include regular facility upkeep (e.g., cleaning) and periodic inspection and repair of aquaculture systems including tanks, filtration systems, specialized instruments, and basic facility systems (e.g., electrical, plumbing). Long-term maintenance would include provisions for upkeep and repair of facility buildings, stormwater pond, storage pond, and the plant production pond or filtration marsh to ensure effective productivity.

12.20.5 Affected Environment and Environmental Consequences

Under the National Environmental Policy Act, federal agencies must consider environmental effects of their actions that include, among others, impacts on social, cultural, and economic resources, as well as natural resources. The following sections describe the affected resources and environmental consequences of the project.

12.20.5.1 No action

Both OPA and NEPA require consideration of the No Action alternative. For this Draft Phase III ERP proposed project, the No Action alternative assumes that the Trustees would not pursue this project as part of Phase III Early Restoration.

Under No Action, the existing conditions described for the project site in the affected environment subsection would prevail. Restoration benefits associated with this project would not be achieved at this time.

12.20.6 Physical Environment

The proposed location for the hatchery is a roughly 10-acre, human-made parcel that was created in the early 1900s by filling in a portion of Pensacola Bay. Although currently vacant, the site has a history of documented industrial activity since 1910 (Wetland Sciences, Inc. 2013). The site is currently characterized as "highly disturbed" and extensively covered with construction debris. Three remnant patches containing native and exotic vegetation are present in the hatchery project area, which is bordered by wetland mitigation areas (Wetland Sciences, Inc. 2013).

12.20.6.1.1 Geology and Substrates

Affected Resources

The soil and substrate at the proposed hatchery site have not been surveyed. According to the Natural Resources Conservation Service (2013), local soils are characterized as Lakeland-Hurricane Complex. However, the upland hatchery project area was created by filling in historically coastal areas, which may have been altered over time by industrial activity. The following description assumes local soils were used as fill.

The Lakeland-Hurricane Complex are nearly level to moderately sloping, excessively drained, and somewhat poorly drained soils that are sandy throughout on coastal lowlands. This map unit consists of soils on broad, low ridges in the southern part of the county, primarily in and around the city of Pensacola. The landscape consists of long, smooth slopes and has little relief. Slopes range from 0% to 8%.

Environmental Consequences

Development of the hatchery project would significantly disturb the soils where excavation and re-grading for the hatchery building, parking lot, and associated ponds and treatment marsh (see Figure 12-41) is necessary. The hatchery project would result in major, long-term impacts to soils where development occurs. However, since the area was historically filled from off-site soils, it is unclear whether disturbance is occurring to native soils.

12.20.6.1.2 Hydrology and Water Quality

Affected Resources

Northwest Florida has seven major watersheds, all of which have been identified as priorities under the Surface Water Improvement and Management (SWIM) program. Water quality protection is the

underlying goal of SWIM, along with the preservation and restoration of natural systems and associated public uses and benefits (Northwest Florida Water Management District [NFWMD] 2011). The hatchery project is located in the Pensacola Bay watershed system, which includes Pensacola, Escambia, Blackwater, and East Bays; the western portion of Santa Rosa Sound; and numerous rivers and bayous. The total drainage area covers nearly 7,000 square miles, about 34% of which is in Florida. The entire system discharges into the Gulf of Mexico, primarily through a narrow pass at the mouth of Pensacola Bay (NFWMD 2013). Broad issues for the Pensacola Bay system include water and sediment quality degradation through point and nonpoint pollution sources; habitat quality, which is threatened by and degraded through sedimentation and deposition; and management and coordination between two states and numerous local governments and agencies (Thorpe et al. 1997).

With regard to groundwater, the principal water-bearing aquifers are the Surficial Aquifer System (which includes the Sand and Gravel Aquifer) and the Floridian Aquifer System. The Sand and Gravel Aquifer supplies most of the public water supply in Escambia County (NFWMD 2011). Based on Federal Emergency Management Agency (FEMA) flood insurance rate maps (see Panel 12033C0390G), the hatchery project is located in the coastal area located in Zone AE. Zone AE has defined base flood elevations and is an area of special flood hazard (FEMA 2006).

The presence of concrete and other debris, combined with an assumption of poorly drained soils, would result in surface water flow across the hatchery project area. It is likely that discharge from the site occurs into the adjacent wetland mitigation sites on the eastern and southwestern boundaries of the property (Wetland Sciences, Inc. 2013). These marshes would improve the quality of surface water runoff from the hatchery project site before flow reaches the bay. The property is surrounded by developed land, including a major road, refinery or storage facility, commercial buildings, a former Emerald Coast Utilities Authority wastewater treatment plant, and a recently built ball field and facility. These impermeable surfaces would not facilitate infiltration and aquifer recharge, but would encourage surface runoff.

Environmental Consequences

Hydrology of the project site would be affected by the development of the hatchery facility. In the short term, particularly during the period of intensive excavation and grading, there is the potential for increased sediment transport off the construction site during storm events. Incorporation of BMPs for construction (e.g., silt fencing, hay baling sensitive areas) would ensure that these potentially adverse water quality impacts are minimized. Current surface water flows and subsequent discharges to Pensacola Bay are not controlled or actively managed. The development of the stormwater retention area in conjunction with the hatchery development would result in implementation of a coordinated, engineered approach for managing the quality of stormwater, or freshwater flows, or both, and prevent discharge of pollutants into Pensacola Bay.

SERF's success with capturing and controlling surface water flows and improving water quality sets the precedent for the development of a similar system for the proposed hatchery. Monitoring associated with the SERF industrial wastewater permit improved water quality, resulting in a determination letter from FDEP that the permit was no longer required. Based on this experience and the opportunity to incorporate similar methods and technology, the hatchery project should result in no long-term

degradation of water quality. Given potential uncontrolled runoff to the bay, the hatchery project is likely to have short- and long-term benefits to water quality by ensuring discharge to the bay meets strict water-quality criteria for nutrients and other impurities as required by an industrial wastewater permit.

Construction of the stormwater system would ensure that the hatchery project would not affect the performance of the existing wetland mitigation areas. Water quality monitoring would be required by the industrial wastewater permit to ensure there is no water quality impairment of discharges into the bay. All permit conditions, including mitigation measures for siltation, erosion, turbidity, and release of chemicals, would be strictly adhered to. During construction, BMPs along with other avoidance and mitigation measures required by state and federal regulatory agencies would be employed to minimize any water quality and sedimentation impacts. FDEP permit conditions require erosion and turbidity mitigation measures, which include:

- Installation of floating turbidity barriers;
- Installation of erosion control measures along the perimeter of all work areas;
- Stabilization of all filled areas with sod, mats, barriers, or a combination; and
- Stoppage of work if turbidity thresholds are exceeded. The soils would then be stabilized, work procedures would be modified, and the FDEP would be notified.

Compliance with the Clean Water Act or Rivers and Harbors Act may be necessary since the hatchery project will have a discharge to Pensacola Bay.

There is the potential for short-term, minor adverse impacts to water quality associated with construction activities but these would be minimized by using BMPs. Over the long term, water quality of flows on the site and the saltwater discharges used in production would likely result in a minor benefit with the development of the hatchery.

12.20.6.1.3 Air Quality and Greenhouse Gas Emissions

Affected Resources

The Clean Air Act (CAA) requires the EPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. NAAQS have been set for six common air pollutants (also known as criteria pollutants)—particle pollution or particulate matter, ozone, carbon monoxide, sulfur dioxide (SO_2), nitrogen dioxide, and lead. Particulate matter is defined as fine particulates with a diameter of 10 micrometers or less (PM_{10}) and fine particulates with a diameter of 2.5 micrometers or less ($PM_{2.5}$). When a designated air quality area or airshed in a state exceeds a NAAQS, that area may be designated as a *nonattainment* area. Areas with levels of pollutants below the health-based standard are designated as *attainment* areas. To determine whether an area meets the NAAQS, air monitoring networks have been established and are used to measure ambient air quality. The EPA also regulates 187 hazardous air pollutants (HAPs) that are known or suspected to cause cancer or other serious health effects.

Air quality in the Florida panhandle is in attainment with the NAAQS (EPA 2013a). The FDEP operates two monitors in Escambia County. The Ellyson Industrial Park monitor in Ferry Pass records ozone, $PM_{2.5}$, and SO_2 concentrations. The Naval Air Station monitor records ozone concentrations. Readings at both monitors for the last 3 years show attainment with the NAAQS for ozone and SO_2 (FDEP 2013b). $PM_{2.5}$ attainment data were not available (EPA 2013a).

Total greenhouse gas (GHG) emissions in the state of Florida from 1990 to 2007 have increased at an average rate of 2.1% per year. Total GHG emissions in 2007 were 290 million metric tons of carbon dioxide (CO_2) equivalent ($MMTCO_2E$). In 2007, 91% of GHG emissions in Florida were CO_2 emissions (FDEP 2010). According to the EPA, the average annual temperature in the southeast portion of the United States has increased by approximately 2.0 degrees Fahrenheit (°F) since 1970. Average annual temperatures in the region are projected to increase from 4°F to 9°F by 2080. Hurricane-related rainfall is projected to continue to increase. Models suggest that rainfall would arrive in heavier downpours with increased dry periods between storms. These changes would increase the risk of both flooding and drought. The coasts would likely experience stronger hurricanes and sea level rise. Storm surge could present problems for coastal communities and ecosystems (EPA 2013b).

Environmental Consequences

Project construction would require the use of heavy mechanized equipment, which would lead to temporary air pollution (e.g., criteria pollutants, HAPs, GHGs) due to emissions from the operation of construction vehicles and equipment. Any air quality impacts that occur would be minor due their localized nature, short-term duration, and the small size of the hatchery project. Available BMPs would be employed to prevent, mitigate, and control potential air pollutants during project implementation. No air quality–related permits would be required.

Construction of the hatchery would require use of equipment that would contribute to air quality emissions and GHGs such as CO_2. Due to the small area, the exhaust emissions are expected to be minor, with bulldozer, backhoe, and grader being the most likely equipment used to prepare the site to be developed. Any air quality degradation would be very limited to the area immediately around the construction site and would only last during the site preparation period—expected to be less than 6 months. Table 12-34 describes the likely GHG emission scenario for the implementation of this hatchery project.

Table 12-34. Projected greenhouse gas impacts of the proposed project for major construction equipment.

EQUIPMENT DESCRIPTION	TOTAL HOURS USED	CO_2 FACTOR MT/100 HRS	CO_2 (MT)	CH_4 FACTOR MT/100 HRS	CH_4 (MT)	N_2O FACTOR MT/100 HRS	N_2O (MT)	TOTAL CO_2 (MT)
Triple axel dump trucks	300	1.7	5.1	0.5	1.5	7.2	21.6	28.2
Concrete trucks	512	1.7	8.7	0.5	2.6	7.2	36.9	48.1
Tractor trailer	416	1.25	5.2	0.4	1.7	5.5	22.9	29.7
Pickup trucks	7,200	1.1	79.2	0.35	25.2	4.4	316.8	421.2
Motorgrader	160	2.25	3.6	0.65	1.0	1.08	1.7	6.4
Backhoe	480	2.55	12.2	0.85	4.1	10.2	49.0	65.3
Bulldozer	480	2.25	10.8	0.65	3.1	1.08	5.2	19.1
Front-end loader	960	2.25	21.6	0.65	6.2	1.08	10.4	38.2
Cranes	1,440	2.55	36.7	0.85	12.2	10.2	146.9	195.8
Total	11,948							852

mt = metric tons
Ch_4 = methane
N_2O = nitrogen dioxide

Based on the assumptions detailed in Table 12-33 and calculations shown in Table 12-34, the project would generate approximately 852 metric tons of GHGs over the duration of the project. The following mitigation measures have been identified to reduce or eliminate GHG emissions from the project.

- Shut down idling construction equipment, if feasible.
- Locate staging areas as close to construction sites as practicable to minimize driving distances between staging areas and construction sites.
- Encourage the use of the proper size of equipment for the job to maximize energy efficiency.
- Encourage the use of alternative fuels for generators at construction sites, such as propane or solar, or use electrical power where practicable.

The project would have short-term, minor impacts but no long-term impacts on GHG emissions. Mitigation measures would minimize GHG emissions.

Air quality in the hatchery project area may also be affected by dust associated with construction. However, incorporating BMPs (e.g., wetting to control fugitive dust, limited idling) during construction would help mitigate these impacts. These BMPs would be incorporated in construction permits. Long-term air quality impacts from the hatchery operation are expected to be minor. The integration of energy efficient equipment and a facility design and construction focused on the use of green technologies (for instance, those incorporated as part of LEED or similar certification) would offset any short-term, minor contributions of GHGs. Energy efficiency would help minimize the hatchery's net electricity consumption and thereby help minimize emissions of GHGs associated with the electricity used to operate the facility. At the same time, the development of vegetated areas, particularly the plant production pond or filtration marsh, would increase on-site vegetative production and act as a potential minor carbon sink.

12.20.6.1.4 Noise

Affected Resources

Noise can be defined as unwanted or nuisance sound. The Noise Control Act of 1972 (42 USC 4901 to 4918) was enacted to establish noise control standards and to regulate noise emissions from commercial products such as transportation and construction equipment. Amplitude is the magnitude of a sound and is usually expressed in decibels (dB), which is a dimensionless ratio of sound pressure to a reference pressure. The A-weighted decibel (dBA) is the adjusted unit of sound used to describe the human response to noise from industrial and transportation sources. The threshold of hearing is 0 dB. A 3-dB increase is equivalent to doubling the sound pressure level, but is barely perceptible to the human ear. Table 12-35 shows typical noise levels for common sources expressed in dBA. Noise exposure depends on how much time an individual spends in different locations.

The hatchery project site is surrounded by a developed, industrial urban environment with a heavily used roadway immediately to the north. A baseball stadium located approximately 0.5 mile west of the project site appears to be the major recreation site in the area. Given the location, the road likely receives considerable industrial traffic including large trucks and periodic heavy pedestrian traffic due to the baseball facility. No residential properties are located in the vicinity. No sensitive wilderness areas or special wildlife use areas are located near the project site.

Table 12-35. Typical noise levels for common sources.

NOISE SOURCE OR EFFECT	SOUND LEVEL (DBA)
Rock-and-roll band	110
Truck at 50 feet	80
Gas lawn mower at 100 feet	70
Normal conversation indoors	60
Moderate rainfall on foliage	50
Refrigerator	40
Bedroom at night	25

Source: Adapted from U.S. Department of Energy and Bonneville Power Administration (1986)

Environmental Consequences

Construction activities, including use of heavy equipment such as graders and backhoes and smaller handheld tools such as saws and nail guns, would cause an increase in noise during the day for the duration of construction. Standard state contract provisions include restricting work to weekdays, normally from 7 a.m. to 7 p.m., unless in a hospital or strictly residential area. Contractors are normally not allowed to work outside these limits unless it is for safety, traffic, or highly restricted schedules, and then it must be by permission. In addition, state contracts require that all equipment used on-site must

be properly muffled and in good repair. As a result, short-term noise impacts are expected to be minor, but would impact at least one local business, Nick's Boathouse, a restaurant at the adjacent marina, less than 0.25 mile to the east.

Potentially loud equipment would be during various phases of construction. Noise levels would depend on equipment being used and tasks being performed. Therefore, levels of noise would vary from low to moderate during the 12-month construction period.

In the long term, noise impacts would be minor. The main hatchery operations would occur within the building, so contribution to ambient outdoor noise levels would be negligible. Site maintenance would contribute minor and infrequent noise. Vehicle traffic would be mostly confined to staff and visitors, consisting of passenger vehicles and infrequent deliveries by truck. The building noise would consist of heating, ventilation, and air conditioning (HVAC) systems and noises associated with running the hatchery facilities. These long-term noise impacts are expected to be minor given their anticipated low volume. This minor increase in noise is unlikely to be significant amidst the nearby commercial operations and development in the area.

12.20.6.2 Biological Environment

The Gulf of Mexico is one of the nation's most valuable ecosystems. Florida's barrier islands, estuaries, coral reefs, beaches, seagrass meadows, coastal wetlands, and mangrove forests are world-renowned natural resources and attractions. These habitats provide a range of ecosystem services including fisheries, wildlife-related activities, food production, energy production, infrastructure protection, and recreational opportunities (Gulf Coast Ecosystem Restoration Task Force [GCERTF] 2011). According to the GCERTF (2012), continued coastal habitat loss and degradation in Gulf and estuarine environments along with overfishing has resulted in a declining trend in fish populations, which can threaten ecosystem diversity and stability through food web disruptions.

12.20.6.2.1 Living Coastal and Marine Resources

12.20.6.3 Vegetation

Affected Resources

A biological survey for the proposed hatchery property was completed in August 2013 (Wetland Sciences Inc., 2013). The survey report confirmed that the site was on human-made land, created in the early 1900s by placing fill in the bay. The 10-acre site is highly disturbed, and is currently covered with excess material including earth fill and limestone riprap that are stockpiled within the property. Additionally, the site is strewn with other historic debris from previous industrial land uses including creosote-treated timber, concrete pilings, concrete culverts, bricks, abandoned rail spur, and other miscellaneous debris. Three patches of semi-native habitat still existed. These areas constitute only about 1 acre and contain canopies of live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), and cabbage palm (*Sabal palmetto*), with a shrub canopy of wax myrtle (*Myrica cerifera*) and yaupon holly (*Ilex vomitoria*). A number of invasive species were also present, including Chinese tallow (*Triadica sebifera*) and chinaberry (*Melia azedarach*). In addition, the landward side of the mean high water line in the southeast portion of the site contains a fringe wetland consisting of marsh hay (*Spartina patens*).

The remainder of the site is dominated by species typical of disturbed landscape in Florida such as lantana (*Lantana camara*), wetland nightshade (*Solanum tampicense*), and, in the wetter zones near the shoreline, torpedo grass (*Panicum repens*), a Category I exotic species. Also located in the project area, adjacent to the proposed construction footprint, is a human-made tidal marsh created for mitigation services.

No federally listed plant species occur in the project area and due to the disturbed nature of the proposed hatchery site and their habitat requirements, it is unlikely that any state-listed plants would occur at the site. No state-listed plant species were observed during the 2013 surveys (Wetland Sciences Inc., 2013).

Environmental Consequences

Most of the project area is highly disturbed; therefore, the proposed project would have no negative impacts to vegetation in this area. Construction activities would cause some disturbance to vegetation in the site's upland habitat. This small area contains remnant native vegetative communities and would be avoided to adhere to city ordinances regarding tree protection. Using construction BMPs to prevent erosion and sediment runoff, disturbance or degradation to these areas would be minimized. Any impacts to native vegetative communities would be short term and minor.

Hatchery development would include a 2-acre plant production and filtration marsh that would enhance the site's vegetation by planting native wetland species, thus producing more habitat diversity than currently exists at the site. In addition, the project would have beneficial impacts to existing upland native vegetation and newly planted wetland species as a result of the removal of exotic plants at the site. The proposed project would, therefore, have a minor, long-term benefit on vegetation resources at the proposed site.

12.20.6.4 Wildlife Habitat

Affected Resources

The proposed project site is significantly disturbed, having been used as a disposal site for solid waste debris such as concrete pilings, bricks, culverts, creosote logs, and abandoned rail spur. Three small wooded areas are located on the eastern portions of the site that may provide habitat for small urban mammals and birds. Human-made tidal marshes to the south and east of the construction footprint provide habitat for marsh birds, wading birds, and possibly wintering waterfowl. In the southeast portion of the site, a small natural beachfront provides habitat to foraging shorebirds and wading birds. No bird rookeries or other nests were observed during surveys of the site.

Environmental Consequences

Common urban wildlife of the site and their respective habitat would face a short-term, minor impact during construction from noise produced by construction equipment, as well as minor, long-term impacts due to habitat loss where the hatchery facility footprint would be placed. There would be a short-term, minor impact to nearby human-made tidal marshes and beachfront habitat because wildlife using these habitats could experience disturbance during construction due to noise. The proposed

project's plant production and filtration marsh would enhance the site by producing 2 additional acres of marsh habitat in the area, resulting in a long-term, moderate beneficial impact to species that use this type of habitat.

12.20.6.5 Marine and Estuarine Fauna

Affected Resources

More than 200 species of fish and shellfish have been identified in the Pensacola Bay estuary. Common fish and shellfish species are spot (*Leiostomus xanthurus*), bay anchovy (*Anchoa mitchilli*), Atlantic croaker (*Micropogonias undulates*), spotted seatrout, Gulf menhaden (*Brevoortia patronus*), striped mullet (*Mugil cephalus*), blue crab *(Callinectes sapidus)*, American oyster (*Crassotrea virginica*), and Penaeid shrimp *(Penaeus* spp.). Freshwater fish species that are tolerant of low salinities use embayments and marshes. These include largemouth bass (*Micropterus salmoides*) and redear sunfish (*Lepomis microlophus*). Four anadromous fish—gulf sturgeon, Alabama shad (*Alosa alabamae*), skipjack herring (*Alosa hrysochloris*), and striped bass (*Morone saxatilis*)—use the bay and its tributaries (FDEP 2004).

Environmental Consequences

No negative impacts to coastal and marine resources are expected from the development of the proposed hatchery. Assuming accurate analysis of the genetic risks (FWC 2009a), the release of Phase I hatchery fish would have a long-term benefit on estuarine and marine resources by supplementing native populations of three fish species. The success of the hatchery releases would be determined by an ongoing comprehensive monitoring program. Specific objectives of this monitoring program would be to estimate the short- and long-term survival of stocked fish; the potential long-term impact on wild sport fish populations; and the respective contributions of hatchery fish to local fish populations and recreational catches. Methods that may be implemented as part of a multidisciplinary and integrative monitoring program to evaluate hatchery program success are described below:

1. **Hatchery Production.** Staff at the hatchery would collect and maintain a captive sport fish brood stock; produce hatchling sport fish and rear them to the appropriate size for release; mark larger fish with coded wire tags (CWT); and participate in fish releases.
2. **Fish Health.** Staff would work with a suite of qualified partners to evaluate the health of all hatchery-reared offspring before release. Post-release surveys would also be used assess the survival and health status of hatchery-reared sport fish.
3. **Fisheries-Dependent Monitoring (FDM).** Recreational anglers would be surveyed to monitor fishing effort, catch and other variables such as targeted species. Fin clips from harvested sport fish would also be obtained for genetic testing.
4. **Fisheries-Independent Monitoring (FIM).** Staff would systematically collect sport fish of all sizes from estuarine and coastal waters via stratified random sampling and directed fishing using small mesh seines, trammel nets, and hook-and-line. Fish would be scanned by an onboard detector for the presence of CWTs and fin clips, or other tissue would be collected for genetic testing. Fish collected with CWT would be retained. Other fish would be measured and released; those greater 100 millimeters (standard length) would be fin-clipped.

5. Angler-based Fin Clip Program (FCP). Staff would develop a volunteer-based fin-clip program to identify hatchery-released fish. Recreational anglers would be provided with kits to collect fin clips and record collection data.
6. Radio Telemetry. A number of larger fish would be tagged with transmitters to identify patterns of movement and habitat preferences of released fish.

12.20.6.6 Protected Species

Affected Resources

The Wetland Sciences, Inc. biological survey report (2013) concluded that no state or federally listed species or critical habitatare present in the terrestrial habitats of the project area. A number of federally listed wildlife species occur in Escambia County (Figure 12-42). Threatened and endangered species with potential to occur in Escambia County include five species of sea turtles, the West Indian manatee (*Trichechus manatus)*, piping plover (*Charadrius melodus*), wood stork (*Mycteria americana),* and gulf sturgeon. One federally listed proposed species, red knot (*Calidris canutus rufa*), has potential to occur in the county (USFWS 2013b). The hatchery project site is located in waters of Pensacola Bay designated as Critical Habitat Unit 9 by the USFWS for the gulf sturgeon (*Acipenser oxyrinchus desotoi*), a species federally listed as threatened and state-listed as a species of concern. The project area does not overlap Unit 9, but rather is adjacent to it as it borders the shoreline's mean high water line (*Federal Register* 2003).

Sea Turtles and Marine Mammals

There are five species of endangered or threatened sea turtles that may occur or have the potential to occur in the project area. These include green turtle, hawksbill turtle, Kemp's ridley turtle, leatherback turtle, and loggerhead turtle. Sea turtles forage in the waters of the coastal Florida panhandle region and have the potential to occur in the waters where in-water work is proposed. The project site does not contain potentially suitable sea turtle nesting habitat.

The endangered West Indian manatee has the potential to occur in the project area waters. Manatees typically seek out shallow seagrass areas as preferred feeding habitat (USFWS 2010). Additionally, bottlenose dolphin (*Tursiops* spp.) populations are known to migrate into bays, estuaries, and river mouths and could be located in the proposed project area (NMFS 2013b).

Gulf Sturgeon and Gulf Sturgeon Critical Habitat

Gulf sturgeon are restricted to the Gulf of Mexico and its drainages, occurring primarily from the Pearl River in Louisiana to the Suwannee River, in Florida (NMFS 2009). Adult fish reside in rivers for 8 to 9 months each year and in estuarine or Gulf of Mexico waters during the 3 to 4 cooler months of each year (NMFS 2009). Important marine habitats include seagrass beds with sand and mud substrates (Mason and Clugston 1993).

Gulf sturgeon critical habitat was jointly designated by the NMFS and USFWS on April 18, 2003 (50 C.F.R. 226.214). The proposed project site is located within the Florida Nearshore Gulf of Mexico Critical Habitat Unit 99, which contains winter feeding and migration habitat for Gulf sturgeon. Critical habitat was designated based on seven primary constituent elements (PCEs) essential for its conservation, as

defined in the 2003 *Federal Register*.The seven elements of critical habitat are listed below. Within the project site PCE's 1, 5, 6, and 7.

1. Abundant food items, such as detritus, aquatic insects, worms, and/or mollusks, within riverine habitats for larval and juvenile life stages; and abundant prey items, such as amphipods, lancelets, polychaetes, gastropods, ghost shrimp, isopods, mollusks, and/or crustaceans, within estuarine and marine habitats and substrates for subadult and adult life stages;
2. Riverine spawning sites with substrates suitable for egg deposition and development, such as limestone outcrops and cut limestone banks, bedrock, large gravel or cobble beds, marl, soapstone, or hard clay;
3. Riverine aggregation areas, also referred to as resting, holding, and staging areas, used by adult, subadult, and/or juveniles, generally, but not always, located in holes below normal riverbed depths; these are believed necessary for minimizing energy expenditure during freshwater residency and possibly for osmoregulatory functions;
4. A flow regime (i.e., the magnitude, frequency, duration, seasonality, and rate-of-change of freshwater discharge over time) necessary for normal behavior, growth, and survival of all life stages in the riverine environment, including migration, breeding site selection, courtship, egg fertilization, resting, and staging, and for maintaining spawning sites in suitable condition for egg attachment, egg sheltering, resting, and larval staging;
5. Water quality, including temperature, salinity, pH, hardness, turbidity, oxygen content, and other chemical characteristics necessary for normal behavior, growth, and viability of all life stages;
6. Sediment quality, including texture and chemical characteristics, necessary for normal behavior, growth, and viability of all life stages; and
7. Safe and unobstructed migratory pathways necessary for passage within and between riverine, estuarine, and marine habitats (e.g., an unobstructed river or a dammed river that still allows for passage).

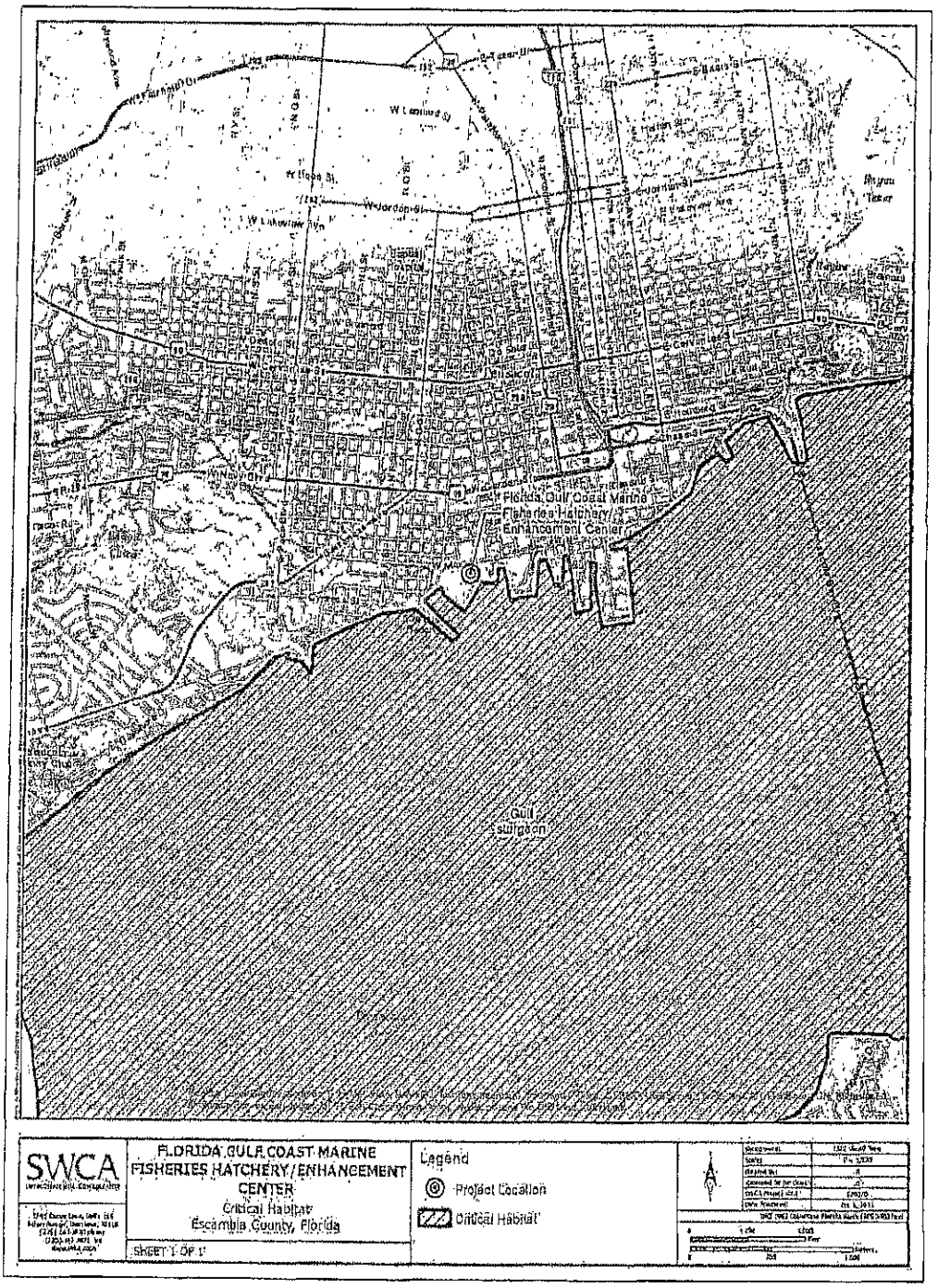


Figure 12-42. Gulf Sturgeon critical habitat in the project area vicinity.

Essential Fish Habitat

EFH is defined in the Magnuson-Stevens Fishery Conservation and Management Act as "those waters and substrates necessary to fish for spawning, breeding, feeding or growth to maturity." The designation and conservation of EFH seeks to minimize adverse effects on habitat caused by fishing and non-fishing activities. The NMFS has identified EFH habitats for the Gulf of Mexico in its Fishery Management Plan Amendments. These habitats include estuarine emergent wetlands, seagrass beds, algal flats, mud, sand, shell, and rock substrates, and the estuarine water column. The EFH within the project area include emergent wetlands, mud substrate, and estuarine water columns for species of fish, such as red drum, brown shrimp, pink shrimp, and white shrimp. There are no marine components of EFH in the vicinity of the project site.

The area also provides habitat for prey species (e.g. Gulf menhaden, shad, croaker and spot) that are consumed by larger commercially important species. In addition, the area provides habitat for spotted seatrout, striped mullet, southern flounder, Atlantic croaker, and Gulf menhaden. Table 12-36 provides a list of the species that NMFS manages under the federally implemented Fishery Management Plan in the vicinity of the Florida Gulf Coast Marine Fish Hatcheries/Enhancement Center site and Pensacola Bay.

Table 12-36. List of species managed by NMFS in vicinity of the project study area (NMFS EFH mapper, 2013).

Management Unit/Species	Lifestage(s) Found at Location	FMP
Red Drum (*Sciaenops ocellatus*)	ALL	Red Drum
Highly Migratory Species		
Scalloped Hammerhead Shark	Neonate, Juvenile	Highly Migratory Species
Sandbar Shark	Neonate	
Tiger Shark	Neonate, Juvenile	
Atlantic Sharpnose Shark	Neonate	
Shrimp		
Brown shrimp (*Penaeus aztecus*)	ALL	Shrimp
White shrimp (*Penaeus setiferus*)		
Pink shrimp (*Penaeus duararum*)		
Royal red shrimp (*Pleoticus robustus*)		
Rock Shrimp (*Sicyonia brevirostris*)		
Seabob Shrimp (*Xiphopenaeus kroyeri*)		
Coastal Migratory Pelagics		
King mackerel (*Scomberomorus cavalla*)	ALL	Coastal Migratory Pelagics
Spanish mackerel (*Scomberomorus maculatus*)		
Cobia (*Rachycentron canadum*)		
Dolphin (*Coryphaena hippurus*)		
Reef Fish		
Balistidae - Triggerfishes		
Gray triggerfish (Balistes capriscus)		
Carangidae - Jacks		

Management Unit/Species	Lifestage(s) Found at Location	FMP
Greater amberjack (Seriola dumerili)	ALL	Reef Fish
Lesser amberjack (Seriola fasciata)		
Almaco jack (Seriola rivoliana)		
Banded rudderfish (Seriola zonata)		
Labridae - Wrasses		
Hogfish (Lachnolaimus maximus)		
Lutjanidae - Snappers		
Queen snapper (Etelis oculatus)		
Mutton snapper (Lutjanus analis)		
Schoolmaster (Lutjanus apodus)		
Blackfin snapper (Lutjanus buccanella)		
Red snapper (Lutjanus campechanus)		
Cubera snapper (Lutjanus cyanopterus)		
Gray (mangrove) snapper (Lutjanus griseus)		
Lane snapper (Lutjanus synagris)		
Wenchman (Pristipomoides aquilonaris)		
Vermilion snapper (Rhomboplites aurorubens)		
Malacanthidae – Tilefishes		
Goldface tilefish (Caulolatilus chrysops)		
Blackline tilefish (Caulolatilus cyanops)		
Blueline tilefish (Caulolatilus microps)		
Serranidae – Groupers		
Speckled hind (Epinephelus drummondhayi)		
Yellowedge grouper (Epinephelus flavolimbatus)		
Red grouper (Epinephelus morio)		
Warsaw grouper (Epinephelus nigritus)		
Snowy grouper (Epinephelus niveatus)		
Nassau grouper (Epinephelus striatus)		
Marbled grouper (Epinephelus inermis)		
Black grouper (Mycteroperca bonaci)		
Yellowmouth grouper (Mycteroperca interstitialis)		
Gag (Mycteroperca microlepis)		
Scamp (Mycteroperca phenax)		
Yellowfin grouper (Mycteroperca venenosa)		

State-Listed Birds, MBTA and BGEPA

There are more than 400 species of migratory birds, and hundreds of thousands of individuals reside along the Gulf Coast during the winter to forage and rest, while others are present during the summer to breed. All migratory bird species are protected under the MBTA. There are numerous state of Florida–listed bird species with potential for occurrence in and around the proposed hatchery site. These include Arctic peregrine falcon (*Falco peregrinus tundrius*), least tern (*Sterna antillarum*), southeastern American kestrel (*Falco sparverius paulus*), American oystercatcher (*Haematopus palliates*), and southeastern/Cuban snowy plover (*Charadrius alexandrinus tenuirostris*). The nesting

season in Florida is from March 1 to August 1. Migratory birds may be foraging and resting in terrestrial or aquatic habitats on site. However nesting is only likely by songbirds in the large trees on site (USFWS 2013a).

The annual statewide survey of known bald eagle nesting territories in Florida conducted between November and March by the FWC indicates that there are 3 eagle nests within Escambia County. Of these, one is approximately 5 miles west of the site and the other two are more than 5 miles from the site (FWC 2013c).

Environmental Consequences

The proposed project has been evaluated for potential short- and long-term impacts to state and federally protectedspecies that may occur in and adjacent to the project area based on available suitable habitat and restoration goals. Descriptions of these evaluations are provided below.

Sea Turtles and Marine Mammals

For projects in waters accessible to sea turtles, NMFS has developed standardized *Sea Turtle and Smalltooth Sawfish Construction Conditions* (NMFS 2006). These conditions are typically applied to projects as part of the Clean Water Act Section 404 permit issued for in-water work. It is unlikely that the project site contains submerged aquatic vegetation, which is the preferred foraging habitat of sea turtles, but it cannot be ruled out entirely.

Minor, short-term disturbances may occur as a result of in-water work associated with the construction of the hatchery, ponds, and marsh. Construction of the intake would temporarily increase noise disturbance due to the presence of boats and construction equipment. If sea turtles are present in the in-water work area, short-term disturbances from noise and turbidity would occur. Sea turtles are a highly mobile species and would be expected to move away during in-water activities. An occlusion device at the water intake would be installed and would be designed to prevent harm to sea turtles and prevent pump malfunction or damage. Additionally, should a sea turtle be encountered during installation of the project, the crews would allow these species to exit from the project vicinity before commencing with work activities. No impacts to nesting turtles are expected since there is no nesting in or near the project area. Therefore, potential impacts or disturbances to listed sea turtles would be short term and minor.

Noise and other activity associated with proposed in-water construction may temporarily disturb manatees and dolphin species in the vicinity of the project area through temporary impacts on prey abundance, water quality (turbidity), and underwater noise. Dolphins are highly mobile species and would be expected to move away from the construction area during in-water activities. The main risk to manatees during implementation of this project would come from construction and operation of an intake pipe for seawater withdrawal. Operation of the proposed sea water withdrawal device would not be expected to pose a risk to manatees and dolphins as it would be designed to avoid entrapment or entrainment of these marine mammals (USFWS 2013a). Standard Manatee Conditions for In-Water Work (USFWS 2011) will be implemented to avoid impacts to manatees during construction. It is

anticipated that implementation of these conservation measures would reduce any potential effects to manatees and dolphins from the proposed project to only short term minor impacts

Gulf Sturgeon and Gulf Sturgeon Critical Habitat

The gulf sturgeon uses Pensacola Bay as a migratory corridor from breeding grounds to winter foraging grounds. Minor, short-term disturbances may occur as a result of in-water work associated with the construction of the hatchery, ponds, and marsh. Construction of the intake would temporarily increase noise disturbance due to the presence of boats and construction equipment. An occlusion device at the water intake would be installed and would be designed to prevent harm to gulf sturgeon and prevent pump malfunction or damage. Disturbances to the water column from in-water work would temporarily affect certain gulf sturgeon critical habitat PCEs due to turbidity, dispersal of potential prey, and substrate disturbance. These would be limited to the area immediately surrounding the work area and would occur only during construction. Therefore, impacts to gulf sturgeon critical habitat would be short term and minor.

Essential Fish Habitat

An EFH assessment will be coordinated with the NMFS Habitat Conservation Division. If necessary, species specific measures would be recommended by NMFS and would be incorporated into the project construction plan. The project would not result in adverse, direct impacts to emergent wetlands, existing oyster reefs, or Submerged Aquatic Vegetation (SAV). Most motile fauna such as crab, shrimp, and finfish will likely avoid the area of potential effect during the construction process. Following construction, there is expected to be increased habitat utilization of the breakwaters and near-shore environment by these species and a beneficial, long-term impact is anticipated. The project may result in minor, adverse short term impacts to benthic organisms and temporarily affect habitat utilization by individuals considered under EFH fishery management plans.

Minor and temporally limited impacts to EFH components are expected to soft bottom substrates, since the Fish Hatchery project will be constructed primarily on land. Construction of the Intakefor seawater withdrawal may lead to minimal adverse physical impacts and habitat conversion of EFH on a limited scale. The hatchery development would likely improve water quality returning to Pensacola Bay relative to current conditions, thereby benefiting EFH. The combination of a very limited potentiall adverse impact caused by pier construction and the beneficial impacts of stormwater management and treatment, the proposed project is not likely to adversely affect EFH in the project area.

State-Listed Birds, MBTA and BGEPA

Migratory birds are protected under the MBTA. If restoration activities occur during the nesting season (March 1 to August 1), nesting songbirds, wading birds, and marsh birds could be disturbed by noise generated by construction activities. In such circumstances, FWC nesting shorebird avoidance measures will be followed. These measures generally call for surveys within 300 feet and an avoidance buffer of 300 feet for nesting birds.

In recent years, the bald eagle has been removed from the endangered species list under ESA, though it is still protected under the BGEPA. In Florida, FWC protects the bald eagle pursuant to 68A-16, Fla.

Admin. Code, and conservation measures to protect active nest sites during the nesting season must be considered to reduce potential disturbances of certain project activities. The closest known bald eagle nest is approximately 5 miles from the project site. Based on the distance from proposed project activities, nesting of the known bald eagles would not be impacted. Consultation with FWC concerning the proposed project and anticipated construction schedule relative to known bald eagle nest sites in the project vicinity and the nesting season in Florida (October 1 to May 15) would be required prior to commencement of project activities. To minimize potential for impacts to nesting bald eagles, the consultation protection measures may include: 1) addressing prescribed nest tree protection zones and 2) preparation of a bald eagle nest protection plan (including nesting behavior disturbance monitoring). Bald eagles have been known to tolerate certain potential disturbances in their breeding territories. Should these conservation measures be implemented for active nest sites adjacent to activities in the project area, potential impacts to the bald eagle would be short term and minor.

Section 7 and Essential Fish Habitat Consultations

Section 7 ESA consultations with the USFWS and NMFS will be initated for the proposed project. An EFH consultation under the Magnuson-Stevens Fishery Conservation and Management Act also would be completed to address any situations where proposed project activities may affect EFH. The project would incorporate any additional conservation recommendations provided by the USFWS and NMFS during the consultation to avoid, minimize, mitigate, or otherwise offset the impacts of the proposed project on listed species or EFH.

12.20.6.7 Human Uses and Socioeconomics

12.20.6.7.1 Socioeconomics and Environmental Justice

Affected Resources

The hatchery would be developed in an urban industrial area within the city of Pensacola, Florida. The proposed hatchery project site is currently undeveloped and does not support any economic activity or human use. The area surrounding the site is industrial. No residential areas that might contain low-income or minority communities are present.

Florida is America's most popular sport fishing destination, contributing $5 billion annually to the state's economy (FMFEI 2013). The closures of beaches and fishing access points following the oil spill resulted in declining revenues from license and tackle sales and tourism associated with recreational fishing. Revenue from commercial fishing also declined following the Spill. According to USFWS's Wildlife & Sport Fish Restoration Program estimates, in 2006 the recreational saltwater fisheries industry in Florida supported an estimated 54,000 jobs with an overall economic impact estimated at $5.7 billion.

Table 12-37 provides a summary of population data and characteristics of the population of Escambia County and compares it to those same measures for the population of the state as a whole.

Table 12-37. Population characteristics for Escambia County and the State of Florida.

PEOPLE QUICKFACTS	ESCAMBIA COUNTY	FLORIDA
Population, 2012 estimate	302,715	19,317,568
Persons under 5 years, percent, 2012	6.20%	5.50%
Persons under 18 years, percent, 2012	21.10%	20.70%
Persons 65 years and over, percent, 2012	15.20%	18.20%
Female persons, percent, 2012	50.50%	51.10%
White alone, percent, 2012 (a)	70.10%	78.30%
Black or African American alone, percent, 2012 (a)	22.90%	16.60%
American Indian and Alaska Native alone, percent, 2012 (a)	0.90%	0.50%
Asian alone, percent, 2012 (a)	2.90%	2.70%
Native Hawaiian and Other Pacific Islander alone, percent, 2012 (a)	0.20%	0.10%
Two or more races, percent, 2012	3.00%	1.90%
Hispanic or Latino, percent, 2012 (b)	5.10%	23.20%
White alone, not Hispanic or Latino, percent, 2012	66.00%	57.00%
Homeownership rate, 2007-2011	67.30%	69.00%
Median household income, 2007-2011	$43,707	$47,827
Persons below poverty level, percent, 2007-2011	15.90%	14.70%
Manufacturer's shipments, 2007 ($1,000)	2,117,030	104,832,907
Merchant wholesaler sales, 2007 ($1,000)	1,838,916	221,641,518

Source: U.S. Census Bureau State & County QuickFacts (U.S. Census Bureau 2013)
(a) Includes persons reporting only one race.
(b) Hispanics may be of any race, so also are included in applicable race categories.

Environmental justice refers to the fair and equitable treatment of individuals regardless of race, ethnicity, or income level, in the development and implementation of environmental management policies and actions. In February 1994, President Clinton issued Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations. The objective of this executive order is to require each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low income populations."

Environmental Consequences

The hatchery project would have no negative impacts on the socioeconomic status of the city and Escambia County. The proposed project would not adversely affect any low-income or minority populations.

The proposed project would create approximately 1,912 worker days of employment during construction (Table 12-34). Engineering and design work could employ 20 to 30 federal and state employees and consultants for up to 2 years. The construction crew could consist of 20 to 30 people who would be employed for a period of 9 to 18 months. Maintenance activities may employ up to 10 people for less than 6 months. Minor, short-term, beneficial effects would occur from increased employment during project construction.

Minor, beneficial economic effects would accrue to local restaurants and hospitality providers. Operation of the hatchery would result in the hiring of 9 to 15 additional FWC staff. Additional benefits to the local economy would occur from the purchase of local goods and services through the estimated $1 million envisioned for supporting the facility's annual operations and maintenance budget. Local businesses would benefit from 9 to 15 additional employees and an unknown number of hatchery visitors as potential customers.

Operation of the hatchery would produce nearly 5 million juvenile fish for release in the bay. These fish would contribute to restoring a vibrant saltwater fishery to support expanded fishing interests. The resulting increase in license and tackle sales and tourism dollars would have a long-term, moderate, beneficial effect on the local and statewide economy.

The project would not create a benefit for any specific group or individual, but rather would produce benefits realized by the local community and visitors. There are no indications that the public improvements would be contrary to the goals of Executive Order 12898 or would create disproportionate, adverse human health or environmental impacts on minority or low-income populations of the surrounding community. Therefore no environmental justice issues would be anticipated in the short term or long term.

12.20.6.7.2 Cultural Resources

Affected Resources

A review of the Florida Master Site files indicates that there are at least 14 previously recorded archaeological sites or historic standing structures located within 1 mile of the project area. These include prehistoric and historic-era sites as well as at least three shipwrecks/ballast dumps in the water surrounding the project area. Sites 8ES1963 (a nineteenth to twentieth century scatter) and 8ES2384 (a Spanish-era fort) are located in the immediate vicinity of the project area. Site 8ES1963 has no determination of eligibility for the National Register of Historic Places (NRHP); site 8ES2384 was recommended as potentially eligible for listing on the NRHP.

In addition, a beach and associated bathhouse were formally located on the site and used by African Americans during segregation in the first part of the 20th century. No existing infrastructure associated with this use remains on the site, however, the project proponents have had extensive discussion with community leaders and plan to develop educational signage documenting this historical use.

Environmental Consequences

Based on the presence of numerous cultural resources in both upland and offshore contexts immediately adjacent to the project area, it is likely that additional resources would be encountered in the project area.

A complete review of this project under Section 106 of the NHPA would be as environmental review continues. This project would be implemented in accordance with all applicable laws and regulations concerning the protection of cultural and historic resources.

12.20.6.7.3 Infrastructure

Affected Resources

The proposed hatchery site is currently a vacant lot zoned for commercial use within the city of Pensacola. The site is surrounded by commercial and industrial facilities. There are no active utility connections present.

Environmental Consequences

Site development would require utility connections. Permits would be obtained and all associated use conditions would be adhered to. Utility connections are consistent with the nature of the surrounding area and would not be expected to pose service problems for the relevant utilities (e.g., electricity, wastewater, refuse). Specifically, the low volume of biological waste (i.e., fish feces, undigested food) that would be generated from the hatchery operations would be disposed of through a permitted wastewater service provided by Emerald Coast Utilities Authority. As a result, no adverse impact to infrastructure would be expected from the development of the hatchery.

12.20.6.7.4 Land and Marine Management

Affected Resources

The proposed hatchery project site is a vacant lot in an urban, industrial area zoned for commercial use in the city of Pensacola. The surrounding properties support industrial and commercial buildings.

Environmental Consequences

The hatchery project would not adversely affect land and marine management in the short or long term and is consistent with existing land use and regional resource management plans. Development of the hatchery would be consistent with the FWC's existing marine fishery support goals as expressed in the FMFEI and the development of an operation supporting economic activity based on the commercial zoning of the lot.

Pursuant to the Coastal Zone Management Act of 1972, federal activities must be consistent to the maximum extent practicable with the federally-approved coastal management programs for states where the activities would affect a coastal use or resource. Federal Trustees are submitting consistency determinations for state review coincident with public review of this document.

12.20.6.7.5 Aesthetics and Visual Resources

Affected Resources

The proposed site is currently a vacant lot in a developed urban area that is filled with debris. Small patches of trees provide some aesthetic value. The lot is located on Main Street and is visible to local motorists. One commercial establishment, Nick's Boathouse, has outdoor seating, some of which may be oriented toward the project site. However, most of the tables are situated to provide customers with a view of the bay.

Environmental Consequences

Development of the hatchery would have a minor, short-term impact on aesthetics and visual resources during construction when equipment and activity may be seen by passing motorists. A minor, long-term reduction in visual and aesthetic resources is likely for motorists or customers at Nick's Boathouse with the construction of the hatchery building. However, given the industrial atmosphere surrounding the site, it is unlikely that the aesthetic resources of motorists passing by on Main Street would be affected by the hatchery building. A minor, long-term improvement of visual resources would occur as a result of the removal of the debris currently on-site and the development of additional ponds and wetlands.

12.20.6.7.6 Tourism and Recreational Use

Affected Resources

The site does not currently support any official tourism or recreational use. The adjacent mitigation wetlands may provide bird-watching opportunities.

Environmental Consequences

The development of the hatchery would not negatively affect tourism and recreational use in the area. Some minor long-term benefit would occur through visitation to the facility. In the long term, the ultimate goal of the hatchery project is to release fish that would support recreational fishing activity in Florida. Should the hatchery be successful in supplementing saltwater fish populations, the result would be a long-term, beneficial impact to tourism by anglers who are attracted to Florida by the fishing opportunities.

FWC does not include an evaluation of how the development of the hatchery and subsequent release of hatchery fish affects recreational angling in the state as part of their monitoring program. Anecdotal evidence from the Tampa Bay fishery, which receives fish from SERF's operations, suggests recreational anglers are aware of hatchery releases and may target their recreation to receiving waters. If the hatchery operations result in maintaining or increasing fish stocks, recreational fishing would receive a minor, long-term benefit.

12.20.6.7.7 Public Health and Safety and Shoreline Protection

Affected Resources

The site is on vacant land in a developed urban and industrial area of Pensacola, Florida. The shoreline in this section of the bay has been extensively modified by past human activity, including armoring, to protect local habitat restoration. The project would be separated from the current shoreline by existing wetland mitigation areas and future stormwater and filtration ponds.

Environmental Consequences

Project development would require use of mechanical equipment that uses oil, lubricants, and fuels. The contractor would be required to take appropriate actions to prevent, minimize, and control the spill of construction-related hazardous materials such as vehicle fuels, oil, hydraulic fluid, and other vehicle maintenance fluids and to avoid releases and spills. If a release should occur, such releases would be

contained and cleaned up promptly in accordance with all applicable regulations. As a result, no impacts associated with construction-related hazardous materials would be anticipated.

The hatchery would not affect public health as long as relevant waste disposal guidelines and regulations are followed. The hatchery would be built in an upland area away from the shoreline and would not require any modifications to the shoreline. It is not clear exactly what the debris currently on the site consists of, but the presence of metals, railway timbers, and concrete could pose a health risk to the local public. Removal of this debris would have a minor, short-term beneficial effect on public health and safety. No short- or long-term negative impacts to public health and safety or shoreline protection would be expected.

12.20.7 Summary and Next Steps

Per the Purpose and Need of the Draft Phase III ERP/PEIS, four alternatives are considered, including a no action (Alternative 1), selection of project types emphasizing habitat and living coastal and marine resources (Alternative 2), project types emphasizing recreational opportunities (Alternative 3), or a combination of both habitat and living coastal and marine resources and recreational opportunities (Alternative 4). As proposed, the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center project implements restoration techniques within Alternatives 3 and 4.

The proposed Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center project would involve constructing and operating a saltwater sportfish hatchery in Pensacola, Florida. The project is consistent with Alternative 3 (Contribute to Providing and Enhancing Recreational Opportunities) and Alternative 4 (Preferred Alternative).

Draft NEPA analysis of the environmental consequences suggests that while minor adverse impacts may occur to some resource categories, no moderate to major adverse impacts are anticipated to result. The project would enhance and/or increase the public's use and/or enjoyment of the natural resources by producing and releasing highly sought-after sportfish species such as red snapper, red drum, and spotted seatrout. The Trustees have started coordination and reviews under the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Historic Preservation Act, the Marine Mammal Protection Act, the Bald and Golden Eagle Protection Act, Coastal Zone Management Act, and other federal statutes. The Trustees will consider public comment and information relevant to environmental concerns bearing on the proposed actions or their impacts. Final determination on this project will be included in the final Phase III ERP/PEIS and Record of Decision.

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Report of City Council Action Items

May 8, 2014

Members Present: Council President Jewel Cannada-Wynn, Council Vice-President Megan Pratt, Charles Bare, Larry B. Johnson, Sherri Myers, Brian Spencer, Andy Terhaar, and Gerald Wingate

Absent: P. C. Wu

CONSENT AGENDA ITEMS

None

REGULAR AGENDA ITEMS

1. UPDATE ON RESTORE ADVISORY COMMITTEE AND RESTORE FUNDING – *DISCUSSION ONLY*

That City Council get an update on the progress of the RESTORE Advisory Committee and how RESTORE funding may impact City projects and initiatives.

2. REPORT FROM ENVIRONMENTAL ADVISORY BOARD (EAB) ON ENVIRONMENTAL ISSUES RELATED TO PROPOSED HATCHERY AT BRUCE BEACH - *DISCUSSION ONLY*

That City Council acknowledge receipt of report from EAB on Potential Impacts/Concerns and Benefits for the Gulf Coast Marine Fisheries Hatchery and Enhancement Center.

3. LEASE AGREEMENT FOR BRUCE BEACH

That City Council authorize the Mayor to execute a lease agreement with the Florida Fish and Wildlife Conservation Commission for the property commonly known as "Bruce Beach" for the purpose of developing the Gulf Coast Marine Fisheries Hatchery/Enhancement Center.

The motion passed 5 - 3. Council Members Bare, Myers, and Pratt dissenting.

4. RESOLUTION OF SUPPORT FOR ESTABLISHMENT OF NATIONAL PARK SERVICE PENSACOLA BAY AREA FERRY SERVICE

That City Council approve a resolution of support for the National Park Service Pensacola Bay Area Ferry Service and development of infrastructure for this water transportation system linking Pensacola, Fort Pickens, and Pensacola Beach.

The motion passed unanimously.

RESOLUTION NO. 16-14 - *MOTION TO APPROVE*

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA SUPPORTING THE ESTABLISHMENT OF THE NATIONAL PARK SERVICE PENSACOLA BAY FERRY SERVICE AND THE DEVELOPMENT OF INFRASTRUCTURE FOR THIS WATER TRANSPORTATION SYSTEM LINKING PENSACOLA, FORT PICKENS, AND PENSACOLA BEACH; PROVIDING FOR AN EFFECTIVE DATE.

The motion passed unanimously.

5. LAW ENFORCEMENT TRUST FUND PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT

That City Council approve a request to expend $138,700 from the LETF to purchase various items for the Pensacola Police Department and its personnel. Further, that City Council approve the attached supplemental budget resolution to appropriate funding within the LETF Fund.

The motion passed unanimously.

RESOLUTION NO. 17-14 - *MOTION TO APPROVE*

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.

The motion passed unanimously.

CONTRACTS/AGREEMENTS REQUIRING MAYORAL SIGNATURE
FINAL DOCUMENT REVIEW FORM
(blue)

USER AGENCY

Document Title: LEASE AGREEMENT FOR BRUCE BEACH

___Project ___ Contract X Lease ___ Other (Check One)

Description: COUNCIL APPROVED – ROUTED FOR SIGNATURE.

Contract Cost:$ N/A

User Agency (Dept): MAYOR'S OFFICE

Approved by Mayor: _____

User Agency Contact Person: ERIC OLSON

OR
Approved By Council: MAY 8, 2014 (Date, if applicable)

Sent to Contract Administration ___/___/___

RECEIVED
MAY 14 2014
MAY 12 2014
BY:

CONTRACT ADMINISTRATOR (PURCHASING)

Date Received MAY 14 2014

N/A Debarment Check

___Pending (See comments below): _____ (Signature)

Sent to User Agency ___/___/___

√ Approved: _____ (Signature)

Sent to Risk Management Agency 5/13/14

Comments: _____

RISK MANAGER

Date Received 5/13/14

___Pending (See comments below): _____ (Signature)

Sent to User Agency ___/___/___

√ Approved: _____ (Signature)

Sent to Mayor 5/14/2014

Comments: _____

Rev. 12/18/13

CONTRACTS/AGREEMENTS REQUIRING MAYORAL SIGNATURE
FINAL DOCUMENT REVIEW FORM
(page 2)

MAYOR'S OFFICE (CITY ADMINISTRATOR)

Date Received 5/15/2014

___ Pending (See comments below): _____ (Signature) Sent to User Agency ___/___/___

✓ Approved: Colleen M Castille (Signature) Sent to City Atty 5/15/2014

Comments: _____

CITY ATTORNEY

Date Received 5/15/14

___ Pending (see comments below): _____ (Signature) Sent to User Agency ___/___/___

✓ Approved as to Form: _____ (Signature) Sent Original to City Clerk 5/16/14

Comments: _____

CITY CLERK

Date Received 5/15/14

Retained 0 original(s)/copies

Returned 2 original(s) to Eric / Mayor's Office

Initials: BA

Returned to User Agency 5/16/14