

John H. Chafee Coastal Barrier Resources System Unit P30, Cape San Blas, Florida Summary of Proposed Changes

Type of Unit: System Unit

Location of Unit: Gulf County, Florida

Congressional District: 2

Draft Map Date: May 16, 2016

Number of Maps: Unit P30 is depicted on two maps.

Base Map Imagery Source and Date:

U.S. Department of Agriculture, National Agriculture Imagery Program, 2013

Establishment of Unit: The Coastal Barrier Resources Act (CBRA) (Pub. L. 97-348 enacted on October 18, 1982) originally established Unit P30.

Historical Changes to Unit: The Coastal Barrier Improvement Act (Pub. L. 101-591 enacted on November 16, 1990) expanded Unit P30 primarily to include open water and a few islands in St. Joseph Bay.

The U.S. Fish and Wildlife Service (Service) modified the boundary of Unit P30 (via notice published in the *Federal Register* (81 FR 13407) on March 14, 2016) to account for natural changes that occurred in the configuration of the shoreline of St. Joseph Peninsula and along St. Joseph Bay. These modifications were made in accordance with Section 3 of Pub. L. 101-591, which allows for modifications to the Coastal Barrier Resources System (CBRS) boundaries to reflect changes that have occurred as a result of natural forces.

Proposed Changes to Unit: The comprehensively revised draft maps dated May 16, 2016, modify the boundary of Unit P30 to remove from the CBRS approximately 47 acres (containing about 40 structures) within the Cape Breezes subdivision. The Service's assessment indicates that this area is appropriate for removal from Unit P30 because it had a full

complement of infrastructure on-the-ground when it was included within the CBRS in 1982.

The boundary of the unit is also modified to add to the CBRS areas that meet the CBRA criteria for an undeveloped coastal barrier (16 U.S.C. 3503(g)(1)) located to the northeast of St. Joseph Peninsula and along the eastern side of St. Joseph Bay.

Additionally, the boundary of the unit is modified to reclassify William J. Rish Recreational Park, owned by the State of Florida, from System Unit P30 to Otherwise Protected Area (OPA) Unit P30P. Rish Park was held for conservation and/or recreation purposes at the time the area was added to the CBRS in 1982.

Unit P30 currently includes portions of the St. Joseph Bay State Buffer Preserve, owned by the State for conservation and/or recreation purposes. However, because these areas were not held for conservation and/or recreation at the time they were added to Unit P30 in 1990, they are not proposed for reclassification to adjacent Unit P30P. Additionally, Unit P30 includes portions of St. Joseph Bay Aquatic Preserve that are proposed to remain within the unit. Florida State Aquatic Preserves and Outstanding Florida Waters are generally classified within the CBRS as System Units because they do not meet the CBRA definition of an OPA.

Level of Development Assessment: Much of Unit P30 has developed despite the CBRA's restrictions on Federal expenditures and financial assistance, and the Service has received numerous requests from Gulf County over the years to reevaluate the inclusion of the St. Joseph Peninsula within the CBRS. Specifically, the County seeks the removal of about 943 acres of fastland (i.e., land above mean high tide) from the CBRS. The Service has carefully assessed the information provided in a

Gulf County Commissioner's testimony for a hearing before the House Natural Resources Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs on April 8, 2014, as well as information submitted to the Service by the County over the years, historical maps and aerial imagery of the area, property parcel data and date of construction information, and the Service's background records for the unit. A summary of the CBRS development criteria and the Service's findings related to Unit P30 are below.

The CBRA requires that the Secretary of the Interior consider the following criteria in determining whether a coastal barrier was undeveloped at the time of inclusion within the CBRS: (A) the density of development was less than one structure per five acres of land above mean high tide; and (B) there was existing infrastructure consisting of (i) a road, with a reinforced road bed, to each lot or building site in the area; (ii) a wastewater disposal system sufficient to serve each lot or building site in the area; (iii) electric service for each lot or building site in the area; and (iv) a fresh water supply for each lot or building site in the area (16 U.S.C. 3503(g)(1)).

The Service's review found that though there were some structures on-the-ground and a main trunk line of infrastructure that ran along the length of the unit, the area still met the CBRA's criteria for an undeveloped coastal barrier when it was designated within the CBRS in 1982. The Service did identify one mapping error affecting the Cape Breezes subdivision (described below).

Density of Development: The Service's review of Unit P30 considered the density of development that existed on-the-ground when the unit was designated in 1982. Unit P30 was comprised of approximately 1,634 acres of fastland and contained approximately 100 structures in

1982. Therefore, the density of development on-the-ground was about one structure per 16 acres of land above mean high tide, well below the density threshold to be considered undeveloped under the CBRA.

Level of Infrastructure On-the-Ground: The Service's review of Unit P30 considered the level of infrastructure that was on-the-ground and available to each lot or building site as of March 15, 1982 (which was the cutoff date for analysis of on-the-ground conditions as specified in a notice published in the *Federal Register* (47 FR 35696) on August 16, 1982. In 1982, water, electricity, and wastewater treatment were available to some lots in Unit P30, and Highway 30-E spanned the length of the St. Joseph Peninsula. A few unpaved local roads connected several homes to the highway. When adopting the CBRA, however, Congress did not intend to exclude a relatively small number of scattered lots from CBRS units even if a full complement of infrastructure was available to those lots. The definitions and delineation criteria that were originally published by the Department of the Interior (Department) in the *Federal Register* on August 16, 1982 state that, "The presence on a coastal barrier of a single road, or even a through highway, plus associated electric transmission and water and sewer lines in this highway corridor does not constitute the necessary full complement of infrastructure necessary to support development." This is essentially the level of infrastructure that existed along the St. Joseph Peninsula when Unit P30 was originally designated (with the exception of the Cape Breezes subdivision). The Service's review found that although a main trunk line of infrastructure ran along the length of the unit in 1982, the area still met the CBRA criteria for an undeveloped coastal barrier when it was designated within the CBRS.

Public versus Private

Infrastructure: The Service's review considered whether the existing infrastructure within Unit P30 in 1982 was publicly or privately capitalized. The Gulf County Commissioner's 2014 testimony acknowledges the "backbone public infrastructure" that was on-the-ground at the time that P30 was designated within the CBRS. The Service's background records for Unit P30 note the presence of this infrastructure in 1982, and state that "the existence of such predominately public infrastructure does not qualify an area for exclusion, and that, for the infrastructure exclusion to apply; it must be capitalized primarily by the developer(s) of the area involved." Additionally, the Department's 1982 definitions and delineation criteria state that, "The existence of intensive private capitalization on-the-ground within a coastal barrier area is the most significant indicator of its development status." The maps adopted by Congress sought to exclude intensively capitalized, privately financed subdivisions with many lots where a full complement of infrastructure was available to each lot. The rationale in excluding such subdivisions was that when private funds were used to provide a full complement of infrastructure throughout the subdivision, it was expected the structures would be built in the near future. Lands without this intensive level of infrastructure were included in the CBRS.

The Service's review found that the main trunk line of infrastructure along the St. Joseph Peninsula was predominantly capitalized through public sources. County Road 30-E, which traverses the entire length of the unit, was constructed by the Florida Department of Transportation in the late 1960s to serve as access to the T.H. Stone

Memorial St. Joseph Peninsula State Park. Electric transmission lines were installed in 1967 by Florida Power Corporation, a utility company, to furnish service to the State Park. The main water line was installed in 1981 by Cape San Blas Water System, a private water company. The ability to use an on-site septic system for wastewater disposal, when legally authorized and the normal practice in the vicinity (as was the case in Unit P30), constituted the wastewater disposal infrastructure.

The Service's review found that one subdivision, Cape Breezes, located on the St. Joseph Peninsula, had a full complement of infrastructure that was available to each lot or building site at the time the area was included within the CBRS. Photos and documents from early 1982 in the Service's background records confirm that Cape Breezes had paved roads and electric and water service by March 15, 1982. Additionally, aerial imagery from May 9, 1982, shows that Cape Breezes had about five structures on-the-ground and a paved road providing access to each lot. The Service's assessment (based on the level of development on-the-ground in 1982 and the CBRA development criteria), indicates the Cape Breezes Subdivision is appropriate for removal from Unit P30.

Planned Development: Gulf County asserts that the 943 acres of fastland they seek to remove from Unit P30 was already developed or planned to be developed at the time they were included within the CBRS in 1982. The Department's 1982 delineation criteria state that, "Commitments or legal arrangements necessary for and leading toward construction of either structures or infrastructure will not be considered relevant to the development status of coastal barriers except to the degree that they are actually reflected in the existence of structures or

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infrastructure on the coastal barrier, or portion thereof (47 FR 35696).” The Service does not propose the removal from Unit P30 of any areas that had planned development but lacked substantial privately financed on-the-ground development.

Acreeage, Shoreline, and Structures:

	<i>Total Acres</i>	<i>Fastland Acres*</i>	<i>Associated Aquatic Habitat Acres**</i>	<i>Shoreline (miles)</i>	<i>Structures***</i>
Existing Unit	45,075	1,770	43,305	13.0	
Added to the CBRS	478	33	445		0
Removed from the CBRS	65	52	13		40
Reclassified Area	(59)	(76)	17		
Proposed Unit	45,429	1,675	43,754	13.0	
Net Change	354	(95)	449	0.0	(40)

*Land above mean high tide.

**Associated aquatic habitat includes wetlands, marshes, estuaries, inlets, and open water landward of the coastal barrier, but does not include open water seaward of the shoreline. This information is derived from an interpretation of 2013 aerial imagery in consultation with National Wetlands Inventory data and other data sources as necessary.

***Approximate structure count derived from 2013 aerial imagery. Structures without walls and a roof (e.g., picnic shelters) and structures with fewer than 200 square feet are not included in this structure count because they do not meet the definition of a “structure” in 16 U.S.C. 3503(g)(2).

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May 2016

