

## APPENDIX G-6:

### FINDING OF NO SIGNIFICANT IMPACT For the Point aux Pins Living Shoreline Project

#### Overview and Background

The Department of the Interior (DOI), National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), and United States Department of Agriculture (USDA), (collectively “Federal Trustees”) have conducted an environmental assessment (EA) for the Point aux Pins Living Shoreline Project. The project involves employing living shoreline techniques that utilize natural and/or artificial breakwater materials to stabilize shorelines along an area in Portersville Bay in the Mississippi Sound near Point aux Pins in Mobile County, Alabama and will be implemented by the Alabama Department of Conservation and Natural Resources (ADCNR). The project is an early restoration project to be funded as part of the *Deepwater Horizon* Natural Resource Damage Assessment and Restoration process in accordance with the “Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill.” This project is one of several projects to be implemented by the Trustees as identified in the Final Phase IV Early Restoration Plan and Environmental Assessments (Final Phase IV ERP/EA) to accelerate restoration, and represents an initial step toward the restoration of natural resources injured by the *Deepwater Horizon* oil spill.

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 (NEPA), 42 U.S.C. 4321 et seq. Therefore, the Federal Trustees prepared an Environmental Assessment (EA) to evaluate the potential environmental impacts associated the Point aux Pins Living Shoreline Project. This EA tiers from the Final Phase III Early Restoration Plan and Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS) prepared by the Trustees in 2014 and is prepared in accordance with NEPA, Council on Environmental Quality (CEQ) NEPA regulations, and all applicable agency NEPA regulations and guidance.

#### Summary of Proposed Action and Alternatives

CEQ and the regulations implementing NEPA require the decision maker to consider the environmental effects of the proposed action and a reasonable range of alternatives, including the No Action Alternative, (40 CFR § 1502.14). The EA addresses the proposed action and a No Action alternative. The purpose of, and need for the Point aux Pins Living Shoreline Project is to provide habitat and increase benthic secondary productivity thus enhancing resources in coastal Alabama that were damaged as a result of the *Deepwater Horizon* oil spill (Spill). The proposed action is being selected because it will result in more efficient recovery of shoreline and erosion losses compared to the No Action Alternative.

The proposed Point aux Pins Living Shoreline project would employ living shoreline restoration techniques by creating rows of approximately 200 foot breakwater segments made of wave attenuation units (WAUs). In total, 11 segments are proposed with an approximate 20' gaps between each segment. The exact number of segments may vary depending on final project design. The specific breakwater elevations and number of segments, construction techniques and design would be developed to maximize project success and meet regulatory requirements. It is anticipated that construction of the breakwaters would take place using shallow draft barges and tugs to transport the breakwater units. A small track-hoe or other similar equipment located on the barge would then be utilized to place the breakwater units in the appropriate configuration. However, actual equipment and construction techniques would be determined by the selected contractor and conducted in compliance with all permit conditions and best management practices.

Under the No Action Alternative, the Trustees would not pursue the Point aux Pins Living Shoreline Project as part of Phase IV Early Restoration. Under No Action, the existing conditions described in Chapter 10 of the Final Phase IV ERP/PEIS would prevail. Restoration benefits associated with this project would not be achieved at this time. The Final EA and this Finding of No Significant Impact were prepared after considering input from the public during the public comment period for the Draft Phase IV ERP/ EA.

## Analysis Summary

The Federal Trustees evaluated potential environmental effects of the proposed action and analyzed the significance of this action based on NEPA, Council on Environmental Quality (CEQ) NEPA regulations, and all applicable agency NEPA regulations and guidance. CEQ regulations (40 CFR §1508.27) state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion discussed below is relevant to making a Finding of No Significant Impact and we considered each criterion individually, as well as in combination with the others. The Final Phase IV ERP/EA's analysis of the environmental consequences of this proposed project suggests that minor (or less) impacts to some resource categories and major adverse impacts are anticipated to result from any of the project components described above. See Final Phase IV ERP/EA Chapter 10, section 10.2.5. When environmental consequences were reviewed across the full Point aux Pins Living Shoreline Project, the analysis suggests that resources would either not be affected by project activities or have minor adverse and/or beneficial impacts, as discussed below and in the Phase IV ERP/EA Chapter 10:

- Impacts to the physical environment (geology and substrates, water quality and hydrology, and air quality/ greenhouse gas emissions) were assessed in the Final Phase IV ERP/EA Chapter 10, sections 10.2.5.1; 10.2.5.2; and 10.2.5.3, and would be minor. Minor long-term adverse impacts to geology and substrates are associated with the construction of the living shoreline projects. Short term minor adverse impacts to water quality would result from increased turbidity during material placement with long term beneficial impacts as the reefs are expected to contribute to localized water quality improvement due to the filtration capacity of oysters and other bivalves that would be anticipated to colonize the reefs. Long-term beneficial impacts would also occur from the breakwater protection of wetlands. Minor short-term adverse impacts to air quality

and GHG emissions would result from the use of construction equipment. Impacts would be localized and last only during the construction period.

- Impacts to the biological environment were assessed in the Final Phase IV ERP/EA Chapter 10, section 10.2.5.2, and would be temporary and minor. No short- or long-term adverse effects to submerged aquatic vegetation (SAV) are expected. Long-term benefits would occur to the near-shore water column (quality and movement) which may create a more suitable environment for SAV establishment. Some minor, temporary impacts will occur to benthos, invertebrates, fish, essential fish habitat, marine mammals, and terrestrial species would occur during construction of the breakwaters but long-term benefits to these resources will occur from habitat creation.
- Impacts to human uses and socioeconomics (land and marine management, aesthetics and visual resources, tourism and recreation, and public safety and shoreline protection) were analyzed in the Final Phase IV ERP/EA Chapter 10, section 10.2.5.3; will be minor and short term. Land and marine management and infrastructure were determined to have no adverse impact; however, beneficial impacts to land management and infrastructure will occur by reducing shoreline erosion on adjacent public lands. Short-term, minor impacts to aesthetics and visual resources and tourism and recreation would occur as a result of construction of the breakwaters and the placement of navigational signs. Minor, short-term adverse impacts to tourism and recreation could occur during the construction phase of the breakwaters as transit through the area could be restricted. Adverse impacts to public health and safety are not anticipated; however, the proposed breakwaters are expected to provide beneficial impacts and counteract erosion by moderating the gradient in the transport of sediment along the shore.
- The project is not expected to have any significant adverse effects on wetlands and floodplains, pursuant to Executive Orders 11990 and 11988 because the project activities will not take place within a floodplain, and would have no effect on that resource. The project would not adversely affect wetlands as the breakwaters would be placed in open water. After construction, there would be long-term beneficial impacts as the breakwaters would lead to protection of wetlands on the adjacent Point aux Pins site. The breakwaters would be anticipated to reduce wave energy reaching the shoreline and would help protect the fringe of salt marsh habitat and the adjacent palustrine wetlands.
- Because the proposed project has reasonably foreseeable effects on coastal uses or resources that are the subject of federally approved Coastal Zone Management Plans in Alabama, the Federal Trustees submitted a consistency determination for the project to the Alabama Department of Environmental Management (ADEM). ADEM concurred with that determination on behalf of its state.
- In relation to other restoration actions with individually insignificant impacts, there would be no significant adverse cumulative impacts anticipated for target or non-target species from implementation of this project, due in part to its scale and scope (refer to the Final Phase IV ERP/EA Chapter 10, section 10.2.6).

- Construction of the living shoreline would only have very localized and temporary impacts within the project footprint area, and the intensity of adverse effects to biodiversity or ecosystem function from this will be very minor with no substantive effects. The project would also have no significant impact to any ocean, coastal, or essential fish habitats as defined under the Magnuson-Stevens Fishery Conservation and Management Act.
- The project's potential impacts are not controversial and the project is supported by the general public. It will benefit a variety of injured resources related to shoreline protection with no significant impacts to unique areas such as historic or cultural resources, park land, prime farmlands, wetlands, or ecologically critical areas. It will have no effects on the human environment that would be highly uncertain or involve unique or unknown risks.
- The proposed action is not expected to result in the introduction or spread of any non-indigenous species.
- The proposed action would use well-established living shoreline techniques, with best management practices that have been used effectively in other projects. There is no expectation it would threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment, and is not expected to establish a precedent for future actions with potential significant effects. However, the extent of success of the project will be monitored closely, and the approach and design may be applied, adopted, or modified for other living shoreline projects.

Copies of the draft EA for this project were available to the public as provided in a Federal Register notice published on May 20, 2015. *See Deepwater Horizon Oil Spill; Draft Phase IV Early Restoration Plan and Environmental Assessments* 80 FR 29019-29021 (May 20, 2015). Public comments on the Draft Phase IV ERP/EA were taken during a 47 day public comment period extending from May 20, 2015 to July 6, 2015 (80 FR 35393, June 19, 2015). Public comments received during this period have been considered and addressed by the Trustees in the Final Phase IV ERP/EA (Chapter 15, Response to Public Comments). The Final Phase IV ERP/EA is hereby incorporated by reference.

### **Agency Coordination and Consultation Summary**

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): The Trustees reviewed the Point aux Pins Living Shoreline Project for compliance with the MSFCMA, and had informational discussions with NMFS Southeast Regional Office (SERO's) Habitat Conservation Division. It was determined that some activities have the potential for minor, short-term site-specific adverse impacts to Essential Fish Habitat and benthic habitats, however, NMFS concurred that the best management practices (BMPs) proposed to implement would be sufficient to avoid, minimize or offset impacts and no additional conservation recommendations were required.

The Trustees initiated Endangered Species Act (ESA) Section 7 consultations with the NMFS SERO's Protected Resources Division and the USFWS Alabama Ecological Services Field Office. Coordination and informal consultation with the USFWS under the ESA has been completed. The USFWS concurred that no threatened, endangered, or candidate species or critical habitat or other protected species would be

adversely affected as a result of implementing this project. The project was also reviewed for impacts to bald eagles and migratory birds in accordance with the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA), and determined take would be avoided. The Trustees are awaiting NMFS SERO's response on ESA.

The Trustees also coordinated with NMFS SERO's Protected Resources Division to determine that this project does not require authorization under the MMPA.

Pursuant to the CZMA, the Federal Trustees submitted consistency determinations for state review coincident with public review of this document. The Alabama Department of Environmental Management concurred with that determination of consistency with the enforceable policies of the Alabama Coastal Area Management Program for these proposed activities. Additional consistency review may be required pursuant to federal regulations (see 15 C.F.R. Part 930) prior to project implementation.

Potential impacts to cultural and historical resources protected under Section 106 of the National Historic Preservation Act were described in the Final Phase IV ERP/EA Chapter 10, section 10.2.5.3.1 A complete review of this project under Section 106 of the National Historic Preservation Act has been initiated and will be completed prior to project implementation. NHPA Section 106 and Tribal consultations would further identify potential cultural resources in the project areas and any mitigation measures necessary to protect those resources.

If any further need arises to coordinate and consult with other regulatory authorities, including for example Clean Water Act Section 404 or the Rivers and Harbors Act, the additional coordination or consultation requirements will be addressed prior to project implementation. The status of federal regulatory permits/approvals will be maintained online (<http://www.gulfspillrestoration.noaa.gov/environmental-compliance/>) and updated as regulatory compliance information changes. The Federal Trustees' Finding of No Significant Impact for this project is issued subject to the completion of all outstanding compliance reviews under other federal laws. If the proposed action changes or information is brought to light as a result of completing such reviews that is potentially relevant to the environmental evaluation supporting this Finding of No Significant Impact, that evaluation will be updated or supplemented as required by NEPA and a new determination made by the Federal Trustees under NEPA as to whether the proposed action is likely to significantly affect the quality of the human environment.

## **Determination**

In view of the information presented in this document and the environmental analysis contained in the supporting Final Phase IV ERP/EA for the Point aux Pins Living Shoreline Project, the Federal Trustees have determined that the project will not significantly impact the quality of the human environment. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

**FINDING OF NO SIGNIFICANT IMPACT  
For the Point aux Pins Living Shoreline Project**

Date: 9/10/15\_\_\_\_\_

Signature: Cynthia K Dohner

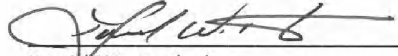
Cynthia K. Dohner  
Authorized Official, U.S. Department of the Interior

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Date:

9/8/2015

Signature:

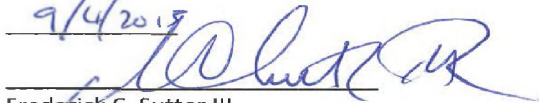


David Westerholm  
Director, Office of Response and Restoration  
National Ocean Service, NOAA

Date:

9/4/2015

Signature:



Frederick C. Sutter III  
Director, Office of Habitat Conservation  
National Marine Fisheries Service, NOAA

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Date:

9/10/15

Signature:



Ann C. Mills

Deputy Under Secretary, USDA



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Date:                      9/10/15  \_\_\_\_\_

Signature:                      *Kenneth J. Kopocis*            
Kenneth J. Kopocis  
Principal Representative, EPA