

IX. Finding of No Significant Impact (FONSI) from Implementation of the Alabama Swift Tract Living Shoreline Project: Final Supplemental Environmental Assessment

9.1 Overview and Background

The “Alabama Trustee Implementation Group, Alabama Swift Tract Living Shoreline Project: Final Supplemental Environmental Assessment” (Swift Tract SEA) is a supplemental environmental assessment prepared by the Alabama Trustee Implementation Group (AL TIG) to implement a project corrective action to partially address injuries to natural resources and their services caused by the *Deepwater Horizon* (DWH) oil spill, using Natural Resource Damage funds. In the Swift Tract SEA, the AL TIG analyzed potential restoration alternatives, including no action, and selected for implementation a corrective action to remove rocks from the Bon Secour Bay bottom near the constructed living shoreline, and place them onto a nearby breakwater structure.

Implementation of the Swift Tract SEA will continue the restoration planning process begun prior to the settlement of the DWH oil spill natural resource damage assessment (early restoration) as described in the Final Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III ERP/PEIS). The Phase III ERP/PEIS, which is incorporated herein by reference, analyzed the Alabama Swift Tract Living Shoreline Project. The primary goal of the Alabama Swift Tract Living Shoreline Project is to dampen wave energy and reduce shoreline erosion, while also providing habitat and increasing benthic secondary productivity.

The AL TIG is comprised of the following state and federal Natural Resource Trustee Agencies:

- Alabama Department of Conservation and Natural Resources (ADCNR);
- Geological Survey of Alabama;
- United States Department of the Interior (DOI), represented by the National Park Service, United States Fish and Wildlife Service (FWS), and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce,
- United States Department of Agriculture (USDA); and
- United States Environmental Protection Agency (EPA).

Under the Oil Pollution Act of 1990, damages recovered from parties responsible for natural resource injuries are used to restore, replace, rehabilitate and/or acquire the equivalent of the injured natural resources and services they provide (33 U.S.C. § 2706). When federal trustees are involved, these restoration activities are subject to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 *et seq.* Therefore, the AL TIG prepared an SEA to evaluate the potential environmental impacts associated with the corrective action for the Alabama Swift Tract Living Shoreline Project. The Swift Tract SEA supplements the previous NEPA analyses prepared for the original Swift

Tract Living Shoreline Project and is prepared in accordance with the Council on Environmental Quality (CEQ) NEPA regulations, and all applicable federal agency NEPA procedures.

C.1.1 Lead and Cooperating Agencies

Pursuant to NEPA, the AL TIG designated NOAA as the lead agency to supervise the preparation of the NEPA analysis for the Swift Tract SEA (40 CFR § 1501.5(a)). Each of the other federal and state co-Trustees participated as cooperating agencies pursuant to NEPA (40 CFR § 1508.5) and the Trustee Council Standard Operating Procedures for Implementation of the Natural Resource Restoration for the Deepwater Horizon Oil Spill (SOP, DWH Trustees 2021).

C.1.2 Adoption of the Swift Tract SEA NEPA analysis by Federal Agency members of AL TIG

Each federal agency member of the AL TIG must make its own independent evaluation of the NEPA analysis in support of its AL TIG decision-making responsibilities. In accordance with 40 CFR § 1506.3(a), each of the three federal agencies participating on the AL TIG has reviewed the Swift Tract SEA, found it meets the standards set forth in its own NEPA implementing procedures, and accordingly adopts the Swift Tract SEA NEPA analysis.

C.1.3 Public Participation

The Phase III ERP/PEIS was noticed in the Federal Register and on the AL TIG websites and included a 30-day public comment period and public meetings. Additionally, on February 24, 2022, the AL TIG published a Notice of Availability for the Draft Swift Tract SEA in the Federal Register, encouraging the public to review and comment (87 FR 22937). A web story for the Draft Swift Tract SEA was also published on the DWH Trustees' AL TIG website at <http://www.gulfspillrestoration.noaa.gov>.

During the comment period, the public could make comments on the Draft SEA through U.S. mail and via a web-based comment submission site. The Draft Swift Tract SEA was finalized after the public comment period. No public comments relevant to the Draft SEA were received during the public comment period. Thus, no changes were made in the Final SEA as a result of public input.

C.1.4 Purpose and Need

The purpose of the proposed action is to implement the recommended corrective action to retrieve and relocate rock material that has come to be located near the Swift Tract living shoreline, but outside of the original Swift Tract project area. The action is proposed to avoid any potential recreational, navigational, or other impacts in the area that might exist and to make efficient use of the rock material in an adjacent living shoreline project. The proposed action falls within the general scope of the purpose and need identified in the Phase III ERP/PEIS and is consistent with the Final PDARP/PEIS, as it focuses on the restoration of injuries to Alabama's natural resources and services—in particular to Restoration Type: "Wetlands, Coastal, and Nearshore Habitats," using funds made available in early restoration and through the DWH Consent Decree (see Final PDARP/PEIS [DWH Trustees 2016: Chapter 10]). A follow up survey from the project found that rock material similar to that used in project construction is currently on the bay bottom nearby, but outside of, the original Swift Tract project area, and the AL TIG has

determined it appropriate to remove and relocate those rocks, to the extent possible, as evaluated in this Final SEA.

9.2 Summary of the Proposed Action and No Action Alternative

9.2.1 Proposed Action and No Action Alternative

In the Swift Tract SEA, the AL TIG fully analyzed the proposed corrective action and no action alternative. Based on the analysis, the AL TIG determined that, compared to the no action alternative, implementation of the corrective action (Proposed Action) best meets the purpose and need.

The original Swift Tract project is located in the eastern portion of Bon Secour Bay (part of Mobile Bay) approximately 6 miles northwest of Gulf Shores in Baldwin County, Alabama (see Figure 1 and Figure 2). Construction was completed in February 2017, and 7 years of post-construction performance monitoring is ongoing. The project created 1.75 miles of breakwaters in Bon Secour Bay to dampen wave energy and reduce shoreline erosion, while also providing habitat and increasing benthic secondary productivity. The project is adjacent to the Weeks Bay National Estuarine Research Reserve (NERR) and within the NERR buffer area.

Following construction completion, NOAA project team members were notified that there may be rock material similar to that used in project construction located in Bon Secour Bay near the project site, but outside the footprint of the breakwater. Thus, in March 2018, NOAA, through its contractor, collected sidescan sonar acoustic imaging, magnetometer, and single beam bathymetry surveys of the bay bottom adjacent to the breakwaters, in the area depicted in Figure 3, to determine the location of any potential rock piles near the breakwater construction area. The results of the survey are outlined in the Sidescan Magnetometer Surveying Technical Report (2018), and indicate that there are several hard surface contacts, likely rock piles, within the survey area (see Figure 3). The rock piles are located about $\frac{1}{4}$ to $\frac{1}{2}$ miles from the breakwater structure in water depths ranging from approximately 4 to 7 feet deep near high tide.

Based on the results of this survey work, NOAA's contractor developed a Corrective Action Recommendations and Cost Estimate Memo that identified three potential corrective actions including removing the material, burying the material in-place, and leaving the material in-place as reef habitat. Burying the material in-place was not recommended by the contractor because not enough information is available to confirm that this would be a feasible option. Accordingly, this potential corrective action was not considered for further analysis in the SEA.

In December 2018, it was discovered that there are several natural rock outcrops in the vicinity of the area where the March 2018 survey indicated the presence of hard contacts, such as rock piles. In August 2019, NOAA, through its contractor, therefore collected rock samples from the Swift Tract breakwaters, collected samples from the hard surface contacts identified in the March 2018 survey, and collected rock samples from the natural rocks outcrop nearby for comparison. The results of the sample collections are outlined in the Hard Surface Contact Composition Analysis Technical Report and indicate that the samples taken from the hard surface contacts and those of the Swift Tract breakwaters seemed to be of similar origin and distinctly different from samples of the natural rock outcrops (HDR, 2019).

According to a Sidescan Magnetometer Surveying Technical Report an estimated 1,000 to 2,000 tons of rock material may be present on the bay bottom scattered randomly within the survey area adjacent to the constructed breakwaters (HDR, 2018). The May 2018 Corrective Action Recommendations and Cost

Estimate Memo recommended either removing the material or leaving the material in-place as reef habitat (reference). Both alternatives are evaluated in this Swift Tract SEA. The AL TIG proposes relocating the rock material from the water bottom to an adjacent The Nature Conservancy (TNC) breakwaters as the preferred action.

In order to remove the rock material from the survey area, equipment, such as a marsh buggy-mounted excavator or barge-mounted excavator, would be used to lift the material from the bay bottom. Since water visibility is almost zero in Bon Secour Bay, a side-scan sonar and/or diver may be utilized during extraction to assist in identifying rock locations and guiding equipment. Removal of materials would be limited to the target removal areas as outlined in purple in Figure 5. Target removal are waterward of the 4.5-foot MHWL (NAVD88) depth contour, which is located outside of the originally evaluated action area. The removed material would include the rocks within the survey area identified in Figure 5 and any incidental soil material collected during excavation from the bay bottom. This removed material would be transported to placement on the existing Swift Tract breakwater alignment or the adjacent TNC breakwater, which was constructed in 2012, and is directly adjacent to (south of) the Swift Tract breakwater alignment (See Figure 7). Access to project areas and staging of equipment will be located within the boundary of the revised project action area, as indicated in Figure 5. Any remaining materials will be left in place, as indicated in Figure 5. These include materials located within the originally evaluated project area, some of which may be partially or completely buried. A combination of techniques (such as dive team observations, dragging a chain along the water bottom, individual probing, and/or a sidescan survey) will be used to document rock removal. The proposed field activities timeframe, including the in-water activities, is estimated to be about 2 weeks and no longer than 6 weeks during daylight hours only, approximately 5 days per week (dependent on weather).

No Action Alternative: An alternative to removing the rocks located outside of the project area would be to take no action and leave the rocks in place on the bay bottom.

9.3 Summary of the Supplemental Environmental Assessment

- Chapter 4 of the Swift Tract SEA provides the analysis needed to assess the significance of the impacts of the alternatives. The NEPA analysis concluded that the projects are anticipated to result in both beneficial and adverse effects. Potential adverse impacts do not rise above short-term, minor adverse impacts occurring only during minor construction activities for the Proposed Action. These adverse effects are determined not significant considering the context and intensity of the projects' scopes and effects on the resources. The following significance factors are considered below.
- The Proposed Action would not result in significant adverse effects on public health or safety. Removal of the rocks from the bay bottom and placement onto existing breakwaters could result in long term beneficial impacts to public health and safety by removing potential in-water navigational and fishing obstructions from the area.
- The Proposed Action would have no significant adverse impacts to unique characteristics of the geographic area, and would have no significant adverse effects on wetlands or floodplains, , particularly on a regional basis. The Proposed Action would have minor short term adverse impacts to water quality due to increased turbidity levels during the physical removal and

placement of rocks and associated sediment during construction; however, these impacts would be minor and temporary.

- The effects of the Proposed Action on the quality of the human environment are not controversial. No comments were received from the public in opposition of the proposed action.
- There are no highly uncertain, unique, or unknown risks associated with the Proposed Action.
- The Proposed Action neither establishes a precedent for future AL TIG actions with significant effects nor represents a decision in principle about a future consideration. Future AL TIG actions will be determined through separate planning processes.
- The Proposed Action would not result in significant adverse cumulative impacts.
- The Proposed Action would not threaten a violation of Federal, state, or local laws, or requirements imposed for environmental protection. The Proposed Action is expected to be in compliance with all applicable federal laws and regulations.
- The Proposed Action would not significantly adversely affect vulnerable marine or coastal ecosystems. The Proposed Action may result in localized short term, minor adverse impacts due to noise and disturbance of soft bottom substrate from use of equipment during field activities and placement; however, there is sufficient habitat beyond the affected area so there would be no expected interference to populations or ecosystems from disturbance to the habitat area.
- The Proposed Action would not significantly adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.). The Proposed Action may result in localized short term, minor adverse impacts due to noise and disturbance of soft bottom substrate from use of equipment during field activities and placement; however, there is sufficient habitat beyond the affected area so there would be no expected interference to populations or ecosystems from disturbance to the habitat area.
- The Proposed Action is not expected to result in the introduction or spread of a non-indigenous species. Non-indigenous species are not prevalent in the project area and the proposed in-water field activities are not likely to cause movement of any non-indigenous species.
- The Proposed Action may have localized, minor, short-term adverse impacts to Essential Fish Habitat (EFH), managed fish species, or resources protected by the Magnuson-Stevens Fishery and Conservation Management Act (MSFCMA) due to noise and disturbance of soft bottom substrate from use of equipment during field activities and placement of rocks onto existing breakwaters. Through technical assistance in September 2018, the National Marine Fisheries Service (NMFS) concurred that the Proposed Action would not adversely affect EFH.
- The proposed action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources. On October 25, 2021, DOI

provided a memo indicating no additional information is needed under Section 106 of the National Historic Preservation Act for the Proposed Action. On November 2, 2021, the Alabama Historic Commission provided a letter concurring with the determination of no effects on cultural resources. Thus, in light of these findings, the AL TIG concludes that no adverse effects to cultural resources are expected as a result of the Proposed Action.

- The proposed action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (ESA). The Proposed Action may result in minor, short term adverse impacts (as defined under NEPA but not ESA or MMPA) to some West Indian manatee, Gulf sturgeon, Alabama red-bellied turtle, wood stork, piping plover, and red knot individuals and their habitats during construction activities; however, these impacts would be localized, short-term, and insignificant, and would not impact entire populations of species due to presence of foraging habitat proximal to the project site. Transient individuals would likely avoid the project area during construction.
- The proposed action would have no short term or long term impacts to marine mammal stocks or effects to dolphin species. Incidental take of dolphins is not anticipated. The in-water construction activities may result in minor, short term adverse impacts to West Indian manatees; however, impacts would be localized, and best management practices (BMPs) would be implemented to avoid or minimize potential impacts to the federally protected species that may be in the area. Applicable BMPs would include Standard Manatee Conditions for In-Water Work.

9.4 Agency Coordination and Consultation Summary

Under Section 7 of the ESA, the AL TIG, after coordination with USFWS and NOAA, determined the Proposed Action would have “no effect” on threatened, endangered, or candidate species and that no critical habitat would be adversely affected as a result of implementing the Proposed Action.

NOAA has reviewed the Proposed Action for compliance with MSFCMA, and determined the project would have no effect on any species or critical habitats under NOAA’s jurisdiction.

Pursuant to the Coastal Zone Management Act (CZMA), on behalf of the AL TIG federal trustees, NOAA determined that the project changes presented herein do not alter the original determinations under CZMA for the Swift Tract Living Shoreline Project.

The status of DWH federal regulatory permits/approvals is maintained online and updated as regulatory compliance information changes at (<https://www.gulfspillrestoration.noaa.gov/environmental-compliance/>).

9.5 Determination

The Proposed Action is not expected to have any cumulative effects beyond those disclosed and evaluated in the Final PDARP/PEIS and the Phase III ERP/PEIS. Adverse impacts are generally short term, such as disturbances associated with construction activities. Long-term, minor adverse impacts include impacts on geology, substrates, and habitat resulting from conversion of habitat from one type to

another that will occur as part of rock relocation. The cumulative effects from the Proposed Action were evaluated in the Swift Tract SEA and found to be within the scope of effects evaluated in the Final PDARP/PEIS and the Phase III ERP/PEIS.

Based on the information presented in this document and the analysis contained in the supporting Swift Tract SEA, it is hereby determined that implementation of the Proposed Action will not significantly impact the quality of the human environment. Therefore, an environmental impact statement for this action is not necessary.

FOR THE U.S. DEPARTMENT OF THE INTERIOR



MARY JOSIE BLANCHARD

Department of the Interior Natural Resources Trustee Official for the Louisiana Trustee
Implementation Group

Date: August 10, 2022

FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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