



May 5, 2020

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

RE: Request for Consistency Certification with the Mississippi Coastal Program (MCP) for the Mississippi Trustee Implementation Group Draft Restoration Plan II/ Environmental Assessment: Wetlands, Coastal, and Nearshore Habitat and Oysters (Draft RPII/EA)

Dear Ms. Brantley,

The Mississippi Trustee Implementation Group (MS TIG) is responsible for restoring the natural resources and services within the Mississippi Restoration Area that were injured by the April 20, 2010 Deepwater Horizon oil spill (*DWH* oil spill) and associated spill response efforts. The MS TIG is proposing to implement four (4) natural resource restoration projects in the Draft RPII/EA. All four of the projects would be located in the Mississippi Coastal Zone.

The MS TIG is comprised of the Mississippi Department of Environmental Quality (MDEQ); National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce (DOC); the United States Department of the Interior (DOI), as represented by the National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM); the United States Department of Agriculture (USDA); and the Environmental Protection Agency (EPA). The federal trustees (NOAA, DOI, USDA, and EPA) reviewed the Draft RP II/EA and proposed projects for consistency with the Mississippi Coastal Program (MCP) and determined that, as proposed, the Draft RP II/EA is consistent with the MCP. This letter submits that federal consistency determination for your review.

Background

After the *DWH* oil spill, the state and federal natural resources trustees (the Trustees) conducted a Natural Resources Damage Assessment (NRDA) to assess impacts to the Gulf's natural resources, and a comprehensive, integrated ecosystem restoration approach was proposed to address the potential magnitude and breadth of restoration for injuries resulting from the oil spill. In February 2016, the *DWH* Trustee Council issued a Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS) under the Oil Pollution Act (OPA) and the National Environmental Policy Act (NEPA) to analyze alternative approaches to implementing restoration and to consistently guide restoration decisions across the Gulf of Mexico region. The purpose of restoration is to make the environment and the public whole for injuries resulting from the incident by implementing restoration actions that return injured natural resources and services to baseline conditions and compensate for interim losses, in accordance with OPA and associated NRDA regulations.

On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a Consent Decree resolving civil claims by the Trustees against BP Exploration and Production Inc. (BP) arising

from the DWH oil spill. This historic settlement resolves the Trustees' claims against BP for natural resources damages under OPA. The Draft RPII/EA prepared by the MS TIG is consistent with and tiers from the PDARP/PEIS and proposes restoration projects to be funded in the 2020-2021 funding cycle in the Mississippi Restoration Area.

Proposed Project Descriptions

The Draft RP II/ EA contains four proposed projects; descriptions of these proposed projects are provided below, and locations are illustrated in Figure 1. Additional information on the Draft RP II/ EA and the four proposed projects may be found here

(<https://www.gulfspillrestoration.noaa.gov/2020/04/mississippi-trustee-implementation-group-releases-second-draft-restoration-plan>).

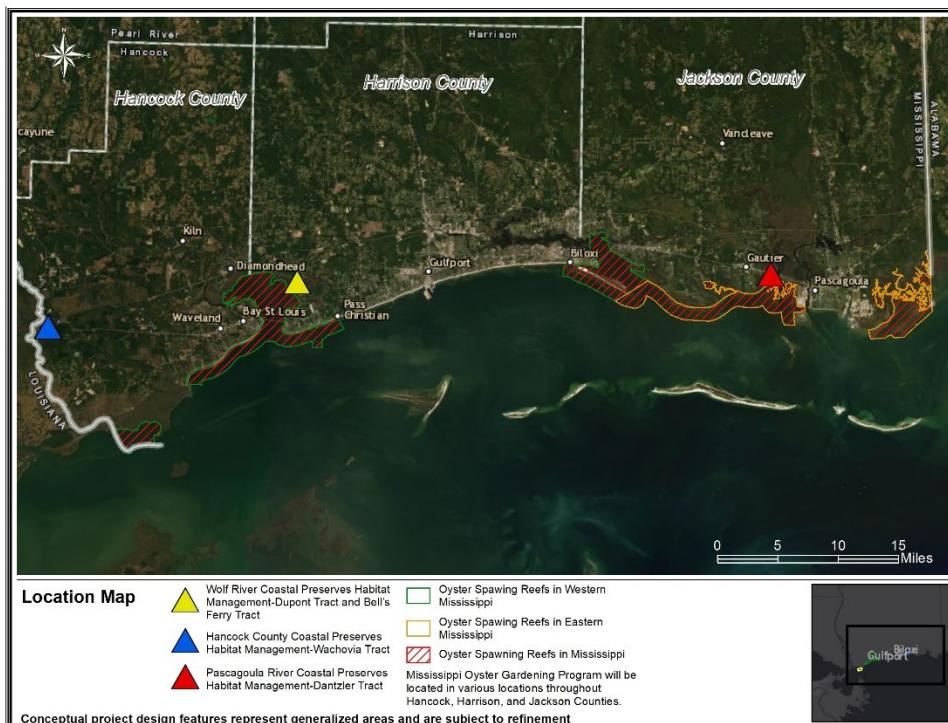


Figure 1: Locations of Proposed Projects

Wolf River Coastal Preserves Habitat Management – Dupont and Bell's Ferry Tracts

The Wolf River Coastal Preserve is a 2,500-acre area located near the confluence of the Wolf River with St. Louis Bay which is managed by the Mississippi Department of Marine Resources Coastal Preserve Program (MDMR CPP). Management activities have included mechanical treatment, chemical treatment, and prescribed fire on the Dupont Tract. The proposed 10-year project would continue those management activities and would initiate similar management activities on the Bell's Ferry Tract. Additional proposed management activities include hydrologic restoration on the Dupont Tract and prescribed grazing (using Pineywoods cattle) on the Bell's Ferry Tract. Project monitoring would include baseline vegetative monitoring and metrics to measure of changes in plant composition and structure as well as an annual count of acres of management activities.

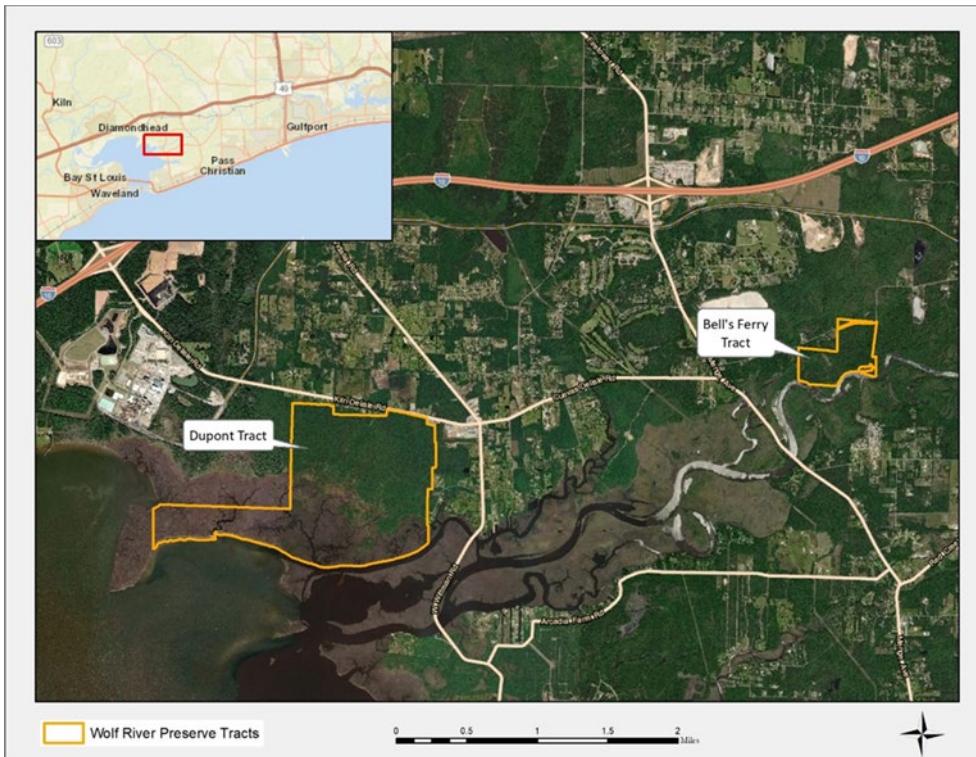


Figure 2: Location of Wolf River Coastal Preserve Habitat Management – Dupont and Bell's Ferry Tracts

Hancock County Marsh Coastal Preserve Habitat Management-Wachovia Tract

The Hancock County Coastal Preserve-Wachovia Tract Component is a 1,203-acre area located south of I-10, east of the Pearl River and west of the Possum Walk Trail which is managed by the MDMR CPP. Management activities have included chemical treatment, prescribed fire and mechanical treatment. The proposed 10-year project would continue those management activities on the Wachovia Tract. Project monitoring would include baseline vegetative monitoring and metrics to measure of changes in plant composition and structure as well as an annual count of acres of management activities.

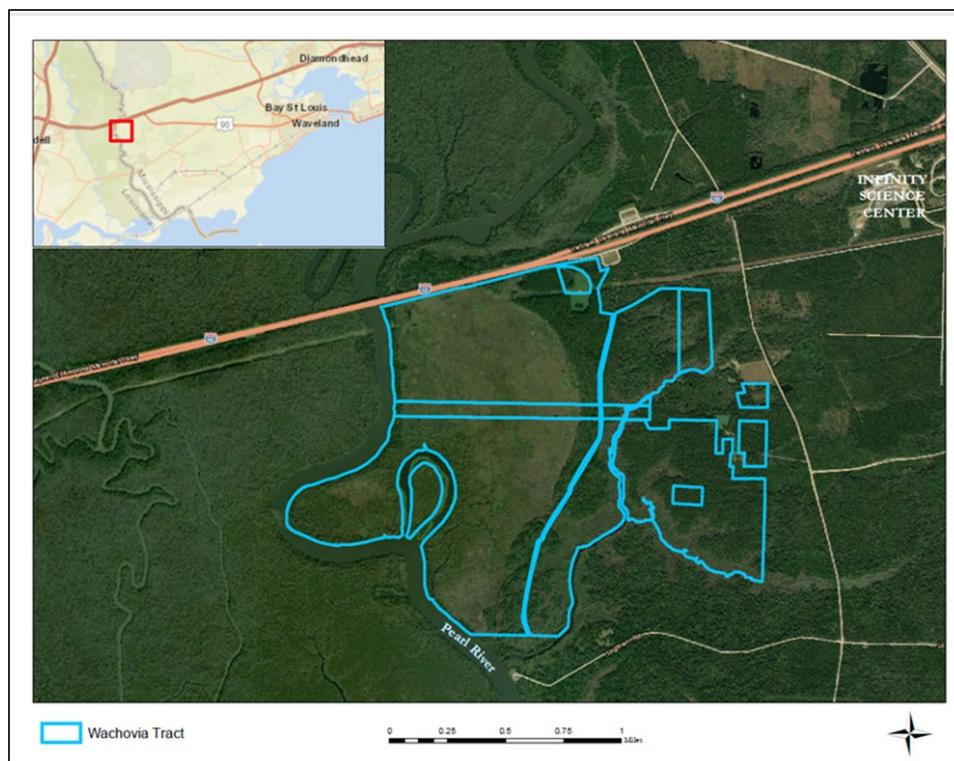


Figure 3: Location of Hancock County Marsh Coastal Preserve Habitat Management-Wachovia Tract

Oyster Spawning Reefs in Mississippi

The proposed project would include the restoration or creation of a minimum of 100 acres and a maximum of 400 + acres of high-relief cultch placements in up to six locations in the Mississippi Sound and areas including St. Louis Bay, Heron Bay, Back Bay/Biloxi Bay, Graveline Bay, Pascagoula Bay, and Grand Bay in Hancock, Harrison, and Jackson Counties. It is estimated that, historically, greater than 7,000 acres of oyster reefs occurred in the locations that encompass the Oyster Spawning Reefs in Mississippi project area.

While target areas have been identified, final identification of specific cultch placement locations may be anywhere inside the evaluated project areas in consultation with MDMR. Siting would be based on factors including, but not limited to, substrate suitability (e.g. geotechnical probing, multi-beam sonar), salinity, bathymetry, and other environmental and on-going and planned management considerations. Cultch placement would be prioritized to areas determined to be the most suitable to maximize restoration benefits. No more than 35% of cultch would be placed in harvestable (tonging only zones) with the remaining cultch placement in non-harvestable zones (Restricted and Prohibited Areas). The subtidal reefs would be constructed using appropriate cultch material (limestone, crushed concrete, oyster shells, fossilized oyster shells, and other suitable cultch material or a combination thereof) to be determined during each project's design process.

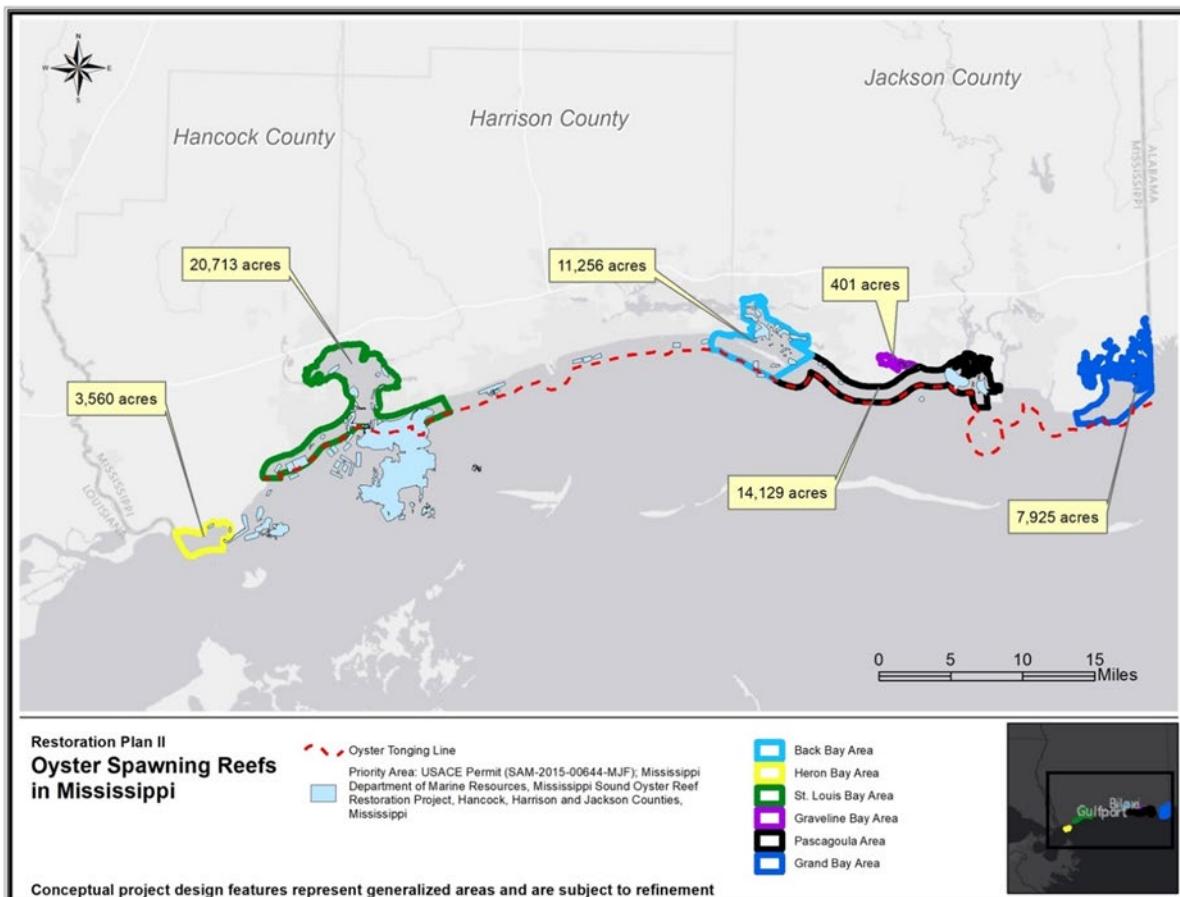


Figure 4: Location of Oyster Spawning Reefs in Mississippi

Mississippi Oyster Gardening Program

This proposed Mississippi Oyster Gardening Program (MSOGP) would be implemented over a five-year period utilizing volunteers along the Mississippi Gulf Coast. This program would be a continuation of the current NFWF-GEBF funded project. The Program would grow sub-adult oysters from spat in gardens on shell stock that hang from waterfront piers/wharves and docks located in coastal waters anywhere along the Mississippi Gulf Coast (Hancock, Harrison and Jackson Counties). The proposed MSOGP would be managed by MDEQ with the assistance of two partners: MDMR and Mississippi-Alabama Sea Grant Consortium (MASGC). The proposed funding for the MSOGP would cover program operations to coordinate with volunteers, distribute basket materials, and collect oysters, and other activities associated with the following project objectives:

- Retain approximately fifty volunteer oyster gardeners for the duration of the program (existing, NFWF-GEBF funded program ramped up from zero to thirty volunteers in year one, to about fifty in years 2-5)
- Produce approximately 1,000 sub-adult oysters per site per year.

- Produce approximately 210,000 sub-adult oysters (based on estimates) over the five-year life of the proposed project, enough for a 20 oyster per square meter density across approximately 3 acres.

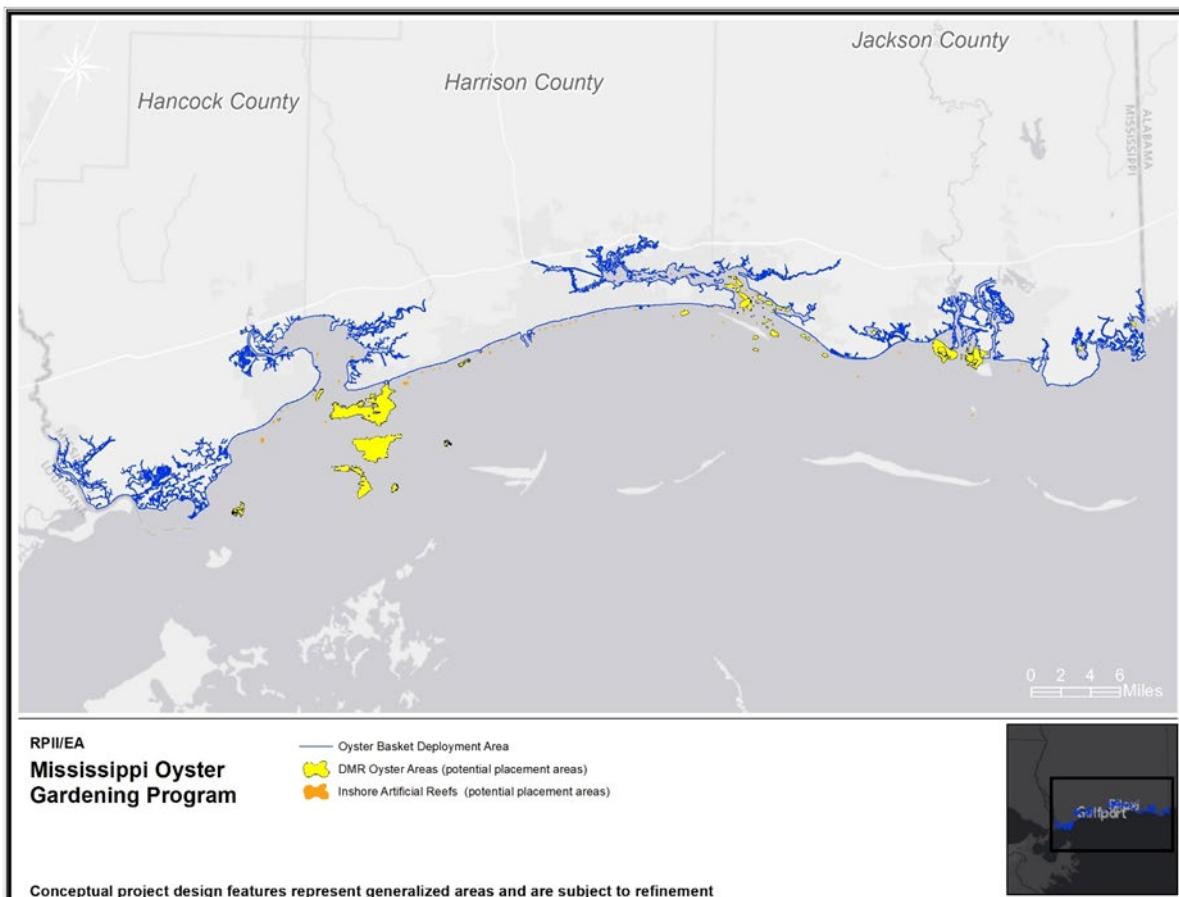


Figure 5: Location of Mississippi Oyster Gardening Program

Federally-approved MCP Consistency Review

The federally-approved MCP is comprised of a network of agencies with authority in the Mississippi's coastal zone. The primary authority guiding the MCP is the Mississippi Coastal Wetlands Protection Act. The MCP 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 restoration goals of the proposed Wolf River Coastal Preserves Habitat Management – Dupont project and Bell's Ferry Tracts and Hancock County Marsh Coastal Preserve Habitat Management-Wachovia Tract project are “Restore and Conserve Habitat” (restoration type “Wetlands, Coastal, and Nearshore Habitats”) and are consistent with the following MCP goals:

- Favor the preservation of the coastal wetlands and ecosystems by preserving, protecting and enhancing habitat;
- Protect, propagate and conserve Mississippi's wildlife, fish and aquatic life; and
- Assist in the preservation of natural scenic qualities by enhancing habitat in state-owned preserves; and
- Assist local government in the provision of public facilities' services through enhancement of recreational opportunities.

The restoration goal of the proposed Spawning Reefs in Mississippi project and Mississippi Oyster Gardening project is “Replenish and Protect Living Coastal and Marine Resources,” and the corresponding restoration type is “Oysters.” The projects are consistent with the following MCP goals:

- Protect, propagate and conserve the state's seafood and aquatic life by placing between 100 and 400 acres of high-relief oyster cultch in Mississippi waters;
- Produce approximately 210,000 sub-adult oysters (based on estimates) over the five-year life of the project which would be placed on existing reefs in coastal Mississippi;
- Implement reef restoration and oyster propagation which favors the preservation of the coastal wetlands and ecosystems; and
- Conserve the waters of the state, and protect, maintain, and improve their quality for public use and other beneficial recreational use through reef restoration and oyster propagation.

Conclusion:

Based on the above review, the federal trustees of the MS TIG have determined that the Draft RP II/ EA is consistent with the MCP to the maximum extent practicable with all of the applicable, enforceable policies of the state's coastal management program. The proposed restoration projects favor the preservation of the coastal wetlands and ecosystems and will serve a higher purpose in compliance with the public purposes of the public trust in which the coastal wetlands are held. Where appropriate, requests for individual project certification under the Mississippi Coastal Wetlands Protection Act (and any other applicable laws) will be sought prior to project implementation. We submit this determination letter for State review and concurrence. Thank you in advance for your assistance.

Best regards,

Ronald Howard
Technical Representative, U.S. Department of Agriculture

Copy (Mississippi Trustee Implementation Group):

Homer Wilkes, Principal Representative, U.S. Department of Agriculture

Debora L. McClain, Alternate Department of the Interior Natural Resource Trustee Official

Mary K. Lynch, Alternate to Principal Representative, U.S. Environmental Protection Agency

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

Chris Wells, Alternate Trustee Council Designee