LANCE R. LEFLEUR
DIRECTOR

KAY IVEY
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

November 4, 2024

Benjamin Frater
Compliance Supervisor
Deepwater Horizon Gulf Restoration Office
US Fish and Wildlife Service
341 North Greeno Road, Suite A
Fairhope, Alabama 36532

RE: State of Alabama Coastal Consistency Concurrence
Natural Resource Trustees for the Deepwater Horizon Oil Spill Alabama Trustee Implementation Group (AL TIG) - Draft Restoration Plan IV and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; Nutrient Reduction; Birds; Oysters; and Provide and Enhance Recreational Opportunities; FWS/R4/DH NRDAR
Mobile and Baldwin Counties, Alabama
Alabama Department of Environmental Management (ADEM) Tracking Code: ACAMP-2018-154.3-FC-FAA

Dear Mr. Frater:

On August 09, 2024, the ADEM received the AL TIG's Consistency Determination (CD) that the proposed federal action, referenced above, is consistent with the Alabama Coastal Area Management Program. Public noticing requirements of Title 15 C.F.R. §930.42 have been completed. Pursuant to Title 15 C.F.R. §930.41(a), by this letter the ADEM hereby notifies the Fish and Wildlife Service of its concurrence with the AL TIG's CD.

Any correspondence related to this decision should be sent to the email inbox coastal@adem.alabama.gov. Always reference the ADEM tracking code located at the top of this document when corresponding.

Sincerely,

Anthony Scott Hughes, Chief
Field Operations Division

ASH/jsb/mrr

cc: USFWS, Michael Barron – (Michael_Barron@fws.gov)
ADCNR-MRD, Scott Bannon – (Scott.Bannon@dcnr.gov)
DCNR.Coastal@dcnr.alabama.gov

File: CZCERT/XXX

Birmingham Office
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Office
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Coastal Office
1615 South Broad Street
Mobile, AL 36605
(251) 450-3400
(251) 479-2593 (FAX)

McNeill, Catherine

From: Barron, Michael G <michael_barron@fws.gov>
Sent: Friday, August 9, 2024 8:02 AM
To: Mobile Coastal Mail
Cc: Frater, Benjamin
Subject: ATTN J. Scott Brown - For Review: USFWS Gulf Restoration Office and Alabama Trustee Implementation Group Restoration Request for CZMA Consistency Review for Restoration Plan IV
Attachments: AL TIG RP4 CZMA Letter_Final_080924.pdf

Good Morning,

Please find attached a request for Coastal Zone Management Act Consistency Certification with the Alabama Coastal Area Management Program (ACAMP) for the Alabama Trustee Implementation Group Draft Restoration Plan IV and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; Nutrient Reduction; Birds; Oysters; and Provide and Enhance Recreational Opportunities.

If you have any questions or require further information, please use the contact below for all correspondence.

Thank You,

Michael

Michael Glenn Barron, MS
(He, Him)
Wildlife Biologist – Compliance Coordinator
Department of the Interior
USFWS - Gulf Restoration Office
341 N. Greeno Road
Fairhope, AL 36532
251-421-7030 (Work - Preferred)
706-577-2645 (Cell)
michael_barron@fws.gov

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Deepwater Horizon Gulf Restoration Office
341 Greeno Road North, Suite A
Fairhope, Alabama 36532

In Reply Refer To:
FWS/R4/DH NRDAR

August 9, 2024

J. Scott Brown
Alabama Department of Environmental Management
Mobile Branch | Coastal Section
3664 Dauphin Street, Suite B
Mobile, Alabama 36608

Subject: Request for Coastal Zone Management Act Consistency Certification with the Alabama Coastal Area Management Program (ACAMP) for the Alabama Trustee Implementation Group Draft Restoration Plan IV and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; Nutrient Reduction; Birds; Oysters; and Provide and Enhance Recreational Opportunities

Dear Mr. Brown:

The Natural Resource Trustees for the Deepwater Horizon Oil Spill Alabama Trustee Implementation Group (AL TIG) have prepared a draft restoration plan, entitled "Alabama Trustee Implementation Group Draft Restoration Plan IV and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; Nutrient Reduction; Birds; Oysters; and Provide and Enhance Recreational Opportunities (RP IV/EA)". This restoration plan, if approved by the AL TIG after consideration of public review and comment, would select for implementation seven restoration projects within Alabama's coastal zone. The U.S. Department of the Interior (DOI), the National Oceanic and Atmospheric Administration, the United States Department of Agriculture, and the United States Environmental Protection Agency (the "Federal Trustees"), have reviewed the proposed projects for consistency with the Alabama Coastal Area Management Program (ACAMP) as required by the Coastal Zone Management Act and have found that, as proposed, these restoration actions are consistent to the maximum extent practicable with the applicable, enforceable policies of the State's federally-approved ACAMP. This letter submits those determinations for State review on behalf of all Federal Trustees.

Background

On April 20, 2010, the Deepwater Horizon (DWH) mobile drilling unit exploded, caught fire, and eventually sank in the Gulf of Mexico, resulting in a massive release of oil and other substances from BP's Macondo well and causing loss of life and extensive natural resource injuries. Initial efforts to cap the well following the explosion were unsuccessful, and for 87 days after the explosion, the well continuously and uncontrollably discharged oil and natural gas into the northern Gulf of Mexico. Approximately 3.19 million barrels

(134 million gallons) of oil were released into the ocean. Oil spread from the deep ocean to the surface and nearshore environment, from Texas to Florida. The oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine life. The oil spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf of Mexico. Extensive response actions, including cleanup activities and actions to try to prevent the oil from reaching sensitive resources, were undertaken to try to reduce harm to people and the environment. However, many of these response actions had collateral impacts on the environment and on natural resource services. The oil and other substances released from the well in combination with the extensive response actions together make up the DWH oil spill.

In accordance with the Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and Record of Decision (ROD), the AL TIG has prepared this draft RP IV/EA, which simultaneously fulfills requirements under the Oil Pollution Act (OPA) and the National Environmental Policy Act (NEPA) and proposes a range of restoration alternatives to compensate the public for lost recreational use opportunities in Alabama caused by the DWH oil spill. OPA requires the Trustees to develop a restoration plan. NEPA requires federal agencies to develop an EIS for any "major federal action significantly affecting the quality of the human environment." The draft RP IV/EA describes the restoration planning process and provides analysis focusing on project-specific issues in an integrated EIS tiered from the Final PDARP/PEIS.

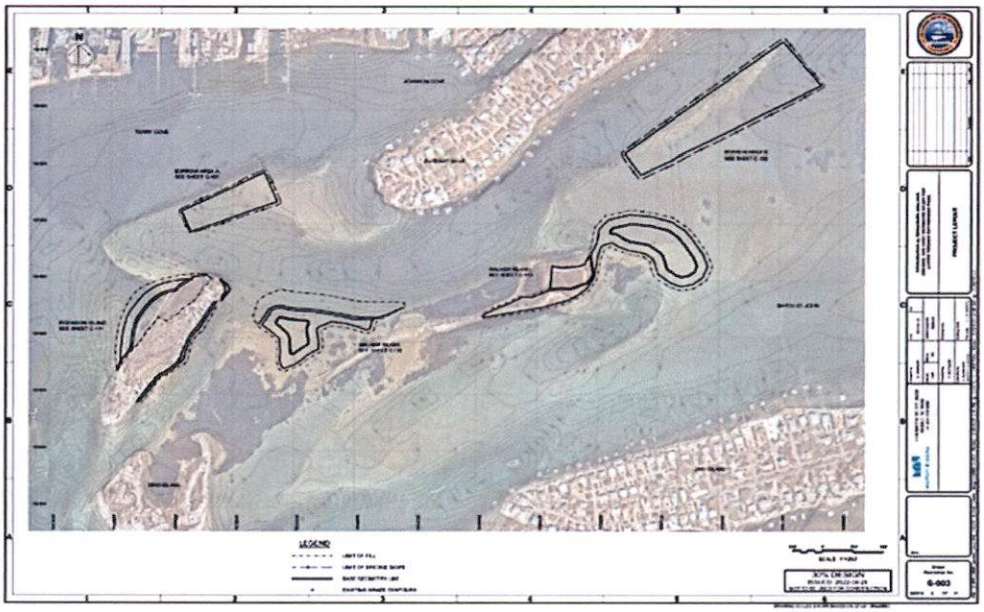
Proposed Alabama Restoration Projects:

In the draft RP IV/EA, the AL TIG evaluates eleven restoration alternatives. Seven of the restoration alternatives are identified as preferred alternatives. The restoration alternatives are independent of each other and may be selected independently by the AL TIG following completion of the Final RP IV/EA. Following are the restoration alternatives considered for implementation in the draft RP IV/EA:

1. Lower Perdido Islands Habitat Restoration – Phase 2

The purpose of the Lower Perdido Islands Habitat Restoration – Phase 2 Project is to support conservation and restoration of valuable coastal habitats in the Lower Perdido Bay area. The project is being designed to reduce erosion of these habitats, restore habitat, and improve resilience of the Lower Perdido Islands and the surrounding community. The two major project components are 1) Walker Island West, and 2) Walker Island East. Proposed habitat types for restoration include marsh, beach, dune, scrub shrub, and upland coastal habitat (see maps of project elements at the end of this form). Key project features include obtaining local sediment for material placement to enhance, restore, or create coastal habitat within the Lower Perdido system using local sediment borrow areas and planting of select habitat types. A planting plan was developed to support restoration following the placement of fill. Around 95,000 total plants are proposed to be planted after creation of

the new coastal habitats on the project islands. Robinson Island will also be enhanced with non-NRDA funds.



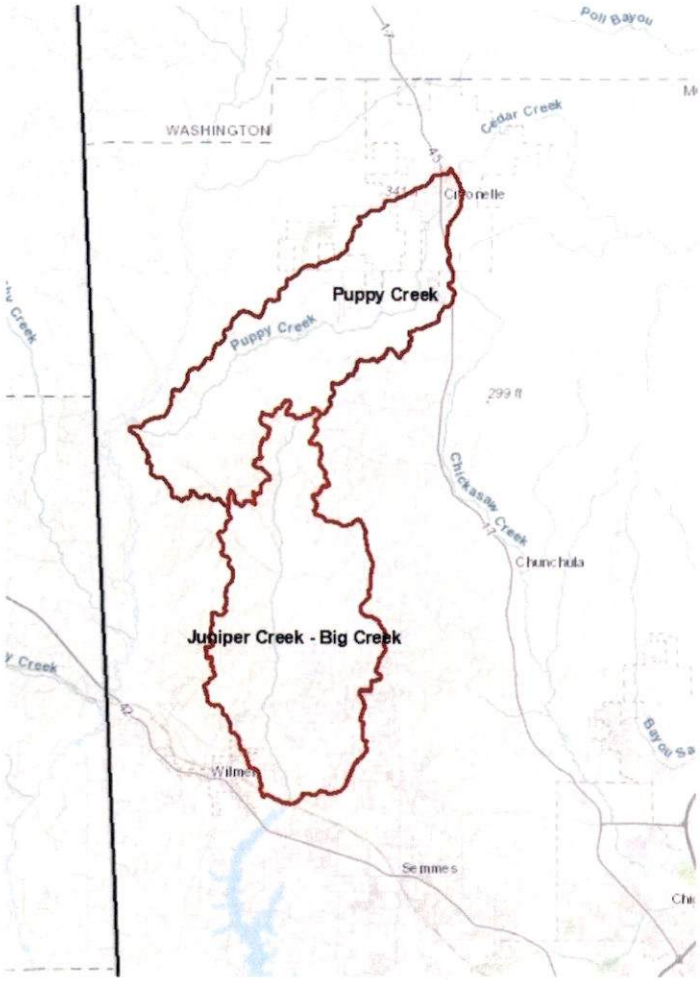
2. Puppy Creek – Juniper Creek – Big Creek Nutrient Reduction

The primary goal of the nutrient reduction project is to improve water quality by reducing nutrient and sediment loading. The health of the Gulf of Mexico depends upon the health of its estuaries, and the health of those coastal waters is influenced by land uses in the watersheds of its tributaries. In the five Gulf States, over 80 percent of the acreage is in private ownership and is used for forestry and agriculture. This watershed-scale project would restore water quality impacted by the DWH oil spill by reducing nutrients and the sediments carrying them into coastal waters. Runoff from cropland, grassland, forest, and urban sources contributes nutrients and sediments to coastal Gulf waters that adversely affect their health. While agricultural and forested lands are not the sole contributors (and in many instances, not the leading contributors) of nutrients to coastal waters, there are opportunities to address this resource concern at these sources within the Puppy Creek and Juniper Creek-Big Cedar Creek watersheds. This project will span over 20,400 acres. One-hundred and eight (108) conservation practices have been implemented that either help to avoid, control, or trap nutrients within Weeks Bay and Fowl River watersheds. Extending our efforts to upstream watersheds would provide opportunities to work with landowners in the Gulf Coast region to address nutrient and sediment runoff at the source.

The United States Department of Agriculture would provide outreach and technical assistance to voluntary participants (private landowners), especially on acres within the watersheds where conservation measures would have the greatest potential to improve water quality, to develop conservation plans and implement nutrient reduction-related

conservation practices. The project proposes to implement clusters of conservation practices within the smallest watershed practicable with the goal of making a discernable difference in water quality at the watershed level. Examples of conservation practices include erosion and sediment control practices such as cover crops, conservation tillage, and field borders. Although cattle production is not the primary agricultural industry in the watershed, livestock exclusion from stream, wetlands, and drainage ways would be a priority conservation measure.

The proposed conservation practices would reduce nutrient and sediment losses from the landscape, reduce nutrient and sediment loads to streams and downstream receiving waters, and reduce water quality degradation in watersheds that could provide benefits to coastal watersheds and marine resources. While a targeted approach is expected to reduce pollution and hydrologic degradation, implementation of conservation practices depends on landowner participation and, therefore, outreach is a key component of the overall effort.



3. Stewardship of Coastal Alabama Beach Nesting Bird Habitat Phase II

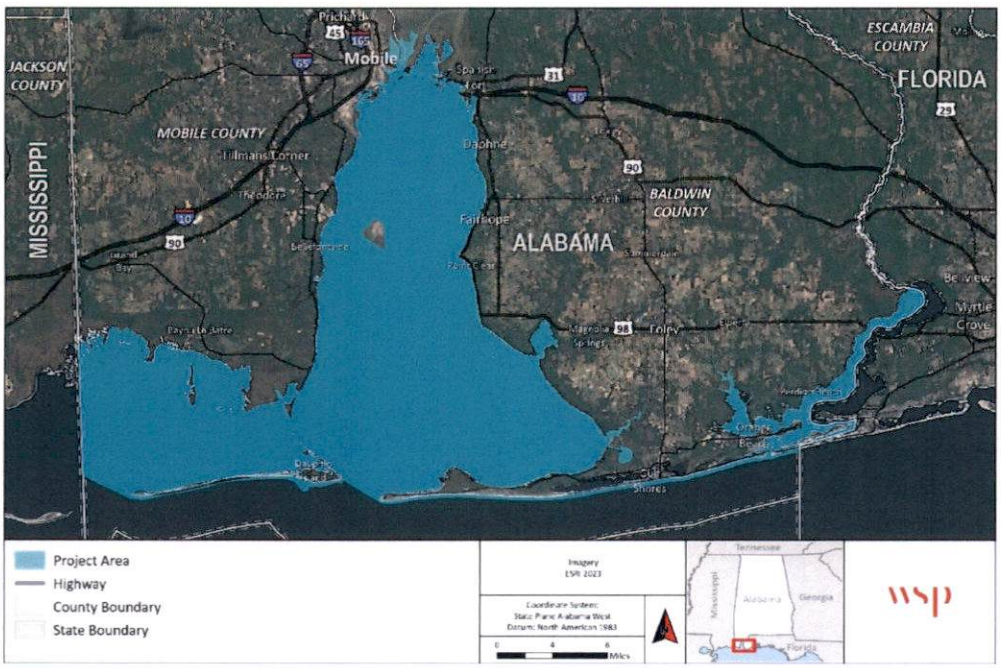
This project works to improve the status of beach nesting bird species of conservation concern through the continuation of efforts set forth in the Stewardship of Coastal Alabama Beach Nesting Bird Habitat project funded through AL TIG Restoration Plan III/EA (RP III/EA): Provide and Enhance Recreational Opportunities; and Birds.

Stewardship of Coastal Alabama Beach Nesting Bird Habitat – Phase II would continue and expand upon restoration by reducing human disturbance to and predation of nests and chicks of coastal nesting bird species injured by the oil spill, thereby increasing productivity of those species. These techniques have been identified as restoration approaches likely to provide both direct and indirect benefits to birds by the DWH Trustees in the Strategic Framework for Bird Restoration Activities. This proposed five-year project would complement the work of similar initiatives in the Gulf of Mexico in Florida, Mississippi, Louisiana, and Texas. Alabama Department of Conservation and Natural Resources (ADCNR) would be the lead implementing trustee, with DOI as a co-implementing trustee.

The program consists of five components that work together to reduce stressors that impact coastal bird populations while also providing information to support future restoration decision-making. Specific activities and target locations may vary from year to year based on a number of factors including, but not limited to where nesting occurs, what management activities are most successful at each area, and where project implementers are able to gain access (some nesting areas may be located in private property and will require authorization from landowners to access). This project does not include any in-water activities. Project components are as follows:

1. **Conduct stewardship activities to reduce human disturbances that contribute to nest failure.** Human disturbance is of particular concern for beach nesting birds in Coastal Alabama due to the popularity of Alabama's beaches for recreational activities. This disturbance often leads to seasonal nest or colony abandonment in local areas, resulting in egg loss and chick mortality. Reducing anthropogenic disturbance at important nesting areas effectively reduces human disturbance of nesting sites. Project implementers will erect symbolic (temporary post and rope) and/or exclusionary fencing (e.g. electric fencing, metal or vinyl mesh) around nesting areas prior to the start of the nesting season to reduce human ingress and disturbance. While on site, implementers would also work to educate and guide beachgoers to stay away from sensitive nesting areas. Implementers may also engage the public by providing opportunities to view nesting areas through a spotting scope, allowing the public to observe adults incubating eggs and/or feeding small, flightless chicks from a safe distance. These activities serve to encourage protective behavior by the public, further reducing disturbance. While the primary contacts with the public will occur during outreach and signage activities, funding will also be used to support the enforcement of law and local ordinances aimed at protecting nesting beach bird species.

2. **Conduct targeted, coordinated predator management activities.** Site-specific predator management strategies (i.e. trapping and euthanasia) can help increase bird productivity where predators are among the primary causes of nest or fledgling mortality. Funding would support implementation of these activities within Bon Secour NWR, the City of Orange Beach, and lands recently acquired on the West end of Dauphin Island, AL.
3. **Conduct monitoring in support of adaptive management at project sites to determine nesting and fledging success.** Monitoring critical nesting sites, assessing nest success, and determining breeding densities provides insight into the status of Alabama breeding populations for the least tern (*Sternula antillarum*), black skimmer (*Rynchops niger*), snowy plover (*Charadrius nivosus*), and Wilson's plover (*Charadrius wilsonia*), all of which are listed as Alabama Species of Conservation Concern. Nesting activity, nest success, brood success and predator activity will be monitored following previously established protocols that facilitate consistent data collection across similar projects in the Gulf region. In addition to bird numbers and breeding productivity, monitoring will also assess habitat quality, degree of predator activity, extent of human disturbance, and number of people reached with outreach and education activities. These data can serve as a bioindicator of coastal ecosystem health and population effects from human-induced threats, as well as from natural disturbances such as hurricanes, flooding, or storm surge. In addition, special attention will be given to the proximity of nests, eggs, chicks, and adults outside of posted project areas. Project implementers will coordinate routinely to discuss adaptive management of posted areas (e.g., shifting or expanding a posted area).
4. **Deploy decoys or protective measures.** Species-specific decoys will be deployed to attract target bird species to suitable nesting areas (e.g., lower risk of human disturbance or predation). In some cases, species are nesting in areas of high human traffic or predation, which increases the likelihood of failure. Deploying decoys to areas that are not currently used for nesting, but that are deemed suitable habitat, could encourage target species to use habitat that experiences reduced stressors associated with nest or fledgling mortality. Electric fencing may be deployed when feasible and has been shown to be effective at protecting plover nests from predation by mesopredators. Decisions regarding specific deployment locations will be made in coordination with ADCNR and DOI prior to implementation of this work.
5. **Conduct habitat and nesting area enhancements.** Activities such as removing vegetation and installing/distributing shell hash has been shown to be beneficial to several beach nesting species, including least tern and black skimmer. Decisions regarding specific locations and actions will be made in coordination with ADCNR and DOI prior to implementation of this work.



4. Improving Resilience for Oysters by Linking Brood Reef and Sink Reefs (Large Scale) – Component 4 – Mid-lower Mobile Bay, AL

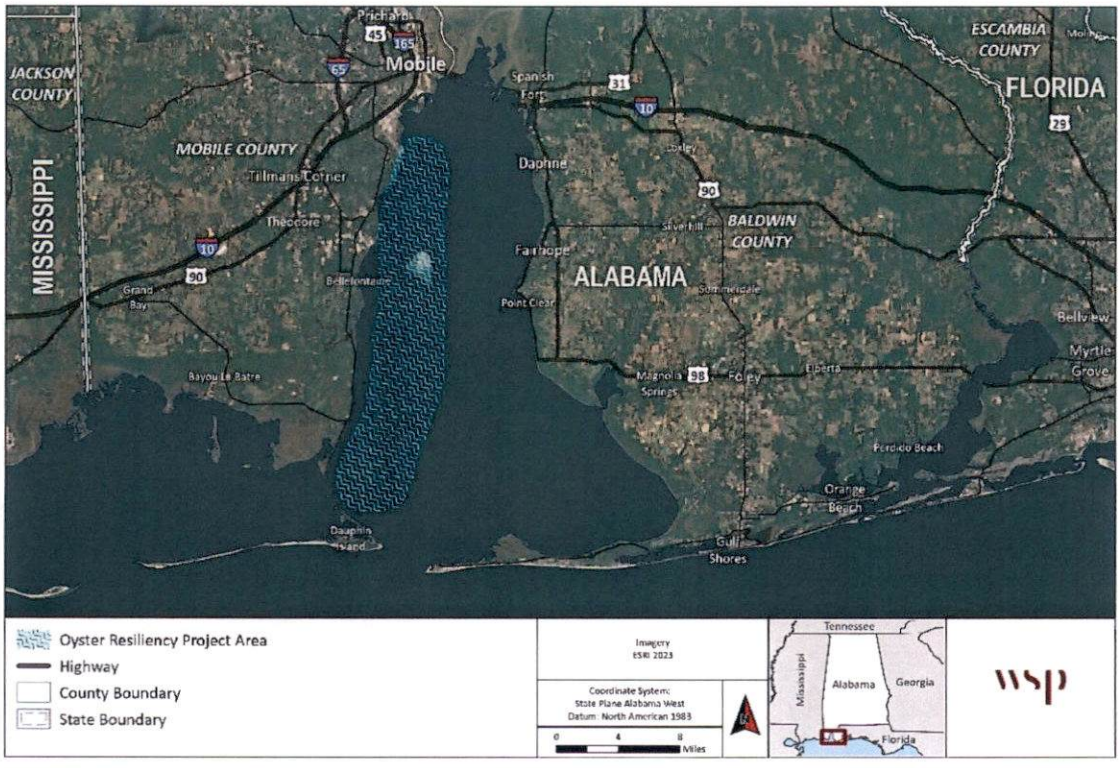
The objective of this project is to increase abundance and long-term resiliency of oysters through the creation of a network of subtidal and nearshore reefs linked by larval transport. This project will increase oyster abundance, spawning stock and improve habitat by restoring a network of oyster reefs at multiple sites across habitat and salinity gradients using a variety of substrates and/or reef configurations.

The Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs (Large-scale) was approved by the Regionwide Trustee Implementation Group (RW TIG) in the RW TIG Restoration Plan I/EA. The Alabama component of the regionwide project included construction of new reefs or supplementation to existing reef areas at two or more sites on the western shore portions of mid-lower Mobile Bay, over an approximately 15-square-mile area. The AL TIG proposes to expand the scope of this project for the Alabama component by adding funds to the already approved regionwide project in order to increase the number of reef sites in the previously analyzed areas in Alabama.

Brood reefs will be built with large, high-relief material that will still permit harvesting based on limited harvest technique(s). Based on the best available science, the reefs will be sited in such a way that larvae produced on the brood reefs will drift toward the commercially harvestable reefs. The project will construct up to 30 acres of new oyster reefs. Cultch materials may include natural oyster shell or an alternative substrate such as crushed limestone. Oyster shell cultch would be seasoned prior to deployment to minimize adverse impacts to water quality. Limestone cultch is generally free of fine particulates and

does not typically require washing or aging prior to deployment. ADCNR typically uses #3 (1.5 – 3 inches) or #4 (1 – 2.5 inches) aggregate limestone for cultch planting. The specific type, size, and depth of cultch material will be selected based on existing substrate type, localized wave action, and other site-specific characteristics as well as resource availability. It is anticipated that contractor(s) selected to construct the new reefs will transport cultch by push boat and barge to the site and deploy the material off the deck, placing it into reef configurations using skid steers, excavator shovels, or high-pressure water hoses.

To increase resilience, reefs will be placed along a salinity gradient based on site conditions. Given the annual variation in salinity, spawning success may vary from year to year within a site. Furthermore, where possible, constructing reefs along an intertidal-subtidal gradient will increase the likelihood of restoring the population linkage between reefs that were disrupted by the spill. Reefs will be constructed at a height to keep oysters out of hypoxic bottom waters and where possible, reefs will be constructed on suitable hard substrate that currently do not support oysters. Water depth in the action area generally ranges from approximately 7 – 12 feet. If the restoration site is not naturally colonized by spat, other methods will be used such as remote spat setting or the transfer of adult oysters to the site.



5. Oyster Grow-Out and Restoration Reef Placement – 5 Year Continuation

The Oyster Grow Out and Restoration Reef Placement – 5 Year Continuation Project proposes to fund the continuation of the work conducted by The Auburn University Marine Extension and Research Center for the original Oyster Grow Out and Restoration Reef Placement project. This project would evaluate nutrient concentrations, assess substrate conditions, evaluate oyster recruitment potential, evaluate larval distribution patterns, and install up to 15 dense spawning aggregate structures over a five year period in the Mississippi Sound and Bon Secour Bay, identifying and prioritizing future restoration reef locations (including nearshore living shorelines and intertidal reefs), and monitoring the success in terms of oyster survival and reproduction of both the grow-out areas and restoration sites to determine effective techniques to increase the sustainability of oyster populations in Alabama. This project will build upon other efforts by the Alabama Coastal Foundation's Oyster Shell Recycling Program, the Mobile Bay Oyster Gardening effort, and their recent projects that have demonstrated successful plantings, and subsequent spawning of advanced stocker sized oysters in Mobile Bay and Mississippi Sound. The project does not propose to construct any new artificial reefs. However, this project would complement other oyster restoration projects in Alabama by providing 1-year old oysters for placement on existing reefs, living shorelines, or cultched areas, starting one year after project installation. Care would be taken to not place the grow out areas in close proximity to any existing oyster reef.

6. Bayfront Park Restoration and Improvement Phase IIA-IIB

This project proposes to increase the funding allocated to the Bayfront Park Restoration and Improvement— Phases IIA and IIB project to account for increases in the cost of construction of the amenities, specifically the planned boardwalk and boardwalk pavilions. The project will include the following:

• Update and replacement of playground equipment with a new pavilion.

• Replacement and expansion of footprint for existing boardwalk with overlooks, with a proposed dimension of approximately 2,250 linear feet.

• Additional crushed aggregate and concrete walkways and concrete for Americans with Disabilities Act (ADA) parking.

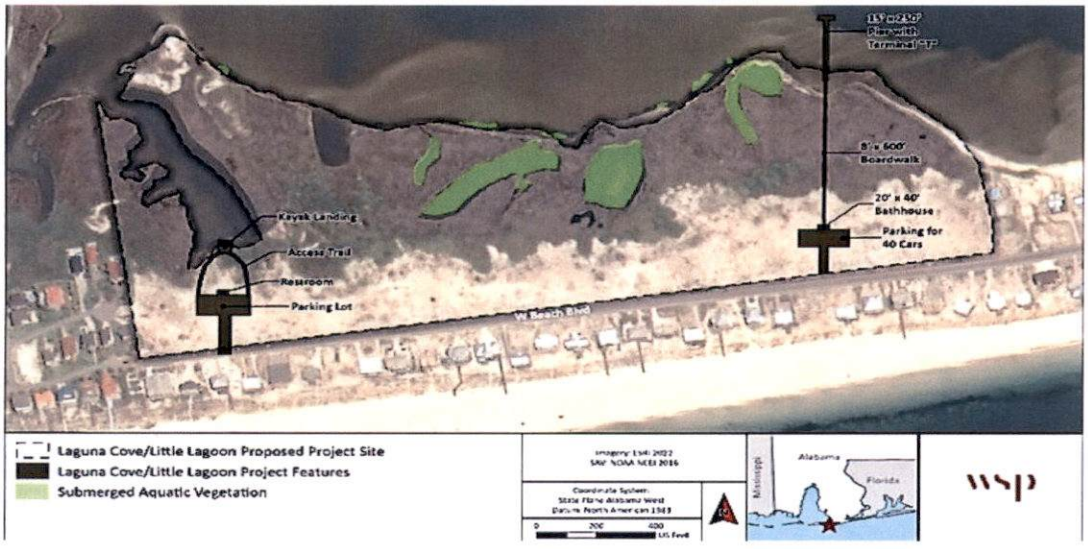
The increase in funds aims to complete the originally planned construction elements that were approved in AL TIG RP III/EA: Provide and Enhance Recreational Opportunities; and Birds and all actions will remaining in within the original approved footprint. Consultation for this project has been completed - USFWS (NO: 2019-I-1343, Date: 01/14/2020) and NMFS (NO: SERO-2019-03563, Date: 02/25/2020).

7. Laguna Cove Little Lagoon Natural Resource Protection Small Scale Amenities

The Laguna Cove Little Lagoon Natural Resource Protection project, which included land acquisition and public access improvements, was selected for implementation by the AL TIG in Restoration Plan I/EIS (RP I/EIS): Provide and Enhance Recreational Opportunities. Laguna Cove consists of two undeveloped tracts of land, totaling approximately 53 acres near Little Lagoon in Gulf Shores, Southwest Baldwin County, Alabama. As planned in RP I/EIS, ADCNR State Parks Division successfully purchased the 53-acre property from the Erie Meyer Foundation and transferred the property to the City of Gulf Shores. The City of Gulf Shores then developed the plans for the public access improvements outlined in the RP I/EIS. These improvements included parking (including ADA-accessible parking), a bathhouse and fishing pier, boardwalk, kayak launch, ADA-accessible restrooms, and sea turtle-friendly lighting. The City of Gulf Shores requested bids for the remaining amenities and all bids came back higher than the project budget. The AL TIG is now revisiting the project and considering allocating additional funds to complete some level of the public access improvements.

For this small-scale budget increase, the AL TIG is analyzing an increase to the original project budget to construct the parking, boardwalk, kayak launch, ADA-accessible restrooms, and sea turtle-friendly lighting. The bathhouse and fishing pier are not proposed for completion under this small-scale alternative. Because the AL TIG has used all of the originally allocated funds under the Provide and Enhance Recreational Opportunities restoration type, the AL TIG proposes using earned interest funds for this project. ADCNR would continue to be the implementing trustee for this project.

Informal consultation under ESA Section 7 was initiated for the Laguna Cove Project in November of 2016. Formal consultation was then initiated in March of 2017 with the Service providing a Biological Opinion for the project to ADCNR in July of 2017. Project activities described above are covered under the existing consultation (Control Number: 2017-F-0531, Date: 08/16/2017).



Summary of Coastal Zone Management Consistency Review for Seven Proposed Projects:

The AL TIG's view of the principal enforceable policies of the ACAMP that are potentially applicable to the projects proposed in the draft RP IV/EA and the basis of our determination of consistency with these policies is reflected in the following summaries:

1. Lower Perdido Islands Habitat Restoration – Phase 2

A consistency review request for this project was submitted by The Nature Conservancy of Alabama and approved on May 1, 2024. Therefore, no further consistency review is required.

2. Puppy Creek – Juniper Creek - Big Creek Nutrient Reduction

This project is outside of the coastal zone and is therefore not subject to a consistency review.

3. Stewardship of Coastal Alabama Beach Nesting Bird Habitat Phase II

335-8-2-.01 General Rules Applicable to all Uses Subject to the ACAMP

Pursuant to Ala. Admin. Code r. 335-8-2-.01(2), uses subject to the ACAMP shall not have an adverse impact on historical, cultural or archeological resources, on wildlife and fisheries habitats (especially the critical habitat of endangered species listed pursuant to 16 U.S.C. §§ 1531-1543), or on public access to tidal and submerged lands, navigable waters, beaches and other public recreational resources. While there could be some minor adverse

impacts to these resources, the implementation of BMPs would ensure that these impacts are avoided or minimized to the maximum extent possible.

Provisions of ACAMP Considered Inapplicable to the Stewardship of Coastal Alabama Beach Nesting Bird Habitat Phase II Project

The following additional elements of the ACAMP were considered but based on our review, did not appear to be applicable to the Stewardship of Coastal Alabama Beach Nesting Bird Habitat Phase II project:

335-8-2-.02 Dredging and/or Filling
335-8-2-.03 Mitigation
335-8-2-.04 Marinas
335-8-2-.06 Shoreline Stabilization and Erosion Mitigation
335-8-2-.07 Canals, Ditches and Boatslips
335-8-2-.08 Construction and Other Activities on Gulf Front Beaches and Dunes
335-8-2-.09 Groundwater Extraction
335-8-2-.10 Siting, Construction and Operation of Energy Facilities
335-8-2-.11 Commercial and Residential Development
335-8-2-.12 Discharges to Coastal Waters (greater than 1 million gallons per day)

4. Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs (Large Scale) – Component 4 – Mid-lower Mobile Bay, AL

335-8-2-.01 General Rules Applicable to all Uses Subject to the ACAMP

Pursuant to Ala. Admin. Code r. 335-8-2-.01(1), all uses subject to the ACAMP that are in violation with applicable state air and water quality standards shall not be permitted or certified to be in compliance with the ACAMP. The proposed project shall not violate any state air quality standards and best management practices (BMPs) will be observed to ensure that state water quality standards are not violated. Although the project may cause short term impacts to water quality resulting from increased turbidity, any effects to water quality will be temporary and should not violate state water quality standards. Further, the project would also have long-term benefits on water quality because of the newly restored oysters' filter feeding.

Pursuant to Ala. Admin. Code r. 335-8-2-.01(2), uses subject to the ACAMP shall not have an adverse impact on historical, cultural or archeological resources, on wildlife and fisheries habitats (especially the critical habitat of endangered species listed pursuant to 16 U.S.C. §§ 1531-1543), or on public access to tidal and submerged lands, navigable waters, beaches and other public recreational resources. While there could be some minor adverse impacts to these resources, the implementation of BMPs would ensure that these impacts are avoided or minimized to the maximum extent possible.

Provisions of ACAMP Considered Inapplicable to the Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs (Large Scale) – Component 4 – Mid-lower Mobile Bay, AL Project

The following additional elements of the ACAMP were considered but based on our review, did not appear to be applicable to the Improving Resilience for Oysters by Linking Brood Reefs and Sink Reefs (Large Scale) – Component 4 – Mid-lower Mobile Bay, AL Project:

335-8-2-.02 Dredging and/or Filling
335-8-2-.03 Mitigation
335-8-2-.04 Marinas
335-8-2-.05 Piers, Docks, Boathouses, and Other Pile Supported Structures
335-8-2-.06 Shoreline Stabilization and Erosion Mitigation
335-8-2-.07 Canals, Ditches and Boatslips
335-8-2-.08 Construction and Other Activities on Gulf Front Beaches and Dunes
335-8-2-.09 Groundwater Extraction
335-8-2-.10 Siting, Construction and Operation of Energy Facilities
335-8-2-.11 Commercial and Residential Development
335-8-2-.12 Discharges to Coastal Waters (greater than 1 million gallons per day)

5. Oyster Grow-Out and Restoration of Reef Replacement – 5 Year Continuation

335-8-2-.01 General Rules Applicable to all Uses Subject to the ACAMP

Pursuant to Ala. Admin. Code r. 335-8-2-.01(1), all uses subject to the ACAMP that are in violation with applicable state air and water quality standards shall not be permitted or certified to be in compliance with the ACAMP. The proposed project shall not violate any state air quality standards and best management practices (BMPs) will be observed to ensure that state water quality standards are not violated. Although the project may cause short term impacts to water quality resulting from increased turbidity, any effects to water quality will be temporary and should not violate state water quality standards. Further, the project would also have long-term benefits on water quality because of the newly restored oysters' filter feeding.

Pursuant to Ala. Admin. Code r. 335-8-2-.01(2), uses subject to the ACAMP shall not have an adverse impact on historical, cultural or archeological resources, on wildlife and fisheries habitats (especially the critical habitat of endangered species listed pursuant to 16 U.S.C. §§ 1531-1543), or on public access to tidal and submerged lands, navigable waters, beaches and other public recreational resources. While there could be some minor adverse impacts to these resources, the implementation of BMPs would ensure that these impacts are avoided or minimized to the maximum extent possible.

Provisions of ACAMP Considered Inapplicable to the Oyster Grow-Out and Restoration of Reef Replacement – 5 Year Continuation Project

The following additional elements of the ACAMP were considered but based on our review, did not appear to be applicable to the Oyster Grow-Out and Restoration of Reef Replacement – 5 Year Continuation project:

335-8-2-.02 Dredging and/or Filling
335-8-2-.03 Mitigation
335-8-2-.04 Marinas
335-8-2-.05 Piers, Docks, Boathouses, and Other Pile Supported Structures
335-8-2-.06 Shoreline Stabilization and Erosion Mitigation
335-8-2-.07 Canals, Ditches and Boatslips
335-8-2-.08 Construction and Other Activities on Gulf Front Beaches and Dunes
335-8-2-.09 Groundwater Extraction
335-8-2-.10 Siting, Construction and Operation of Energy Facilities
335-8-2-.11 Commercial and Residential Development
335-8-2-.12 Discharges to Coastal Waters (greater than 1 million gallons per day)

6. Bayfront Park Restoration and Improvement Phase IIA-IIB

A consistency review for this project was previously completed as part of the AL TIG RP III/EA: Provide and Enhance Recreational Opportunities; and Birds and was approved on December 17, 2019. As this project is adding funds to the existing project and all construction will remain within the previously approved project area, a consistency review is not required.

7. Laguna Cove Little Lagoon Natural Resource Protection Small Scale Amenities

A consistency review for this project was previously completed as part of AL TIG RP III/EA: Provide and Enhance Recreational Opportunities; and Birds and concurrence was received on December 17, 2019. As this project is adding funds to the existing project and all construction will remain within the previously approved project area, a consistency review is not required.

Conclusion:
Based on this review, we find the projects listed above to be consistent with the Federally approved ACAMP. This letter submits that determination for review by the State coincident with public review of this document.

The Federal Trustees are requesting and would appreciate a response to this determination of consistency as soon as is practicable. We thank you in advance for your efforts to accommodate

this request. If you have any questions regarding this letter, please contact Mr. Michael Barron at 251-421-7030 or at michael_barron@fws.gov.

Sincerely,

Benjamin Frater
Compliance Supervisor