

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

[FWS-HQ-ES-2016-0069; FF09E15000-FXHC112509CBRA1-167]

**John H. Chafee Coastal Barrier Resources System; Bay and Gulf Counties, FL; Middlesex and Monmouth Counties, NJ; Availability of Draft Maps and Request for Comments**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of six John H. Chafee Coastal Barrier Resources System (CBRS) draft revised maps for public review and comment. The draft maps, all dated May 16, 2016, are for four existing CBRS units located in Bay and Gulf Counties, Florida, and for three existing units and three proposed new units located in Middlesex and Monmouth Counties, New Jersey.

**DATES:** To ensure consideration, we must receive your written comments by August 22, 2016.

**ADDRESSES:** You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2016-0069, which is the docket number for this notice. Then, on the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.

- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: Docket No. FWS-HQ-ES-2016-0069; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC; Falls Church, VA 22041-3808.

We request that you send comments by only the methods described above. We will post all information received on <http://www.regulations.gov>. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

**FOR FURTHER INFORMATION CONTACT:** Katie Niemi, Coastal Barriers Coordinator, (703) 358-2071 (telephone); or [CBRA@fws.gov](mailto:CBRA@fws.gov) (email).

**SUPPLEMENTARY INFORMATION:****Background**

Coastal barriers are typically elongated, narrow landforms located at the interface of land and sea, and are inherently dynamic ecosystems. Coastal barriers provide important habitat for fish and wildlife, and serve as the mainland's first line of defense against the impacts of severe storms. With the passage of the Coastal Barrier Resources Act (CBRA) in 1982 (Pub. L. 97-348), Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on coastal barriers, where severe storms are much more likely to occur, and the result has been the loss of natural resources; threats to human life, health, and property; and the expenditure of millions of tax dollars each year.

The CBRA established the CBRS, which comprised 186 geographic units encompassing approximately 453,000 acres of undeveloped lands and associated aquatic habitat along the Atlantic and Gulf of Mexico coasts. The CBRS was expanded by the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) to include additional areas along the Atlantic and Gulf of Mexico coasts, as well as areas along the coasts of the Great Lakes, the U.S. Virgin Islands, and Puerto Rico. The CBRS now comprises a total of 859 geographic units, encompassing approximately 3.3 million acres of relatively undeveloped coastal barrier lands and associated aquatic habitat. These areas are depicted on a series of maps entitled "John H. Chafee Coastal Barrier Resources System."

Most new Federal expenditures and financial assistance that would have the effect of encouraging development are prohibited within the CBRS. However, development can still occur within the CBRS, provided that private developers or other non-Federal parties bear the full cost, rather than the American taxpayers.

The CBRS includes two types of units, System Units and Otherwise Protected Areas (OPAs). System Units generally comprise private lands that were relatively undeveloped at the time of their designation within the CBRS. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System Units. OPAs generally comprise lands established under Federal, State, or local law or held by a qualified organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. OPAs are denoted with a "P" at the end

of the unit number. The only Federal spending prohibition within OPAs is the prohibition on Federal flood insurance.

The Secretary of the Interior (Secretary), through the Service, is responsible for administering the CBRA, which includes maintaining the official maps of the CBRS, consulting with Federal agencies that propose to spend funds within the CBRS, preparing updated maps of the CBRS, and making recommendations to Congress regarding changes to the CBRS. Aside from three minor exceptions, only Congress—through new legislation—can modify the maps of the CBRS to add or remove land. These exceptions, which allow the Secretary to make limited modifications to the CBRS (16 U.S.C. 3503(c)-(e)), are for: (1) Changes that have occurred to the CBRS as a result of natural forces, (2) voluntary additions to the CBRS by property owners, and (3) additions of excess Federal property to the CBRS.

The Service receives numerous requests from property owners and other interested parties who seek to remove areas from the CBRS. When assessing whether a proposed change to remove an area from the CBRS constitutes an appropriate technical correction, we consider whether the original intent of the boundaries is reflected on the maps (*i.e.*, whether the lines on the maps appropriately follow the features they were intended to follow on the ground). We also consider the level of development that was on the ground when the area was originally included in the CBRS by Congress.

The Service generally does not recommend removals from the CBRS, unless there is clear and compelling evidence that a mapping error was made. In cases where mapping errors are found, the Service supports changes to the maps and works with Congress and other interested parties to create comprehensively revised maps using modern digital technology.

**Mapping Protocol for the Protection of Existing Critical Facilities**

Through this notice, we are developing a new CBRS mapping protocol for critical facilities located within and immediately adjacent to the CBRS. Under certain limited circumstances, the Service may consider mapping a CBRS area to allow for the protection of existing critical facilities (*e.g.*, sewage treatment facilities, nuclear facilities, and hospitals) that primarily serve areas located outside of the CBRS. In such cases, the following criteria must be met: (1) The protection of the facility must be consistent with the three purposes of the CBRA: To

minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to the fish, wildlife, and other natural resources associated with coastal barriers; (2) the protection of the facility should not encourage new development within the CBRS (e.g., a levee protecting a facility should not also unnecessarily protect an undeveloped area within the CBRS or an area within the CBRS that developed after the unit was established); and (3) and there must be no reasonable alternative to protect the facility (e.g., nonstructural floodproofing, buyouts to allow for construction of levees and flood walls outside of the CBRS, alternative project design that does not infringe upon the CBRS, etc.). For the purpose of this protocol, the Service defines “existing” as being on-the-ground as of the date the area was added to the CBRS, and “critical facility” as a structure or other improvement that, because of its function, would likely cause catastrophic human health and safety impacts if it is destroyed or damaged or if its functionality is impaired. For the purposes of this protocol, a critical facility does not include other infrastructure (e.g., roads, bridges, electric lines, etc.) that is commonly included within the CBRS.

The Service has developed this new protocol for critical facilities to allow for the protection of the Bayshore Regional Sewerage Authority (BRSA) Wastewater Treatment Facility in Monmouth County, New Jersey (see Proposed Map Modifications section below). In cases where the Service recommends the removal of an area from the CBRS in accordance with this protocol, the change will become effective only if the updated map is adopted through legislation enacted by Congress.

#### **Proposed Map Modifications**

The Service has prepared six comprehensively revised draft maps dated May 16, 2016, that propose modifications to the CBRS in Florida and New Jersey. Below is a summary of the changes depicted on the draft maps.

##### *Bay County, Florida*

The Service has prepared three draft maps for St. Andrew Complex P31/P31P located in Bay County, Florida. The draft maps for Units P31 and P31P remove approximately 125 acres from the CBRS (98 acres of fastland and 27 acres of associated aquatic habitat) and add approximately 1,582 acres to the CBRS (131 acres of fastland and 1,451 acres of associated aquatic habitat). The draft maps remove areas (some of which were inappropriately included within the CBRS in the past) and add areas that

meet the CBRA criteria for inclusion within the CBRS (16 U.S.C. 3503(g)(1)). The draft maps also reclassify certain areas from System Unit to OPA, and vice versa.

##### *Gulf County, Florida*

The Service has prepared two draft maps for Cape San Blas Unit P30/P30P located in Gulf County, Florida. The draft maps for Unit P30/P30P remove approximately 65 acres from the CBRS (52 acres of fastland and 13 acres of associated aquatic habitat) and add approximately 642 acres to the CBRS (61 acres of fastland and 581 acres of associated aquatic habitat). The draft maps remove areas that were inappropriately included within the CBRS in the past and add areas that meet the CBRA criteria for inclusion within the CBRS (16 U.S.C. 3503(g)(1)). The draft maps also reclassify certain areas from System Unit to OPA, and vice versa.

##### *Middlesex and Monmouth Counties, New Jersey*

The Service has prepared a draft map for Seidler Beach Unit NJ-02, Cliffwood Beach Unit NJ-03P, and Conaskonk Point Unit NJ-04, located in Middlesex and Monmouth Counties, New Jersey. The draft map also includes three proposed new OPAs, Seidler Beach Unit NJ-02P, Sayreville Unit NJ-15P, and Matawan Point Unit NJ-16P, which are within the vicinity of the existing units. The draft map for Units NJ-02/NJ-02P, NJ-03P, NJ-04, NJ-15P, and NJ-16P, removes approximately 21 acres from the CBRS (15 acres of fastland and 6 acres of associated aquatic habitat) and adds approximately 393 acres to the CBRS (116 acres of fastland and 277 acres of associated aquatic habitat). The draft map removes areas that were inappropriately included within the CBRS in the past. Additionally, a strip of wetlands along the northeastern side of the BRSA facility is removed to allow for the U.S. Army Corps of Engineers to construct a planned levee to protect a wastewater treatment facility from future storm damage. This proposed removal is in accordance with the protocol described in the Mapping Protocol for the Protection of Existing Critical Facilities section above. The draft map also adds areas that meet the CBRA criteria for inclusion within the CBRS (16 U.S.C. 3503(g)(1) and reclassifies an area from System Unit to OPA.

#### **Proposed Additions to the CBRS**

The draft maps for Units P30/P30P, P31/P31P, NJ-02/NJ-02P, NJ-03P, NJ-04, NJ-15P, and NJ-16P propose

additions to the CBRS, including the creation of three new units that are consistent with a directive in Section 4 of Public Law 109-226 concerning recommendations for expansion of the CBRS. The proposed boundaries depicted on the draft maps for Florida and New Jersey are based upon the best data available to the Service at the time the draft maps were created. Our assessment indicated that any new areas proposed for addition to the CBRS were relatively undeveloped at the time the draft maps were created.

Section 2 of Public Law 106-514 requires that we consider the following criteria when assessing the development status of a potential addition to the CBRS: (1) Whether the density of development is less than one structure per five acres of land above mean high tide (which generally suggests eligibility for inclusion within the CBRS); and (2) whether there is existing infrastructure consisting of: A road, with a reinforced road bed, to each lot or building site in the area; a wastewater disposal system sufficient to serve each lot or building site in the area; electric service for each lot or building site in the area; and a fresh water supply for each lot or building site in the area (which generally suggests ineligibility for inclusion within the CBRS).

If, upon review of the draft maps, interested parties find that any areas proposed for addition to the CBRS are currently developed (according to the criteria established by Section 2 of Public Law 106-514), they may submit supporting documentation of such development to the Service during this public comment period. For any areas proposed for addition to the CBRS on the draft maps, we will consider the density of development and level of infrastructure on the ground as of the close of the comment period on the date listed in the **DATES** section.

#### **Request for Comments**

Section 4 of Public Law 109-226 requires the Secretary to provide an opportunity for the submission of public comments. We invite the public to review and comment on the draft maps dated May 16, 2016, for CBRS Units P30/P30P, P31/P31P, NJ-02/NJ-02P, NJ-03P, NJ-04, NJ-15P, and NJ-16P. The Service is specifically notifying the following stakeholders concerning the availability of the draft revised maps: The Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; the members of the Senate and House of Representatives for the

affected areas; the Governors of Florida and New Jersey; other appropriate Federal, State, and local officials; and nongovernmental organizations.

Interested parties may submit written comments and accompanying data through <http://www.regulations.gov>, as described in the **ADDRESSES** section. The Service will also accept digital Geographic Information System (GIS) data files that are accompanied by written comments. Comments regarding specific CBRS unit(s) should reference the appropriate unit number(s) and unit name(s). We must receive comments on or before the date listed in the **DATES** section.

Following the close of the comment period, we will review all comments received on the draft maps and we will make adjustments to the draft maps, as appropriate, based on information received through public comments, updated aerial imagery, CBRA criteria, and objective mapping protocols. We will then prepare final recommended maps to be submitted to Congress. The final recommended maps will become effective only if they are adopted by Congress through legislation.

#### Availability of Draft Maps and Related Information

The draft maps, unit summaries (containing historical changes and more detailed information regarding proposed changes to the units), and digital boundary data can be accessed and downloaded from the Service's Web site at: <http://www.fws.gov/ecological-services/habitat-conservation/coastal.html>, or via [www.regulations.gov](http://www.regulations.gov), where public comments should be submitted. The digital boundary data are available for reference purposes only. The digital boundaries are best viewed using the base imagery to which the boundaries were drawn; this information is printed in the title block of the draft maps. The Service is not responsible for any misuse or misinterpretation of the digital boundary data.

Interested parties may also contact the Service individual identified in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements to view the draft maps at the Service's Headquarters office. Interested parties who are unable to access the draft maps via the Service's Web site or Headquarters office may contact the individual identified in the **FOR FURTHER INFORMATION CONTACT** section, and

reasonable accommodations will be made.

**Gary Frazer,**

*Assistant Director for Ecological Services.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS-R4-ES-2015-N115;  
FXES1113040000EA-123-FF04EF1000]**

#### Endangered and Threatened Wildlife and Plants; Availability of Proposed Low-Effect Habitat Conservation Plans, Lake, County, FL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment/information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), have received five applications for incidental take permits (ITPs) and one renewal of an ITP under the Endangered Species Act of 1973, as amended (Act) in Lake County, Florida. We request public comment on the permit applications and accompanying proposed habitat conservation plans (HCPs), as well as on our preliminary determination that the plans qualify as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statements and low-effect screening forms, which are also available for review.

**DATES:** To ensure consideration, please send your written comments by August 8, 2016.

**ADDRESSES:** If you wish to review the applications and HCPs, you may request documents by email, U.S. mail, or phone (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Send your comments or requests by any one of the following methods.

*Email:* [northflorida@fws.gov](mailto:northflorida@fws.gov). Use "Attn: Permit number TE96908B-0" as your message subject line for Walton Acquisitions FL, LLC; "Attn: Permit number TE96852B-0" for EPC Holdings 808 LLC and Parkview Oaks, LLC; "Attn: Permit number TE96862B-0" for Mattamy Orlando, LLC (Ladd Property); "Attn: Permit number TE96859B-0" for Mattamy Orlando, LLC (NOLA Property); "Attn: Permit number TE96904B-0" for Mattamy Orlando, LLC (Clermont Self Storage Property); and "Attn: Permit number TE105732-2" for Richard Bosserman.

*Fax:* Field Supervisor, (904) 731-3191, Attn: Permit number [Insert permit number].

*U.S. mail:* Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number [Insert permit number], U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

*In-person drop-off:* You may drop off information during regular business hours at the above office address.

**FOR FURTHER INFORMATION CONTACT:** Erin M. Gawera, telephone: (904) 731-3121; email: [erin\\_gawera@fws.gov](mailto:erin_gawera@fws.gov).

**SUPPLEMENTARY INFORMATION:** We, the Fish and Wildlife Service (Service), have received five applications for incidental take permits (ITPs) and one renewal of an ITP under the Endangered Species Act of 1973, as amended (Act). Walton Acquisitions FL, LLC requests a 20-year ITP; EPC Holdings 808 LLC and Parkview Oaks, LLC request a 25-year ITP; Mattamy Orlando, LLC (Ladd Property) requests a 5-year ITP; Mattamy Orlando, LLC (NOLA Property) requests a 5-year ITP; Mattamy Orlando, LLC (Clermont Self Storage Property) requests a 5-year ITP; and Richard Bosserman requests a 10-year renewal of ITP permit #TE105732-1. We request public comment on the permit applications and accompanying proposed habitat conservation plans (HCPs), as well as on our preliminary determination that the plans qualify as low-effect under the National Environmental Policy Act (NEPA). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

#### Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the "take" of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—*i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would