

DEPARTMENT OF THE ARMY PERMIT

Permittee: **Mississippi Department of Environmental Quality**

Permit No.: **SAM-2018-01284-JRO**

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 permittee is authorized to place approximately 45,000 cubic yards of fill in waters of the U.S. to create approximately 90 acres of subtidal reef north of Deer Island in Harrison County, Mississippi. The fill material will consist of granite, graded limestone, processed concrete aggregates, and/or oyster shell. The fill material will be placed in a manner to provide substrate 0.2-3.0 feet above the existing bed elevation in an undulating pattern, while maintaining a minimum depth of 2.0 feet below Mean Lower Low Water.

ATTACHED:

1. Locations and Plan Drawings
2. Mississippi Department of Marine Resources (DMR) Coastal Program Consistency dated July 24, 2019 (DMR-190166).
3. Mississippi Department of Environmental Quality (DEQ) Section 401 Certification dated March 18, 2019 (WQC2019003).

Project Location: The project is located north of Deer Island, Section 2, Township 8 South, Range 9 West, City of Biloxi, Harrison County, Mississippi. The area is depicted on the MS-OCEAN SPRINGS Quadrangle, United States Geological Survey Topographic Map, Hydrologic Unit Code 03170009. The reef will maintain a 200 foot minimum setback from the federal navigation channel with five corner control points (CPA-CPE). The coordinates are referenced to Mississippi State Plane East Zone, NAD83, in U.S. Survey Feet. The coordinates in Easting & Northing shall be located at: CP-A (974992.70, 322727.76); CP-B (976050.91, 322624.13); CP-C (978377.13, 322183.36); CP-D (977346.84, 320897.78); CP-E (974114.77, 321669.29).

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **30 April 2025**. 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. Only suitable material free of waste, metal, organic trash, unsightly debris, etc., may be used as fill, and material discharged must be free from toxic pollutants in toxic amounts.
- b. The permittee shall comply with all requirements of the Mississippi Department of Environmental Quality 401 Water Quality Certification (WQC2019003) dated March 18, 2019.
- c. All conditions of the Coastal Zone Consistency Determination issued by the Department of Marine Resources are incorporated as conditions of this DA permit.
- d. It is the permittee's responsibility to ensure that the contractors working on this project are aware of all General and Special permit conditions.
- e. Best management practices shall be implemented to minimize turbidity, siltation damage to adjacent wetlands and waters of the United States, and submerged aquatic vegetation. All in-water project work will be conducted during daylight hours, and noise will be kept to the minimum feasible level. All vessels/barges will travel at slow speed in and around construction zones (5 knots or less).
- f. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure 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 of Engineers, 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.
- g. Prior to bringing any equipment (including personal gear, machinery, vehicles or vessels) to the work site, each item shall be inspected for mud or soil, seeds, and vegetation. If present, the equipment, vehicles, or personal gear shall be cleaned until they are free from mud, soil, seeds, and vegetation. This inspection will occur each time equipment, vehicles, and personal gear are being prepared to go to a site or prior to transferring between sites to avoid spreading exotic, nuisance species.
- h. This Department of Army (DA) permit does not authorize you to take an endangered species, in particular the Gulf sturgeon and sea turtles (leatherback, Kemp's ridley, hawksbill, green, and loggerhead). If a take occurs or new information reveals effects of the action not previously considered, or the identified action is subsequently modified in a manner that causes an effect to listed species or critical habitat in a manner or to an extent not previously considered, or if a new species is listed or critical habitat designated that may be affected by the identified action re-initiation of consultation with NMFS-PRD and/or USFWS must take place. Therefore, within 24 hours of any of the above mentioned actions taking place you shall notify this office of the event and/or finding.
- i. The National Ocean Service (NOS) has been notified of this authorization. You must notify NOS and this office, in writing, at least 2 weeks before you begin work and upon completion of the activity authorized by the permit. Your notification of completion must include the drawing which certifies the location and configuration of the completed activity (a certified permit drawing(s) may be used). Notification to NOS will be sent to ocs.ndb@noaa.gov or the following address: National Ocean Service, Office of Coast Survey, N/CS26, 1315 East West Highway, Silver Springs, Maryland 20910-3282.

j. The permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

k. The permittee must install and maintain, at the permittee's expense, any safety lights, signs, and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on the permittee's authorized facilities.

Further Information:

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

- Section 404 of the Clean Water Act (33 U.S.C. 1344).**
- Section 10 of the Rivers and Harbors Act 1899 (33 U.S.C. 403).**

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.



4/26/2020

(PERMITTEE) **CHRIS WELLS**
INTERIM EXECUTIVE DIRECTOR
MS DEPT OF ENVIRONMENTAL QUALITY
P.O. BOX 2261
JACKSON, MISSISSIPPI 39225

(DATE)

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

SEVASTIEN P. JOLY
COLONEL, U.S. ARMY
DISTRICT COMMANDER

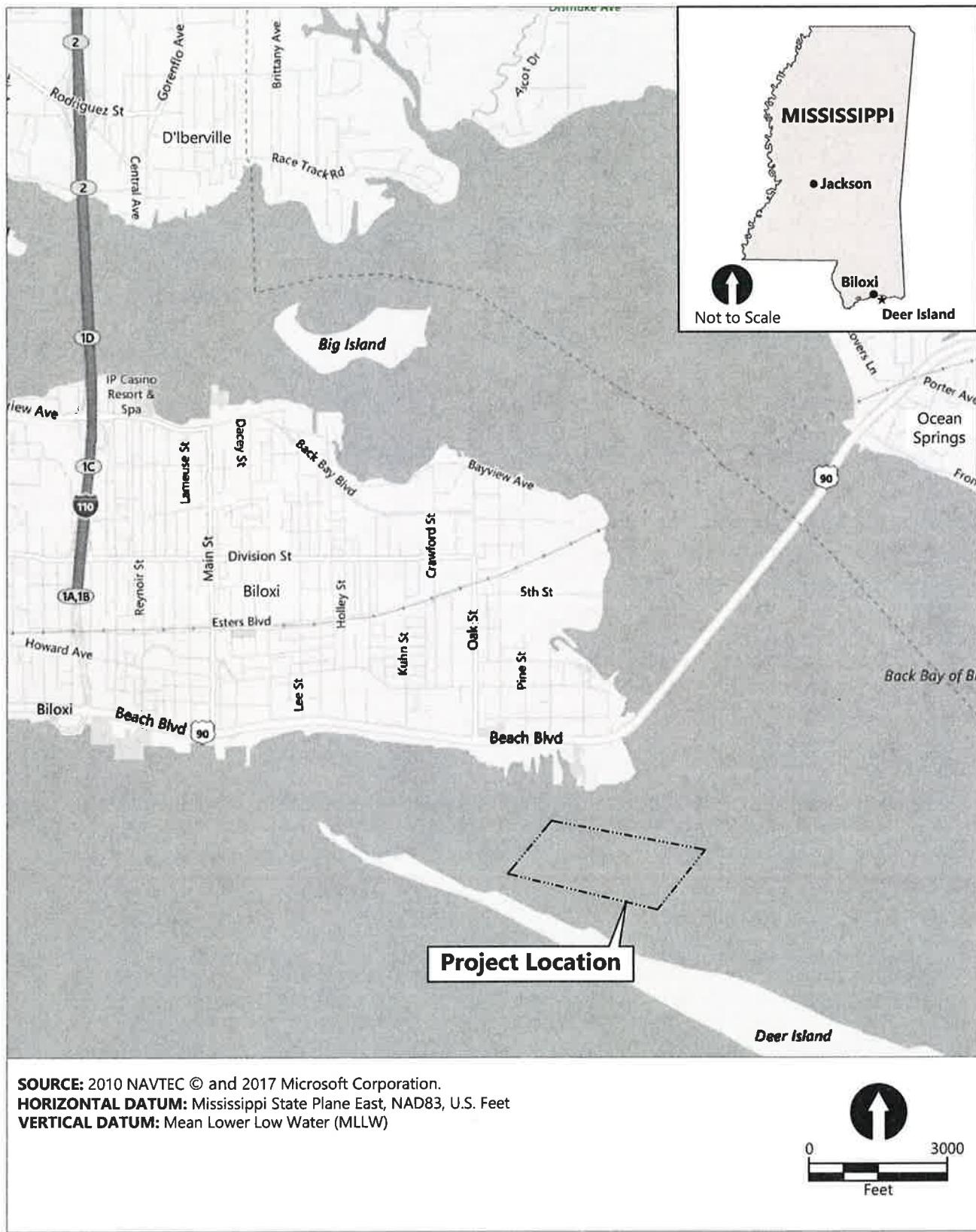
BY: _____

ALLISON F MONROE _____ (DATE)
TEAM LEADER, SOUTH MISSISSIPPI BRANCH
REGULATORY DIVISION

When the structures or work authorized by this permit 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)

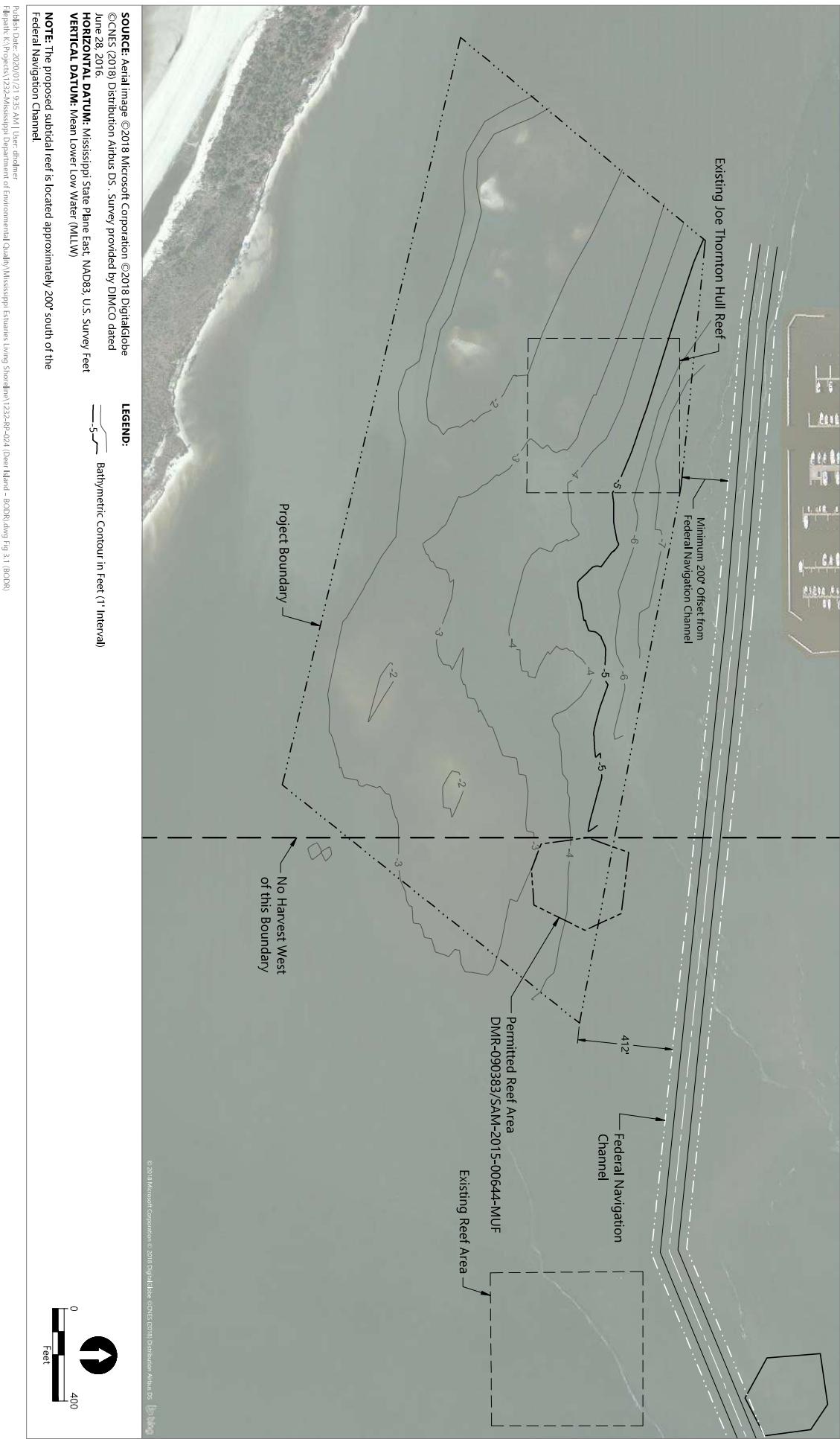


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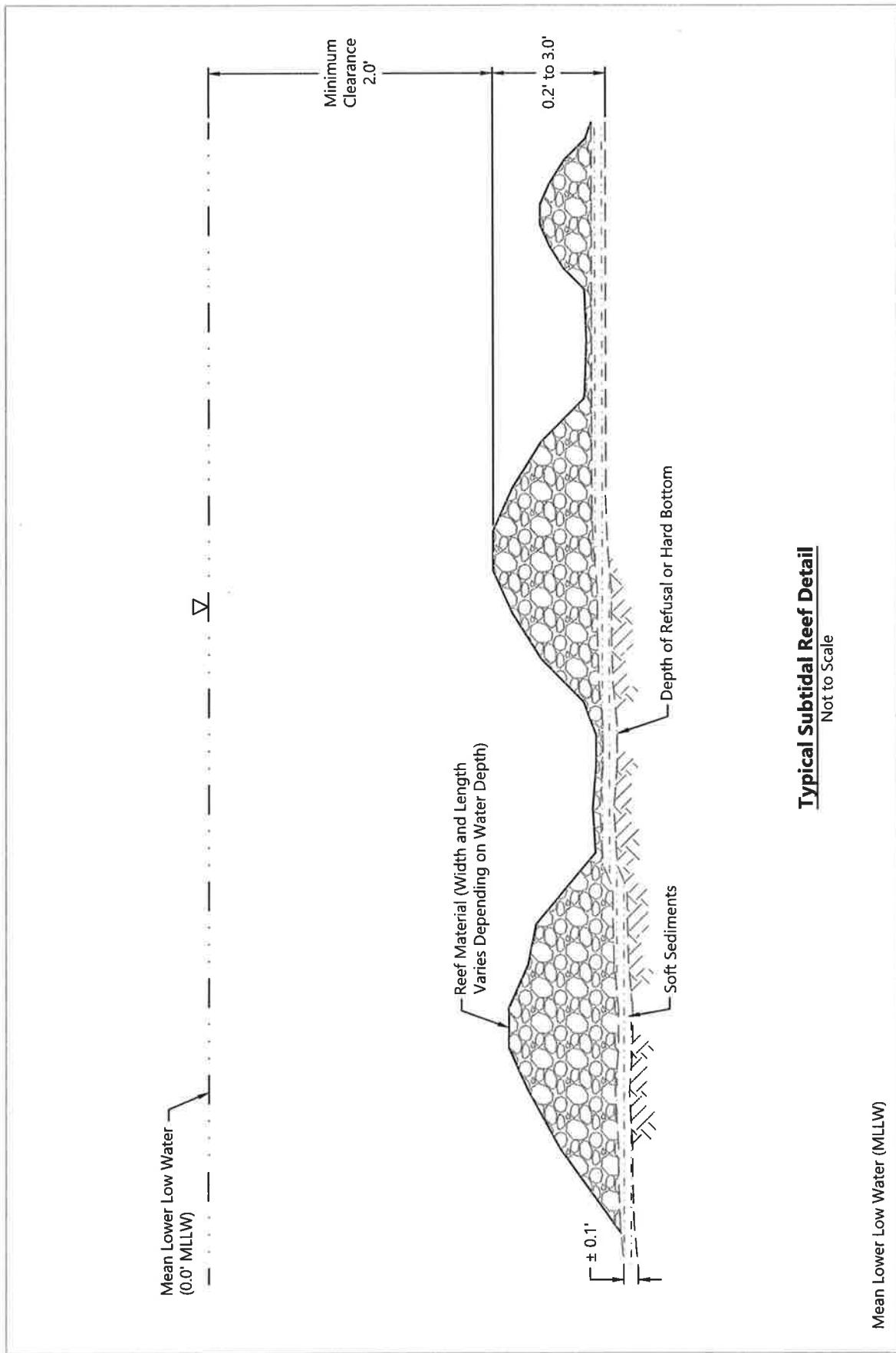


Figure 2
Deer Island Subtidal Reef Vicinity Map

Basis of Design Report
 Restoring Living Shorelines and Reefs in Mississippi Estuaries Project
 Department of Environmental Quality







ANCHOR
QEA

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Figure 4
Deer Island Subtidal Reef Typical Ridged Section
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