



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**MOBILE DISTRICT, CORPS OF ENGINEERS**  
P.O. BOX 2288  
MOBILE, AL 36628-0001

October 19, 2015

South Alabama Branch  
Regulatory Division

**SUBJECT:** Transfer of Ownership, Department of the Army Permit Number  
SAM-2011-0493-DEM, Partial Permit Transfer for Alabama Swift Tract Living Shoreline,  
Bon Secour

NOAA GOM Disaster Response Center  
Attention: Mr. Daniel Van Nostrand  
7344 Zeigler Boulevard  
Mobile, Alabama 36608

Dear Mr. Van Nostrand:


In accordance with your transfer agreement dated September 2, 2015, partial transfer of the subject permit for the construction of a living shorelines project has been transferred from The Nature Conservancy to National Oceanic and Atmospheric Administration – National Marine Fisheries Service, as of October 16, 2015. All terms and conditions of the permit (SAM-2011-0493-DEM) will remain in effect.

Copies of this transfer are being provided to The Nature Conservancy, Attention: Ms. Judy Haner, 56 St. Joseph Street, Mobile, Alabama 36602 and the Alabama Department of Environmental Management, Mobile Branch, Coastal Section, Attention: Mr. Dylan Hendrix, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608.

Please contact Mr. Don Mroczko at (251) 690-3185, if you have any questions. For additional information about our Regulatory Program, please visit our web site at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx). Also, please take a moment to complete our customer satisfaction survey located near the bottom of the webpage. Your responses are appreciated and will help us improve our services.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

JON J. CHYTKA  
Colonel, U. S. Army Corps of Engineers  
District Commander

BY:   
JOY B. EARP  
South Alabama Branch  
Regulatory Division

Enclosures



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
MOBILE DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 2288  
MOBILE, AL 36628-0001

April 16, 2011

Coastal Branch  
Regulatory Division

SUBJECT: Department of the Army Final Permit Number SAM-2011-0493-DEM,  
The Nature Conservancy, Various Shorelines of Mobile Bay, Portersville Bay, Bon Secour Bay,  
Weeks Bay, and the Mississippi Sound

The Nature Conservancy  
Attention: Ms. Judy Haner  
56 St. Joseph Street  
Mobile, Alabama 36602

Dear Ms. Haner:

**PLEASE READ THIS LETTER CAREFULLY AND COMPLY  
WITH ITS PROVISIONS**

There is enclosed a Department of the Army permit authorizing you to perform the work specified therein in accordance with the plans shown on the drawings attached thereto. This permit is issued under provision of the Federal laws for the protection and preservation of the navigable waters of the United States. These laws provide that after the proposed work has been approved by issuance of a Department of the Army permit,

**IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER  
BEFORE OR AFTER COMPLETION OF THE WORK.**

unless modification of said plans has previously been submitted to and received the approval of the Department of the Army.

You should study and carefully adhere to all the terms and conditions of the permit. The District must be notified of the commencement and completion of the permitted work. The enclosed cards may be used for that purpose. Also enclosed is a "NOTICE OF AUTHORIZATION" which must be conspicuously displayed at the site during construction of the permitted work. Any inquiries relating to this permit should be directed to the Regulatory Division at phone number (251) 690-2658.

If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Commander in order that the revised plans may receive the approval required by law before work is begun.

Compliance with this and other conditions of the permit is essential. Failure to submit the notices requested may result in its revocation.

For additional information about our Regulatory Program, please visit our web site at: [www.sam.usace.army.mil/rd/reg](http://www.sam.usace.army.mil/rd/reg) and please take a moment to complete our customer satisfaction survey while you're there. Your responses are appreciated and will allow us to improve our services.

Sincerely,



Joy B. Earp  
Team Leader, Coastal Branch  
Regulatory Division

Enclosures

Copy Furnished:

Alabama Department of  
Environmental Management  
Coastal Facilities  
Attention: Mr. Scott Brown  
Coastal Area Division  
4171 Commanders Drive  
Mobile, Alabama 36615

DEPARTMENT OF THE ARMY PERMIT

Permittee: THE NATURE CONSERVANCY

Permit No: SAM-2011-0493-DEM

Issuing Office: MOBILE DISTRICT

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U. S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** The applicant proposes to build approximately 11 miles of oyster reef/living shoreline breakwaters along approximately 15 miles of shoreline. Depending on the conditions of the site location, bagged oyster shell, ReefBalls, ReefBlks, and other technologies to provide a settlement substrate for the oysters will be used. The reef / living shoreline breakwaters will be placed between 20m and 100m from the shoreline to provide adequate shoreline protection. Breakwater lengths will range from 15m to 125m based on the site shoreline length and will be spaced to allow for tidal flushing. For navigational purposes, "Submerged Reef" signs will be placed along the breakwaters, with osprey platforms marking mile increments (maximum distance). For educational purposes, interpretive signage discussing the project's benefits will be placed at public locations near the reef/living shoreline breakwater site, given permission and accessibility.

**ATTACHED: 1. Project Plans (37)**

- 2. Alabama Department of Environmental Management Water Quality/Coastal Zone Management Certification, dated March 9, 2012 (3 pages)**
- 3. Alabama Standard Manatee Construction Conditions**

**Project Location:** Various shorelines of Mobile and Baldwin counties to include waters of Mobile Bay, Portersville Bay, Weeks Bay, Mississippi Sound, and Bon Secour Bay. *See project site location data for details.*

**Permit Conditions:**

**General Conditions:**

1. The time limit for completing the work authorized ends on March 9, 2017. If you find that you need more time to complete the authorized activity; submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:** a. Compliance with all terms and general and special conditions of this Permit is mandatory.

b. It is the permittee's responsibility to ensure that the contractors working on this project are aware of all general and special permit conditions.

c. The permittee will maintain CWA Section 401(a) Water Quality Certification and Coastal Consistency as required by the ADEM certification letter dated March 9, 2012.

d. Should cultural resources be encountered during project activities, work shall cease and the U.S. Army Corps of Engineers Mobile District, Alabama State Historical Preservation Officer (SHPO) and the Alabama-Coushatta Tribe of Texas shall be consulted immediately. This stipulation shall be placed on the construction plans, and it is the permittee's responsibility to ensure that contractors are aware of this requirement. SHPO contact information: Alabama Historical Commission, Attention: Mr. Greg Rhinehart, 468 South Perry Street, Montgomery, Alabama 36130-0900, or telephone (334) 242-3184. The ACH tracking number is 11-1168; Alabama-Coushatta Tribe of Texas, Attention: Mr. Bryant J. Celestine, 571 State Park Road 56, Livingston, Texas 77351.

e. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

f. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

g. This permit does not authorize impacts to wetlands, natural shellfish beds, or submerged aquatic vegetation.

h. It is the responsibility of the permittee to coordinate this activity with the State Lands Division, Alabama Department of Conservation and Natural Resources (ADCNR), for any riparian rights issues or leases that may be required for impacting State water bottoms. ADCNR, State Lands Division, 31115 Five Rivers Boulevard, Spanish Fort, Alabama 36527, phone number (251) 621-1238.

i. All structures will be marked in accordance with the rules and regulations of the United States Coast Guard and the Alabama Marine Police.

j. The permittee will provide the Mobile District and the U.S. Coast Guard a work schedule for offshore work, at least 60 days in advance, so that a "Notice to Mariners" can be issued.

k. Construction activities shall not infringe upon navigation on the waterway. These activities shall be in compliance with 33 CFR 163, which states in part: "A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows normally using the various waterways."

l. The permittee will promptly notify the District Engineer of any discharge in violation of this permit.

m. An as-built survey the entire shoreline breakwater project shall be conducted and furnished to the Corps after construction completion.

n. The applicant shall implement appropriate Best Management Practices as required by the FWS and ADEM 401/CZM certifications as well as the FWS "Standard Manatee Construction Conditions".

**Any observation of a Florida Manatee or Gulf Sturgeon within the area during project operations shall be reported to this office immediately.**

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit, SAM-2011-0493-DEM.

Judy Haner 4/13/2012  
(PERMITTEE) MS. JUDY HANER (DATE)  
THE NATURE CONSERVANCY  
56 ST. JOSEPH STREET  
MOBILE, ALABAMA 36602

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

STEVEN J. ROEMHILDT, P.E.  
COLONEL, CORPS OF ENGINEERS  
(DISTRICT COMMANDER)

BY: Joy B. Earp April 16, 2012  
JOY B. EARP (DATE)  
TEAM LEADER, COASTAL ALABAMA  
REGULATORY DIVISION

When the structures or work authorized by this permit (SAM-2011-0493-DEM) are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE) DATE)

**Appendix A:**  
**Revised Summary Table**

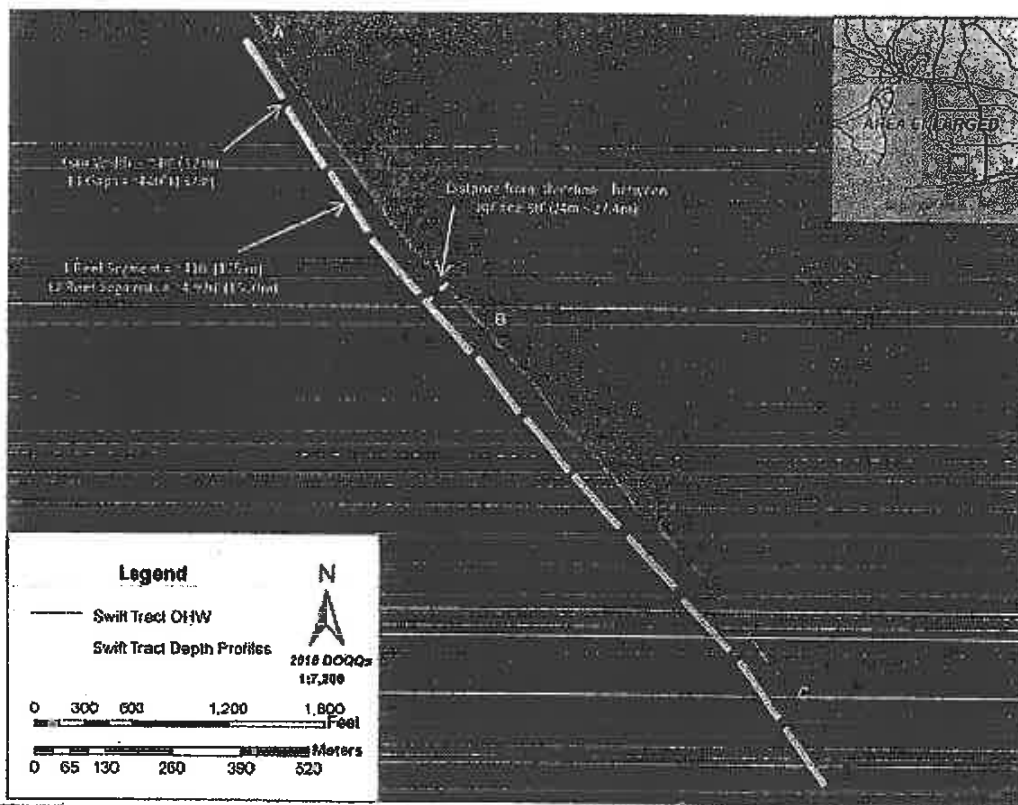


## Appendix A: Revised Summary Table

RAI Response

Attachment # A) Plan View B) Cross Section Profile	Site Name	General Location (S/T/R)	Latitude/ Longitude	Ownership	Proposed Project Length		Reef Footprint (ft <sup>2</sup> ), (m <sup>2</sup> ), (ac)
					Reef (ft), (m)	Shoreline (ft), (m)	
#1	Point aux Pins North	Portersville Bay, MS Sound (5, 7, 8/75/3W)	30°22'24.85"N 88°18'11.37"W	Federal	3,336 ft 1,016 m	5,227 ft 1,593 m	66,720 ft <sup>2</sup> 6,198 m <sup>2</sup> 1.53 ac
#2	Point aux Pins South	Portersville Bay, MS Sound (5, 7, 8/75/3W)	30°22'24.85"N 88°18'11.37"W	Federal	5,168 ft 1,576 m	7,087 ft 2,161 m	103,360 ft <sup>2</sup> 9,602 m <sup>2</sup> 2.37 ac
#3	City of Fairhope Pier	E Mobile Bay (37/55/2E)	30°31'23.13"N 87°54'46.13"W	City	460 ft 140 m	976 ft 297 m	9,200 ft <sup>2</sup> 855 m <sup>2</sup> 0.21 ac
#4	Coffee Island North	Portersville Bay, MS Sound (1/75/3W)	30°20'39.20"N 88°15'25.73"W	State	12,710 ft 3,875 m	18,322 ft 5,583 m	254,208 ft <sup>2</sup> 23,616 m <sup>2</sup> 5.84 ac
#5	Coffee Island South	Portersville Bay, MS Sound (1/75/3W)	30°20'39.20"N 88°15'25.73"W	State	5,159 ft 1,573 m	7,090 ft 2,161 m	103,180 ft <sup>2</sup> 9,586 m <sup>2</sup> 2.37 ac
#6	Swift Tract North	Bon Secour Bay, E Mobile Bay (13/75/2E; 18/75/3E; 19, 20, 29/85/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft <sup>2</sup> 9,142 m <sup>2</sup> 2.26 ac
#7	Swift Tract Central	Bon Secour Bay, E Mobile Bay (13/75/2E; 18/75/3E; 19, 20, 29/85/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft <sup>2</sup> 9,142 m <sup>2</sup> 2.26 ac
#8	Swift Tract South	Bon Secour Bay, E Mobile Bay (13/75/2E; 18/75/3E; 19, 20, 29/85/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft <sup>2</sup> 9,142 m <sup>2</sup> 2.26 ac
#9	Marsh Island	MS Sound (30/85/2W)	30°19'14.39"N 88°13'23.41"W	State	2,195 ft 669 m	3,007 ft 917 m	43,980 ft <sup>2</sup> 4,078 m <sup>2</sup> 1.01 ac
#10	Arlington Cove - Brookley Center	NW Mobile Bay (3, 10/45/1W)	30°37'51.58"N 88°03'26.02"W	State / University	6,150 ft 1,875 m	8,336 ft 2,541 m	123,000 ft <sup>2</sup> 11,427 m <sup>2</sup> 2.82 ac
#11	Pelican Point	Weeks Bay, E Mobile Bay (4/75/12E)	30°22'37.69"N 87°50'22.36"W	State	265 ft 81 m	420 ft 128 m	5,120 ft <sup>2</sup> 476 m <sup>2</sup> 0.12 ac
#12	Point Clear	E Mobile Bay (36/75/1E)	30°28'57.33"N 87°56'08.98"W	Private (The Grand Hotel)	582 ft 177 m	925 ft 282 m	11,640 ft <sup>2</sup> 1,081 m <sup>2</sup> 0.27 ac
#13	Private Living Shoreline #1	Bon Secour Bay, Gulf Shores, SE Mobile Bay (23/95/2E)	30°14'58.68"N 87°50'12.39"W	Private (Bridges, Callaway, Calhoun)	230 ft 70 m	368 ft 111 m	4,600 ft <sup>2</sup> 427 m <sup>2</sup> 0.11 ac
#14	Private Living Shoreline #2	Bon Secour Bay, Gulf Shores, SE Mobile Bay (23/95/2E)	30°14'47.47"N 87°50'30.07"W	Private (Bridges, Callaway, Calhoun)	576 ft 175 m	912 ft 278 m	11,520 ft <sup>2</sup> 1,070 m <sup>2</sup> 0.26 ac
TOTAL					107,438 ft (32.6 mi)	147,411 ft (15 mi)	1,118,420 ft <sup>2</sup> 103,585 m <sup>2</sup> 23.6 ac

**Appendix B:**  
**Plan View Maps & Cross-Section Profiles**

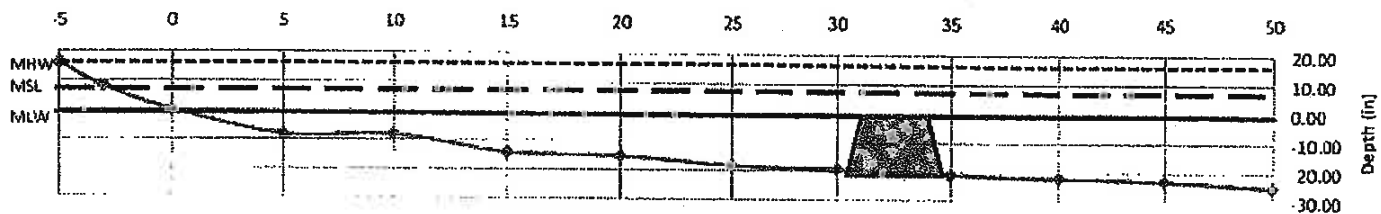


- Plan view with OHW (6,925 ft / 2,111 m – shoreline length) (4,920 ft / 1,500 m – breakwater length)
  - Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'.
  - No submerged aquatic vegetation was observed; MLW will be depicted on depth profile on next page.
- August 19, 2011

Attachment 6B: Swift Tract North  
Permit Application # SAM-2011-00493-DEM

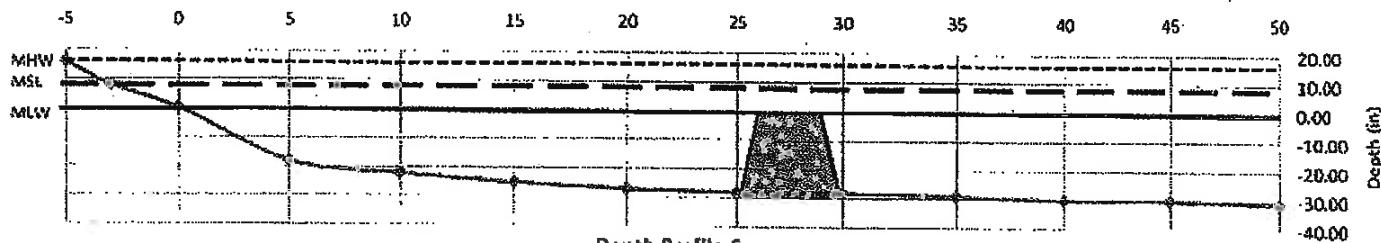
Depth Profile A

Distance from Shoreline (m)



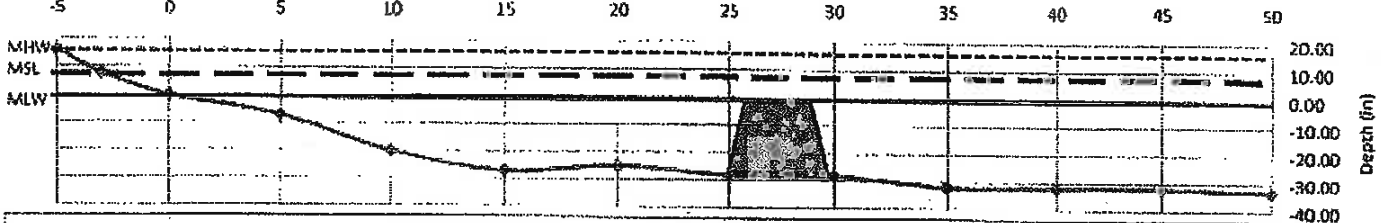
Depth Profile B

Distance from Shoreline (m)



Depth Profile C

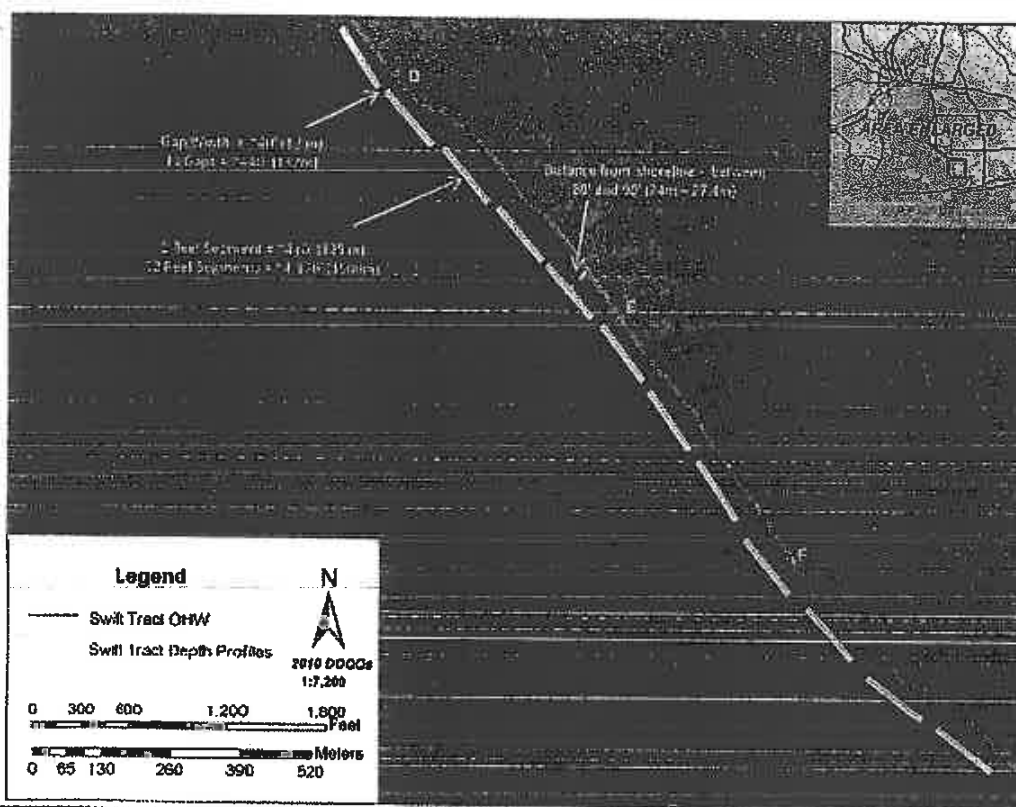
Distance from Shoreline (m)



- Cross Section View with OHW (6,925 ft / 2,111 m. – shoreline length) (4,920 ft / 1,500m – breakwater length)
- Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'.
- No submerged aquatic vegetation was observed.

August 19, 2011

Page 6 of 56



- \*Plan view with OHW (6,925 ft / 2,111 m – shoreline length) (4,920 ft / 1,500 m – breakwater length)
- \*Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'
- \*No submerged aquatic vegetation was observed; MLW will be depicted on depth profile on next page.

August 19, 2011

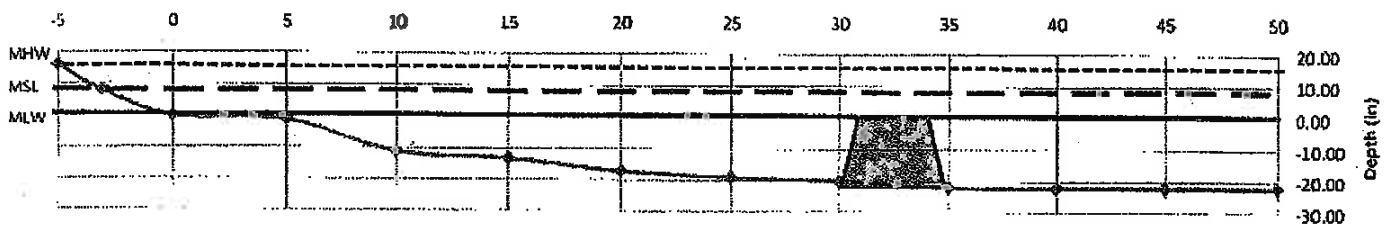
Page 3 of 33



Attachment 7B: Swift Tract Central  
Permit Application # SAM-2011-00493-DEM

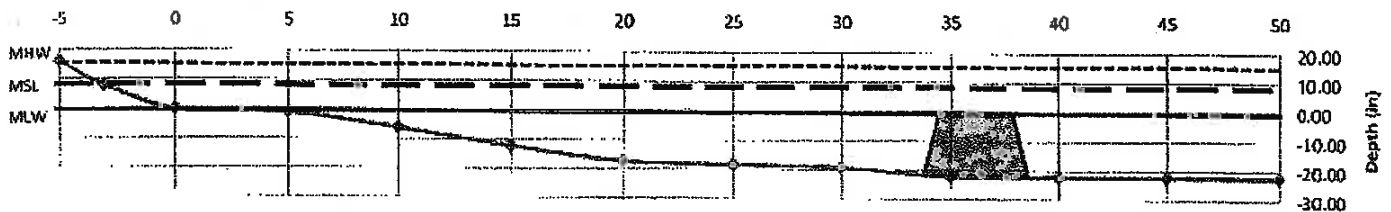
Depth Profile D

Distance from Shoreline (m)



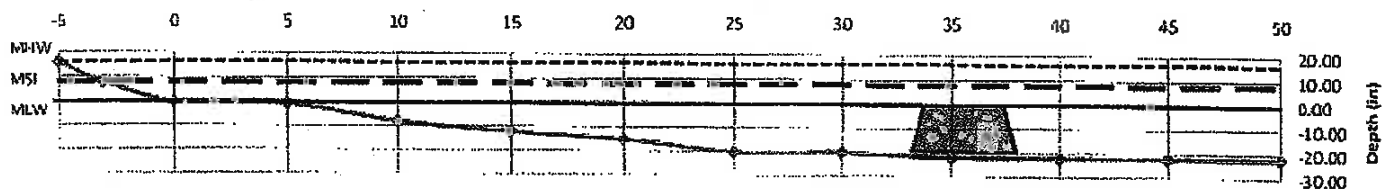
Depth Profile E

Distance from Shoreline (m)



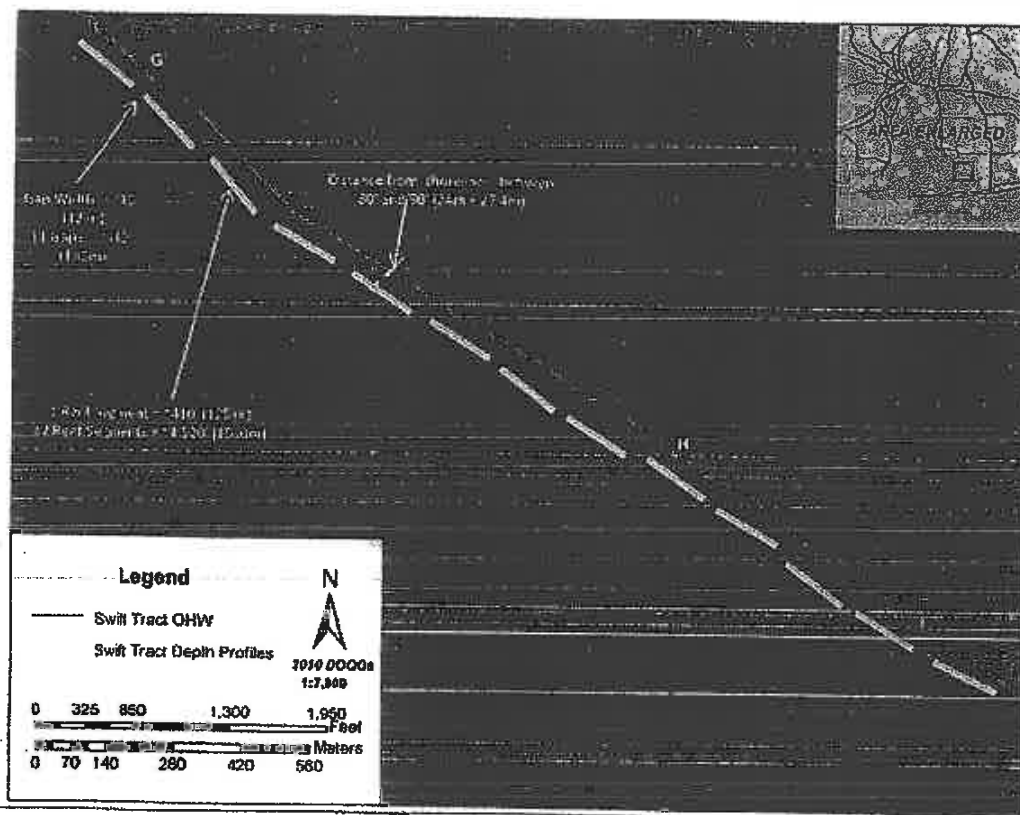
Depth Profile F

Distance from Shoreline (m)



\*Cross Section View with OHW (6,925 ft / 2,111 m. ~ shoreline length) (4,920 ft / 1500m ~ breakwater length)  
\*Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'.  
\*No submerged aquatic vegetation was observed.

August 19, 2011



- Plan view with OHW (6,925 ft / 2,111 m – shoreline length) (4,920 ft / 1500 m – breakwater length)
- Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'.
- No submerged aquatic vegetation was observed; MLW will be depicted on depth profile on next page.

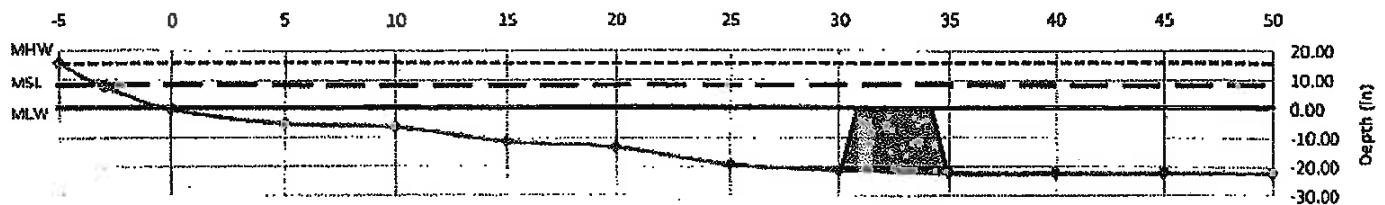
August 19, 2011



Attachment 8B: Swift Tract South  
Permit Application # SAM-2011-00493-DEM

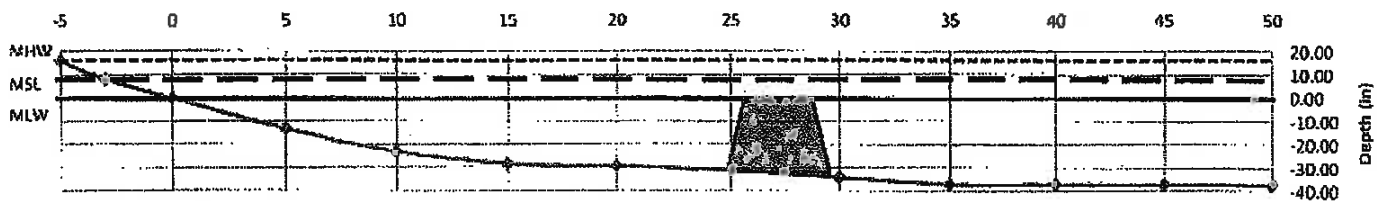
Depth Profile G

Distance from Shoreline (m)



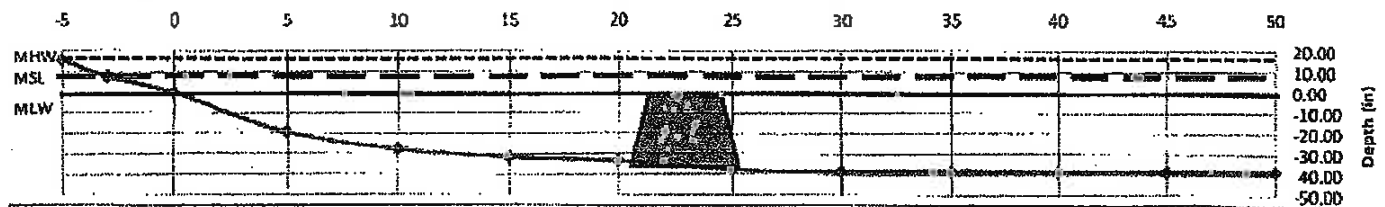
Depth Profile H

Distance from Shoreline (m)



Depth Profile I

Distance from Shoreline (m)



\*Cross Section View with OHW (6,925 ft / 2,111 m. - shoreline length) (4,920 ft / 1500m - breakwater length)

\*Approximate Breakwater Footprint: 98,400 ft<sup>2</sup>. Segment lengths may vary with method used, however, the width of the breakwater will not exceed 20'.

\*No submerged aquatic vegetation was observed.

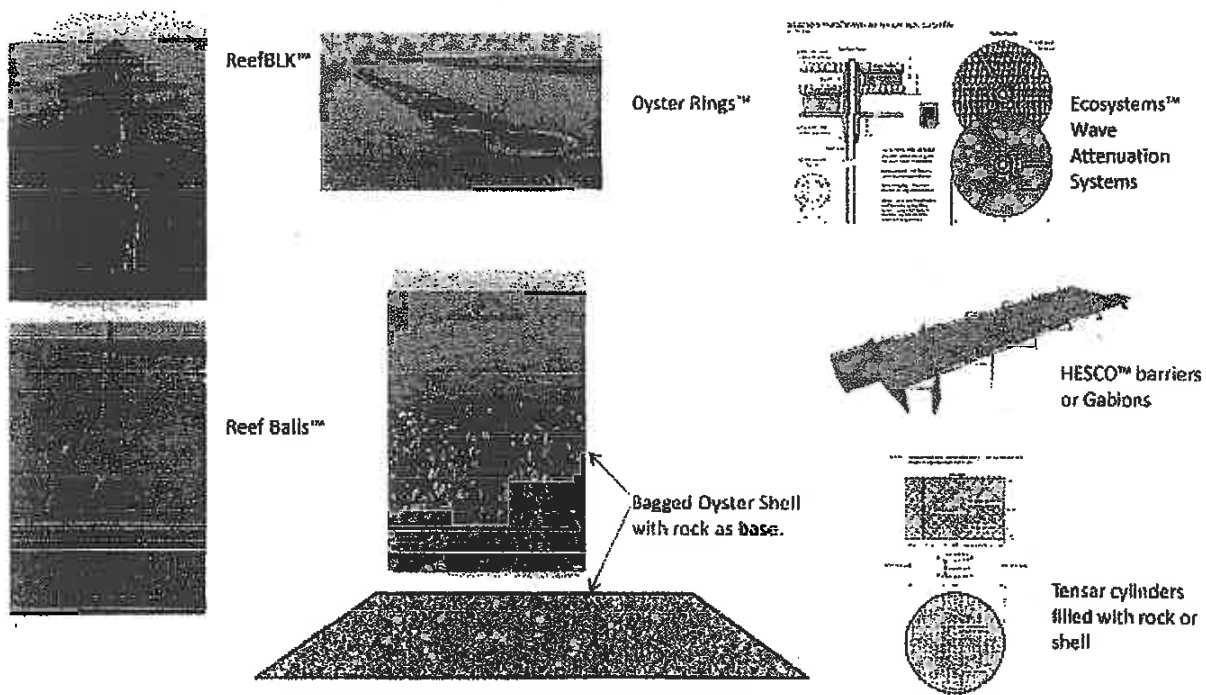
August 19, 2011



**Appendix C:**  
**Design Criteria**

# Appendix C – Design Criteria

## Examples of different types of potential breakwaters



\*Please note that these techniques are examples of types of breakwaters that will be installed, and that the actual techniques will be chosen based on site-specific conditions and applicability.

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

March 9, 2012

The Nature Conservancy  
Attn: Ms. Judy Haner  
56 St. Joseph Street  
Mobile, Alabama 36602

RE: State of Alabama: Coastal Consistency and CWA Section 401(a) Water Quality Certification  
The Nature Conservancy  
Various Shorelines of Mobile Bay, Portersville Bay, Bon Secour Bay, Weeks Bay, and the Mississippi Sound  
U.S. Army Corps of Engineers Joint Public Notice and Permit: SAM-2011-00493-DEM  
ADEM Tracking Code: 2011-191-COE

Dear Ms. Haner:

This office has completed its review of the above referenced joint public notice and all associated materials submitted to the Alabama Department of Environmental Management (ADEM) related to your proposal to conduct activities within the Alabama Coastal Zone. The project includes the creation of 11 miles of oyster reef/living shoreline breakwaters along approximately 15 miles of shoreline in Mobile Bay, Portersville Bay, Bon Secour Bay, Weeks Bay, and the Mississippi Sound. Depending on the conditions of the site, bagged oyster shell, Reef-Balls, Reef-blocks, and other technologies will be used to provide a settlement substrate for the oysters. The shoreline breakwaters will be placed between 20-meters and 100-meters from the shoreline to provide adequate shoreline protection. Breakwater lengths will range from 15-meters to 125-meters based on the site shoreline length and will be spaced to allow for tidal flushing. For navigational purposes, "Submerged Reef" signs will be placed along the breakwaters. No impacts to coastal wetlands, existing natural oyster reefs, or submerged grassbeds are authorized for this project.

Action pertinent to water quality certification is required by Section 401(a)(1) of the Clean Water Act, 33 U.S.C. §1251, *et seq.* If conducted in accordance with the conditions prescribed herein, ADEM hereby grants official certification that there is reasonable assurance that the discharge resulting from the proposed activities as submitted will not violate applicable water quality standards established under Section 303 of the Clean Water Act and §22-22-9(g), *Code of Alabama* (1975). This certification terminates coincidentally with the expiration of SAM-2011-00493-DEM but in no case shall this ADEM certification exceed a maximum of five (5) years from the date the U.S. Army Corps of Engineers officially extends permit SAM-2011-00493-DEM unless specifically authorized in response to a written request for same.

Furthermore, ADEM hereby concurs with the applicant's coastal consistency certification conditional upon continued compliance with the management program.

ADEM certifies that there are no applicable effluent limitations under Sections 301 and 302 nor applicable standards under Sections 306 and 307 of the Clean Water Act in regard to the activities specified. However, regulations promulgated by the EPA requiring discharge permits for storm water runoff from individual and commercial facilities may be applicable. This certification does not address the requirements of those regulations.

Birmingham Branch  
110 Vulcan Road  
Birmingham, AL 35204-4702  
(205) 942-6161  
(205) 942-6162

Decatur Branch  
2745 Southside Road, N.W.  
Decatur, AL 35603-1554  
(256) 353-1713

Mobile Branch  
2204 Portchar Road  
Mobile, AL 36615-1131  
(251) 944-1400

Mobile-Coastal  
4171 Commandant Drive  
Mobile, AL 36615-3421

DWH-AR0308683

To protect water quality, the following conditions must be incorporated as part of SAM-2011-00493-DEM.

1. The Nature Conservancy and/or its assigns shall provide to the ADEM written notice of the start and expected completion date, including any project phasing utilized.
2. The Nature Conservancy and/or its assigns shall allow any duly authorized employee of the ADEM or its contractors, or Attorney General or District Attorney to enter upon the premises associated with the project authorized by this certification for the purposes of ascertaining compliance with the terms and conditions of the certification and with the rules and regulations of the ADEM.
3. No bagged or loose shell shall be used in the construction of shoreline stabilization structures in shellfish growing areas that are classified as restricted, conditionally restricted, or prohibited by the Alabama Department of Public Health.
4. Prior to construction in shellfish growing that are classified as restricted, conditionally restricted, or prohibited by the Alabama Department of Public Health, the Nature Conservancy and/or its assigns shall obtain concurrence from the Alabama Department of Conservation and Natural Resources - Marine Resources Division that the materials to be used as shoreline stabilization structures are acceptable.
5. Site-specific SAV surveys shall be conducted for each phase of the project. A copy of these surveys shall be submitted to the ADEM Coastal/Facility Section prior to project implementation.
6. Breakwaters will be located a minimum of ten-feet away from any visible sea grass bed and/or sea grass habitat.
7. Upon completion of each phase of the project, an as built survey(s) shall be submitted to the ADEM Coastal/Facility Section.
8. If turbidity generated from the activities conducted within or close proximity to State waters causes or results an increase of more than fifty (50) Nephelometric Turbidity Units (NTU) above background turbidity levels within the affected surface water or its tributaries or any other State water, The Nature Conservancy and/or its assigns must cease all construction activities at the site, except those related to BMP implementation or maintenance, until turbidity is restored to acceptable levels. The ADEM Coastal Section shall be notified by phone of the resultant work stoppage immediately, with a follow-up written notification no later than seventy-two (72) hours from the beginning of the work stoppage.
9. All materials used as fill shall be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris.
10. Effective solid waste management practices shall be implemented at the site. All construction debris must be contained while on-site and regularly removed and disposed of in an approved manner. There shall be regular monitoring and removal of any construction debris or wastes from wetland areas, State waters, or adjacent offsite areas.
11. The Nature Conservancy and/or its assigns shall provide written notice to the ADEM Coastal Section of any proposed modifications to the approved site plans. Upon such notice, the ADEM Director may require the submission of additional information and/or a new permit application; and additional fees may be required. Modifications may not be implemented without prior approval from the ADEM.
12. This certification is not transferable without prior written notice and approval of the ADEM. Upon such notice, the Director may require submission of additional information and/or a new permit application, and additional fees may be required.

2011-191-COE  
March 9, 2012  
Page 3 of 3

13. Time extension requests must be submitted to the ADEM in writing 60 days prior to the expiration of this CWA 401 (a) water quality certification.

Failure to comply with any of the above-referenced conditions, unauthorized deviations from the approved development plan, or implementation of additional impacts (whether temporary or permanent) exceeding the scope of the project authorized herein may constitute a violation of this certification and result in enforcement action.

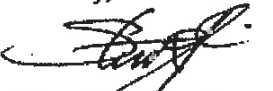
In recognition that projects are site specific in nature and conditions can change during project implementation, the ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water quality and coastal resources.

Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. The Nature Conservancy and/or its assigns shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by The Nature Conservancy complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification and may result in an enforcement action.

This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in The Nature Conservancy the title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in the possession of The Nature Conservancy.

All project correspondence, time extension requests, modification requests, and notifications should be mailed to the ADEM Coastal Section, 4171 Commanders Drive, Mobile, AL 36615. Please include ADEM Tracking Code: **2011-191-COE** on all written correspondence on this matter.

Sincerely,



Steven O. Jenkins, Chief  
Field Operations Division

SOJ/jsh/sed      File: CZCERT/41227

Enclosures (37 Pages)

ecopy: Don Mroczko [USACE - Mobile District]  
Rosemary Hall [EPA-Region 4]  
Phillip Hinesley [ADCNR-Coastal]  
Christopher Blankenship [ADCNR-MRD]  
McCool, Jeff [ADPH]

TEMPORARY MANATEE SIGNS  
for standard manatee construction conditions

**The Caution: Manatee Area signs are available through the companies listed below and may also be available from other local suppliers. Permit/lease holders, should contact sign companies directly to arrange for shipping and billing.**

Cape Coral Signs & Designs Inc.

1311 Del Prado Boulevard  
Cape Coral, Florida 33990  
1-800-813-9992  
FAX 813-772-9992

Municipal Supply and Sign Company

P.O. Box 17  
Naples, Florida 33939-1765  
1-800-329-5366  
813-262-4639  
FAX 813-262-4645

JADCO Signing Inc.

708 Commerce Way  
P.O. Box 911  
Jupiter, Florida 33458  
1-800-432-3404  
407-747-1065  
FAX 407-744-2985

The second sign should be at least 8½ inches by 11 inches, and should read:

*Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service in Daphne (251-441-5181).*

**An example is enclosed, and this example can be copied and used during construction activities.**

# CAUTION

## MANATEE HABITAT

IDLE SPEED IS REQUIRED IF OPERATING A VESSEL IN  
THE CONSTRUCTION AREA.

ALL EQUIPMENT MUST BE SHUTDOWN IF A MANATEE  
COMES WITHIN 50 FEET OF OPERATION.

ANY COLLISION WITH AND/OR INJURY TO A MANATEE SHALL BE  
REPORTED IMMEDIATELY TO THE U.S. FISH AND WILDLIFE

SERVICE IN DAPHNE AT

251-441-5181