

Appendix A. Best Practices

The federal regulatory agencies will provide guidance to implementing trustees and federal action agencies as part of the environmental compliance process. Best practices generally include design criteria, best management practices (BMPs), lessons learned, expert advice, tips from the field, and more. Trustees use appropriate best practices to avoid or minimize impacts to natural resources, including protected and listed species and their habitats.

Federal environmental compliance includes developing a project proposal, requesting technical assistance if needed, and then entering into consultation or coordination under the relevant regulatory act (e.g., Endangered Species Act [ESA], Magnuson-Stevens Fishery Conservation and Management Act [MSFCMA], Migratory Bird Treaty Act, Marine Mammal Protection Act, Bald and Golden Eagle Protection Act, Clean Water Act). During any consultation process, additional project-specific measures may be recommended or required as applicable to a project type in different locations (e.g., dune walkovers in Florida and Texas) due to differences in relevant conditions, such as species presence or absence or other factors.

Below is a list of best practices that the Trustees have determined could be applicable to the stated restoration approaches. The potential programmatic environmental consequences described in Chapter 6, Environmental Consequences and Compliance with Other Laws, are presented largely without factoring in best practices that could avoid or minimize the potential adverse effects at a project-specific level. Such practices can be established during project planning and implementation. An exception is the analysis of impacts to protected biological resources and their habitats. For these resources, Restoration Types were specifically analyzed assuming the incorporation of best practices that would typically be required by regulating agencies because these projects generally would not be able to move forward through agency review without incorporation of best practices (see Section 6.9). Such best practices include, but are not limited to, steps taken through site selection, engineering and design, use of proven restoration techniques, and other conditions or activities required for project-specific regulatory compliance. Future projects tiered from this programmatic document will include the best practices below or best practices identified during project consultation, as appropriate. If changes to the best practices below are warranted for specific future projects, those changes will be analyzed in the future NRDA analysis and associated tiered Environmental Assessments (EAs) and Environmental Impact Statements (EISs) as well as other required reviews. Once best practices have been accepted, the project will be implemented using those best practices.

Points of contact:

- U.S. Fish and Wildlife Service (USFWS) Ecological Services Field Offices
<http://www.fws.gov/ecological-services/map/index.html>
- National Marine Fisheries Service (NMFS) Southeast Region
<http://sero.nmfs.noaa.gov/>

6.A

Best Practices

A.1 Practices Included in Environmental Consequences Analysis in Chapter 6, Section 6.4

The PDARP/PEIS assumed incorporation of the practices described in this Section A.1, Practices Included in Environmental Consequences Analysis in Chapter 6, Section 6.4, in the analysis of environmental consequences. This section presents best practices organized by species and also includes a section on general construction measures. Several of the best practices are described in larger documents and only the titles are included here. Appropriate websites should be checked during project planning to see if updated guidance is available. The organization by species is as follows:

- Birds
 - Bald eagle
 - Migratory birds
 - Piping plover and red knot
 - Red-cockaded woodpecker
- Mammals
 - Beach mouse
 - Manatee
 - Bottlenose dolphin
 - Other marine mammals
- Reptiles and amphibians
 - Reticulated flatwoods salamander
 - Eastern indigo snake
- Tortoises/turtles
 - Gopher tortoise
 - Sea turtles—in water
 - Sea turtles—nesting beaches
- Fish
 - Gulf sturgeon
- Plants
 - Protected plants
- Invasive species
- General construction measures

A.1.1 Birds

A.1.1.1 Bald Eagles

If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, have all activities avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. Maintain this avoidance distance from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).

If a similar activity (such as driving on a roadway) is closer than 660 feet to a nest, maintain a distance buffer as close to the nest as the existing tolerated activity. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then maintain a distance buffer as close to the nest as the existing tolerated activity.

In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, stop the activity and move all individuals and equipment away until the eagles are no longer displaying disturbance behaviors. Contact the USFWS's Migratory Bird Permit Office to determine how to avoid impacts or if a permit may be needed.

A.1.1.2 Migratory Birds

Use care to avoid birds when operating machinery or vehicles near birds.

During the project design phase, coordinate with the USFWS and the state trust resource agency to site and design projects to avoid or minimize impacts to migratory bird nesting habitats or important feeding/loafing areas.

Avoid working in migratory bird nesting habitats during breeding, nesting, and fledging (approximately mid-February through late August). If project activities must occur during this timeframe and breeding, nesting, or fledging birds are present, contact the state trust resource agency to obtain the most recent guidance to protect nesting birds or rookeries, and their recommendations will be implemented.

Conservation areas may already be marked to protect bird nesting areas. Stay out of existing marked areas.

If vegetation clearing is necessary, clear vegetation outside the migratory bird nesting season (approximately mid-February through late August) or have a qualified biologist inspect for active nests. If no active nests are found, vegetation may be removed. If active nests are found, vegetation may be removed after the nest successfully fledges.

Avoid driving over the natural organic material ("wrack") line or areas of dense seaweed, as these habitats may contain hatchlings and chicks that are difficult to see.

Install pointy, white piling caps on exposed pilings to prevent bird roosting on piers, docks, and marinas.

A.1.1.3 Piping Plover and Red Knot

Provide all individuals working on a project with information in support of general awareness of piping plover or red knot presence and means to avoid birds and their critical or otherwise important habitats.

Avoid working in designated critical habitat when piping plovers are present (approximately late July through mid-May) or important wintering sites for red knots when they are present (contact USFWS for red knot timeframes and habitats) to the maximum extent practicable. If work must be conducted when people are present, avoid working near concentrations of individuals or post avoidance areas to minimize disturbance.

For projects that result in large-scale habitat changes, coordinate early with USFWS to enhance or protect habitat features preferred by the species (inlet shoals, lagoons, washover fans, ephemeral pools, baysides, and mud flats). Do not remove sand from intertidal, sand, or mud flats.

Use dredged material to enhance adjacent emerged and submerged shoals and bayside habitats within and adjacent to project areas.

Minimize vegetation planting in preferred habitats and avoid removal of wrack year-around along the shoreline.

During recreational use, enforce leash or “no pet” policies in critical or important habitats.

A.1.1.4 Red-Cockaded Woodpecker

Avoid working within active red-cockaded woodpecker clusters (the minimum convex polygon containing the aggregation of cavity trees used by a group of red-cockaded woodpeckers and a 200-foot-wide buffer surrounding the polygon).

If avoidance is not possible or management activities in red-cockaded woodpecker suitable habitat are desired, conduct standard surveys to determine if the habitat is supporting any individuals or presence can be assumed. If red-cockaded woodpeckers are present (or assumed to be), avoid cavity trees and use mechanized equipment during the non-nesting season (approximately April 1 through July 31).

If tree removal is necessary, survey pine trees approximately 60 or more years old for active cavities within one year of the proposed removal. Extend surveys from the project site out to no less than one-half mile. Replace any cavities affected by the project via drilled cavity construction.

If impacts to suitable foraging habitat (pines approximately 30 or more years old and within one-half mile of an active cavity tree) are proposed, conduct a foraging habitat analysis. Foraging habitat may need to be replanted post-project.

Design projects within red-cockaded woodpecker suitable habitat such that prescribed fire needs are not impeded.

A.1.2 Mammals

A.1.2.1 Beach Mouse

Avoid using vehicles and mechanical equipment within the dune system, including primary, secondary, and tertiary dunes.

Avoid storing or staging equipment, vehicles, and project debris in a manner or location where it could be colonized by mice.

If work must occur within the dune system, have a qualified, permitted, biologist survey the project site before work commences and flag potential burrows and tracks so that they can be avoided.

Where possible, replace footpaths or low-lying dune walkovers with improved walkovers that do not fragment the dune system. For dune walkover construction in Florida and Alabama, follow the Conservation Measures for Dune Walkover Construction (FWS 2015).

Avoid vegetation removal, including scrub vegetation. If vegetation is damaged or removed during project implementation, plant appropriate native plants in the same location to minimize erosion and provide a food source for beach mice. If forage plants are reduced or limited in the project area, supplemental beach mouse food sources may be necessary.

A.1.2.2 Manatee

In Florida, follow the most current versions of USFWS's *Standard Manatee Conditions for In-Water Work* and *Additional Conditions for In-Water Activities in Manatee Habitat* for in-water work in Alabama, Mississippi, and Texas where manatees could be present, follow conditions a, b, c, and d of the *Standard Manatee Conditions*. Report any collisions to the USFWS or state trust resource agency. Temporary signs, if necessary, can be modified from the Florida Fish and Wildlife Conservation Commission's template to reflect local conditions. In Louisiana, follow the most recent version of the *Standard Manatee Conditions*.

A.1.2.3 Bottlenose Dolphin

For projects with any in-water construction activities, dredging, or wetland/barrier island creation and nourishment, follow the most current version of the NMFS Southeast Region's *Measures for Reducing Entrapment Risk to Protected Species* for projects that enhance recreational fishing opportunities (e.g., fishing pier enhancement/development), visibly post the NMFS Southeast Region's *Dolphin-Friendly Fishing Tips* sign and other applicable protected species educational signs.

For projects that enhance recreational and commercial vessel based activities, follow NMFS's *Southeast U.S. Marine Mammal and Sea Turtle Viewing Guidelines*.

A.1.2.4 Other Marine Mammals

To reduce the risk associated with vessel strikes of protected species or related disturbance, follow the most current version of NMFS Southeast Region's *Vessel Strike Avoidance Measures and Reporting for Mariners*, revised February 2008.

A.1.3 Reptiles and Amphibians

A.1.3.1 Reticulated Flatwoods Salamander

Avoid suitable habitat during all construction activities and do not permanently alter hydrology of the area. Avoid eliminating connectivity between suitable ponds.

Use silt fencing to prevent sedimentation or erosion of the project site into ponds.

If suitable habitat (including the approximately 1,500-foot buffer zone around breeding ponds) may be affected, perform pre-project surveys within 2 miles of known breeding sites or assume the presence of reticulated flatwoods salamanders. Schedule work during the nonbreeding season (summer) and maintain the natural contour of the ponds.

A.1.3.2 Eastern Indigo Snake

If suitable habitat or other evidence of Eastern indigo snakes is discovered within the project area during site surveys, implement the most recent version of USFWS's *Standard Protection Measures for the Eastern Indigo Snake*.

A.1.4 Tortoises/Turtles

A.1.4.1 Gopher Tortoise

If suitable habitat is present, have a qualified biologist conduct surveys to identify any gopher tortoise burrows. If burrows are within the project area and cannot be avoided through establishing a protective buffer (size determined by USFWS and the state trust resource agency), implement standard procedures to relocate the tortoise within the project site but away from the areas of construction or restoration or consider conservation banks. A Candidate Conservation Agreement with Assurances may be appropriate for project sites within the nonlisted range of the species.

A.1.4.2 Sea Turtles—In Water

Implement the following guidelines: NMFS's *Sea Turtle and Smalltooth Sawfish Construction Conditions* (revised March 23, 2006), NMFS's *Measures for Reducing Entrapment Risk to Protected Species* (revised May 22, 2012) and NMFS's *Vessel Strike Avoidance Measures and Reporting for Mariners* (revised February 2008).

A.1.4.3 Sea Turtles—Nesting Beaches

If a sea turtle (either adult or hatchling) is observed, maintain at least 200 feet between the turtle and personnel, equipment, or machinery and notify the sea turtle monitoring program. Allow the turtle to leave the area of its own volition.

During nourishment activities, use beach quality sand that is suitable for successful sea turtle nesting and hatchling emergence. Emulate the natural shoreline slope and dune system (including configuration and shape) to the maximum extent practicable.

In Florida and Alabama, avoid the use of vehicles and heavy machinery on nesting beaches during sea turtle nesting and hatching season (approximately May through October).

If work must occur on nesting beaches during sea turtle nesting season (May through August), begin work with vehicles or machinery after 9:00 am local time to allow the sea turtle monitoring program to detect and mark new nests and assess the need to relocate sea turtle nests that could be affected by the project construction. Avoid marked nests by at least 10 feet.

If beach topography is altered, restore all areas to the natural beach profile by 8:00 pm local time each day during nesting and hatching season. Restore beach topography by raking tire ruts and filling pits or holes.

Avoid driving over the wrack line or areas of dense seaweed, as these habitats may contain sea turtle hatchlings that are difficult to see.

All observed sea turtle nests located in Texas should be excavated and the eggs relocated for incubation.

Construction in Texas should be scheduled to avoid Kemp's ridley nesting season, which extends from April 1 until October 1.

A.1.5 Fish

A.1.5.1 Gulf Sturgeon

Avoid work in riverine critical habitats when Gulf sturgeon are likely to be present (April to October). Do not dredge in spawning areas when Gulf sturgeon are likely to be present.

During project implementation, maintain riparian buffers of at least 100 feet around critical habitat. Install silt fencing to prevent sedimentation or erosion into streams and rivers.

Operate dredge equipment in a manner to avoid risks to Gulf sturgeon (e.g., disengage pumps when the cutter head is not in the substrate; avoid pumping water from the bottom of the water column). Implement NMFS's [Sea Turtle and Smalltooth Construction Conditions](#) (revised March 23, 2006) and NMFS's [Measures for Reducing Entrapment Risk to Protected Species](#) (revised May 22, 2012), as they are protective of Gulf sturgeon as well.

A.1.5.2 Sawfish

Implement NMFS's [Sea Turtle and Smalltooth Construction Conditions](#) (revised March 23, 2006) and NMFS's [Measures for Reducing Entrapment Risk to Protected Species](#) (revised May 22, 2012).

A.1.6 Plants

A.1.6.1 Protected Plants

Perform surveys to determine if protected plants (or suitable habitat) are on or adjacent to the project site. Have a qualified individual perform the surveys and follow suitable survey protocols. Conduct plant surveys during appropriate survey periods (usually flowering season).

Design projects to avoid known locations and associated habitat to the extent possible. Use "temporary" removal of plants and soil profile plugs (which include the A and B horizons) with the intent to replace to original location post-construction as a last resort. Consider transplanting and seed banking only after all other options are exhausted.

Enhance and protect plants on site and in adjacent habitats to the maximum extent possible.

Use only native plants for post project restoration efforts.

A.1.7 Invasive Species

Develop and implement a Hazard Analysis and Critical Control Points (HACCP) plan to prevent and control invasive species. Use (ASTM E2590–08) or other version of HACCP or other similar planning tool.

Implement an Integrated Pest Management (IPM) approach to facility design, sanitation, and maintenance to prevent and control invasive and pest species.

Inspect sites, staging, and buffer areas for common invasive species prior to the onset of work. Map any invasive species detected and note qualitative or quantitative measures regarding abundance. Implement a control plan, if necessary, to ensure these species do not increase in distribution or abundance at a site due to project implementation. Inspect sites periodically to identify and control new colonies/individuals of an invasive species not previously observed prior to construction.

Prior to bringing any equipment (including personal gear, machinery, vehicles, or vessels) to the work site, inspect each item for mud or soil, seeds, and vegetation. If present, clean the equipment, vehicles, or personal gear until they are free from mud, soil, seeds, and vegetation. Inspect the equipment, vehicles, and personal gear each time they are being prepared to go to a site or prior to transferring between sites to avoid spreading exotic, nuisance species.

Place and maintain predator-proof waste receptacles in strategic locations during project implementation to prevent an increase in predator abundance. For projects designed to enhance or increase visitor use, maintain predator-proof waste receptacles for the life of the project.

Have the appropriate state agency inspect any equipment or construction materials for invasive species prior to use.

Inspect and certify propagated or transplanted vegetation as pest and disease free prior to planting in restoration project areas.

A.1.8 General Construction Measures

A.1.8.1 Guidelines

Bubble Curtain Specifications for Pile Driving, as contained in the Florida Statewide Programmatic Opinion on page 270.

Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat, U.S. Army Corps of Engineers/NMFS, August 2001.

Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's Seagrass (Halophila johnsonii), NMFS/U.S. Army Corps of Engineers, October 2002.

6.A

Best Practices

National Artificial Reef Plan (as Amended): Guidelines for Siting, Construction, Development, and Assessment of Artificial Reefs, NOAA, February 2007.

Guidelines for Marine Artificial Reef Materials, GSMFC, January 2004.

Assessment and Mitigation of Marine Explosives: Guidance for Protected Species in the Southeast U.S., NMFS, February 2008.

A.1.8.2 Piling Installation

Push pilings into soft, bottom substrate to reduce noise from installation; do not drive and hammer pilings into bottom substrate unless necessary for proper construction.

A.1.8.3 Protected Species

Provide all individuals working on a project with information in support of general awareness of and means to avoid impacts to protected species and their habitats present at the specific project site.

Survey for other at-risk or imperilled species. If found on site, contact the USFWS and state trust resource agency to determine if avoidance or minimization measures or a Candidate Conservation Agreement with Assurances may be appropriate.

A.1.8.4 Site Maintenance and Conduct

Use the nearest, existing staging, access and egress areas, travel corridors, pathways, and roadways (including those provided by the state, local governments, land managers, trustee, or private property owner, with proper permissions) and do not create new staging areas, access (except dune walkovers) or egress, or travel corridors through dune habitats.

Limit driving on the beach for construction to the minimum necessary within the designated travel corridor—established just above or just below the primary “wrack” line. Avoid driving on the upper beach whenever possible, and never drive over any dunes or beach vegetation. Check with the USFWS and state trust resource agency for additional specific beach driving recommendations in Florida and Alabama.

Minimize construction noise to the maximum extent practicable when working near protected species and their habitats.

Maintain or improve all lighting regimes. Methods include working during daylight hours only, prohibiting lighting on dune walkovers, and using wildlife-friendly lighting where lighting is necessary for human safety.

Post signs at kiosks, ramps, and piers to provide visitors with information to avoid and minimize impacts to protected species and their habitats while recreating. Develop signs in coordination with NMFS, USFWS, and the local state trust resource agency.

Supply and maintain containers for waste fishing gear to avoid fish and wildlife entanglement.

6.A

Best Practices

A.1.8.5 Land and Vegetation Protection

Develop and implement an erosion control plan to minimize erosion during and after construction and where possible use vegetative buffers (100 feet or greater), revegetate with native species or annual grasses, and conduct work during dry seasons.

Develop and implement a spill prevention and response plan, including conducting daily inspections of all construction and related equipment to ensure there are no leaks of antifreeze, hydraulic fluid, or other substances and cleaning and sealing all equipment that would be used in the water to rid it of chemical residue. Develop a contract stipulation to disallow use of any leaking equipment or vehicles.

Prohibit use of hazardous materials, such as lead paint, creosote, pentachlorophenol, and other wood preservatives during construction in, over or adjacent to, sensitive sites during construction and routine maintenance.

Where landscaping is necessary or desired, use native plants from local sources. If non-native species must be used, ensure they are noninvasive and use them in container plantings.

A.1.8.6 Wetland and Aquatic Resource Protection

Complete an engineering design and post-construction inspection for projects where geomorphic elevations are restored in wetlands, marshes, and shallow water habitats to ensure the success of the restoration project. Manage elevation of fill material to ensure projected consolidation rates are accomplished and that habitat suitable for wetland and marsh vegetation is developed.

Avoid and minimize, to the maximum extent practicable, placement of dredged or fill material in wetlands and other aquatic resources.

Design construction equipment corridors to avoid and minimize impacts to wetlands and other aquatic resources to the maximum extent practicable.

To the maximum extent possible, implement the placement of sediment to minimize impacts to existing vegetation or burrowing organisms.

Place protective warning signs and buoys around at-risk habitats for infrastructure projects that could increase recreational uses in SAV or oyster areas.

Apply herbicide in accordance with the direction and guidance provided on the appropriate U.S. Environmental Protection Agency (EPA) labels and state statutes during land-based activities.

Only use suitable borrow sites (i.e., those that do not contain *Sargassum*, SAV, or oysters) as dredging sites for sediment. Obtain sediments by beneficially using dredged material from navigation channels or by accessing material from approved offshore borrow areas. Sediments must closely match the chemical and physical characteristics of sediment at the restoration site. Additionally, use target borrow areas within reasonable proximity to suitable sites for sediment placement.

When local conditions indicate the likely presence of contaminated soils and sediments, test soil samples for contaminant levels and take precautions to avoid disturbance of, or provide for proper

disposal of, contaminated soils and sediments. Evaluate methods prior to dredging to reduce the potential for impacts from turbidity or tarballs.

Perform maintenance of generators, cranes, and any other stationary equipment operated within 150 feet of any natural or wetland area, as necessary, to prevent leaks and spills from entering the water.

Designate a vehicle staging area removed from any natural surface water resource or wetland to perform fueling, maintenance, and storage of construction vehicles and equipment. Inspect vehicles and equipment daily prior to leaving the storage area to ensure that no petroleum or oil products are leaking.

Upon completion of construction activities, restore all disturbed areas as necessary to allow habitat functions to return. Create and manage public access developments to enhance recreational experience and educational awareness to minimize effects to habitat within wetland and shallow water areas and to the long-term health of related biological communities.

Incorporate containment levees for fill cells for projects using marsh creation or other barrier island restoration. Remove these containment levees after construction to allow for the restoration of natural tidal exchange.

Use silt fencing where appropriate to reduce increased turbidity and siltation in the project vicinity. This would apply to both on land and in water work.

Continue oyster and clam shell recycling programs to provide natural material for creating additional oyster reefs.

Ensure shells to be introduced for reef creation are subjected to depuration in a secure open air area for a period of not less than 6 months.

Make all efforts to reduce the peak sound level and exposure levels of fish to reduce the potential impact of sound on fish present in the project areas.

Use a vibratory hammer whenever possible to reduce peak sound pressure levels in the aquatic environment.

Use sound attenuation devices where practicable for pulse noise (impact hammers) to reduce peak sound pressure levels in the aquatic environment.

Stipulate the timing of activities to avoid impacts to spawning fish and eggs/larvae.

Use best practices to reduce turbidity, such as turbidity blankets, to reduce the potential impact of turbidity on finfish.

Screen water withdrawal pipes to minimize potential entrainment of fish from the withdrawal area. Have project proponents coordinate with NMFS to create an intake screen that would minimize potential impingement of fish.

6.A

Best Practices

A.1.8.7 Aquaculture Facilities

Treat effluent from aquaculture facilities to avoid dispersal of potential pathogens into receiving waters.

Make sure that all aquaculture facilities and fish raised in those facilities meet fish health standards and are screened for pathogens prior to release into receiving waters.

Implement a genetics management plan that ensures maintenance of genetic diversity of native stocks of finfish in the Gulf of Mexico.

Develop and implement a stocking management plan prior to the release of hatchery-reared finfish.

A.2 Future Best Practices

The PDARP/PEIS did not incorporate the practices described in this section (Section A.2) in the analysis of environmental consequences in Chapter 6. Although these were not available at the time of analysis in the PDARP/PEIS, practices developed in the future are intended to provide essential technical assistance to avoid and minimize effects to ESA-listed species and their designated critical and Essential Fish Habitat (EFH). Incorporating this guidance into future restoration plans can lead to effective and efficient consultation under the ESA and MSFCMA. As projects in the Gulf of Mexico are implemented, additional practices may be developed. Check the websites below for the most recent guidance available.

A.2.1 Project Design Criteria for ESA-Listed Species

Project Design Criteria (PDC) are being developed by NMFS¹ to provide technical assistance and avoid or reduce adverse impacts to ESA-listed and protected species. PDCs may be developed for the following and/or additional restoration actions:

- Marine debris removal.
- Living shorelines.
- Marsh creation and enhancement.
- Non-fishing piers.
- Oyster reef creation or enhancement.

Once complete, detailed descriptions of PDCs can be found under the “NMFS’ Southeast Regional Office Guidance” on the following webpage:

http://sero.nmfs.noaa.gov/protected_resources/section_7/guidance_docs/index.html.

A.2.2 Best Practices for EFH Under MSFCMA

At time of publication, practices to avoid and minimize effects to EFH were under development. Please check the following webpage for EFH best practices that may be developed:

http://sero.nmfs.noaa.gov/habitat_conservation/efh/guidance_docs/index.html.

¹ NMFS Protected Resources Division Southeast Region 2015. Personal communication with Rachel Sweeney and Mike Tucker, August.

A.3 References

FWS (U.S. Fish and Wildlife Service). (2015). *Conservation measures for dune walkover construction*. Panama City, FL: Panama City Ecological Services, Fish & Wildlife Conservation Office. Retrieved from <https://www.fws.gov/panamacity/resources/ConservationMeasuresforDuneWalkoverConstruction.pdf>

Appendix B. Additional Actions for Consideration in Cumulative Impacts Analysis

The following tables describe additional actions or programs considered as part of the PDARP/PEIS cumulative impact analysis. The tables are organized by the category of actions being evaluated.

Table 6.B-1 presents examples of habitat conservation and protection programs in the Gulf Coast region.

Table 6.B-1. Example habitat conservation and protection programs in the Gulf Coast region.

Federal or Federal/State/Local Partnership Activities	
The National Marine Sanctuaries	Two sanctuaries are located in the Gulf of Mexico: Flower Garden Banks, which includes 36,000 acres of waters offshore of Texas and Louisiana, and the 2,900 square mile area in the Florida Keys.
The National Wildlife Refuge System	36 National Wildlife Refuges are located within the coastal areas of the Gulf of Mexico. No new National Wildlife Refuges have been proposed in the Gulf of Mexico proposed planning area.
National Estuarine Research Reserves	Federal and state partnerships. Past actions have included the establishment of four estuarine research reserves in the Gulf of Mexico area from Texas to Tampa Bay. There are no known future nominated estuaries planned for the National Estuarine Research Reserves in the Gulf of Mexico.
Gulf of Mexico Marine Protected Areas (MPAs) (State and Federal)	There are approximately 295 MPAs located within the Gulf of Mexico region, covering nearly 40 percent of the Gulf of Mexico U.S. marine waters. MPAs by jurisdiction include 19 in Texas, 17 in Louisiana, 21 in Mississippi, 7 in Alabama, 217 in Florida, and 33 in federal waters.
USDA NRCS Wetlands Reserve Program (WRP)	The WRP is one of the largest private lands wetland restoration and easement programs in the United States.
USDA Conservation Reserve Program (CRP)	The CRP is the largest private lands buffer and conservation cover rental contract program in the United States. Annual enrolled acreage for 2013 (USDA 2013): <ul style="list-style-type: none"> • Texas: 3,261,730 million acres • Louisiana: 313,533 acres • Mississippi: 779,168 acres • Alabama: 326,247 acres • Florida: 46,605 acres
USDA Grassland Reserve Program (GRP)	The GRP is jointly administered by the Farm Service Agency and the Natural Resources Conservation Service to protect and enhance working grazing lands, grasslands, and rangelands through rental contracts and conservation easements.
USDA NRCS Farm and Ranch Land Protection Program (FRPP)	The FRPP provides funding to eligible states, Indian tribes, and nongovernmental organizations for purchase of conservation easements to protect agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.
USDA NRCS Environmental Quality Incentives Program (EQIP)	EQIP provides financial and technical assistance to farmers and ranchers in order to improve water and air quality, conserve ground and surface water resources, reduce soil erosion and sedimentation, and improve or create wildlife habitat.

Federal or Federal/State/Local Partnership Activities	
USDA NRCS Wildlife Habitat Incentives Program (WHIP)	WHIP provides financial and technical assistance to wildlife-minded landowners and producers who want to develop and improve wildlife habitat on agricultural land, nonindustrial private forest land, and Indian land.
The National Park System	National Park Service lands along the coast or in coastal areas of the Gulf of Mexico include the Everglades National Park, Big Cypress National Preserve, Dry Tortugas National Park, Padre Island National Seashore, Gulf Islands National Seashore, Palo Alto Battlefield National Historical Park, Jean Lafitte National Historic Park, New Orleans Jazz National Historical Park, and DeSoto National Memorial.
NOAA Coastal and Estuarine Land Conservation Program	The Coastal and Estuarine Land Conservation Program provides grants to Gulf of Mexico state agencies and local governments to acquire property or conservation easements in the coastal zone or coastal watershed.
USFWS ESA Recovery/Habitat Plans	As part of the recovery plans for some ESA listed species, Critical Habitat has been designated as described in Chapter 3. USFWS Habitat Conservation programs include Endangered Species Grants, Partners for Fish and Wildlife, the Coastal Program, the National Coastal Wetlands Conservation Grant Program, North American Wetlands Conservation Grants, Fish Passage Program, and National Fish Habitat Partnerships.
MSFCMA EFH Fishery Management Plans	EFH has been identified and described in fishery management plans developed by the Gulf of Mexico Fishery Management Council and NMFS Highly Migratory Species Division Habitat Areas of Particular Concern (HAPCs) have been defined for some of these designations.
North American Bird Conservation Initiative (NABCI) -Bird Conservation Regions (BCRs)	The NABCI strategy is to foster coordination and collaboration on key issues of concern, including bird monitoring, conservation design, private lands, international collaboration, and state and federal agency support for integrated bird conservation. Five NABCI BCRs overlap the area of the northern Gulf of Mexico.
State Activities	
Texas	Texas Coastal Management Program, Texas Land and Water Resources Conservation and Recreation Plan, Texas Prairie Wetlands Project, Texas Wetland Conservation Plan, Texas Water Plan (Texas State Water Development Board 2012), Texas 2012 Regional Water Plans, Texas Parks and Wildlife Conservation Programs, Seagrass Conservation Plan for Texas and the Coastal Erosion Protection Planning and Response Act Program are active coastal and land protection programs.
Louisiana	Louisiana's 2012 Comprehensive Master Plan for a Sustainable Coast guides all coastal restoration and hurricane protection efforts (CPRA 2012).
Mississippi	Coastal Preserves Program works to protect sensitive coastal habitats using Tidelands Trust Funds to acquire coastal areas. The Mississippi Coastal Improvement Program provides resources to address storm damage, saltwater intrusion, erosion, fish and wildlife, and other purposes. Other efforts include Mississippi Comprehensive Resource Management Plan and Mississippi's Vision for Gulf Coast Recovery, Restoration, and Protection.
Alabama	Through the Forever Wild Program, and other programs, Alabama has invested in land protection around the Mobile-Tensaw River delta. Other projects that are likely to be implemented are identified in the Coastal Recovery Commission of Alabama's Roadmap to Resilience.

Federal or Federal/State/Local Partnership Activities	
Florida	Florida Forever program has protected 305,990 acres of functional wetlands as part of its 10 million acres of conservation lands protected (FDEP 2015).
Private and Nongovernmental Conservation Easements—Past to 2010 (Conservation Registry 2012)	
Texas	Total of 282,060 acres.
Louisiana	Total of 363,000 acres including holdings of The Nature Conservancy, which is one of the largest landowners.
Mississippi	Total of 294,000 acres including Ducks Unlimited holdings of 289,000 acres.
Alabama	Total of 71,000 acres including Alabama Land Trust holdings of 23,000 acres.
Florida	Total of 483,000 acres including Southwest Florida Water Management District holdings of 53,187 acres.

Table 6.B-2 below describes many of the federal, state, and local projects and programs related to habitat restoration that have occurred in the past and present and are expected to continue into the future. Because of the number of individual restoration projects that are implemented through these programs, major agency or nongovernmental programs have been described generically. These many and various types of restoration programs and the thousands of projects they comprise are implemented at many different scales and in accordance with the various programs, authorities, and bodies that enable restoration activities.

Table 6.B-2. Example restoration programs in the Gulf Coast region.

Federal Activities	
Coastal Impact Assistance Program (CIAP) and Gulf of Mexico Energy Security Act (GOMESA)	<p>The CIAP provides funding to the six OCS oil- and gas-producing states—Alabama, Alaska, California, Louisiana, Mississippi, and Texas—for the conservation, protection and preservation of coastal areas, including wetlands. Each state has an approved plan for implementing appropriations. All surplus funds are currently projected to be expended by fiscal year 2017 (CPRA 2015).</p> <p>The Gulf of Mexico Energy Security Act (GOMESA) covers OCS oil and gas leasing activities and revenue sharing in the Gulf of Mexico. GOMESA funds are to be used for coastal conservation, restoration, and hurricane protection. A total of 8.3 million acres are offered for oil and gas leases and include approximately 2 million acres in the central Gulf, approximately 0.5 million acres in the eastern Gulf, and approximately 5.8 million acres in the central Gulf (BOEM 2015).</p>
EPA’s Estuary Program	The National Estuary Program provides focused management to benefit habitats, water quality, and other desired resource management objectives for Coastal Bend Bays and Estuaries, Corpus Christi Bay, Galveston Bay, Barataria-Terrebonne Estuarine Complex, Mobile Bay, Tampa Bay, Sarasota Bay, and Charlotte Harbor.
USDA NRCS Gulf of Mexico Initiative (GOMI)	NRCS delivers voluntary financial and easement assistance through existing conservation programs in 16 priority watersheds in the Gulf of Mexico watershed. GOMI objectives are to improve water quality, increase water conservation, and enhance wildlife habitat within watersheds draining into the Gulf of Mexico through long-term contracts with private landowners, which would result in implementation of a wide range of conservation practices and land protection easements.

USDA NRCS Migratory Bird Habitat Initiative	The Migratory Bird Habitat Initiative was established in response to the <i>Deepwater Horizon</i> (DWH) disaster to provide immediate food and critical habitat for bird populations potentially affected by the spill.
USDA Farm Bill Conservation Programs (non-easement)	A number of USDA programs and projects have been implemented in the Gulf of Mexico region to address resource concerns, including wildlife habitat, water quality and quantity, soil quality, and other resource concerns.
USFWS State Wildlife Grants	USFWS administers several grant programs to support wildlife restoration benefiting Gulf of Mexico ecosystems. USFWS has provided funding to all Gulf states.
Gulf of Mexico Community-Based Restoration Program	The Gulf of Mexico Community-Based Restoration Program is a multi-year, regional partnership between the Gulf of Mexico Foundation, the NOAA CRP, the EPA Gulf of Mexico Program, and the Gulf states and Caribbean Territories. The purpose of this partnership is to strengthen the conservation efforts of the NOAA CRP and EPA Gulf of Mexico Program by supporting on-the-ground restoration activities and fostering local stewardship of ecologically significant areas.
USACE Programs	The Water Resource Development Act authorizes USACE to plan and establish wetland areas as part of an authorized water resources development project. The Mississippi Coastal Improvement Program was established by USACE after Hurricane Katrina. The program is comprehensive, consisting of structural, nonstructural, and environmental improvement projects for coastal Mississippi. The Northern Gulf of Mexico Regional Sediment Management Plan and Projects addresses restoration and sediment management at a regional scale.
State And Regional Activities	
State and Regional Invasive Species Management Activities	Invasive species have been the focus of a number of efforts, including Southeast Aquatic Resource Partnership, Gulf and South Atlantic Regional Panel on Aquatic Invasive Species, Aquatic Nuisance Species Task Force, and National Invasive Species Council.
Texas	Oyster restoration efforts in Galveston Bay are underway to address siltation and destruction of oyster beds due to hurricane impacts. Seagrass Conservation Plan for Texas and the Coastal Erosion Protection Planning and Response Act Program are also active coastal restoration/conservation programs. Other restoration priorities and projects being implemented in Texas include protection and restoration of Chenier Plain wetlands, ICWW shoreline habitat protection and restoration, freshwater inflow and saltwater intrusion initiatives, water quality initiatives in priority watersheds associated with bay ecosystems (e.g., Galveston, San Antonio, Nueces, Laguna Madre, and Aransas Bays rookery island protection and restoration efforts).
Louisiana	Louisiana's 2012 Comprehensive Master Plan for a Sustainable Coast ("Master Plan") represents fundamental state policy with regards to coastal planning and restoration. It was drafted following extensive technical and public input and consultation and includes a suite of restoration and protection measures designed to achieve a sustainable and resilient coastal landscape and to protect Louisiana's coastal resources from inundation (CPRA 2012). The Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) and the Louisiana Coastal Wetlands Conservation and Restoration Task Force—a state and federal partnership—has authorized over 185 projects since its inception, representing over 133,000 acres of coastal wetland restoration. A total of 93 projects have been completed, representing 80,000 acres. CWPPRA will implement 91 projects, representing 53,000 acres in the foreseeable future.

	<p>Louisiana Department of Wildlife and Fisheries (LDWF) cultch planting has been ongoing since 1917. Since the initiation of the program, LDWF has placed over 1.5 million cubic yards of cultch material on nearly 30,000 acres.</p> <p>Other federal statewide efforts include the Louisiana Coastal Area Near-Term Plan and CPRA's Annual Plans. CPRA's Mississippi River Hydrodynamic and Delta Management Studies authorized through USACE Water Resources Development will address water and sediment management on the Mississippi River. Other restoration actions may be funded through CIAP and/or state surplus dollars.</p>
Mississippi	<p>Mississippi Coastal Improvement Program provides resources to address storm damage, saltwater intrusion, erosion, fish and wildlife, and other purposes. Fifteen "interim" projects were funded following Hurricane Katrina. Mississippi Coastal Improvement Program has developed a comprehensive program for coastal restoration and protection, especially focused on barrier islands.</p> <p>In 2009, USACE funded barrier island and other restoration activities. A regional Sediment Management Master Plan is in development to address Gulf barrier island restoration.</p>
Alabama	<p>The state of Alabama is focused on barrier island restoration. Restore Coastal Alabama Project will restore 100 miles of oyster reefs and over 1,000 acres of coastal marsh and seagrass beds. Community-based oyster and marsh restoration projects with nongovernmental organizations are also underway. Future efforts include the implementation of an Alabama Coastal Resiliency Plan.</p>
Florida	<p>Florida's Comprehensive Everglades Restoration Plan contributes to Gulf of Mexico restoration efforts. Other programs include Coastal Wildlife Conservation Initiative to address native wildlife and coastal ecosystems and the Statewide Beaches Habitat Conservation Plan led by the Florida Department of Environmental Protection.</p>
Example Regional Restoration Planning Efforts	
Gulf of Mexico Foundation: Community Based Restoration Partnership	<p>Gulf of Mexico Foundation has administered the program, managing over 75 restoration projects throughout the Gulf and Caribbean. Example projects include:</p> <p><u>2012 Community Based Restoration Partnership Projects</u> Bon Secour Shoreline and Habitat Restoration Galt Preserve Restoration Restoring Coral Reefs with in-situ Nursery Techniques</p> <p><u>2011 Community Based Restoration Partnership Projects</u> Oyster Reef Restoration in the Texas Coastal Bend Elmer's Island Community-led Restoration Habitat Restoration in Mobile Bay Enhancement of mangrove shorelines in Clam Bayou Newman Branch Creek Phase II Restoration</p>
NFWF	<p>NFWF has supported over 450 projects in the Gulf of Mexico with a total value of more than \$128 million. After the DWH oil spill, NFWF supported more than 75 projects and administered \$22.9 million under the Recovered Oil Fund for Wildlife and other funding sources (NFWF 2013).</p>

<p>The Gulf Coast Joint Venture</p>	<p>The Gulf Coast Joint Venture is a partnership among federal and state agencies, nonprofit organizations, and private landowners dedicated to the conservation of priority bird habitat along the U.S. Gulf of Mexico coast. Habitat projects are developed and implemented by five regional Initiative Teams of biologists and managers of public and private lands. The Gulf Coast Joint Venture partners include numerous other organizations and hundreds of individuals that are involved in specific collaborative habitat, planning, or evaluation projects.</p>
--	---

B.1 Water Quality Improvement Programs

Table 6.B-3 describes many of the federal, state, and local projects and programs that protect and restore Gulf of Mexico water quality. The programs listed are only representative of efforts being undertaken throughout the Mississippi River and other tributaries to the Gulf of Mexico. In particular, the states outside of the study area but contributing to these waters are implementing programs similar in scope and magnitude to those described below.

Table 6.B-3. Example regulatory and voluntary programs to improve water quality in the Gulf Coast region.

Federal or Federal/State/Local Partnership Activities	
EPA	<p>Under the Clean Water Act, EPA works with states, tribes and communities to help prevent and control pollutants in our nation’s waters via funding assistance (e.g., State Revolving Loan Fund capitalization grants, grants to states for administering water pollution control programs and controlling nonpoint sources of pollution) and overseeing or directly administering regulatory (e.g., NPDES discharge permits) and nonregulatory programs.</p> <p>Vessel emission control in the Gulf of Mexico—emission standards to reduce the environmental impact from marine spark-ignition engines and vessels by requiring manufacturers to control exhaust emissions from fuel tanks and fuel lines.</p> <p>Mercury Reduction to Gulf of Mexico—Mercury and Air Toxics Standards for power plants to limit mercury, acid gas, and other pollution from power plants.</p> <p>Proposed targeted reductions of atmospheric deposition for mercury, sulfur, nitrogen, and other pollutants to U.S. waters, including the Gulf of Mexico.</p>
Hypoxia Task Force Action Plan	Implementation of comprehensive nutrient and phosphorus reduction strategies for states in the Mississippi and Atchafalaya River Basin.
National Ocean Policy Implementation Plan	<p>National Ocean Council with NOAA, USDA, USGS, and Hypoxia Task Force members identified collaborative measures with regional partnerships to improve water quality in the Gulf of Mexico. The National Ocean Policy Implementation Plan was finalized in 2013 (NOC 2013).</p> <p>Mississippi River interagency monitoring, modeling, and assessment partnership established in 2013.</p> <p>With interested states, MSR collaborated on the development and implementation of state-wide nitrogen and phosphorus reduction strategies in the MSR and Gulf region in 2014.</p>

Federal or Federal/State/Local Partnership Activities	
USDA NRCS	<p>The Migratory Bird Habitat Initiative was established in response to the DWH disaster to provide immediate food and critical habitat for bird populations potentially affected by the spill.</p> <p>Nutrient Management Implementation—28 million acres of land have come under nutrient management systems within the MSR since 2000, including 4 million acres added in fiscal year 2009 and 2010.</p> <p>Soil Erosion Control—Conservation practices were applied to 34 million acres of land for erosion control from fiscal 2005 to fiscal 2010, including 10 million acres in Fiscal 2009 and 2010.</p>
USACE	<p>Steele Bayou Project-Mississippi—flood control/sediment reduction project in the MSR watershed in which sediment control and water management practices were installed, including eight low-head weirs to maintain minimum water depths in the channels and 67 sediment control structures to prevent sediment from filling the channels.</p>
Louisiana Nutrient Management Strategy	<p>Several Louisiana state agencies including the Coastal Protection and Restoration Authority of Louisiana, Louisiana Department of Environmental Quality, Louisiana Department of Agriculture and Forestry, and Louisiana Department of Natural Resources work cooperatively with other state, federal, and watershed based stakeholders to implement a comprehensive strategy for nutrient management. This nutrient management strategy takes into account nonpoint and point sources and includes agricultural management practices, wastewater treatment technologies, coastal programs and restoration activities in an effort to manage nutrient levels while meeting regulatory requirements under the Clean Water Act and while developing incentive-based approaches for participation of all stakeholders within the watershed community (Louisiana Nutrient Management Strategy Interagency Team 2014).</p>
Mississippi State Nutrient Reduction Strategy and Delta Farmers	<p>The Mississippi Department of Environmental Quality participates with the state Nutrient Reduction Strategy Work Group to develop a consistent approach among MSR states to reduce nutrient loadings to the Gulf. The Mississippi Department of Environmental Quality is co-leading an effort with Delta Farmers Advocating Resource Management to develop a nutrient reduction strategy for the Delta region of Mississippi.</p> <p>Mississippi/Gulf of Mexico Watershed Nutrient Task Force is working to address statewide nutrient reduction and upper-basin information and technology exchange.</p>
Florida Numerical Nutrient Limits	<p>Authorized by the Watershed Restoration Act 1999, Florida is implementing nutrient reduction strategies through its total maximum daily load program and setting numerical nutrient limits on the amount of allowable nutrients that can be discharged into state waters.</p>

6.B Additional Actions for Consideration in Cumulative Impacts Analysis

Federal or Federal/State/Local Partnership Activities	
Gulf of Mexico Alliance (GOMA), Alabama, Florida, Louisiana, Mississippi, and Texas Nutrient Reduction Strategies	States and the GOMA are working to develop and implement state nutrient reduction frameworks to restore local water quality conditions.
Non-Governmental Organizations	<p>Mississippi River Water Quality Collaborative sponsored by the McKnight Foundation brings together representatives from more than 20 nongovernmental organizations from states along the Mississippi River corridor to explore strategies for comprehensive, riverwide water quality improvements.</p> <p>Lower Mississippi River Conservation Committee, Lower Mississippi River Aquatic Resource Management Plan, a 10-year operational plan to address the primary factors adversely affecting aquatic resources in the river's active floodplain and backwater areas:</p> <ul style="list-style-type: none"> • Ducks Unlimited. • The Conservation Fund. • The Nature Conservancy. • Louisiana Environmental Action Network. • Tennessee Clean Water Network. • Iowa Environmental Council. • Minnesota Center for Environmental Advocacy. • Mississippi River Basin Alliance.
International Water Quality Projects	North American Emissions Control Area–2010 to control marine vessel pollution in international waters.

B.2 Other Cumulative Actions

This section presents Table 6.B-4, which provides examples of military activities and projects, Table 6.B-5, which provides examples of shipping and maritime port projects, Table 6.B-6, which provides examples of tourism and recreation programs, Table 6.B-7, which provides examples of dredged material disposal projects, and Table 6.B-8, which provides examples of outer continental shelf projects.

Table 6.B-4. Example military activities and projects in the Gulf Coast region.

Installation	Activity
Eglin Air Force Base, Pensacola, Florida	<p>Installation of a fiber optic cable between Eglin and Santa Rosa Island.</p> <p>Three new missions resulting from BRAC 2005 realignment; 59 F-35 Primary Assigned Aircraft and associated cantonment construction and limited flight training operations added under the Record of Decision in 2008 (USAF 2009).</p> <p>More than 50 planned Military Construction projects beyond FY 2010 with approximately 2 million square feet (Eglin Air Force Base 2009).</p>
Hurlburt Field, Eglin Complex, Florida	<p>Selected as preferred location for future receipt of a 140-person Air Force Reserve MQ-1 Predator squadron that would provide intelligence, surveillance, reconnaissance, and precision-strike capability for joint force commanders.</p> <p>More than 50 transportation and capital improvement projects at Hurlburt Field over 2011 to 2016; \$24 million in construction and maintenance projects in fiscal year 2012 (Hurlburt Field 2012).</p>
Naval Air Station Pensacola, Florida	<p>Potential decrease in Pensacola area jobs of about 3,784 through BRAC 2005 recommendations that realign and consolidate commands.</p> <p>New training aircraft arrivals through 2020 may require operational and facility changes, including longer runways, new overlays, taxiways, parking aprons, and updated operational training space.</p> <p>Addition of fleet aircraft and missions would intensify the number of flight operations (Escambia County 2003).</p>
BRAC 2005 Recommendations Naval Air Station Corpus Christi, Texas	<p>Reduction of jobs through realignment and consolidation of commands; general and supporting new construction and facility upgrades required (DBCRC 2005).</p>
Naval Air Station Ingleside, Texas	<p>Base closure under BRAC 2005; main property will revert to Port of Corpus Christi Authority.</p> <p>Electromagnetic Reduction Facility preferred re-use was for construction of a marine business park and marina. However, the property is currently in negotiations with Canyon Supply and Logistics to create an offshore oil service complex (DOD 2015).</p>

Installation	Activity
Naval Support Area, Panama City, Florida	The Naval Support Area is expected to continue to expand in the future as the number of classes and students increases with increasing modernization of naval forces and advances in technology and as modern warfare increases research, design, testing and evaluation activities projects. Naval Support Area Panama City uses nine federally designated U.S. Navy Restricted Areas in St. Andrew Bay for near-shore, open water operations along with additional training areas in the Gulf of Mexico. (Bay County 2009).
Operating Training Area	Military activities that occur within the Gulf of Mexico waters can result in impacts to marine mammals, sea turtles, and other marine fauna although the areas restricted to military use may also function as MPAs when not in use. The U.S. Navy has developed range-complex monitoring plans to provide marine mammal and sea turtle monitoring in compliance with the MMPA and the EPA.

Table 6.B-5. Example shipping and maritime port projects the Gulf Coast region.

Texas	
Brownsville	Lease negotiations with a company based in China to develop a 35-acre site (Port of Brownsville 2012). Feasibility study on widening and deepening ship channel (USACE 2012).
Galveston	Cruise ship terminal improvements; proposed lease for 185-acre rail access and bulk cargo terminal on Pelican Island (Seaport Press Review 2012). Major capital improvements to existing cruise ship facilities were completed in 2011. In 2014, the Port of Galveston proposed \$10 million towards expansion of an additional cruise terminal to be completed in 2015 (Port of Galveston 2013).
Houston	Bayport Container and Cruise Terminal full build out expected in 2030 (Port of Houston Authority 2012). The Port Authority has proposed to commit \$275 million for various capital improvement projects in 2015 (Port of Houston Authority 2015). Beneficial Uses Group Project over 50 years would create 4,250 acres of intertidal salt marsh in Galveston Bay; create Evia Island for bird nesting habitat and restore Redfish and Goat Islands (FWS 2015).
Port Arthur, Beaumont	Rail yard rehabilitation and construction of a rail spur for intermodal connections (SETRPC 2010).
Port Lavaca-Point Comfort	Expansion of the turning basin, development of a dry bulk unloading dock and the Calhoun Terminal for liquefied natural gas (LNG) (World Port Source 2015).
Freeport	\$30 billion capital investment plan including phased build out of Velasco Terminal and a future multimodal facility (Port Freeport 2014).
Texas City	Phased development of an international terminal on 1,000 acres to include six berths and 400 acres of container yard (Texas City 2009).
Corpus Christi	The Corpus Christi channel improvement project would create nearly 200 acres of shallow-water habitat using dredged material (Port Corpus Christi 2012).

Maintenance dredging	Corpus Christi Ship Channel, Freeport Harbor, Houston Ship Channel, Galveston and the Gulf Intracoastal Waterway (USACE 2012).
Louisiana	
New Orleans	Expansion and improvements to cruise ship facilities; proposed mixed use redevelopment including maritime and commercial uses; phased expansion of terminal (Port of New Orleans 2007, 2011, 2012a, 2012b). Relocation of the France Road and Jourdan Road terminals (Port of New Orleans 2012a).
Plaquemines	Dredged material project to build six bird islands of marsh, shrub/scrub, bare land, and beach habitats that form a chain about 2.5 miles long parallel to the seaward end of the Baptiste Collette Bayou channel. Unconfined dredged material was placed at subtidal elevations and was used for restoration of subsided and eroded intertidal marsh on the western side of Southwest Pass (Gagliano et al. 2008). Maintenance dredging Mississippi River outlets at Baptiste Collette Bar. West Pointe a la Hache wetlands project will recreate marsh habitat by harvesting sediment from the Mississippi River (Louisiana CWCRTF 2009).
Baton Rouge	Annual harbor dredging at Mississippi River (USACE 2012).
Lake Charles	Biennial maintenance dredging of ship channel (USACE 2012).
Port of South Louisiana	Globalplex Intermodal Terminal redevelopment including 150 acres for expansion (Port of South Louisiana 2015)).
Gulf Intracoastal Waterway, Louisiana	Maintenance dredging (USACE 2012).
Mississippi	
Pascagoula	New \$1.1 billion terminal opened in October 2011. The Pascagoula Bar Channel was widened in 2014; the Pascagoula River Harbor completed its dredged material disposal projects in 2014. Bayou Casotte Channel widening feasibility study is underway and the project is expected to begin in late 2015.s (Port of Pascagoula 2015).
Biloxi Harbor	Dredged material from maintenance of Biloxi Harbor was used to create approximately 30 acres of tidal marsh on the north shore of the east end of the Deer Island (Great Lakes Commission 2010).
Alabama	
Perdido Pass	Maintenance dredging (USACE 2012).
Florida	
Port Manatee	Incentives for development of 5,000 acres adjacent to the port; planning for intermodal container yard development (Florida Ports Council 2015). Dredging and extension of Berth 12 and extension by 584 feet (USACE 2012).
Port Everglades	New cruise terminal constructed. Renovation of four other cruise terminals part of a 15-year agreement with Carnival Cruise lines; new 41-acre container terminal; 30-year lease and operating agreement to develop an intermodal container transfer facility (Florida Ports Council 2015).
Port of Pensacola	Land available for permanent dredged materials disposal (9 acres) and for future development (8.5 acres).

Port of Tampa	\$100 million improvements including phased expansion of container facilities (two new terminals, expansion of container yard); plans for new product distribution center capacity; upgrading and expanding bulk cargo facilities; expanded cruise service (Florida Ports Council 2015).
Port of Panama City	Bulkhead maintenance and rehabilitation; general and bulk cargo area expansions; intermodal distribution center (Panama City Port Authority 2015). Deepening of channel and berthing areas (Panama City Port Authority 2015).
Port of Freeport	Deepening and widening (USACE 2012).
Maintenance dredging	Pensacola Harbor Entrance Channel, Port Everglades and Tampa harbors (USACE 2012).
Tampa Bay	Beneficial use placement in the planning stages for USACE projects, including the creation of wetlands and additional bird nesting habitat just south of Bird Island.

Table 6.B-6. Example tourism and recreation programs and initiatives within the Gulf Coast region.

Incentive Programs	
Texas	
Texas Nature Tourism Council	A council of the Texas Travel Industry Association whose mission is to promote the value of nature tourism in Texas and to educate Texans and visitors about the state's nature tourism resources. The Council also assists and educates businesses, individuals, and other entities that provide nature-based tourism services and facilities to the public (Texas Tourism Council 2012).
The Nature Tourism Program of Texas A&M Agrilife Extension	Provides educational and training programs, materials, and consultations to professionals, landowners, and the general public to assist people who are interested in nature tourism as a business enterprise, conservation, or community development program (TAMU 2015).
Texas Heritage Trail	The Texas Heritage Trail Program is an award-winning heritage tourism initiative that encourages communities, heritage regions, and the state to partner and promote historic and cultural resources. Local preservation efforts, combined with statewide marketing of heritage regions as tourism destinations, increase visitation to cultural and historic sites and is based on 10 scenic driving trails including the Gulf Coast Byway, a portion of the Texas Tropical Trail (THC 2012).
Houston Wilderness	Houston Wilderness is a broad-based alliance of business, environmental, and government interests that acts in concert to protect, preserve, and promote the unique biodiversity of the region's remaining ecological capital from bottomland hardwoods and prairie grasslands to pine forests and wetlands. These eco-region landscapes decrease repetitive flooding; improve water quality; and boost outdoor recreation, ecotourism, and economic growth (Houston Wilderness 2014).

Incentive Programs	
Texas Tourism	The Office of the Governor, Economic Development and Tourism (Texas Tourism) is responsible for promoting Texas as a premier travel destination. The office works in concert with its partners (convention and visitors bureaus, local chambers of commerce, private travel-related organizations, and associations) to promote travel to Texas in both the domestic and international tourism marketing arenas (Texas Office of the Governor 2015).
Louisiana	
Louisiana Office of Tourism	Louisiana provides grants and opportunities for partnering for tourism promotion within Louisiana to strengthen marketing opportunities (Louisiana Office of Tourism 2012).
Mississippi	
Mississippi Tourism Rebate Program	Program for qualifying new tourism projects that allows a portion of the sales tax paid by visitors to the eligible tourism-oriented enterprise project to reimburse eligible costs incurred during the construction of the project. Qualifying projects include tourism attractions, hotels, public golf courses and marinas, and resort developments (Mississippi Development Authority 2013).
Mississippi-Alabama	
Nature Tourism Initiative	Tourism initiative for coastal Alabama and Mississippi to evaluate nature-oriented businesses and to provide resources to meet their needs to in order to provide a “quality nature experience for the guests while also encouraging good stewardship and sustainability of the area’s natural resources.” The Mississippi-Alabama Sea Grant Consortium has developed goals and objects for sustainable development including a goal for developing “healthy coastal economies that include working waterfronts, an abundance of recreation and tourism opportunities, and coastal access for all citizens” (Mississippi-Alabama Sea Grant Consortium 2010).
Florida	
Partnership for Florida’s Tourism	A grassroots coalition designed to raise awareness of the importance of tourism and to increase public funding of tourism marketing. The Partnership comprises the Florida Restaurant and Lodging Association, Florida Attractions Association, Florida Association of RV Parks and Campgrounds, Florida Association of Destination Marketing Organizations, and VISIT FLORIDA (Partnership for Florida's Tourism 2012).

Table 6.B-7. Example dredged material disposal projects in the Gulf region.

Texas	
USACE Galveston District	The Galveston District has averaged about 6 million cubic yards of material dredged per year disposed at ODMDs over the last 10 years. Quantities may decrease slightly as more beneficial uses of dredged material onshore are identified.
Louisiana	
USACE New Orleans District	Current figures vary for how much of the average annual 75 million cubic yards that is dredged by the New Orleans District is available for the beneficial use of dredged materials program. An annual average of about 17 million cubic yards is used beneficially (about 21 percent of the annual average total). The remaining 79 percent is disposed in upland confined disposal facilities, in open water adjacent to the dredging reach, in ODMDs, and in a temporary staging area located within the Mississippi River banks at Head of Passes (e.g., the Head of Passes hopper dredge disposal area ((USACE 2015).

Table 6.B-8. Example Outer Continental Shelf projects in the Gulf region.

Texas	
General Lands Office	The General Lands Office in Texas is collecting new geologic and geophysical data to describe potential resources in buried Pleistocene Sabine and Colorado River paleochannels, located offshore Jefferson and Brazoria Counties.
Louisiana	
Louisiana Office of Coastal Protection and Restoration	<p>The Louisiana Office of Coastal Protection and Restoration and Louisiana State University have undertaken joint efforts, funded in part through BOEM, to identify potential sand resources in the Trinity and Tiger Shoal complex, located in the Vermilion and South Marsh Island leasing areas, and to examine the long-term effects of dredging sand on Ship Shoal, a large potential borrow area about 15 miles (24 kilometers) offshore Isle Dernieres, south-central Louisiana.</p> <p>The following five leases for OCS sand have been issued in the CPA: 1) Holly Beach, Cameron Parish, Louisiana; 2) the South Pelto test area, Terrebonne Parish, Louisiana; 3) Pelican Island shoreline restoration, Plaquemines Parish, Louisiana; 4) Raccoon Island marsh creation, Terrebonne Parish, Louisiana; and 5) St. Bernard Shoals, St. Bernard and Plaquemines Parishes, Louisiana. Two leases were issued in 2012 for Cameron Parish shoreline restoration in Cameron Parish, Louisiana, and for Caminada Headland shoreline restoration in Lafourche and Jefferson Parishes, Louisiana.</p>

B.3 References

- Bay County (2009). *Bay County joint land use study*. Bay County, FL: Matrix Design Group. Retrieved from <http://www.pcgov.org/DocumentCenter/Home/View/116>
- BOEM (Bureau of Ocean Energy Management). (2015). Gulf of Mexico Energy Security Act (GOMESA). (September 7, 2015). Retrieved from <http://www.boem.gov/Revenue-Sharing/>
- CPRA (Coastal Protection and Restoration Authority). (2012). *Louisiana's comprehensive master plan for a sustainable coast*. Coastal Protection and Restoration Authority. Retrieved from <http://coastal.la.gov/a-common-vision/2012-coastal-master-plan/>
- CPRA (Coastal Protection and Restoration Authority). (2015). *Fiscal year 2016 annual plan: Integrated ecosystem restoration and hurricane protection in coastal Louisiana*. Baton Rouge, LA: Coastal Protection and Restoration Authority of Louisiana.
- DBCRC (Defense Base Closure and Realignment Commission). (2005). *2005 Defense Base Closure and Realignment Commission report*. Retrieved from <http://www.brac.gov/finalreport.html>
- DOD (U.S. Department of Defense). (2015). Naval Station Ingleside Electromagnetic Reduction Facility, Texas. (September 7, 2015). Retrieved from <http://www.oea.gov/project-highlights/brac/naval-station-ingleside-electromagnetic-reduction-facility,-texas>
- Eglin Air Force Base (2009). *Eglin Air Force Base General Plan*. Retrieved from http://adminpress.jllpress.com/Continental_Group/documents/EglinAFBGeneralPlan.pdf
- Escambia County (2003). *Escambia County joint land use study*. Escambia County, Florida, Growth Management Department, United States Navy, United States Department of Defense. Retrieved from <http://www.oea.osd.mil/library/directory/assistance/jlus/jlus-projects/pensacola-nas/escambia-county-jlus-executive-summary-september-2003/view>
- FDEP (Florida Department of Environmental Protection). (2015). Florida forever. (September 7, 2015). Retrieved from http://www.dep.state.fl.us/lands/fl_forever.htm
- Florida Ports Council (2015). Port Manatee. (September 7, 2015). Retrieved from <http://flaports.org/ports/port-manatee/>
- FWS (U.S. Fish and Wildlife Service). (2015). Nesting island creation (September 7, 2015). Retrieved from <http://www.fws.gov/southwest/es/TexasCoastal/NestIslandCreation.html>
- Gagliano, S.M., Guempel, B.R., Kappel, W.K., Wicker, K.M., & Suhayda, J.N. (2008). *Plaquemines Parish Strategic Implementation Deepwater Horizon Oil Spill Restoration Programmatic Environmental Impact Statement June 14, 2012 Trustee Council Review Draft Attorney-Client Privilege, Draft Deliberative and Pre-Decisional Plan*. Prepared for Parish President and Parish Council, Plaquemines Parish.
- Great Lakes Commission (2010). *Beneficially using dredged materials to create/restore habitat and restore Brownfields, and team collaborative efforts that have achieved success: Examples/case studies*. Prepared by Craig Vogt, Inc. for the Great Lakes Commission. Retrieved from

<http://greatlakesdredging.net/files/pdf/Final-report-Beneficial-use-of-dredged-material-and-collaboration.pdf>

- Houston Wilderness. (2014). Houston Wilderness: It's our nature. [Presentation for environmental grantmakers]. Retrieved from [https://www.philanthropysouthwest.org/sites/default/files/resources/HW%20Presentation%20for%20Environmental%20Grant-makers%20\(Oct%2031%202014\).pdf](https://www.philanthropysouthwest.org/sites/default/files/resources/HW%20Presentation%20for%20Environmental%20Grant-makers%20(Oct%2031%202014).pdf)
- Hurlburt Field (2012). Commando construction: Hurlburt Field projects in 2012. Retrieved from <http://www.hurlburt.af.mil/News/ArticleDisplay/tabid/136/Article/204938/commando-construction-hurlburt-field-projects-in-2012.aspx>
- Louisiana CWCRTF (Louisiana Coastal Wetlands Conservation and Restoration Task Force). (2009). *Fact sheet: West Pointe a la Hache marsh creation*.
- Louisiana Nutrient Management Strategy Interagency Team (2014). *Louisiana nutrient management strategy: Protection, improvement, and restoration of water quality in Louisiana's water bodies*. Baton Rouge, LA: Coastal Protection and Restoration Authority of Louisiana, Louisiana Department of Agriculture and Forestry, Louisiana Department of Environmental Quality, & Louisiana Department of Natural Resources. Retrieved from <http://www.deq.louisiana.gov/portal/DIVISIONS/WaterPermits/WaterQualityStandardsAssessment/NutrientManagementStrategy/FinalReport.aspx>
- Louisiana Office of Tourism (2012). Louisiana tourism industry partners. (September 7, 2015). Retrieved from <http://www.crt.state.la.us/tourism/industry-partners/index>
- Mississippi-Alabama Sea Grant Consortium (2010). *Strategic plan. Sustainable coastal development*.
- Mississippi Development Authority (2013). Tourism rebate program. (September 7, 2015). Retrieved from <http://www2.mississippi.org/mda-library-resources/finance-tax-info/tax-exemptions-incentives-and-credits/tourism-rebate-program.html>
- NFWF (National Fish and Wildlife Foundation). (2013). *About National Fish and Wildlife Foundation*. Washington, DC: NFWF. Retrieved from <http://www.nfwf.org/gulf/Documents/About-NFWF-and-Gulf-projects-2-1-13.pdf>.
- NOC (National Ocean Council). (2013). *National ocean policy implementation plan*. Retrieved from https://www.whitehouse.gov/sites/default/files/national_ocean_policy_implementation_plan.pdf
- Panama City Port Authority (2015). Port overview. Retrieved from <http://www.portpanamacityusa.com/port-overview.php>
- Partnership for Florida's Tourism (2012). Tourism works for Florida. (September 7, 2015). Retrieved from <http://tourismworksforflorida.org/>
- Port Corpus Christi (2012). Port Corpus Christi Ship Channel - Channel improvement project. Retrieved from <http://www.portofcc.com/index.php/initiatives/channel-improvement-project>

Port Freeport (2014). *Comprehensive annual financial report for the fiscal years ended September 30, 2014 and 2013*. Prepared by J.L. Strader & M. Campus for Port Freeport, Freeport TX. Retrieved from http://www.portfreeport.com/annual_files/2014Report.pdf

Port of Brownsville (2012). Port of Brownsville. (September 7, 2015). Retrieved from http://www.portofbrownsville.com/index.php?option=com_content&task=view&id=735&Itemid=27.

Port of Galveston (2013). *Comprehensive annual financial report for year ending December 31, 2013*. The Board of Trustees of the Galveston Wharves. A Component Unit of City of Galveston, Texas. Retrieved from <http://www.portofgalveston.com/documentcenter/view/761>

Port of Houston Authority (2012). Container terminals-Bayport. (September 7, 2015). Retrieved from <http://www.portofhouston.com/container-terminals/bayport/>

Port of Houston Authority (2015). Upcoming projects. (September 7, 2015). Retrieved from <http://www.portofhouston.com/upcoming-projects>

Port of New Orleans (2007). *Five-year capital improvement plan 2007-2011 for Ports Association of Louisiana member ports*. Prepared by Shaw Environmental and Infrastructure, Inc. for The Ports Association of Louisiana. Retrieved from http://portsoflouisiana.org/documents/Five-Year_Capital_Improvement_Plan_2007-2011_for_PAL_Member_Ports_%28Shaw_2007%29.pdf

Port of New Orleans (2011). *DOT formally awards 16.7 million to Port* [Press release]. Retrieved from <http://portno.com/CMS/Resources/press%20releases/prsrel122011.pdf>

Port of New Orleans (2012a). *Charting the future of the Port of New Orleans: 2020 Master Plan*. Retrieved from http://www.thepeoplellc.com/files/PNO_Master_Plan.pdf

Port of New Orleans (2012b). Facilities. Retrieved from <http://www.portno.com/facilities>

Port of Pascagoula (2015). Port of Pascagoula. (September 7, 2015). Retrieved from <http://portofpascagoula.com/>

Port of South Louisiana (2015). Globalplex Intermodal Terminal. (September 7, 2015). Retrieved from <http://www.portsl.com/globalplex.htm>

Seaport Press Review (2012). *Port of Galveston approves key business points of agreement with Texas, Mexico and Pacific Railroad* [Press release]. Retrieved from <http://www.ajot.com/news/port-of-galveston-approves-key-business-points-of-agreement-with-texas-mexi>

SETRPC (South East Texas Regional Planning Commission). (2010). *Comprehensive economic development strategy (CEDS)*. Retrieved from http://setrpc.org/ter/files/ecodev/SETEDD_2010CEDS.pdf

TAMU (Texas A&M University). (2015). Welcome to nature tourism at Texas A&M Agrilife Extension. (September 7, 2015). Retrieved from <http://naturetourism.tamu.edu/>

- Texas City (2009). *Texas City International Terminal*. Retrieved from http://www.texas-city-tx.org/users/0006/economic_development/doc/texas_city_international_terminal.pdf.
- Texas Office of the Governor (2015). Economic development and tourism. (September 7, 2015). Retrieved from <http://gov.texas.gov/ecodev>
- Texas State Water Development Board (2012). *Texas state water plan*. Retrieved from <http://www.twdb.texas.gov/waterplanning/swp/2012/>
- Texas Tourism Council (2012). Texas Nature Tourism Council. (September 7, 2015). Retrieved from <http://www.ttia.org/?tntc>
- THC (Texas Historical Commission). (2012). Texas Heritage Trails Program. Retrieved from <http://www.thc.state.tx.us/preserve/projects-and-programs/texas-heritage-trails>
- USACE (U.S. Army Corps of Engineers). (2012). *Civil works budget and performance, 2012 work plan*. Retrieved from http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy12wp_om.pdf
- USACE (2015). [Comment 824, received December 4, 2015]. *Online public comments received for the Programmatic Damage Assessment and Restoration Plan (PDARP) and Programmatic Environmental Impact Statement (PEIS)*. (pp. 315-316).
- USAF (U.S. Air Force). (2009). *Final Base Realignment and Closure 2005 Environmental Impact Statement, Record of Decision for the Implementation of BRAC 2005. Decisions for the Joint Strike Fighter, Initial Joint Training Site*.
- USDA (2013). *The Conservation Reserve Program: 45th signup results*. USDA Farm Service Agency, Conservation and Environmental Program Division. Retrieved from https://www.fsa.usda.gov/Internet/FSA_File/su45state0913.pdf
- World Port Source (2015). Point Comfort. Port Commerce. (September 7, 2015). Retrieved from http://www.worldportsource.com/ports/commerce/USA_TX_Point_Comfort_57.php

Appendix C. Trustees' Correspondence

C.1 NOAA Correspondence Requesting Federal and State Cooperating Agency Participation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Cynthia K. Dohner, Regional Director
US Fish and Wildlife Service, SE Region
1875 Century Boulevard, Suite 400
Atlanta, GA 30345

Dear Ms. Dohner:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the Department of Interior's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* (DWH) Oil Spill Programmatic Damage Assessment and Restoration Plan (PDARP). We initially invited your participation as a cooperating agency for preparing this PEIS in 2011, and due to the length of time since then we want to reaffirm your cooperating agency status.

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.



6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.
7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

Ken Kopocis
Senior Advisor, EPA Office of Water
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 4101M
Washington, DC 20460

Dear Mr. Kopocis:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the U.S. Environmental Protection Agency's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* (DWH) Oil Spill Programmatic Damage Assessment and Restoration Plan (PDARP). We initially invited your participation as a cooperating agency for preparing this PEIS in 2011, and due to the length of time since then we want to reaffirm your cooperating agency status.

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.



4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.
7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Ann Mills
Deputy Under Secretary for Natural Resources and Environment
United States Department of Agriculture
1400 Independence Ave, S.W
Jamie L Whitten Building, Suite 240E
Washington, DC 20250

Dear Ms. Mills:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the U.S. Department of Agriculture's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* (DWH) Oil Spill Programmatic Damage Assessment and Restoration Plan (PDARP). We initially invited your participation as a cooperating agency for preparing this PEIS in 2011, and due to the length of time since then we want to reaffirm your cooperating agency status.

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating



agencies.

5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.
7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

Mimi A. Drew
Special Advisor
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 31
Tallahassee, FL 32399-3000

Dear Ms. Drew:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the State of Florida's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS



during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.

7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

N. Gunter Guy, Jr.
Alabama Department of Conservation and Natural Resources
64 North Union Street
Montgomery, AL 36130

Dear Mr. Guy:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the State of Alabama's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS during the public comment period and provide an initial identification of those comments



pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.

7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

Gary Rikard
Executive Director
Mississippi Department of Environmental Quality
P.O. Box 2249
Jackson, MS 39225

Dear Mr. Rikard:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the State of Mississippi's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the Deepwater Horizon Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS



during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.

7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

Kyle Graham
Executive Director
Louisiana Coastal Protection and Restoration Authority
P.O. Box 44027
Baton Rouge, LA 70804

Dear Mr. Graham:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the State of Louisiana's status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS



during the public comment period and provide an initial identification of those comments pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.

7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

SEP 03 2015

Carter Smith
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, TX 78744

Dear Mr. Smith:

The National Oceanic and Atmospheric Administration (NOAA) is writing you to reaffirm the State of Texas' status in regard to participating as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

In accordance with the National Environmental Policy Act (NEPA) of 1969, NOAA is preparing a PEIS to evaluate restoration alternatives. The PEIS will evaluate potential direct, indirect and cumulative impacts from a wide range of proposed restoration activities, and will facilitate decision-making in the restoration planning process. The PEIS is integrated with a PDARP being prepared under Oil Pollution Act.

To adequately develop the PEIS and evaluate the potential environmental effects of the restoration alternatives, NOAA is inviting the participation of the Department of Interior (DOI), the U.S. Environmental Protection Agency (EPA), the U.S. Department of Agriculture (USDA), and the U.S. Army Corps of Engineers (ACOE) as Federal cooperating agencies in accordance with the Council on Environmental Quality's (CEQ) regulation 40 CFR Part 1501, and CEQ Cooperating Agency guidance issued January 30, 2002. NOAA is also inviting each of the state Natural Resource Trustees for the DWH oil spill (Alabama, Florida, Louisiana, Mississippi, and Texas) to serve as a cooperating agency in preparation of the PEIS, due to each state's natural resource trusteeship and special expertise in their respective jurisdictions regarding environmental issues related to the DWH oil spill.

Responsibilities of the lead agency (NOAA) and cooperating agencies are outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding any issues of concern related to the PEIS.
3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS in a timely manner.
4. Provide a schedule for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Consider comments identified by cooperating agencies in revisions to drafts of the PEIS.
6. Ensure that cooperating agencies receive copies of all relevant comments received on the PEIS during the public comment period and provide an initial identification of those comments



pertaining to an agencies' expertise or regulatory authority. This may require cooperating agencies to prepare written responses for inclusion in the final PEIS.

7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide special expertise on environmental issues associated with restoration and the DWH oil spill.
3. Provide special expertise on environmental issues that fall under a cooperating agency's jurisdictional responsibilities.
4. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
5. Provide the lead agency with timely identification of any significant issues raised based on each cooperating agency's special expertise on environmental issues and jurisdiction by law.

Thank you for your consideration in this matter. We look forward to your earliest response; please reply to Mr. Christopher Doley (chris.doley@noaa.gov) with a cc to Ms. Kristin O'Brien (kristin.o'brien@noaa.gov). If you have any questions, please contact Ms. Aileen Smith at 301-427-8625, or by email at aileen.smith@noaa.gov.

Sincerely yours,



Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service

cc: Pat Montanio, Office of Habitat Conservation

C.2 Federal and State Correspondence Responding to Cooperating Agency Request



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To
FWS/R4/NRDAR

SEP 17 2015

Mr. Christopher Doley
United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Silver Spring, Maryland 20910

Dear Mr. Doley:

Thank you for your letter dated September 10, 2015, inviting us to participate as a cooperating agency in the preparation of a Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS) related to the *Deepwater Horizon* (DWH) Oil Spill.

We accept your invitation and also confirm that our role and assistance began when the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), as lead agency, initiated the preparation of the PDARP/PEIS. As both a DWH Trustee Council member and PDARP/PEIS cooperating agency under NEPA (40 CFR 1501.6), we will continue to provide information and analyses per our special expertise and jurisdictional responsibilities, make staff available to support this effort, and participate in the public review process.

I designate Dr. Kevin D. Reynolds, DOI DWH case manager, as the primary point of contact. Dr. Reynolds can be reached by telephone at 404-679-7292 or by email at kevin_reynolds@fws.gov. As a Trustee, DOI looks forward to participating in this process as a cooperating agency and working with NOAA to help restore our trust resources.

Sincerely yours,

Cynthia K. Dohner
Authorized Official
U.S. Department of the Interior



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 16 2015

OFFICE OF WATER

Mr. Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Silver Spring, Maryland 20910

Dear Mr. Rauch:

Thank you for your letter dated September 3, 2015, requesting that the EPA reaffirm its status as a cooperating agency for the National Oceanic and Atmospheric Administration's preparation of a Programmatic Environmental Impact Statement for the *Deepwater Horizon* Oil Spill Programmatic Damage Assessment and Restoration Plan.

As a Federal Trustee for the Deepwater Horizon Oil Spill, the EPA looks forward to our continued participation in this process as a cooperating agency and working with NOAA and our fellow Trustees in this matter. Please do not hesitate to contact me with any questions you may have at (202) 564-5700 or you may call Gale Bonanno of the Office of Wetlands, Oceans, and Watersheds at (202) 564-2243.

Sincerely,

A handwritten signature in blue ink that reads "Kenneth J. Kopocis".

Kenneth J. Kopocis
Deputy Assistant Administrator

cc: Mary Kay Lynch
Tom Wall
Susan Bromm
Chris Doley (NOAA)
Kristin O'Brien (NOAA)



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

SEP 14 2015

Mr. Samuel D. Rauch, III
Deputy Assistant Administrator for Regulatory Programs
NOAA National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Rauch, III:

Thank you for inviting the U.S. Department of Agriculture (USDA) to serve as a cooperating agency in the development of the Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* (DWH) Oil Spill Programmatic Damage Assessment and Restoration Plan (PDARP).

USDA accepts this invitation. We also commit to our role as a cooperating agency per 40 CFR 1501.6. As such, we will participate in development of the PEIS and other documents. In addition, we will provide special expertise on environmental issues related to restoration for the DWH oil spill and for issues that fall under our jurisdictional responsibilities. Finally, we will make staff available to review and comment on documents, and to provide timely identification of any significant issues.

We look forward to continuing work with the Department of Commerce's National Oceanic and Atmospheric Administration on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann C. Mills", is positioned below the word "Sincerely,".

Ann C. Mills
Deputy Under Secretary, Natural Resources and Environment



Re: DWH PDARP/PEIS Cooperating Agency Confirmation

1 message

Drew, Mimi <Mimi.Drew@dep.state.fl.us>

Thu, Sep 10, 2015 at 11:33 AM

To: "Jeff P. Smith - NOAA Federal" <jeff.p.smith@noaa.gov>

Cc: Chris Doley <chris.doley@noaa.gov>, Craig R O'Connor - NOAA Federal <craig.r.o'connor@noaa.gov>, Kristin O'Brien <kristin.o'brien@noaa.gov>, Aileen Smith - NOAA Federal <aileen.smith@noaa.gov>, Jeff Shenot - NOAA Federal <jeff.shenot@noaa.gov>, Pat Montanio - NOAA Federal <pat.montanio@noaa.gov>

I confirm that Florida is a cooperating agency.

Mimi A. Drew
Florida NRDA Trustee and
RESTORE Council Representative
[850-933-0202](tel:850-933-0202)

----- Forwarded message -----

From: **Samek, Kelly** <Kelly.Samek@myfwc.com>

Date: Fri, Sep 18, 2015 at 2:27 PM

Subject: cooperating agency status

To: "jeff.p.smith@noaa.gov" <jeff.p.smith@noaa.gov>

Cc: Stephanie Willis - NOAA Federal <stephanie.willis@noaa.gov>

Jeff,

The attached request was forwarded to me from FDEP. On behalf of the Florida Fish and Wildlife Conservation Commission, I affirm our commitment to participate as a cooperating agency in the preparation of the Programmatic Environmental Impact Statement for the DWH Programmatic Damage Assessment and Restoration Plan.

Regards,

Kelly Samek

Gulf Restoration Coordinator

3900 Commonwealth Blvd., MS 7A5

Tallahassee, FL 32399

**Florida Fish and Wildlife
Conservation Commission**MyFWC.com



STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

64 NORTH UNION STREET, SUITE 468
MONTGOMERY, ALABAMA 36130
(334) 242-3486
FAX (334) 242-3489

ROBERT BENTLEY
GOVERNOR

N. GUNTER GUY, JR.
COMMISSIONER

CURTIS JONES
DEPUTY COMMISSIONER

VIA EMAIL

Christopher Doley
Chris.Doley@noaa.gov

Dear Mr. Doley:

This letter is to confirm that both of the Alabama natural resource damage trustees agreed to participate as cooperating agencies for the preparation of the Programmatic Environmental Impact Statement for the *Deepwater Horizon* Oil Spill Programmatic Damage Assessment and Restoration Plan. The primary point of contact on this matter continues to be N. Gunter Guy, Jr., Commissioner, Alabama Department of Conservation and Natural Resources.

We look forward to continuing to work with NOAA and the other trustees on this matter.

N. Gunter Guy, Jr.
Alabama Department of Conservation and Natural Resources
Commissioner of Conservation

Berry H. Tew, Jr.
Geological Survey of Alabama and State Oil and Gas Board of Alabama
State Geologist/Oil & Gas Supervisor

cc: Kristin O'Brien – Kristin.O'Brien@noaa.gov



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
GARY C. RIKARD, EXECUTIVE DIRECTOR

September 17, 2015

VIA E-MAIL

Mr. Christopher Doley
NOAA
Silver Spring, MD 20910

Re: Programmatic Environmental Impact Statement (PEIS) for the Deepwater Horizon Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP)

Dear Mr. Doley:

Thank you for requesting that the Mississippi Department of Environmental Quality (MDEQ) reaffirm its status to participate as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the Deepwater Horizon Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP).

MDEQ reaffirms its desire to participate and to continue to participate as a cooperating agency in the development of the PEIS for the PDARP. As you are aware, MDEQ's role and assistance in this regard began when the National Oceanic and Atmospheric Administration (NOAA) initiated the effort to develop the PEIS for the DWH Oil Spill. As both the natural resource trustee for the State of Mississippi and a cooperating agency under the National Environmental Policy Act (40 CFR 1501.6), MDEQ will continue to participate in the development of the PEIS for the PDARP, provide information and prepare analyses per its special expertise and jurisdictional responsibilities, make staff available to support interdisciplinary capability, and participate in public review processes.

MDEQ looks forward to continuing to work with NOAA on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary C. Rikard", written over a horizontal line.

Gary C. Rikard
Executive Director

cc: Ms. Kristin O'Brien
Mr. Marc Wyatt
Teri T. Wyly, Esq.



State of Louisiana

BOBBY JINDAL
GOVERNOR

September 10, 2015

Mr. Christopher Doley
United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Silver Spring, MD 20910

Dear Mr. Doley,

The State of Louisiana received your letter dated September 3, 2015, inviting the State to participate as a cooperating agency for the preparation of a Programmatic Environmental Impact Statement (PEIS) for the *Deepwater Horizon* Oil Spill (DWH) Programmatic Damage Assessment and Restoration Plan (PDARP). We accept your invitation to become a cooperating agency for this project as outlined in the letter, and will participate in the suggested activities.

We appreciate the opportunity to participate in this important process and look forward to doing so. If you have additional questions, please contact Alyson Graugnard, at Alyson.Graugnard@la.gov or (225) 342-2508, our primary agency representative for this project.

Sincerely,

Kyle Graham
Executive Director

Cc: Ms. Kristen O'Brien, kristin.o'brien@noaa.gov

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 16, 2015

Mr. Christopher Doley
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, Maryland 20910
chris.doley@noaa.gov

Dear Mr. Doley:

Thank you for inviting the Texas Commission on Environmental Quality (TCEQ) to reaffirm its status as a cooperating agency in the development of the Programmatic Environmental Impact Statement (PEIS) for the Programmatic Damage Assessment and Restoration Plan related to the *Deepwater Horizon* (DWH) oil spill.

TCEQ accepts this invitation. We also reaffirm that our role and assistance in this regard began when the National Oceanic and Atmospheric Administration (NOAA) initiated the effort to develop the PEIS on behalf of the DWH Trustee Council. As both a Trustee Council member and National Environmental Policy Act cooperating agency (40 CFR 1508.5), TCEQ will participate in the development of the PEIS, provide special expertise on environmental issues associated with restoration and the DWH oil spill and on environmental issues falling under the commission's jurisdictional responsibilities, review preliminary documents and provide comments to the lead agency in accordance with specified timelines, and provide the lead agency with timely identification of any significant issues raised based on the commission's special expertise on environmental issues and jurisdiction by law.

Please consider Richard Seiler the primary point of contact for the commission. Mr. Seiler can be reached at (512) 239-2523 and by email at richard.seiler@tceq.texas.gov.

We look forward to continued cooperation with NOAA and the DWH Trustee Council on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. Hyde".

Richard A. Hyde, P.E.
Executive Director

cc: Ms. Jane Atwood, Office of the Attorney General of Texas
Ms. Angela Sunley, Texas General Land Office
Mr. Don Pitts, Texas Parks and Wildlife Department
Ms. Kristin O'Brien, National Oceanic and Atmospheric Administration

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey

printed on recycled paper using vegetable-based ink



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

September 14, 2015

Mr. Christopher Doley
National Oceanic and Atmospheric Administration
chris.doley@noaa.gov

Dear Mr. Doley:

Thank you for inviting the Texas General Land Office (GLO) to reaffirm its status as a cooperating agency in the development of the Programmatic Environmental Impact Statement (PEIS) for the Programmatic Damage Assessment and Restoration Plan related to the *Deepwater Horizon* (DWH) oil spill.

GLO accepts this invitation. We also reaffirm that our role and assistance in this regard began when the National Oceanic and Atmospheric Administration (NOAA) initiated the effort to develop the PEIS on behalf of the DWH Trustee Council. As both a Trustee Council member and National Environmental Policy Act cooperating agency (40 CFR 1508.5), GLO will participate in the development of the PEIS, provide special expertise on environmental issues associated with restoration and the DWH oil spill and on environmental issues falling under the office's jurisdictional responsibilities, review preliminary documents and provide comments to the lead agency in accordance with specified timelines, and provide the lead agency with timely identification of any significant issues raised based on the office's special expertise on environmental issues and jurisdiction by law.

Please consider Angela Sunley the primary point of contact for the office. Ms. Sunley can be reached at (512) 463-9309 and by email at angela.sunley@glo.texas.gov.

We look forward to continued cooperation with NOAA and the DWH Trustee Council on this project.

Sincerely,

Anne L. Idsal
Chief Clerk

cc: Jane Atwood, Office of the Attorney General of Texas
Richard Seiler, Texas Commission on Environmental Quality
Don Pitts, Texas Parks and Wildlife Department
Kristin O'Brien, National Oceanic and Atmospheric Administration



Life's better outside.®

September 17, 2015

Mr. Christopher Doley
National Oceanic and Atmospheric Administration
1315 East-West Highway, SSMC3
Silver Spring, MD 20910
chris.doley@noaa.gov

Dear Mr. Doley:

Thank you for inviting the Texas Parks and Wildlife Department (TPWD) to reaffirm its status as a cooperating agency in the development of the Programmatic Environmental Impact Statement (PEIS) for the Programmatic Damage Assessment and Restoration Plan related to the *Deepwater Horizon* (DWH) oil spill.

TPWD accepts this invitation. We also reaffirm that our role and assistance in this regard began when the National Oceanic and Atmospheric Administration (NOAA) initiated the effort to develop the PEIS on behalf of the DWH Trustee Council. As both a Trustee Council member and National Environmental Policy Act cooperating agency (40 CFR 1508.5), TPWD will participate in the development of the PEIS, provide special expertise on environmental issues associated with restoration and the DWH oil spill and on environmental issues falling under the department's jurisdictional responsibilities, review preliminary documents and provide comments to the lead agency in accordance with specified timelines, and provide the lead agency with timely identification of any significant issues raised based on the department's special expertise on environmental issues and jurisdiction by law.

We look forward to continued cooperation with NOAA and the DWH Trustee Council on this project. My colleague Don Pitts will be TPWD's point of contact for our agency. If you should have any questions or comments, please do not hesitate to contact Mr. Pitts at 512-389-8754 or by email at don.pitts@tpwd.texas.gov. Thank you.

Sincerely,

Carter Smith
Executive Director

CS:JM:dh

cc: Ms. Jane Atwood, Office of the Attorney General of Texas
Ms. Angela Sunley, Texas General Land Office
Mr. Richard Seiler, Texas Commission on Environmental Quality
Ms. Kristin O'Brien, National Oceanic and Atmospheric Administration
Mr. James Murphy, Texas Parks and Wildlife Department
Mr. Don Pitts, Texas Parks and Wildlife Department

C.3 NOAA Correspondence Requesting CZMA Consistency Determination



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

October 6, 2015 (via email)

Becky Prado
Coastal Program Administrator
3900 Commonwealth Boulevard
M.S. 235
Tallahassee, Florida. 32399
Rebecca.Prado@dep.state.fl.us

Keith Lovell
Assistant Secretary - Office of Coastal Management
Louisiana Department of Natural Resources
P.O. Box 44487
Baton Rouge, LA 70804-4487
Keith.Lovell@la.gov

Scott Brown
Alabama Department of Environmental Management
Mobile Branch I Coastal Section
3664 Dauphin Street, Suite B
Mobile, Alabama 36608
Fieldmail@adem.state.al.us

Phillip Hinesley
State Lands Division, Coastal Section
Alabama Department of Conservation and Natural Resources
31115 Five Rivers Boulevard
Spanish Fort, AL 36527
Phillip.Hinesley@dcnr.alabama.gov

Ray Newby, P.G.
Coastal Geologist
Texas General Land Office
Coastal Resources Program
P.O. Box 12873
Austin, TX 78711-2873
Ray.Newby@glo.texas.gov

Ms. Willa Brantley
Mississippi Department of Marine Resources
Bureau of Wetlands Permitting
1141 Bayview Avenue
Biloxi, MS 39530
Willa.Brantley@dmr.ms.gov

RE: Federal Consistency Determination for Draft Programmatic Damage Assessment and
Restoration Plan and Draft Programmatic Environmental Impact Statement for the *Deepwater*
Horizon Oil Spill

Dear State Coastal Program Coordinators:

On October 5, 2015, the Natural Resource Trustees for the *Deepwater Horizon* Oil Spill released a document entitled "Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement for the Deepwater Horizon Oil Spill" ("Draft PDARP") to the public for formal review and comment. The Draft PDARP, if approved by the Trustees after consideration of public review and comment, would be applicable to and govern the future planning, identification, and selection of restoration actions that would restore for natural resources and services found to be injured and lost as a result of the *Deepwater Horizon* incident. The Draft PDARP is entirely "programmatic" in nature. As a programmatic plan, it does not identify or propose to select any specific restoration projects at this time. It would only provide the foundation for future planning of restoration actions, many of which would be subject to federal review for consistency with federally-approved Coastal Management Programs ("CMPs") in Florida, Alabama, Mississippi, Louisiana and Texas. Accordingly, the U. S. Department of the Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), the United States Department of Agriculture, and the United States Environmental Protection Agency (the "Federal Trustees"), have reviewed the programmatic plan as proposed in the Draft PDARP for consistency with the federally-approved CMPs in these States and have found the proposed plan to be consistent with all of these federally-approved CMPs. This letter submits that determination to each State for review on behalf of all Federal Trustees.

Background

On April 20, 2010, the *Deepwater Horizon* (DWH) mobile drilling unit exploded, caught fire, and eventually sank in the Gulf of Mexico resulting in a massive release of oil and other substances from BP's Macondo well. Tragically, 11 workers were killed and 17 critically injured by the explosion and fire. Over a period 87 days after the explosion, oil and natural gas were also continuously and uncontrollably discharged from the well into the northern Gulf of Mexico. Approximately 3.19 million barrels (134 million gallons) of oil were determined to have been released into the ocean (U.S. District Court, E. D. LA, 2015), making the *Deepwater Horizon* spill the largest oil spill in the history of the United States. *Deepwater Horizon* oil spread from the deep ocean to the surface and nearshore environment, from Texas to Florida. Extensive response actions to prevent the oil from reaching sensitive resources and to try to reduce harm to people and the environment were undertaken, but many response actions also caused collateral harm to natural resources and services provided by these resources. The oil and other substances released from the well in combination with the extensive response actions undertaken collectively comprise the *Deepwater Horizon* oil spill incident (hereafter referred to as the "Spill").

The Spill is subject to the provisions of the Oil Pollution Act of 1990 ("OPA"). Among other things, OPA provides for liability to the public for natural resource damages for the injury, loss, lost use of and destruction of natural resources caused by the Spill. The *Deepwater Horizon* Trustees¹ are the government entities that are

¹ The *Deepwater Horizon* Trustees are the U.S. Department of the Interior; the National Oceanic and Atmospheric Administration, the U.S. Environmental Protection Agency; the U.S. Department of Agriculture and the following agencies as designated by the Governors of each State:

- For the State of Texas: the Texas Parks and Wildlife Department; the Texas General Land Office; and the Texas Commission on Environmental Quality;
- For the State of Louisiana: the Coastal Protection and Restoration Authority; the Louisiana Oil Spill Coordinator's Office; the Louisiana Department of Wildlife and Fisheries; the Louisiana Department of Environmental Quality; and the Louisiana Department of Natural Resources;
- For the State of Alabama: the Alabama Department of Conservation and Natural Resources and the Geological Survey of Alabama;
- For the State of Mississippi: the Mississippi Department of Environmental Quality;
- For the State of Florida: the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission

each authorized to act on behalf of the public under OPA to (1) assess the natural resource injuries and service losses resulting from the Spill, and (2) to develop and implement a restoration plan to compensate for those injuries. That process, known as a Natural Resource Damage Assessment (NRDA), was initiated in the earliest days of the Spill.

The *Deepwater Horizon* Trustees have worked together to conduct the NRDA for this Spill². In assessing its impacts, the Trustees found that the oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine mammals and that the Spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf. The Trustees found they could not fully describe the injuries caused by the Spill at the level of a single species, a single habitat type, or a single region. Rather, there were injuries to such a wide array of linked resources over such an enormous area that the Trustees found that the effects of the Spill must be described as constituting an ecosystem-level injury. Given the ecosystem-level nature of the injuries, the *Deepwater Horizon* Trustees decided to prepare a *programmatic* DARP—in other words, a DARP that reflects use of a comprehensive, integrated ecosystem approach to appropriately address these ecosystem-level injuries and that provides long-term direction for restoring the full suite of injured natural resources and services. Instead of identifying specific restoration projects, the Draft PDARP incorporates guidance for identifying, evaluating, and selecting future restoration projects that would be carried out by several Trustee Implementation Groups (“TIG”s). A summary of the proposed programmatic plan described in the Draft PDARP is provided below. The Draft PDARP is available at: <http://www.gulfspillrestoration.noaa.gov> and <https://www.doi.gov/deepwaterhorizon>. It may also be downloaded from: <http://www.justice.gov/enrd/deepwater-horizon>.

The Draft PDARP was released for public review and comment on October 5, 2015 (80 FR 60126) and is available for public review and comment until December 4, 2015. During this formal comment period, the Trustees welcome comments from your respective offices that may enhance their ability of the TIGs to plan for and select restoration projects in the future that will be consistent with the federally-approved CMP for your State. Directions for submitting written comments on the Draft PDARP are included in the Federal Register notice announcing its availability.

On July 2, 2015, BP Exploration and Production, Inc. (BP), the major party responsible for the *Deepwater Horizon* spill, proffered terms for settlement to the court to pay damages, including natural resource damages, for the Spill (DOJ 2015a). A proposed Consent Decree - embodying a proposed settlement between BP and plaintiffs United States and the Gulf States - was recently lodged in *United States v. BXP et al*, Civ. No. 10-4536, centralized in MDL 2179, *In re: Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico, on April 20, 2010 (E.D. La.)*. Like the Draft PDARP, the proposed Consent Decree is subject to its own public comment process. If, upon conclusion of the public comment process, all parties and the Court find entry of the Decree to be proper, the settlement will become final and secure, among other things, in excess of \$8

² Faced with impacts to natural resources and services that were unprecedented in nature in scope, the Trustees also felt compelled to act on the public's behalf to accelerate and to begin restoring for impacts to clearly affected resources and services while the NRDA process was underway. The Trustees entered into the “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill” (Framework Agreement) with BP in April 2011. Under that agreement, BP committed to provide up to \$1 billion for early restoration projects in the Gulf “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to completion of the NRDA process or resolution of their liability for natural resource damages. Since that time, 64 early restoration projects across the Gulf, with a total cost of approximately \$832 million, have been selected and funded. (Phase I Final Early Restoration Plan, April 18, 2012; Phase II Early Restoration Plan, December 21, 2012; Phase III Programmatic and Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III Plan), October 31, 2014); and Phase IV Early Restoration Plan, September 23, 2015).

billion³ for the Trustees use to plan and implement comprehensive restoration to address the suite of injured natural resources and services harmed by the Spill. If adopted by the Trustees, the PDARP would become operational upon entry by the Court of the proposed Consent Decree. If the proposed Decree becomes final, proceeds designated as natural resource damages under the Decree will be expended in conformance with the PDARP. The Draft PDARP is compatible with the proposed Consent Decree. The public is encouraged to review and comment on both documents and all proposed decisions.

Description of Proposed Programmatic Restoration Plan:

In the Draft PDARP, the Trustees have jointly examined and assessed the extent of injury and evaluated restoration alternatives, with particular consideration of approaches to restoring, replacing, rehabilitating, or acquiring the equivalent of the injured natural resources and services. It integrates and is supported by a draft Programmatic Environmental Impact Statement. Development of the PDARP was informed by public scoping processes undertaken by the Trustees in accordance with NEPA for development of both a comprehensive DARP, the Phase III Programmatic Early Restoration Plan adopted in October 2014, and by public comments received across all phases of Early Restoration planning to date.

The preferred alternative described in the Draft PDARP is a comprehensive, integrated ecosystem restoration plan based on the Trustees' programmatic goals and an integrated restoration portfolio. The restoration portfolio incorporates and will implement a range of approaches to address: 1) assessed injuries to natural resources and services, including lost recreational use and 2) inferred injuries to ecosystem components and services. The integrated restoration portfolio encompasses restoration types based on the Trustees' understanding of injury and the capacity of each programmatic goal and restoration type to restore for injuries. Additionally, the Draft PDARP geographically allocates investments of restoration funding based on the Trustees' understanding and evaluation of exposure, of injury to natural resources and services, and of where investments in the various restoration types will be most beneficial within the ecosystem-level restoration portfolio. These "geographic restoration areas" include each of the five Gulf states (Alabama, Florida, Louisiana, Mississippi, and Texas), Open Ocean, and Region-wide, as well as a category entitled Unknown Conditions and Adaptive Management. The allocation of investments of restoration funding across resources, supporting habitats, and geographic areas is viewed by the Trustees as the best means of maximizing the likelihood of providing long-term benefits to those resources and services injured by the Spill, including at the ecosystem level. Under the proposed programmatic plan, the Trustees will also implement monitoring, assessment, and scientific support activities to evaluate the response of resources and services to restoration and to better inform ongoing restoration and management decisions within an adaptive management framework. The Trustees will also factor in contingencies to address future unknown conditions, commensurate with the unprecedented scale of restoration required and the number of years that it will take to implement this plan.

The restoration portfolio includes the following restoration types nested within five programmatic goals, as outlined below:

- 1) Goal: **Restore and Conserve Habitat**
 - Wetlands, Coastal, and Nearshore Habitats
 - Habitat Projects on Federally Managed Lands
- 2) Goal: **Restore Water Quality**
 - Nutrient Reduction (nonpoint source)

³ Includes remainder of funds BP pledged to initiate early restoration under the Framework Agreement (i.e., those funds not already used or obligated for implementation of selected projects) and additional funds to be paid under an approved Decree.

➤ Water Quality

3) Goal: **Replenish and Protect Living Coastal and Marine Resources**

- Fish and Water Column Invertebrates
- Sturgeon
- Submerged Aquatic Vegetation (SAV)
- Oysters
- Sea Turtles
- Marine Mammals
- Birds
- Mesophotic Reefs and Deep Benthic Habitats

4) Goal: **Provide and Enhance Recreational Opportunities**

- Provide and Enhance Recreational Opportunities

5) Goal: **Provide for Monitoring, Adaptive Management, and Administrative Oversight**

- Monitoring and Adaptive Management
- Administrative Oversight and Comprehensive Planning
- Adaptive Management Natural Resource Damage Payment for Unknown Conditions

The restoration portfolio incorporates a substantive focus on northern Gulf of Mexico coastal habitats to restore resource-to-habitat and habitat-to-habitat linkages in the northern Gulf of Mexico system. This focus on coastal habitats is complemented by additional restoration that addresses specific injuries or aspects of injuries not fully addressed by coastal habitat restoration to ensure that the full range of injuries caused by this spill is addressed. This portfolio includes opportunities to restore a combination of nearshore and coastal habitats that collectively contribute to productivity in the Gulf of Mexico and can benefit a large variety of injured species and ecological functions. This approach is the foundation for the preferred alternative in the proposed programmatic plan because of the multiple benefits that can be derived through habitat projects. A description of restoration approaches and performance monitoring strategies for this restoration type, as well as the other restoration types, can be found in Chapter 5 of the Draft PDARP.

Under the Draft PDARP, the Trustees will continue to function as a Trustee Council with overall responsibility for assuring restoration is achieved with appropriate financial accountability and that obligations set forth in OPA, the Consent Decree, the PDARP, and future restoration plans are met. The Draft PDARP proposes to distribute responsibility for development and implementation of future restoration plans for each of the eight “geographic restoration areas” to Trustee Implementation Groups (TIGs). Under this distributed governance structure, each TIG will prepare and propose restoration plans and select specific projects for implementation, consistent with the PDARP and with opportunity for public review and comment on proposed actions. Each TIG will develop, select, and implement restoration projects on a consensus basis⁴. The Draft PDARP includes guidance for the TIGs to follow in carrying out these responsibilities.

The Trustees will establish agreements and procedures such as Memoranda of Agreement (MOAs), Memoranda of Understanding (MOUs), and Standard Operating Procedures (SOP). The Trustees will revise their existing MOA for the Trustee Council to reflect and form the basis for their administration and functioning under the PDARP. Each TIG may develop additional MOAs or SOPs specific to their

⁴ For the five TIGs for each of the five Gulf states, consensus requires that a proposed action or decision be supported by both the United States (as decided by the federal Trustees as a group) and the state (as decided by the state Trustees as a group). The federal Trustees will develop an MOU setting forth their approach and procedures for speaking with a single voice on decisions made within the TIGs for each of the five Gulf states and the designated Trustees for each state will develop an MOU setting forth their approach and procedures for speaking with a single voice on decisions made within the TIGs for each of the Gulf states.

administration and functioning within their specific restoration area, consistent with the Trustee Council MOA and the PDARP.

Federal Consistency Review of Draft PDARP

The Draft PDARP outlines and describes a programmatic structure that would serve as the Trustees' overarching "blueprint" under which project-specific restoration plans would be developed, proposed and selected in the future, with substantial and meaningful opportunities for public participation in that process. It includes elements that would establish and guide the development of such plans. It also identifies the responsibilities and principles that the Trustees would apply, individually and collectively, at every level of planning to govern and fulfill every Trustee's duty on behalf of the public to restore, replace, rehabilitate or acquire natural resources and resource services that were lost, injured or destroyed as a result of the *Deepwater Horizon* oil spill, both to provide for the recovery of and to otherwise compensate for those injured resources and services.

Although the Draft PDARP itself does not propose any specific restoration actions or projects, the Federal Trustees recognize that, if adopted, it will result in restoration projects being selected in the future that will affect coastal uses and resources in each of the Gulf states. Accordingly, the Federal Trustees have evaluated the consistency of the proposed programmatic structure, processes, and principles for conducting future restoration planning with the policies included in the federally-approved coastal management programs (CMPs) of each of the Gulf states. Review for federal consistency at the program-level is considered by the Federal Trustees as a foundational step for ensuring that the future identification and selection of specific restoration projects pursuant to the programmatic plan described in the Draft PDARP will be consistent with the CMPs in each Gulf state. The Federal Trustees' evaluations of the consistency of the proposed programmatic structure, processes, and principles for conducting future restoration planning, as presented in the Draft PDARP, with the federally-approved CMPs in Texas, Louisiana, Alabama, Mississippi, and Florida are summarized, state-by-state, in Appendix A.

Conclusion:

Based on that review, the Federal Trustees find the Draft PDARP to be consistent with the federally-approved CMPs in Texas, Louisiana, Alabama, Mississippi, and Florida. This letter submits that determination for review by each state coincident with public review of this document.

For the Federal Trustees, this represents the earliest opportunity for consideration of the consistency of the Draft PDARP with the federally-approved CMPs in Florida, Alabama, Mississippi, Louisiana and Texas. Early consideration of the consistency of the Draft PDARP with these approved CMPs will assist all participating federal, state and local agencies to expeditiously develop plans for and implement restoration across the Gulf if the Draft PDARP is adopted. The development of future restoration plans under a final PDARP, including the selection and implementation of any future restoration projects, will remain subject to additional consistency reviews as may be required at later stages of planning, under applicable CMPs.

The Federal Trustees are requesting and would deeply appreciate a response to this determination of consistency as soon as is practicable. We thank you in advance for your efforts to accommodate this request.

Respectfully,



Christopher D. Doley
Designated Trustee Representative for Deepwater Horizon
National Oceanic & Atmospheric Administration

APPENDIX A:

STATE-BY-STATE SUMMARY OF FEDERAL CONSISTENCY REVIEW

FOR

**DRAFT PROGRAMMATIC DAMAGE ASSESSMENT AND RESTORATION PLAN
AND DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT
FOR THE DEEPWATER HORIZON OIL SPILL**

Consistency with federally approved TEXAS CMP (TCMP):

The policies of the TCMP with potential present applicability to the proposed programmatic structure, processes, and principles described in the Draft PDARP are found in Chapter 31, Subchapter B of the Texas Administrative Code, specifically at Section 501.12 (goals of the TCMP), Section 501.15 (policies for "major action"), and Section 501.20 (policies for prevention, response and remediation of oil spills).

Goals of the TCMP (Section 501.12)

The policies of the TCMP are intended to improve the management of the state's coastal natural resource areas (CNRAs), which are areas designated to be of particular concern to the state, and to ensure the long-term ecological and economic productivity of the Texas coast. The programmatic restoration plan proposed in the Draft PDARP is consistent-in-principle with all goals of the TCMP. Further, as restoration planning is carried out under this structure, it will remain so because each specific restoration project identified and proposed in the future will remain subject to the requirement for federal consistency with the TCMP when and to the extent that effects on coastal resources or uses in Texas are reasonably foreseeable. The following are some of the other TCMP policies that Federal Trustees commonly find to be applicable to proposed restoration actions, depending on the nature of the proposed action and its anticipated effect on coastal resources or uses in Texas: 501.23 (Development in Critical Areas); 501.24 (Construction of Waterfront Facilities and Other Structures on State Submerged Lands); 501.25 (Dredging, Dredged Material and Placement); 501.26 (Construction in Beach/Dune System); 501.27 (Development in Coastal Hazard Areas); 501.28 (Development within Coastal Barrier Resource System Units and Other Protected Areas on Coastal Barriers); 501.29 (Development in State Parks, Wildlife Management Areas or Preserves; and 501.31 (Transportation Projects).

Policies for Prevention, Response and Remediation of Oil Spills (31 TAC 501.20)

This section requires that the public be involved in the restoration planning process for an oil spill and that such plans be designed to promote the restoration of the injured resources with all deliberate speed. The Draft PDARP is entirely consistent with these TCMP policies. Indeed, the policies and goals of TAC 501.20 are highly similar to those of the OPA, under which the Draft PDARP was developed. The Draft PDARP was developed with the participation and approval of Texas' OPA-designated trustee officials for the TGLO, the TCEQ, and TPWD.

Under the OPA, the objective of restoration is to restore or replace habitats, species, and natural resource services as were injured or lost as the result of an oil spill in U.S. waters. OPA further requires that natural resources trustees seek public review and input on all restoration actions that they may plan to use to address or compensate for injuries and losses to the public's natural resources due to such incidents.

The Draft PDARP incorporates both OPA requirements into the development of all restoration plans and choice of restoration projects under its auspices. All future restoration activities planned under the proposed programmatic restoration plan will be for the purpose of restoring or replacing habitats, species, and natural resource services as were injured or lost as result of the Spill. The proposed programmatic plan presented in the Draft PDARP will allow for and support future, project-specific restoration planning for the Spill, with substantial public involvement, including by the TIG comprised of Federal Trustees and the designated trustees in Texas. That "Texas TIG" will plan and implement restoration projects that will aid in the recovery of and compensate for specific Spill-related injuries and losses to natural resources under Texas' jurisdiction including, as needed, projects to address the public's lost access to, recreational use and enjoyment of natural resources in Texas. As provided for in the PDARP, the public will be afforded a meaningful and reasonable opportunity to review and comment on all proposed restoration actions.

The Draft PDARP itself was developed consistent with these TCMP policies. Public engagement in restoration planning for the Spill to date has been extensive, from the scoping process to support development of this PEIS initiated in February 2011, through four phases of early restoration planning, up to the current public review and comment on the Draft PDARP. Along this timeline, to facilitate public involvement, the Trustees have provided the public with injury assessment information, updates about ongoing NRDA activities, information about restoration planning, and access to administrative record materials. The identification of meaningful restoration projects for this Spill will continue to benefit from the opportunities for public input, as provided for in the proposed programmatic restoration plan.

Policies for Major Actions (31 T.A.C. 501.15) - Under the TCMP, a "major action" is "an activity for which a federal environmental impact statement (EIS) under the National Environmental Policy Act is required." 31 T.A.C. 501.15(a). Under the major actions policy, agencies with jurisdiction over the activity must meet and coordinate their actions and, to the greatest extent possible, consider the cumulative and secondary adverse effects, as described in the federal environment impact assessment process, of each major action relating to the activity, 31 T.A.C. 501.15(b). Actions subject to this policy are not to be taken if inconsistent with the TCMP goals and policies, and are to avoid and otherwise minimize cumulative adverse effects to coastal natural resource areas, 31 T.A.C. 501.15(c).

The Draft PDARP is itself consistent with these policies as the Trustees developed and incorporated a PEIS into the process of preparing it. The decision to develop the PEIS served a broad purpose: to inform decisions on the programmatic structure of future restoration planning for this Spill, including to inform the guidance, principles and processes that would be applied in the future by TIGs as they proceed to plan and select future restoration projects for the Spill. The Draft PDARP includes evaluations of programmatic alternative(s) and potential consequences and cumulative effects of the programmatic plan on Spill-related restoration planning. Further, as Federal Trustees will be members of each TIG, compliance with NEPA will be a hallmark of the future restoration plans developed by each TIG. For any proposed restoration action, this will include coordination with other agencies, consideration of cumulative and secondary adverse effects, inclusion of measures and practices to avoid and mitigate for anticipated adverse effects prior to taking action and, where an action has the potential to significantly affect the environment, development of an EIS. The extent to which a future proposed restoration project may be a "major action" under the TCMP cannot be known at this time, but any specific restoration actions proposed or selected under the proposed programmatic restoration plan would remain subject to the requirement for determinations of federal consistency with all federally-approved TCMP policies, as are applicable.

Consistency with federally approved MISSISSIPPI CMP (MCMP):

The federally-approved MCMP is comprised of a network of agencies with authority in the state's coastal zone. The primary authority guiding the MCMP is the Mississippi Coastal Wetlands Protection Act. The MCMP is built around the following goals:

1. To provide for reasonable industrial expansion in the coastal area and to insure efficient utilization of waterfront industrial sites so that suitable sites are conserved for water dependent industry;
2. To favor the preservation of the coastal wetlands and ecosystems, except where a specific alteration of a specific coastal wetland would serve a higher public purpose in accordance with the public purposes of the public trust in which the coastal wetlands are held;
3. To protect, propagate, and conserve the state's seafood and aquatic life in connection with the revitalization of the seafood industry in the State of Mississippi;
4. To conserve the air and waters of the state, and to protect, maintain, and improve the quality thereof for public use, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational, and other legitimate beneficial uses;
5. To put to beneficial use to the fullest extent of which they are capable the water resources of the state, and to prevent the waste, unreasonable use, or unreasonable method of use of water;
6. To preserve the state's historical and archaeological resources, to prevent their destruction, and to enhance these resources wherever possible;
7. To encourage the preservation of natural scenic qualities in the coastal area;
8. To consider the national interest involved in planning for and in the siting of facilities in the coastal area;
9. To assist local governments in the provision of public facilities services in a manner consistent with the coastal program; and
10. To insure the effective, coordinated implementation of public policy in the coastal area of Mississippi comprised of Hancock, Harrison and Jackson Counties.

The proposed programmatic plan presented in the Draft PDARP is consistent in principle with all of the above goals of the federally-approved MCMP. The proposed programmatic plan presented in the Draft PDARP will allow for and support future, project-specific restoration planning for the Spill, with substantial public involvement, including by the TIG comprised of Federal Trustees and the designated trustees in Mississippi. That "Mississippi TIG" will plan and implement restoration projects that will aid in the recovery of and compensate for specific Spill-related injuries and losses to natural resources under Mississippi's jurisdiction including, as needed, projects to address the public's lost access to, recreational use and enjoyment of natural resources in Mississippi. Further, each specific restoration project identified and proposed in the future will remain subject to the requirement for federal consistency with the MCMP when and to the extent that effects on coastal resources or uses in Mississippi are reasonably foreseeable. In Mississippi, proposed future restoration projects will include activities that require consideration of one or more of the MCMP's goals during planning, including but not limited to the MCMP goals to preserve coastal wetlands and ecosystems, to protect habitat adjacent to coastal wetlands, to protect habitat of endangered species, to protect, propagate, and conserve the state's seafood and aquatic life, to aid in the protection and propagation of wildlife within and along Mississippi's coastal area, to preserve the scenic qualities of barrier islands and their surrounding ecosystems, to conserve the air and waters of the state, and to protect, maintain, and improve the quality thereof for public use and enjoyment.

Consistency with federally approved ALABAMA CMP:

Alabama's CMP, known as the Alabama Coastal Area Management Program (ACAMP), guides activities in Alabama's coastal zone in order to protect coastal resources and to provide adequate public access for recreation and commerce. Its policies are designed to regulate various activities on Alabama coastal lands

and waters in order to preserve, enhance, and develop Alabama's valuable coastal resources for present and future generations.

The programmatic restoration plan presented in Draft PDARP is consistent in principle with these general purposes and stated goals of the federally-approved ACAMP for management of activities and uses in Alabama's coastal zone. The proposed programmatic plan presented in the Draft PDARP will allow for and support future, project-specific restoration planning for the Spill, with substantial public involvement, including by the TIG comprised of Federal Trustees and the designated trustees in Alabama. That "Alabama TIG" will plan and implement restoration projects that will aid in the recovery of and compensate for specific Spill-related injuries and losses to natural resources under Alabama's jurisdiction including, as needed, projects to address the public's lost access to, recreational use and enjoyment of natural resources in Alabama. Restoration projects planned for these purposes will contribute to the preservation, enhancement and development of Alabama's coastal resources for present and future generations. Further, each specific restoration project identified and proposed in the future will remain subject to the requirement for federal consistency with the ACAMP when and to the extent that effects on coastal resources or uses of the state's coastal zone are reasonably foreseeable.

Specific policies of the ACAMP are contained in the Alabama Department of Environmental Management's Coastal Program rules at ALA ADMIN CODE r.335-8-1 *et seq.* These rules specify the uses, subject to the rules and regulations that must be complied with, that would be consistent with ACAMP. The Federal Trustees have reviewed these ACAMP policies and rules, including those at ALA ADMIN CODE r. 335-8-2-.01 (General Rules Applicable to All Uses), at ALA ADMIN CODE r. 335-8-2-.02 through -.12 (containing requirements for specific types of coastal projects), and at ALA. ADMIN CODE r. 335-8-1-.05 (Permissible Uses) and observe that they are very action- or project-specific. None are directly applicable to the proposed programmatic structure, processes, and principles described in the Draft PDARP. As noted above, the programmatic restoration plan presented in Draft PDARP provides that each action related to a specific restoration project identified and proposed in the future will be subject to the requirement for determinations of federal consistency with the ACAMP whenever there are reasonably foreseeable effects from taking that action on coastal lands and waters that are subject to Alabama's federally-approved CMP.

Consistency with federally approved FLORIDA CMP (FCMP):

The federally-approved FCMP is a networked program comprised of twenty-four statutes administered by nine state agencies and five water management districts. The policies of the FCMP with present applicability to the proposed programmatic restoration plan described in the Draft PDARP are found in Chapter 376, Fla. Stat. (relating to the prevention, response and remediation of oil spills and other pollutant discharges). The policies and goals of Chapter 376 are highly similar to those of the OPA, under which the Draft PDARP was developed. In addition to prohibiting the discharge of oil, into or upon any coastal water, estuary, tidal flat, beach or lands adjoining the seacoast in Florida, Chapter 376 grants the State the authority to assess and recover natural resource damages for discharges of oil. When the State is performing a damage assessment with Federal agencies, as it is in the case in the *Deepwater Horizon* Spill, it may assess natural resource damages in accordance with the federal rules implementing OPA at 15 C.F.R. Part 990.

The Draft PDARP was developed pursuant to OPA and consistent with these regulations. The proposed programmatic plan presented in the Draft PDARP will allow for and support future, project-specific restoration planning for the Spill, including by the TIG comprised of Federal Trustees and the designated trustees in Florida, with substantial public involvement. That "Florida TIG" would be responsible for planning and implementing restoration projects that will aid in the recovery of and compensate for specific Spill-related injuries and losses to natural resources under Florida's jurisdiction including, as needed, projects to address the public's lost access to, recreational use and enjoyment of natural resources

in Florida. The Draft PDARP was developed with the participation and approval of the Florida's OPA-designated trustee officials for the FDEP and the FWC. The programmatic structure, processes, and principles for conducting future restoration planning presented in the Draft PDARP are consistent with OPA and the OPA rule at 15 C.F.R Part 990, and are designed to lead to restoration of natural resources and resource services that were injured or lost as a result of the *Deepwater Horizon* Spill and that are appropriate to provide for the recovery of injured resources and services as well as to compensate the environment and the public for losses that will continue until resources and services recover to conditions that existed before the Spill occurred.

There are many other policies within the FCMP that may have bearing on future project-specific restoration plans, depending on the nature of the projects proposed for implementation. Depending on the nature of the proposed action, applicable policies may include, but are not limited, to those found within Fla. Stat. Chapters 161 (Beach and Shore Preservation), 163 (Growth Policy; County and Municipal Planning; Land Development Regulation), 186 (State and Regional Planning), 253 (State Lands), 258 (State Parks and Preserves); 260 (Florida Greenways and Trails Act); 267 (Historical Resources); ; 373 (Water Resources); 379 (Fish and Wildlife Conservation); 403 (Environmental Control); and 553 (Building Construction Standards). Each specific restoration project identified and proposed in the future will remain subject to the requirement for federal consistency with the FCMP when and to the extent that effects on coastal resources or uses of the state's coastal zone are reasonably foreseeable.

Consistency with federally approved LOUISIANA CMP:

The overall goal of the Louisiana Coastal Resource Program (LCRP), as Louisiana's CMP is known, is to protect, develop, and restore or enhance the resources of Louisiana's coastal zone through the regulation of uses in that coastal zone, especially those uses that have a direct and significant impact on coastal waters. The LCRP policies applicable to activities within the state's coastal zone are found within the State's Coastal Use Guidelines (Guidelines), at La. Admin Code 43:I.701 - .719. These include Guidelines specific to categories of Coastal Uses as well as §701's Guidelines Applicable to All Uses. As the Draft PDARP does not propose any specific restoration actions or projects at this time, none of the Guidelines specific to categories of Coastal Uses in the LCRP are directly applicable to the proposed programmatic structure, processes, and principles described in the Draft PDARP. The Federal Trustees, therefore, reviewed the proposed programmatic restoration plan described in the Draft PDARP only for consistency with the §701 Guidelines Applicable to All Uses.

The LCRP's §701 Guidelines Applicable to All Uses largely include information and guidance bearing on the use, interpretation, and legal effect of the Guidelines themselves and on the information to be considered by and the responsibilities of permitting authorities in the process of systematically considering and making determinations with respect to the permitting of activities in Louisiana's coastal zone. These guidelines, however, also summarize general policies with respect to activities in the coastal zone that are focused on maintaining the long term viability and productivity of the coastal ecosystem. The guidelines provide that activities are to be planned, sited, designed, constructed, operated, and maintained to avoid significant adverse impacts to the coastal environment by a wide variety of activities, including from discharges of inorganic nutrient compounds; alterations in natural oxygen concentrations in coastal waters; destruction or alteration of wetlands and water bottoms; changes in salinity regimes; changes in littoral and sediment transport processes; discharges of suspended solids (including from dredging); land loss through erosion and subsidence; and impacts from floods, hurricanes and other storms. The guidelines also seek to ensure conformance with applicable water and air quality laws, standards and regulations, to avoid compromise of the State's interest in granted and donated lands or water bottoms, to allow for multiple concurrent uses appropriate to location, and to avoid unnecessary conflicts in uses. The LCMP's Coastal Use Permit system is the principal means for implementing these Guidelines for Louisiana's coastal zone.

The programmatic restoration plan presented in the Draft PDARP is consistent in principle with these general purposes and stated goals of the federally-approved LCRP for management of activities and uses in Louisiana's coastal zone. The proposed programmatic plan presented in the Draft PDARP will allow for and support future, project-specific restoration planning for the Spill, with substantial public involvement, including by the TIG comprised of Federal Trustees and the designated trustees in Louisiana. That "Louisiana TIG" will plan and implement restoration projects that will aid in the recovery of and compensate for specific Spill-related injuries and losses to natural resources under Louisiana's jurisdiction including, as needed, projects to address the public's lost access to, recreational use and enjoyment of natural resources in Louisiana. The identification of restoration projects under the proposed programmatic plan will be aided by and reflect efficiencies gained from the proactive, collaborative planning efforts undertaken in Louisiana through its Regional Restoration Planning Program.

The processes to be followed in planning future restoration projects are also highly similar and very compatible with Louisiana's Oil Spill Prevention and Response Act (OSPRA), La. R. S.30:2451 *et seq.*, as amended, and its State NRDA Regulations at La. Admin. Code tit. 43 Part XXIX. Restoration projects planned for these purposes will contribute to maintaining the long term viability and productivity of Louisiana's coastal ecosystem in a manner that is consistent with Louisiana's own laws and prior restoration planning initiatives. Further, each specific restoration project identified and proposed in the future will remain subject to the requirement for federal consistency with the LCRP when and to the extent that effects on coastal resources or uses of the coastal zone of Louisiana are reasonably foreseeable.

Many of the Guidelines specific to categories of Coastal Uses in the LCRP will have bearing on future project-specific restoration plans, depending on the nature of the projects proposed for implementation. Depending on the nature of the proposed action, applicable policies may include, but are not limited, to those found in: §703 (Guidelines for Levees); §705 (Guidelines for Linear Facilities); §707 (Guidelines for Dredged Spoil Deposition); §709 (Guidelines for Shoreline Modification); §711 (Guidelines for Surface Alterations); §713 (Guidelines for Hydrologic and Sediment Transport Modifications); §715 (Guidelines for Disposal of Wastes); and §717 (Guidelines for Uses that Result in the Alteration of Waters Draining into Coastal Waters). Further, for any proposed restoration action, compliance with other laws will require coordination with other agencies, consideration of adverse effects, and inclusion of measures and practices to avoid and mitigate for anticipated adverse effects prior to taking action.

C.4 State Correspondence Responding to CZMA Consistency Determination



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

December 4, 2015

Ms. Stephanie L. Willis, Senior Attorney
Office of General Counsel, Natural Resources Section
National Oceanic and Atmospheric Administration
263 13th Avenue South, Suite 177
St. Petersburg, FL 33701

RE: U.S. Department of the Interior and National Oceanic and Atmospheric Administration -
Natural Resource Damage Assessment - Deepwater Horizon Oil Spill, Draft Programmatic
Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact
Statement (Draft PDARP/PEIS) - Northwest Florida.
SAI # FL201510067460C

Dear Ms. Willis:

The Florida State Clearinghouse has coordinated the state's review of the referenced Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement (Draft PDARP/PEIS) under the following authorities: Presidential Executive Order 12372; § 403.061(42), *Florida Statutes*; the Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*, as amended); and the National Environmental Policy Act (42 U.S.C. §§ 4321-4347, as amended).

Based on the information contained in the Draft PDARP/PEIS and state agency staff review, the state has determined that, at this stage, the proposed federal activities are consistent with the Florida Coastal Management Program (FCMP). The state's continued concurrence will be based on the activities' compliance with FCMP authorities, including federal and state monitoring of the activities to ensure their continued conformance, and the adequate resolution of any issues identified during subsequent regulatory reviews. The state's final concurrence of the projects' consistency with the FCMP will be determined during the environmental permitting process, if applicable, in accordance with Section 373.428, *Florida Statutes*.

Thank you for the opportunity to review the draft document. Should you have any questions regarding this letter, please don't hesitate to contact me at Chris.Stahl@dep.state.fl.us or (850) 245-2169.

Ms. Stephanie L. Willis
FL201510067460C
Page 2 of 2
December 4, 2015

Yours sincerely,



Chris Stahl, Coordinator
Florida State Clearinghouse
Office of Intergovernmental Programs

cc: Harriet Deal, DOI Office of the Solicitor
Gary Fremerman, USDA Office of the General Counsel
James Bove, EPA Office of General Counsel
Nanciann Regalado, USFWS DWH NRDAR Case Management
Mimi Drew, DEP Trustee Representative
Gareth Leonard, DEP Office of General Counsel
Rebecca Prado, DEP Florida Coastal Office
Shawn Hamilton, DEP Northwest District
Nick Wiley, FWC Executive Director, Trustee
Kelly Samek, FWC Office of the Executive Director
Scott Sanders, FWC Conservation Planning Services



Florida

Department of Environmental Protection

"More Protection, Less Process"



Categories

[DEP Home](#) | [OIP Home](#) | [Contact DEP](#) | [Search](#) | [DEP Site Map](#)

Project Information	
Project:	FL201510067460C
Comments Due:	11/17/2015
Letter Due:	12/04/2015
Description:	U.S. DEPARTMENT OF THE INTERIOR AND NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION - NATURAL RESOURCE DAMAGE ASSESSMENT - DEEPWATER HORIZON OIL SPILL, DRAFT PROGRAMMATIC DAMAGE ASSESSMENT AND RESTORATION PLAN AND DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT (DRAFT PDARP/PEIS) - NORTHWEST FLORIDA.
Keywords:	DOI/NOAA - NRDA DEEPWATER HORIZON OIL SPILL DRAFT PDARP/PEIS
CFDA #:	15.658
Agency Comments:	
ENVIRONMENTAL PROTECTION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION	
Released Without Comment	
STATE - FLORIDA DEPARTMENT OF STATE	
No Final Comments Received	
AGRICULTURE - FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES	
No Comment at this time	
FISH and WILDLIFE COMMISSION - FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION	
NO COMMENT BY KELLY SAMEK ON 10/18/15.	
NORTHWEST FLORIDA WMD - NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT	
No Comments	

For more information or to submit comments, please contact the Clearinghouse Office at:

3900 COMMONWEALTH BOULEVARD, M.S. 47
TALLAHASSEE, FLORIDA 32399-3000
TELEPHONE: (850) 245-2170
FAX: (850) 245-2189

Visit the [Clearinghouse Home Page](#) to query other projects.

[Copyright](#)
[Disclaimer](#)
[Privacy Statement](#)

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

November 17, 2015

Christopher D. Doley, Designated Trustee Representative for Deepwater Horizon
U. S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
1315 East West Highway
Silver Spring, MD, 20910

RE: State of Alabama Coastal Consistency Concurrence
Draft Programmatic Damage Assessment and Restoration Plan (PDARP) and DEIS for the Deepwater Horizon Oil Spill
Alabama Department of Environmental Management (ADEM) Tracking Code: 2016-010-FC-FAA-NRDA

Dear Mr. Doley:

The ADEM received the documents for the referenced activity on October 6, 2015. The ADEM **concurs** with the Trustee's determination that the proposed activity is consistent with the enforceable policies of the Alabama Coastal Area Management Program.

Contact the Mobile-Coastal office anytime with questions. Always include the ADEM tracking code above when corresponding on this matter.

Sincerely,

Anthony Scott Hughes, Chief
Field Operations Division

ASH/jsb/cap

File: CZCERT

eCopy: Joy Earp, USACE
Phillip Hinesley, ADCNR
Linda McCool, ADCNR
William H. Brantley, ADCNR-SLD

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
3664 Dauphin Street, Suite B
Mobile, AL 36608
(251) 304-1176
(251) 304-1189 (FAX)

BOBBY JINDAL
GOVERNOR



STEPHEN CHUSTZ
SECRETARY

State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF COASTAL MANAGEMENT

October 29, 2015

Stephanie Willis,
Senior Attorney
NOAA General Counsel Office, Natural Resources Section
263 13th Ave. S, Suite 177
St. Petersburg, FL 33701
Via e-mail: stephanie.willis@noaa.gov

RE: **C20150187**, Coastal Zone Consistency
National Oceanic and Atmospheric Administration (NOAA)
Deepwater Horizon Oil Spill Draft Programmatic Damage Assessment and Restoration
Plan (PDARP) and Draft Programmatic Environmental Impact Statement
Direct Federal Action
Coastwide, Louisiana

Dear Ms. Willis:

The Office of Coastal Management (OCM) has received the "The Deepwater Horizon Oil Spill Draft Programmatic Damage Assessment and Restoration Plan (PDARP) and Draft Programmatic Environmental Impact Statement" submitted on behalf of the U.S. Department of the Interior, The National Oceanic and Atmospheric Administration (NOAA), the U.S. Department of Agriculture (USDA) and the U.S. Environmental Protection Agency (USEPA).

After a review of the Draft PDARP it has been determined that the plan is broadly consistent with the approved Louisiana Coastal Resource Program (LCRP).

Please be aware that plans for each individual restoration project selected from the PDARP should be made available, by the appropriate applicant, to the OCM for final determination of consistency with the LCRP.

20150187
NOAA
October 29, 2015
Page 2

If you have any questions concerning this determination please contact Jim Bondy of the Consistency Section at (225) 342-3870 or 1-800-267-4019.

Sincerely,

/S/ Don Haydel
Acting Administrator
Interagency Affairs/Field Services Division

DH/CMC/jab

cc: Martin Mayer, COE-NOD
Dave Butler, LDWF
Sydney Dobson, CPRA



STATE OF MISSISSIPPI

Phil Bryant
Governor

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

Jamie M. Miller, Executive Director

December 23, 2016

Stephanie L. Willis
Senior Attorney
National Oceanic & Atmospheric Administration
Office of General Counsel Natural Resources
Southeast Region
263 13th Avenue South, Suite 177
St. Petersburg, FL 33701

Re: DMR-160141; Draft Programmatic Damage Assessment and Restoration Plan (Draft PDARP)

Dear Ms. Willis:

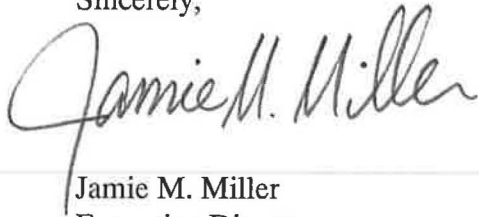
The Department of Marine Resources (Department) in cooperation with other state agencies is responsible under the Mississippi Coastal Program (MCP) for managing the coastal resources of Mississippi. Proposed activities in the coastal area are reviewed to insure that the activities are in compliance with the MCP.

The Department has reviewed the proposed five (5) programmatic goals within the plan based upon provisions of the Mississippi Coastal Program and Section 307 of the Coastal Zone Management Act of 1972 (as amended). The proposed goals identified in the Draft PDARP have been determined to be consistent to the maximum extent practicable with the Mississippi Coastal Program.

It appears from the goals listed in the Draft PDARP that the future projects will likely contain impacts regulated by both this Department and the U. S. Army Corps of Engineers. Once the plans for the projects have been finalized, applications should be submitted to this office for review. An application packet has been included with this letter, and the application form can also be found on the Department's web site at <http://dmr.ms.gov/images/permitting/joint-application-notification-form2.pdf>.

The above granted consistency certification was based upon the information presented. If you have any questions regarding this letter, please contact Greg Christodoulou with the Bureau of Wetlands Permitting at (228) 523-4109 or greg.christodoulou@dmr.ms.gov.

Sincerely,

A handwritten signature in cursive script that reads "Jamie M. Miller". The signature is written in dark ink and is positioned above the printed name and title.

Jamie M. Miller
Executive Director
Mississippi Department of Marine Resources

JMM/gsc

Enclosures

cc: Christopher D. Doley, NOAA



TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

January 6, 2015

Christopher D. Doley
Designated Trustee Representative for Deepwater Horizon
NOAA Restoration Center
1315 East-West Highway
Silver Spring, MD 20910

**Re: Texas Coastal Management Program Consistency Determination of Draft Programmatic
Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact
Statement for the Deepwater Horizon Oil Spill
CMP#: 16-1090**

Dear Mr. Doley:

Pursuant to 31 Tex. Admin. Code Part 16 and the applicable federal regulations, the Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement (Draft PDARP) for the Deepwater Horizon Oil Spill has been reviewed for consistency with the goals and policies of the Texas Coastal Management Program (TCMP).

The Draft PDARP has been reviewed for potential impacts to coastal natural resource areas. It has been determined that the programmatic restoration plan proposed in the PDARP would be implemented in a manner that is consistent with the applicable, enforceable policies of the TCMP. Therefore, the GLO concurs with the Federal Trustees' consistency determination for the PDARP.

Please note that this letter does not authorize the use of Coastal Public Land. No work may be conducted or structures placed on State-owned land until you have obtained all necessary authorizations, including any required by the General Land Office and the U.S. Army Corps of Engineers.

Please forward this letter to applicable parties. If you have any questions or concerns, please contact me at (512) 475-3624 or at federal.consistency@glo.texas.gov.

Sincerely,

Ray Newby, P.G.
Coastal Geologist
Texas General Land Office
Coastal Resources Program

Email cc: Chauncey Kelly, NOAA

C.5 Correspondence Initiating ESA Consultations



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

October 8, 2015

Mr. David Bernhart
Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service, Southeast Regional Office
263 13th Ave South
St Petersburg, FL 33701

Re: Request for Programmatic Consultation on the Preferred Alternative within the "Deepwater Horizon Oil Spill Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement"

Dear Mr. Bernhart:

The National Oceanic and Atmospheric Administration Restoration Center (NOAA RC), the Lead Federal Agency, is requesting formal consultation under Section 7(a)(2) of the Endangered Species Act (ESA) on behalf of the Natural Resource Trustees (Trustees) for the *Deepwater Horizon* Oil Spill on the Draft Programmatic Damage Assessment and Restoration Plan. The Draft PDARP is integrated with a Draft Programmatic Environmental Impact Statement. The complete integrated document is referred to here as the Draft PDARP/PEIS.

The Trustees include representatives of the National Oceanic and Atmospheric Administration (for the U.S. Department of Commerce); the U.S. Department of the Interior; the U.S. Environmental Protection Agency; the U.S. Department of Agriculture; and designated agencies representing each of the five Gulf states: Florida, Alabama, Mississippi, Louisiana, and Texas. The Trustees developed this Draft PDARP/PEIS for public comment under the requirements of the Oil Pollution Act of 1990 (OPA) and National Environmental Policy Act (NEPA). The OPA requires the Trustees to develop a restoration plan, while NEPA requires an evaluation of environmental consequences.

The Draft PDARP/PEIS considers programmatic alternatives to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees have developed restoration alternatives, comprised of various restoration types, to address injuries to natural resources and resource services resulting from the *Deepwater Horizon* oil spill and associated response activities (referred to collectively as the *Deepwater Horizon* incident). Criteria and evaluation standards under the OPA natural resource damage assessment regulations guided the Trustees' consideration of programmatic restoration alternatives. The Draft PDARP/PEIS also evaluates the environmental consequences of the restoration alternatives under NEPA. The Draft PDARP/PEIS describes regulatory authorities, including ESA, that apply to the Draft PDARP/PEIS to streamline compliance with other laws in the future and that may be most relevant to future proposed actions in subsequent restoration plans. The Trustees considered restoration types and approaches to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources and their services. The Trustees expect that the proposed restoration plan and the future projects that ultimately result from this Draft PDARP/PEIS will have a significant net benefit to the Gulf of Mexico ecosystem.



The Draft PDARP/PEIS is a framework action (see 50 CFR 402.02, as amended); it describes the framework by which subsequent project- specific restoration plans will be identified and developed, and sets forth the restoration types (inclusive of more specific restoration approaches) the Trustees will consider in developing future projects for consideration in each of the restoration areas. The Trustees' proposed action is to select a comprehensive restoration plan (Alternative A, the preferred alternative,) to guide and direct subsequent restoration planning and implementation during the coming decades. The proposed action also includes the funding allocations to restoration types and restoration areas described in Section 5.10.2 and subsequent restoration planning process as described in Section 5.10.4 and the governance process described in Chapter 7.

Based on the outcome of pre-consultation discussions with National Marine Fisheries Service (NMFS) since 2013, and the types of future projects to be proposed and implemented under the program described in the preferred alternative, we conclude that the proposed action may affect ESA listed species under NMFS' jurisdiction (Table 1). NOAA RC requests, on behalf of the Trustees, a programmatic ESA consultation on the preferred alternative, including consideration of the governance and future decision making processes identified in the October 5, 2015 Draft PDARP/PEIS.

Programmatic consultations have the greatest potential to increase the effectiveness and efficiency of the section 7 consultation process for the action agency(s) and NMFS. A programmatic consultation also allows for analysis at the program level that can be relied upon in the future for project-specific consultations. The Trustees expect that the programmatic consultation will establish a framework and process for how and when the trustees will consult with NMFS on project-specific actions that will be part of the preferred alternative program and also will identify opportunities for streamlining project-specific consultations in the future.

Table 1. ESA-listed and Proposed Species and Designated Critical Habitats in the Gulf of Mexico under NMFS Jurisdiction

Marine Mammal Species	Scientific Name	Status and Agency Jurisdiction	Critical Habitat in Gulf of Mexico?
fin whale	<i>Balaenoptera physalus</i>	Endangered - NMFS	No CH designated
humpback whale	<i>Megaptera novaeangliae</i>	Endangered - NMFS	No CH designated
sei whale	<i>Balaenoptera borealis</i>	Endangered - NMFS	No CH designated
sperm whale	<i>Physeter macrocephalus</i>	Endangered - NMFS	No CH designated
Sea Turtle Species	Scientific Name	Status and Agency Jurisdiction	Critical Habitat in Gulf of Mexico?
green sea turtle	<i>Chelonia mydas</i>	Threatened ¹ – Joint NMFS/USFWS	No
hawksbill sea turtle	<i>Eretmochelys imbricata</i>	Endangered – Joint NMFS/USFWS	No
Kemp's ridley sea turtle	<i>Lepidochelys kempii</i>	Endangered – Joint NMFS/USFWS	No CH designated
leatherback sea turtle	<i>Dermochelys coriacea</i>	Endangered – Joint NMFS/USFWS	No

loggerhead sea turtle (NW Atlantic DPS)	<i>Caretta caretta</i>	Threatened ² – Joint NMFS/USFWS	Yes
Fish Species	Scientific Name	Status and Agency Jurisdiction	Critical Habitat in Gulf of Mexico?
gulf sturgeon	<i>Acipenser oxyrinchus desotoi</i>	Threatened -- Joint NMFS/USFWS	Yes
smalltooth sawfish	<i>Pristis pectinata</i>	Endangered -NMFS	Yes
Invertebrate Species	Scientific Name	Status and Agency Jurisdiction	Critical Habitat in Gulf of Mexico?
lobed star coral	<i>Orbicella annularis</i>	Threatened - NMFS	No
mountainous star coral	<i>Orbicella faveolata</i>	Threatened - NMFS	No
boulder star coral	<i>Orbicella franksi</i>	Threatened - NMFS	No
elkhorn coral	<i>Acropora palmate</i>	Threatened ³ - NMFS	yes (FL keys)
Proposed Species	Scientific Name	Status and Agency Jurisdiction	Critical Habitat in Gulf of Mexico?
Nassau grouper	<i>Epinephelus striatus</i>	Proposed as Threatened - NMFS	N/A

¹ Florida's breeding population is listed as endangered.

² Northwest Atlantic Ocean Distinct Population Segment.

³ Colonies located at Flower Garden Banks National Marine Sanctuary.

Sources: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/gulf_of_mexico.pdf

<http://www.nmfs.noaa.gov/pr/species/esa/candidate.htm#proposed>

<http://www.nmfs.noaa.gov/pr/species/esa/listed.htm>

The Draft PDARP/PEIS integrates both its restoration plan and NEPA evaluation into a single document. Table 2 below outlines the parts of the document that comprise the elements of a Biological Assessment.

Table 2. Location of information needed for ESA consultation within the draft PDARP/PEIS

Proposed action	
Chapter 5	5.5 Comprehensive Integrated Ecosystem Restoration Alternative (Preferred Alternative) 5.10.1 Summary of Preferred Alternative 5.10.2 Funding Allocations 5.10.4 Subsequent Restoration Planning Appendix 5.D: Restoration Approaches Appendix 5.E: Monitoring and Adaptive Management Framework
Chapter 7	Governance (entire chapter)
Action Area	
Chapter 6	6.2 Approach to Affected Environment
Environmental Baseline	
Chapter 2	Incident Overview (entire chapter)
Chapter 3	Ecosystem Setting (entire chapter)
Chapter 4	4.4 Water Column 4.5 Benthic resources 4.6 Nearshore Marine Ecosystem 4.6.7 Gulf Sturgeon Assessment 4.8 Sea Turtles 4.9 Marine Mammals 4.11 Injury Assessment: Summary and Synthesis of Findings
Chapter 5	5.2.2 Scope and Programmatic Context of Restoration 5.3.1. Trustee Programmatic Goals

	5.4.3 Early Restoration Appendix 5.B: Early restoration projects, Phases I-IV (DWH Early Restoration actions that have completed or are undergoing ESA consultation)
Chapter 6	Appendix 6.B: Additional Actions for Consideration in Cumulative Impacts Analysis (Past actions)
Effects of the Action	
Chapter 6	6.4 Evaluation of Environmental Consequences of Alternative A – see particularly the subsections for ‘Biological Resources’ evaluating, at a programmatic level, potential environmental impacts for restoration approaches proposed within each restoration type for the preferred alternative 6.9.1 Compliance with Other Applicable Authorities: Endangered Species Act 6.15 Best Practices 6.17 NEPA Considerations and Tiering Future Restoration Appendix 6.A: Best Practices
Cumulative Effects	
Chapter 6	6.6 Cumulative Impacts Appendix 6.B: Additional Actions for Consideration in Cumulative Impacts Analysis (Future state or private actions reasonably certain to occur)

Adverse impacts are described broadly in the PEIS, since this is a programmatic analysis. The analysis therefore does not identify specific adverse impacts to listed species or modification of critical habitats, but more generally describes the types of impacts that could occur to biological resources and the physical environment. Chapter 7 (governance) discusses the process for developing and proposing projects in subsequent restoration plans and the need for early engagement with regulatory agencies. Some of the effects described below may be reduced by implementation of the *Sea Turtle and Smalltooth Sawfish Construction Conditions and Measures for Reducing Entrapment Risk to Protected Species* that the Trustees have already adopted for use (see Chapter 6, Appendix 6.A).

The preferred alternative will ultimately result in projects that are specifically intended to benefit ESA listed species (see, for example, 5.5.7 Sturgeon, and 5.5.10 Sea Turtles). However, some future restoration projects also may adversely affect ESA-listed species. Adverse impacts in the PEIS are typically a result of, but not limited to:

- **Habitat replacement:** Impacts associated with replacement of existing habitat by the newly created or restored habitat (e.g., burial with sediment for dune creation), or displacement or loss of species due to habitat replacement. For example, restoration of marsh habitats may require dredging to restore hydrologic and hydraulic connectivity, as well as sediment borrow sites and placement for establishment of vegetation at appropriate elevations. As another example, Restore and Preserve Mississippi-Atchafalaya River Processes (see 6.4.1.2) describes the potential short-term and potentially long-term, moderate to major adverse impacts to biological resources (e.g., estuarine-dependent fish species and oysters).
- **Construction-related:** short-term, minor adverse impacts anticipated include reduced water quality, air quality, and ambient noise conditions primarily due to construction in water, wetlands, and on land; and blocked migration and turbidity resulting from construction of building and enhancing oyster reefs, living shorelines and marshes, removal of barriers. For example, Restore Oyster Reef Habitat (see 6.4.12.1) describes the possible injury or mortality to fish, turtles, and (albeit unlikely) marine mammals due to cultch placement activities, including entrainment.

- Changes to human use patterns: Enhance Public Access to Natural Resources for Recreational Use describes the possible impacts to marine mammals and sea turtles from vessel traffic increased by improving public access to restore for lost recreational uses (see 6.4.13.1).

The Trustees respectfully request a programmatic biological opinion by January 15, 2016 to meet the anticipated deadlines for the Final PDARP/PEIS and Record of Decision.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christopher D. Doley". The signature is fluid and cursive, with a large initial "C" and a distinct "D" before the last name.

Christopher D. Doley
Principal Trustee Representative
National Oceanic and Atmospheric Administration



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1875 Century Boulevard
Atlanta, Georgia 30345

FEB 01 2016

In Reply Refer To:
FWS/R4/DH NRDAR

Memorandum

To: Leopoldo Miranda, USFWS Southeast Regional Office, Atlanta, Georgia

From:  Cynthia K. Dohner, Authorized Official, *Deepwater Horizon* Department of the Interior
Natural Resource Damage Assessment and Restoration (NRDAR) 

Subject: Formal Consultation and Conference Request for the *Deepwater Horizon* Draft
Programmatic Damage Assessment and Restoration Plan

As you are no doubt aware, on April 20, 2010, the *Deepwater Horizon* (DWH) mobile drilling unit exploded, caught fire, and eventually sank in the Gulf of Mexico, resulting in a massive release of oil and other substances from BP's Macondo well. Tragically, 11 workers were killed and 17 injured by the explosion and fire. Initial efforts to cap the well following the explosion were unsuccessful, and for 87 days after the explosion, the well continuously and uncontrollably discharged oil and natural gas into the northern Gulf of Mexico. Approximately 3.19 million barrels (134 million gallons) of oil were released into the ocean U.S. v. BP et al., 2015, making the incident by far the largest offshore oil spill in the history of the United States. In addition, various response actions were undertaken in an attempt to minimize impacts from spilled oil.

As an oil pollution incident, the *DWH* spill was subject to the provisions of the Oil Pollution Act (OPA) of 1990¹, which addresses preventing, responding to, and paying for oil pollution incidents in navigable waters, adjoining shorelines, and the exclusive economic zone of the United States. Under the authority of OPA, a council of federal and state Natural Resource Trustees (Trustees) convened, on behalf of the public, to assess natural resource injuries resulting from the incident and work to make the environment and public whole for those injuries. The Trustees include designated agencies representing each of the five Gulf states (Alabama, Florida, Louisiana, Mississippi, and Texas) and four federal agencies: National Oceanic and Atmospheric Administration (NOAA), Department of the Interior (DOI), Environmental Protection Agency (EPA), and United States Department of Agriculture (USDA). Pursuant to OPA, the Trustees have conducted a natural resource damage assessment (NRDA) and prepared the *Deepwater Horizon* Oil Spill Draft Programmatic Damage Assessment and Restoration Plan (Draft PDARP), which describes the Trustees' injury assessment and proposed restoration plan.

1. Oil Pollution Act (OPA) of 1990 (33 USC §§ 2701 *et seq.*).

The U.S. Fish and Wildlife Service (USFWS) prepared this biological assessment (BA) pursuant to sections 7(a)(2) and 7(c) of the Endangered Species Act (ESA) (16 USC §§ 1536(a)(2)-(c)) to evaluate the Proposed Action described in the Draft PDARP. ESA section 7(a)(2) requires federal agencies to consult with the Secretary of the Interior to insure that any action authorized, funded, or carried out by such agencies is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of critical habitat for those species. ESA section 7(c) requires federal agencies to prepare a BA for the purpose of identifying any endangered species or threatened species which is likely to be affected by an agency action. As discussed in Section 2 of the BA, the Proposed Action in the Draft PDARP is “Alternative A: Comprehensive Integrated Ecosystem Restoration,” to permit the Trustees, including the Department of the Interior, to restore, rehabilitate, replace, and acquire natural resources injured by the *Deepwater Horizon* oil spill. The restoration types and approaches included in Alternative A are outlined in Table 1 of this BA, and are further described (along with example restoration techniques) in Appendix A to the BA.

The USFWS is evaluating the Draft PDARP Proposed Action as a framework programmatic action in this BA. The regulations implementing the ESA define a framework programmatic action to mean that “for purposes of an incidental take statement, a Federal action that approves a framework for the development of future action(s) that are authorized, funded, or carried out at a later time, and any take of a listed species would not occur unless and until those future action(s) are authorized, funded, or carried out and subject to further section 7 consultation.” 50 CFR § 402.02. The Proposed Action in the Draft PDARP is a framework programmatic action because “[i]nstead of identifying specific restoration projects, the PDARP provides direction and guidance for identifying, evaluating, and selecting future restoration projects to be carried out by Trustee implementation groups.” Draft PDARP-§ 1.3.1. As recognized by the USFWS and NOAA in the preamble to the Final Rule regarding incidental take statements, “the level of detail available at the program (framework) level is often insufficient to identify with particularity where, when, and how the program will affect listed species.” 80 FR 26832. This challenge is particularly true when evaluating the effects of the Proposed Action to listed species and critical habitats.

As discussed in greater detail in this BA, the large geographic scope of the Proposed Action combined with the lack of detail as to specifically where, when, and how much a particular restoration type, approach, or technique will be implemented is generally insufficient to identify with particularity how the Proposed Action will affect listed, proposed, and candidate species. Additionally, as recognized by the USFWS and NOAA in the Final Rule regarding incidental take statements, “without such detail, it is difficult to write sufficiently specific and meaningful terms and conditions intended to minimize the impact of the taking for the benefit of the listed species.” 80 FR 26832. While this statement relates to incidental take statements, it is also applicable to this BA and its analysis of how the Proposed Action will affect listed, proposed, and candidate species. The Proposed Action is designed to accomplish comprehensive ecosystem restoration and therefore will provide direct and indirect benefits to listed, proposed, and candidate species and their designated and proposed critical habitats. However, without knowing details of where, when, and how much a particular restoration approach will be implemented, it is difficult to identify meaningful best practices intended to avoid or minimize potential adverse effects to listed, proposed, and candidate species. In this BA, the term “best practices” includes those practices, such as best management practices and conservation measures, that are intended to avoid or minimize

adverse effects to listed, proposed, and candidate species and designated and proposed critical habitats. Incidental take statements include “reasonable and prudent measures” that are necessary and appropriate to minimize the impact of the incidental take and “terms and conditions” for implementing the reasonable and prudent measures. This BA does not request any incidental take associated with implementing the Draft PDARP. In accordance with 50 CFR § 402.14 for a framework programmatic action, an incidental take statement is not required at the programmatic level; any incidental take resulting from any action subsequently authorized, funded, or carried out under the program will be addressed in subsequent Section 7 consultation, as appropriate.

In this BA, the USFWS assessed potential effects to species within the Action Area by examining the intersection of proposed restoration activities with listed, proposed, and candidate species, species occurrence within the Action Area, and designated critical habitat and associated primary constituent elements (PCEs) within the Action Area (see Appendix B to this BA). Impacts to listed, proposed, and candidate species and designated and proposed critical habitats are anticipated to vary depending on the specifics of the location and design of future restoration actions. In light of the uncertainties regarding the effects of the Proposed Action on listed, proposed, and candidate species and designated and proposed critical habitats, as well as the related difficulties with developing best practices to minimize adverse effects to listed, proposed, and candidate species and designated and proposed critical habitats, the USFWS believes it is appropriate to exercise caution in its effects determinations. To address these uncertainties, the USFWS believes it is reasonable to conclude that at the framework programmatic level and in the absence of project-specific information, the Proposed Action may affect 115 listed, proposed, or candidate species and 39 designated or proposed critical habitats (summarized in Table 2) identified in this BA. Accordingly, the USFWS will consult under ESA section 7(a)(2) for future restoration projects developed under the Proposed Action for these 115 species and 39 critical habitats. As part of these consultations for subsequent restoration planning, the USFWS may consider pursuing additional programmatic ESA consultation for groups or certain types of projects that can be evaluated efficiently. Section 5.2 of this BA includes a list of measures that could be incorporated, as appropriate, on a project-specific basis to avoid, minimize, or reduce potential adverse effects to many of the species evaluated in this BA. Best Practices to minimize adverse effects to listed species and critical habitats have not been developed for all species evaluated in this BA. The USFWS and NOAA will work cooperatively, when appropriate, to identify these best practices in subsequent project-specific consultations.

By this memo, we are requesting initiation of formal consultation and conference under section 7 of the Endangered Species Act of 1973. If you have questions or concerns regarding this request for consultation, please contact Erin Chandler, Fish and Wildlife Biologist, at 361-244-3540 or erin_chandler@fws.gov or Colette Charbonneau, *DWH* Restoration Program Manager, at 303-236-4374 or colette_charbonneau@fws.gov.

Attachment: Biological Assessment for the *Deepwater Horizon* Draft Programmatic Damage Assessment and Restoration Plan

C.6 Clean Air Act Section 309—EPA Correspondence



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

November 30, 2015

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Ms. Cindy K. Dohner
Regional Director
Southeast Region
U.S. Fish and Wildlife Service
P.O. Box 49567
Atlanta, GA 30345

Dear Ms. Dohner,

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act, the Environmental Protection Agency (EPA) has reviewed the Federal and State natural resource trustee agencies' draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement (PDARP/PEIS) for the Deepwater Horizon oil spill.

As Federal and State natural resource trustees (Trustees), the U.S. Department of Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), the EPA, the U.S. Department of Agriculture (USDA), Alabama, Florida, Mississippi, Louisiana, and Texas prepared this draft PDARP/PEIS to describe the process for subsequent restoration planning to select specific projects to restore natural resources, ecological services, and recreational use services injured or lost as a result of the Deepwater Horizon oil spill. We appreciate the Trustees' commitment to ensuring that subsequent restoration plans are consistent with this PDARP and integrated with a NEPA analysis tiered from this PEIS to ensure project-specific impacts and mitigation are considered.

The draft PDARP/PEIS analyzed three restoration alternatives, in addition to the no action alternative, including: 1) the Preferred Alternative which provides an integrated restoration portfolio to maximize potential synergies among restoration types and approaches, 2) a resource-specific restoration alternative which focuses on maximizing the benefits to individual resources and human uses based on well-defined relationships between injured resources and outcomes of restoration actions, and 3) an alternative that defers development of a comprehensive restoration plan until greater scientific understanding of the injury determination is achieved.

Based on our review of the draft PDARP/PEIS, we offer the following comments:

EPA fully supports the comprehensive, integrated ecosystem restoration approach identified as the Preferred Alternative in the draft PDARP/PEIS. This approach would include a substantive focus on northern Gulf of Mexico coastal and nearshore habitat restoration. Several of the techniques proposed for implementation under this alternative, including barrier island restoration, river diversion and marsh creation/enhancement using dredged material, are

consistent with the EPA's longstanding coastal restoration priorities in Louisiana. Pursuant to the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA), federal and state partners have had considerable success planning, designing and implementing these and other similar techniques to restore Louisiana coastal wetland habitat.

Many of the proposed restoration approaches identified in the draft PDARP/PEIS may entail a discharge of dredge or fill material into waters of the U.S. As the planning and design for restoration projects moves forward, EPA is committed to working with implementation agencies, the U.S. Army Corps of Engineers, and other federal and state regulatory partners to help ensure an efficient and effective review process under Section 404 of the Clean Water Act.

EPA appreciates the draft PDARP/PEIS's discussion of environmental justice considerations in its future restoration planning and the commitment to ensure that impacts to environmental justice communities will be analyzed and appropriately considered in future projects tiered from this PDARP/PEIS. We recommend that the Trustees' consider using EJSCREEN, EPA's environmental justice screening and mapping tool that utilizes standard and nationally-consistent data to highlight places that may have higher environmental burdens and vulnerable populations, when considering potential project-specific impacts to minority and low-income populations.

The draft PDARP/PEIS includes a detailed discussion on impacts of the restoration approaches on GHG emissions, the potential changes to the environment that may result from climate change impacts and the importance of considering climate adaptation measures based on how future climate scenarios may impact the southeastern United States and the restoration alternatives. In addition, the Preferred Alternative includes a specific focus on achieving large-scale benefits to coastal habitats that are expected to contribute to the overall health and resiliency of northern Gulf of Mexico coastal environment and resources. We support the Trustees' determination to conduct an appropriate GHG and climate change analysis for subsequent project-specific restoration actions and recommend that the Trustees use the Council on Environmental Quality's December 2014 revised draft guidance for Federal agencies' consideration of GHG emissions and climate change impacts in NEPA to help outline the framework for its project-specific analysis of these issues.

In summary, EPA believes the actions proposed under the PDARP/PEIS will address injuries to natural resources and resource services resulting from the Deepwater Horizon oil spill. Therefore, we have rated the proposed action a "LO" (Lack of Objections). A copy of EPA's rating criteria is enclosed. If we can provide further explanation of our comments, I can be reached at 202-564-5400, or you can contact Jessica Trice of my staff at 202-564-6646.

Sincerely,

A handwritten signature in blue ink that reads "Susan E. Bromm". The signature is fluid and cursive, with a long horizontal stroke at the end.

Susan E. Bromm
Director
Office of Federal Activities

Appendix D. Other Laws and Executive Orders

D.1 Federal Laws

Americans with Disabilities Act
Antiquities Act of 1906
Archeological Resource Protection Act of 1979
Bald and Golden Eagle Protection Act
Clean Air Act
Clean Water Act (Federal Water Pollution Control Act)
Coastal Barrier Resources Act
Coastal Wetlands Planning, Protection and Restoration Act of 1990
Coastal Zone Management Act
Comprehensive Environmental Response, Compensation, and Liability Act of 1980
Endangered Species Act of 1973
Estuary Protection Act
Farmland Protection Policy Act
Fish and Wildlife Conservation Act
Fish and Wildlife Coordination Act
Magnuson-Stevens Fishery Conservation and Management Act
Marine Mammal Protection Act
Marine Protection, Research and Sanctuaries Act
Migratory Bird Treaty Act of 1918
National Environmental Policy Act of 1969
National Historic Preservation Act of 1966
National Marine Sanctuaries Act
National Wildlife Refuge System Improvement Act of 1997
Native American Graves Protection and Repatriation Act
Oil Pollution Act of 1990
Outer Continental Shelf Lands Act
Park System Resource Protection Act
Rivers and Harbors Act
Water Resources Development Acts

D.2 Federal Executive Orders and Regulations

Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA
DOI NEPA Procedures
DOI Regulations for Implementing NEPA
NOAA NEPA Procedures
NOAA Regulations for NRDA
Executive Order 11514—Protection and Enhancement of Environmental Quality as amended by Executive Order 11991
Executive Order 11593—Protection and Enhancement of the Cultural Environment
Executive Order 11988—Floodplain Management
Executive Order 11990—Protection of Wetlands
Executive Order 12580—Implementation of Section 311 of the Federal Water Pollution Control Act and OPA as amended by Executive Order 12777
Executive Order 12898—Environmental Justice
Executive Order 12962—Recreational Fisheries
Executive Order 13007—Indian Sacred Sites
Executive Order 13089—Coral Reef Protection
Executive Order 13112—Invasive Species
Executive Order 13158—Marine Protected Areas
Executive Order 13175—Consultation and Coordination with Indian Tribal Governments
Executive Order 13186—Responsibilities of Federal Agencies to Protect Migratory Birds
Executive Order 13352—Facilitation of Cooperative Conservation
Executive Order 13547—Stewardship of the Ocean, Our Coasts, and the Great Lakes
Executive Order 13554—Gulf Coast Ecosystem Restoration Task Force
Executive Order 13653—Preparing the United States for the Impacts of Climate Change
Executive Order 13693—Planning for Federal Sustainability in the Next Decade