

the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude areas from critical habitat when the exclusion will result in the extinction of the species concerned.

#### Economic Impacts

Following the publication of the proposed critical habitat designation, a draft economic analysis was conducted to estimate the potential economic impact of the designation, in accordance with the recent decision in the *N.M. Cattlegrowers Ass'n v. U.S. Fish and Wildlife Serv.*, 248 F.3d 1277 (10th Cir. 2001). The draft analysis was made publically available for review on August 8, 2002. We accepted comments on the draft analysis until October 7, 2002.

Our draft economic analysis evaluated the potential future section 7 effects, including indirect effects, associated with designating critical habitat for the Gulf Sturgeon. The categories of potential costs considered in the analysis included the costs associated with: (1) Conducting section 7 consultations associated with the listing or with the designation of critical habitat, including incremental consultations and technical assistance; (2) modifications to projects, activities, or land uses resulting from the section 7 consultations; (3) indirect economic impacts on local industries and enterprises resulting from the physical changes to habitat areas that may be associated with project modifications (e.g., regional economic impacts). The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency.

Following the close of the comment period on the draft economic analysis, a final analysis was completed that incorporated public comments on the draft analysis and made other changes in the draft. Based on the draft and final economic analyses, and in consideration of all other relevant impacts of the designation, the Services are excluding under Section 4(b)(2) major shipping channels, as identified on standard navigation charts and marked by buoys, in the following three units:

(1) *Unit 2. Pascagoula River System in Forrest, Perry, Greene, George, Jackson, Clarke, Jones, and Wayne Counties, Mississippi.*—The major shipping channel of this unit is the southernmost 2.4 km (1.5 mi) of the Pascagoula River. The specific area excluded extends from

the river mouth (rkm 0 (rmi 0)) to the river crossing with the CSX railroad bridge, approximately 2.4 km (1.5 mi) north of the river mouth. This channel is generally marked on the USACE's Alabama-Mississippi stream mileage tables with drainage areas (USACE 1985).

(2) *Unit 8. Lake Pontchartrain, Lake St. Catherine, The Rigolets, Little Lake, Lake Borgne, and Mississippi Sound in Jefferson, Orleans, St. Tammany, and St. Bernard Parish, Louisiana, Hancock, Jackson, and Harrison Counties in Mississippi, and in Mobile County, Alabama.*—The major shipping channel of this unit is the GIWW and the approach channels to the Port of Pascagoula. Both channels are generally marked on USGS topographic maps and maps published for the public by the Corps of Engineers. The specific areas being excluded are marked by navigation buoys maintained by the U.S. Coast Guard.

(3) *Unit 9: Pensacola Bay System in Escambia and Santa Rosa Counties, Florida.*—The major shipping channels of this unit are in the southern portion of Pensacola Bay and serve the Port of Pensacola and the Pensacola Naval Air Station. These channels are generally marked on USGS topographic maps and maps published for the public by the Corps of Engineers. The specific areas being excluded are marked by navigation buoys maintained by the U.S. Coast Guard.

The Services have decided to exclude these areas after balancing the benefits of excluding against the benefits of including such areas as critical habitat. In the absence of other relevant factors, if excluding an area from a critical habitat designation will relieve a negative economic impact, and at the same time including the area fails to confer a counter-balancing positive benefit to the species, then the benefits of excluding the area from critical habitat outweigh the benefits of including it. The results of this type of evaluation will vary significantly depending on the landowners, geographic areas, and species involved.

#### (1) Benefits of Inclusion

The benefits of including these areas in the critical habitat designation is low. While Units 2, 8, and 9 are essential to the conservation of the Gulf sturgeon, the navigation channels contained within each of these units constitutes a small proportion of the individual unit. In areas that are frequently maintained by dredging (e.g. entrance channels to the Port of Pascagoula), the primary constituent elements for sturgeon that are still present in the channels are

unlikely to be appreciably diminished from their current baseline by Federal actions in the channels.

In Unit 2, Gulf sturgeon use the West and East distributaries of the Pascagoula River during spring and fall migrations (Ross *et al.*, 2001b). Summer resting areas have been consistently documented on the Pascagoula River (Ross *et al.*, 2001a and b). The Pascagoula River Harbor is on the East Pascagoula River distributary, a small portion of this overall unit, but consistently used for migration.

Unit 8 provides juvenile, subadult and adult feeding, resting, and passage habitat for Gulf sturgeon from the Pascagoula and the Pearl River subpopulations. The Mississippi Sound is separated from the Gulf of Mexico by a chain of barrier islands, including Cat, Ship, Horn, and Petit Bois Islands. Natural depths of 3.7 to 5.5 m (12 to 18 ft) are found throughout the Sound and a channel 3.7 m (12 ft) deep has been dredged where necessary from Mobile Bay to New Orleans (USDOC, 2002). Incidental captures and recent studies confirm that both Pearl River and Pascagoula River adult Gulf sturgeon winter in the Mississippi Sound, particularly around barrier islands and barrier islands passes (Reynolds, 1993; Ross *et al.*, 2001a; and Rogillio *et al.*, 2002). Gulf sturgeon are frequently found at the mouths of the barrier island passes (Ross *et al.*, 2001a) adjacent to channels used by recreational and commercial craft entering and exiting the Gulf of Mexico. The GIWW is a small band traversing this unit from east to west.

Unit 9 includes Pensacola Bay and its adjacent main bays and coves. These include Big Lagoon, Escambia Bay, East Bay, Blackwater Bay, Bayou Grande, Macky Bay, Saultsma Cove, Bass Hole Cove, and Catfish Basin. All other bays, bayous, creeks, and rivers are excluded at their mouths. The Pensacola Bay system includes five interconnected bays, including Escambia Bay, Pensacola Bay, Blackwater Bay, East Bay, and the Santa Rosa Sound. The Escambia River and its distributaries (Little White River, Dead River, and Simpson River) empty into Escambia Bay, including Bass Hole Cove, Saultsma Cove, and Macky Bay. The Yellow River empties into Blackwater Bay. The entire system discharges into the Gulf of Mexico, primarily through a narrow pass at the mouth of Pensacola Bay. The major shipping channel in this unit is the GIWW and extends to the Port of Pensacola and Pensacola Naval Air Station.

The Pensacola Bay system provides winter feeding and migration habitat for