

Appendix J:

Finding of No Significant Impact (FONSI) from
Implementation of the *Alabama Trustee
Implementation Group Final Restoration Plan II
and Environmental Assessment: Restoration of
Wetlands, Coastal, and Nearshore Habitats; Habitat
Projects on Federally Managed Lands; Nutrient
Reduction (Nonpoint Source); Sea Turtles;
Mammals; Birds; and Oysters*

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1.0 INTRODUCTION

The Alabama Trustee Implementation Group (AL TIG) prepared the *Alabama Trustee Implementation Group Final Restoration Plan II and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Mammals; Birds; and Oysters* (RP II/EA) to partially address injuries to natural resources and resource services in the Alabama Restoration Area caused by the *Deepwater Horizon* (DWH) oil spill. The RP II/EA fulfills the AL TIG's requirements under the Oil Pollution Act (OPA), the National Environmental Policy Act (NEPA), and both statutes's implementing regulations. Additionally, the AL TIG completed the RP II/EA pursuant to the DWH Consent Decree,¹ which sets forth the allocations for post-settlement DWH restoration by Restoration Area and for specific Restoration Types.

In accordance with OPA, and as set forth in the DWH Consent Decree and as described in the DWH Trustees' 2016 *Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement* (Final PDARP/PEIS), the AL TIG includes two state trustee agencies and four federal trustee agencies: the Alabama Department of Conservation and Natural Resources (ADCNR); the Geological Survey of Alabama; the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); the United States Department of the Interior (USDOI), represented by the United States Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), and National Park Service (NPS); the United States Department of Agriculture (USDA); and the United States Environmental Protection Agency (USEPA) (collectively the AL TIG).

The RP II/EA tiers from the Final PDARP/PEIS, which is a programmatic document developed by the DWH Trustees to guide and direct the DWH oil spill restoration effort. The Final PDARP/PEIS was prepared in accordance with OPA and associated natural resource damage assessment (NRDA) regulations and under NEPA. The Final PDARP/PEIS includes a portfolio of Restoration Types that addresses the diverse suite of injuries that occurred at both regional and local levels. To continue restoration planning and restoration of lost natural resources and their services in Alabama as a result of the DWH oil spill incident, the RP II/EA focuses on implementing projects to address three of the five Trustee programmatic restoration goals: (1) Restore and Conserve Habitat, (2) Restore Water Quality, and (3) Replenish and Protect Living Coastal and Marine Resources. Monitoring and Adaptive Management (MAM) funds are also being proposed for this plan to address uncertainties with existing data in order to inform and enhance future restoration.

¹ On April 4, 2016, the United States District Court for the Eastern District of Louisiana entered a Consent Decree resolving the DWH Trustees' claims against British Petroleum Exploration and Production (BP) for natural resource damages under OPA. Under the *Consent Decree among Defendant BP Exploration & Production Inc. ("BPXP"), The United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas* (Consent Decree), BP agreed to pay \$8.1 billion in natural resource damages (which includes the \$1 billion that BP previously committed to pay for Early Restoration projects) over a 15-year period. As part of the Consent Decree, BP also agreed to pay up to an additional \$700 million for adaptive management or to address injuries to natural resources that are presently unknown but may become known in the future. The settlement allocated a specific sum of money to the Restoration Areas in each of the Gulf States, as well as to the Regionwide and Open Ocean Restoration Areas, to conduct restoration within each Restoration Area and for specific Restoration Types (NOAA, 2016; U.S. Department of Justice, 2016).

The AL TIG released its first restoration plan *Final Restoration Plan I and Environmental Impact Statement: Provide and Enhance Recreational Opportunities* in May 2017 and selected six restoration projects in Baldwin and Mobile counties to address one Restoration Type, “Provide and Enhance Recreational Opportunities.”

For the remaining seven Restoration Types, in December 2016, as part of its restoration planning efforts, the AL TIG asked the public for project ideas that could benefit Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters in the Alabama Restoration Area. The project submissions received through this process, along with projects previously submitted during prior restoration planning processes, were screened by the AL TIG to develop a reasonable range of alternatives for consideration in RP II/EA. Based on the OPA and NEPA evaluations of this reasonable range, the AL TIG then selected a set of preferred restoration alternatives to be funded wholly or in part under the AL TIG’s Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction; Sea Turtles; Marine Mammals; Birds; and Oysters Restoration Type allocations. These alternatives are intended to help restore and conserve habitats and resources that were injured by the DWH oil spill.

The Wetlands, Coastal, and Nearshore Habitats Restoration Type is intended to address extensive injuries to wetland, coastal, and nearshore habitats across the northern Gulf of Mexico and in Alabama specifically. Oil and cleanup efforts on the shoreline of Alabama injured habitats and the species reliant on the coastal habitat for their lifecycle.

The Habitat Projects on Federally Managed Lands Restoration Type focuses on injuries to federally managed land. This included Bon Secour National Wildlife Refuge (BSNWR), Grand Bay National Wildlife Refuge, and several small parcels on BLM property. These areas provide important habitats for sea turtles, birds, and other resources injured by the spill.

The Nutrient Reduction (Nonpoint Source) Restoration Type is intended to help address injuries to water quality. Improvements will be made through nutrient reduction projects, which will have cascading ecological benefits, increasing the overall health and productivity of the Gulf of Mexico ecosystem and helping restore natural resources injured by the DWH oil spill. In coastal Alabama, an ongoing watershed planning process is documenting these linkages.

The Sea Turtles Restoration Type is intended to address injuries to four species of sea turtles that inhabit the Gulf of Mexico (loggerhead, Kemp’s ridley, green, and hawksbill). All these species are listed as threatened or endangered under the Endangered Species Act (ESA). The injuries associated with the DWH oil spill include mortality of all life stages (i.e., juvenile and adult sea turtles, small juvenile sea turtles, and hatchling sea turtles). In addition, many nesting areas were impacted.

The Marine Mammals Restoration Type is intended to address injuries to marine mammals. Animals suffered physical damage and toxic effects from the oil components. An injury assessment of marine animals found high levels of mortality and reproductive failure. Because cetaceans are long-lived animals, give birth to only one calf every few years, and are slow to reach reproductive maturity, these stocks would take many decades to recover without active restoration.

The Birds Restoration Type is intended to address injuries to birds. The spill and response activities resulted in high numbers of dead and injured birds, with at least 93 species of birds exposed to DWH oil, including both resident and migratory species and across all five Gulf Coast states.

Lastly, the Oysters Restoration Type is intended to address injuries to oysters. Because of the DWH oil spill, 8.3 million adult-equivalent oysters were lost in the northern Gulf of Mexico. The oil affected

spawning stock, larval production, spat settlement, and spat substrate availability. The loss of oysters also increased shoreline erosion.

2.0 LEAD AND COOPERATING AGENCIES

The Council on Environmental Quality's (CEQ) NEPA implementing regulations (40 Code of Federal Regulations [CFR] 1500–1508) require a federal agency to serve as lead agency to supervise the NEPA analysis when more than one federal agency is involved in the same action (40 CFR 1501.5(a)). The AL TIG designated the USDA to serve as the lead federal agency for NEPA compliance for RP II/EA. Each of the other federal and state co-Trustees are participating 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 (DWH) Oil Spill (SOP)* (DWH Trustees 2016:27, Appendix F:2–3).

3.0 PUBLIC PARTICIPATION

The AL TIG issued a notice of solicitation to the public on December 20, 2016, to request submission of project ideas through February 3, 2017. On August 30, 2017, the AL TIG then issued a Notice of Intent informing the public that it was initiating the drafting of a restoration plan to address the following Restoration Types: Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Non-point Source); Sea Turtles; Marine Mammals; Birds; and Oysters.

Project ideas were considered and evaluated by the AL TIG as documented in the draft RP II/EA. On April 5, 2018, a Notice of Availability of the Draft RP II/EA was published in the *Federal Register*. On April 18, 2018, the AL TIG held a public meeting at the 5 Rivers Delta Resource Center in Spanish Fort, Alabama, to facilitate the public review and comment process. The meeting and notice encouraged the public to review and comment on the draft RP II/EA during the 30-day comment period that ran through May 7, 2018. The public was also notified of the availability of the draft RP II/EA for comment online (<http://www.gulfspillrestoration.noaa.gov/restoration-areas/alabama>). Comments were accepted via an online public comment portal, in person at the April 18 meeting, and via the U.S. Postal Service. The AL TIG received submissions from private citizens; businesses; federal, state and local agencies; and non-governmental organizations. The AL TIG reviewed the comments and considered them prior to finalization of the RP II/EA. Chapter 16 of the RP II/EA provides further detail on the public comment process, including a summary of all public comments received on the draft RP II/EA and the AL TIG's responses.

4.0 ADOPTION OF THE RP II/EA NEPA ANALYSIS BY FEDERAL AGENCY MEMBERS OF THE ALABAMA TIG

Each federal agency represented on the AL TIG must make its own independent evaluation of the NEPA analysis in support of its decision-making responsibilities. In accordance with 40 CFR 1506.3(a) and the SOP (DWH Trustees 2016: Appendix F:4), each of the federal agencies participating in the AL TIG has reviewed the RP II/EA, found that it meets the standards set forth in its own NEPA implementing procedures, and accordingly has adopted the RP II/EA NEPA analysis.

5.0 DESCRIPTION OF PROPOSED ACTIONS AND ALTERNATIVES

NEPA and the CEQ NEPA regulations require the federal agency decision maker to consider the environmental effects of the proposed action and a reasonable range of alternatives, including the no action alternative (42 USC § 4332; 40 CFR § 1502.14). The RP II/EA considers 26 project alternatives. Of these 26 projects, the AL TIG identified 20 preferred alternatives to be fully funded from Restoration Type funds, one preferred alternative to be partially funded from Restoration Type funds and

partially funded from MAM funds, and one activity to be fully funded using MAM funds. A detailed description of each of the alternatives considered in the RP II/EA is provided in Chapter 3 of the RP II/EA. Projects proposed for engineering and design only at this time are designated with “E&D.”

5.1 Alternatives Analyzed: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; Nutrient Reduction (Nonpoint Source); Sea Turtles; Marine Mammals; Birds; and Oysters

Table 1 describes the restoration alternatives analyzed in the RP II/EA.

Table 1: Restoration Alternatives

Alternative Name	Location	Summary	Preferred Alternative
Wetlands, Coastal, and Nearshore Habitats			
Perdido River Land Acquisition (Molpus Tract)	Perdido River	Acquire 1,391 acres along the river to conserve and restore coastal habitats. Project actions would include clearing and prescribed burns, which would ease hydrologic restoration and return land to longleaf pine.	No
Magnolia River Land Acquisition (Holmes Tract)	Magnolia River	Acquire 80 acres to be purchased by the Weeks Bay Foundation (WBF) and managed by the Weeks Bay National Estuarine Research Reserve (Weeks Bay NERR) to protect habitats and design a long-term management plan for the area.	Yes
Weeks Bay Land Acquisition (East Gateway Tract)	Weeks Bay	Acquire 175 acres to be purchased by the WBF and managed by the Weeks Bay NERR to restore the land. This project will develop a shoreline restoration plan and includes E&D for removal of the bulkhead.	Yes
Weeks Bay Land Acquisition (Harrod Tract)	Weeks Bay	Acquire 231 acres to be purchased by the WBF and managed by Weeks Bay NERR. A Restoration plan will be created that includes strategies on invasive species control, native vegetation planting, and erosion control.	Yes
Lower Perdido Islands Restoration Phase I (Engineering and Design [E&D])	Perdido Islands	Develop a conservation management plan for sensitive island habitats and conduct a sediment modeling study to inform future habitat restoration activities on the islands. This project also includes installation of educational signage and tree plantings.	Yes
Southwestern Coffee Island Habitat Restoration Project— Phase I (E&D) (also evaluated under the Birds Restoration Type)	Coffee Island	Implement two tasks: (1) synthesize data on colonial wading bird and shorebird nesting data from coastal Alabama, and (2) conduct E&D and permitting to restore habitats on Coffee Island.	Yes

Alternative Name	Location	Summary	Preferred Alternative
Habitat Projects on Federally Managed Lands			
Little Lagoon Living Shoreline	Little Lagoon	Implement living shoreline techniques to reduce erosion and restore at least 2,200 feet of Little Lagoon shoreline. Lay rows of biodegradable coconut fiber logs, plant grass, and provide native mussel seeding (if possible) to create a shoreline buffer.	Yes
Restoring the Night Sky – Assessment, Training, and Outreach (E&D) (also evaluated under Sea Turtles Restoration Type)	Baldwin and Mobile County coasts	Determine the impacts of artificial lighting on sea turtle nesting on federally managed lands, create a plan to mitigate lighting issues, and help teach local government officials how to better address lighting pollution.	Yes
Nutrient Reduction (Nonpoint Source)			
Bayou La Batre Nutrient Reduction	Portersville Bay and Mississippi Sound	Reduce nutrient input to improve the ecological health of these areas. This project would use United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) conservation practice standards (CPS) such as cover crops and conservation tillage.	No
Toulmins Spring Branch (E&D)	Toulmins Spring	Implement E&D project to reduce the amount of nutrients and pollution that enters the Toulmins Spring. This project will include best management practices, a watershed assessment, and a conceptual plan.	Yes
Fowl River Nutrient Reduction	Mobile Bay	Restore water quality through reducing nutrients and sediment loadings into Mobile Bay. This project will use USDA-NRCS CPS practices like cover crops and conservation tillage.	Yes
Weeks Bay Nutrient Reduction	Weeks and Mobile Bays	Restore water quality by reducing nutrients and sediment loadings in Weeks and Mobile Bays. This project will use USDA-NRCS CPS practices like cover crops and conservation tillage.	Yes
Sea Turtles			
Coastal Alabama Sea Turtle (CAST) Conservation Program	Alabama	This project will continue and expand the Share the Beach program, including sea turtle nesting protection activities, outreach and education to the public, and enhanced data collection related to nesting sea turtles.	Yes

Alternative Name	Location	Summary	Preferred Alternative
CAST Triage	City of Orange Beach	This project will establish a sea turtle triage center and a program for the initial triage, treatment, release, and/or transfer of injured or ill sea turtles. The program will educate the public about anthropogenic threats to sea turtles, science supporting how to address identified threats, and best conservation practices.	Yes
CAST Habitat Usage and Population Dynamics	Alabama Coast	Collect data on sea turtles to study distribution and habitat use. This project will collect data through genetic analysis, stable isotope analyses, mark-recapture, and habitat modeling.	Yes
CAST Protection: Enhancement and Education	Alabama state waters	Enhance state enforcement of the ESA and increase sea turtle protection through increased public awareness, increased state resources and patrol hours, distribution of TEDs for the skimmer trawl fishery, systematic data collection on fisheries bycatch issues, and reduction of anthropogenic impacts to nesting sea turtles.	Yes
Restoring the Night Sky– Assessment, Training, and Outreach (E&D) (also evaluated under the Habitat Projects on Federally Managed Lands Restoration Type) ²	Baldwin and Mobile County coasts	Determine the impact of artificial lighting on sea turtle nesting on federally managed lands, create a plan to mitigate lighting issues, and help teach local government officials how to better address lighting pollution.	No
Marine Mammals			
Enhancing Capacity for the Alabama Marine Mammal Stranding Network	Alabama waters	Implement program to better understand the causes of cetacean illness and death. This project will increase data consistency entered into the marine mammal health database. The Alabama Marine Mammal Stranding Network (ALMMSN) will expand infrastructure and staff for communication and data management.	Yes

² As noted in Section 2.7 of the RP II/EA, Preferred Alternative, ultimately this project was considered appropriate for MAM funding and would be implemented using that funding, rather than from the Sea Turtles Restoration Type

Alternative Name	Location	Summary	Preferred Alternative
Assessment of Alabama Estuarine Bottlenose Dolphin Populations and Health ³	Mobile Bay, Perdido Bay, & adjacent coastal waters in the Gulf of Mexico	Data collection and analysis of bottlenose dolphin abundance, distribution, and habitat use in Alabama waters. Abundance estimates would follow established protocols for photo-ID mark-recapture surveys. This study would also include dolphin health information such as prey/diet assessment and contaminant analysis.	No
Alabama Estuarine Bottlenose Dolphin Protection: Enhancement and Education	Alabama	This project will reduce injury and mortality in Alabama estuarine bottlenose dolphins through increased state enforcement training, additional resources and patrol hours from MMPA (Marine Mammal Protection Act of 1972) enforcement; systematic studies on fisheries bycatch and harassment issue; and comprehensive public outreach/education on identified target issues.	Yes
Birds			
Southwestern Coffee Island Habitat Restoration Project—Phase I (E&D) (also evaluated under the Wetlands, Coastal, and Nearshore Habitats Restoration Type)	Coffee Island	Implement two tasks: (1) synthesize data on colonial wading bird and shorebird nesting data from coastal Alabama, and (2) conduct E&D and permitting to restore habitats on Coffee Island.	Yes
Colonial Nesting Wading Bird Tracking and Habitat Use Assessment—Four Species	Alabama coast	Collect monitoring data that would address information gaps on nesting habitat used by wading birds injured by the DWH spill. Four species would be targeted for study: tricolored heron, little blue heron, cattle egret, and white ibis.	No
Colonial Nesting Wading Bird Tracking and Habitat Use Assessment—Two Species	Alabama coast	Collect monitoring data that will address information gaps on nesting habitat used by wading birds injured by the DWH spill. Two species would be targeted for study: tricolored heron and the blue heron or the white ibis (based on additional recommendations from Trustee bird experts).	Yes
Oysters			

³ As noted in Section 2.7 of the RP II/EA, Preferred Alternative, ultimately this project was considered appropriate for MAM funding and would be implemented using that funding, rather than from Marine Mammal Restoration Type.

Alternative Name	Location	Summary	Preferred Alternative
Oyster Cultch Relief and Reef Configuration	Mobile Bay	This project will focus on studying variables that affect oyster populations, find optimum reef qualities for oyster populations, and predict the cost/benefits to cultch configurations that are not traditional.	Yes
Side-scan Mapping of Mobile Bay Relic Oyster Reefs (E&D)	Mobile Bay	Identify waters that will be able to support oyster cultch and in the long-term reestablish oysters in the mid- to lower Mobile Bay. This will be done through side-scan mapping to determine the best locations for future oyster reef restoration.	Yes
Oyster Hatchery at Claude Peteet Mariculture Center–High Spat Production with Study	Mobile Bay, Claude Peteet Mariculture Center	Construct an oyster hatchery at the Claude Peteet Mariculture Center and develop a comprehensive oyster restoration plan for Alabama. This project will create about 65 million, 10-day-old spat each year for 4 years to be deployed at areas identified for oyster populations. The oyster restoration plan will include recommendations to support sustainable, stable, and resilient oyster populations in coastal Alabama.	Yes
Oyster Hatchery at Claude Peteet Mariculture Center–Low Spat Production without Study	Mobile Bay, Claude Peteet Mariculture Center	Build an oyster hatchery at the Claude Peteet Mariculture Center. This project would create about half the spat as the high spat production alternative for 4 years and the spat would be deployed at areas identified for oyster populations.	No
Oyster Grow-Out and Restoration Reef Placement	Grand Bay, Portersville Bay, and Bon Secour Bay	Develop three “off-bottom oyster grow-out areas.” This project will also identify future restoration reef locations and monitoring oysters at the grow-out areas.	Yes

5.2 No Action Alternative

NEPA requires consideration of a no action alternative as a basis for comparison of the potential environmental consequences of the action alternatives(s) considered in a restoration plan. Under the no action alternative, the AL TIG would not, at this time, select and implement any of the restoration alternatives evaluated in this RP II/EA intended to help restore injuries from the DWH oil spill. Accordingly, the no action alternative would not meet either the DWH Trustees’ purpose and need for implementing restoration alternatives that address lost natural resources and their services as described in Section 5.3.2 of the Final PDARP/PEIS or the AL TIG’s goal of improving ecosystem health in the Alabama Restoration Area through restoration and conservation.

5.3 Preferred Alternatives

After evaluating all 26 projects included in the reasonable range of alternatives, the AL TIG ultimately proposed to fund 22 restoration alternatives: 20 preferred alternatives to be fully funded from

Restoration Type funds, one preferred alternative to be partially funded from Restoration Type funds and partially funded from MAM funds, and one activity to be fully funded using MAM funds (see Table ES-1 in the RP II/EA). The AL TIG has determined that implementation of these alternatives and project elements associated with these alternatives best meets the OPA selection criteria and supplemental criteria developed by the AL TIG. Table 2 summarizes the alternatives preferred for Restoration Type funding.

Table 2: Preferred Alternatives to be Funded with Restoration Type Allocations and MAM Funds

Wetlands, Coastal, and Nearshore Habitats
Magnolia River Land Acquisition (Holmes Tract)
Weeks Bay Land Acquisition (East Gateway Tract)
Weeks Bay Land Acquisition (Harrod Tract)
Lower Perdido Islands Restoration Phase I (E&D)
Southwestern Coffee Island Habitat Restoration Project—Phase I (E&D) (also evaluated under the Birds Restoration Type)
Habitat Projects on Federally Managed Lands
Little Lagoon Living Shoreline
Restoring the Night Sky – Assessment, Training, and Outreach (E&D) (also evaluated under Sea Turtles Restoration Type)
Nutrient Reduction (Nonpoint Source)
Toulmins Spring Branch (E&D)
Fowl River Nutrient Reduction
Weeks Bay Nutrient Reduction
Sea Turtles
CAST Conservation Program
CAST Triage
CAST Habitat Usage and Population Dynamics
CAST Protection: Enhancement and Education
Restoring the Night Sky – Assessment, Training, and Outreach (E&D) (also evaluated under Habitat Projects on Federally Managed Lands Restoration Type) ⁴

⁴ As noted in Section 2.7 of RP II/EA, Preferred Alternative, ultimately this project was considered appropriate for MAM funding and would be implemented using that funding, rather than from the Sea Turtles Restoration Type.

Marine Mammals
Enhancing Capacity for the Alabama Marine Mammal Stranding Network
Assessment of Alabama Estuarine Bottlenose Dolphin Populations and Health ⁵
Alabama Estuarine Bottlenose Dolphin Protection: Enhancement and Education
Birds
Southwestern Coffee Island Habitat Restoration Project—Phase I (E&D) (also evaluated under the Wetlands, Coastal, and Nearshore Habitats Restoration Type)
Colonial Nesting Wading Bird Tracking and Habitat Use Assessment—Two Species
Oysters
Oyster Cultch Relief and Reef Configuration
Side-scan Mapping of Mobile Bay Relic Oyster Reefs (E&D)
Oyster Hatchery at Claude Peteet Mariculture Center—High Spat Production with Study
Oyster Grow-Out and Restoration Reef Placement

6.0 ANALYSIS SUMMARY

For RP II/EA, the AL TIG developed a screening process to identify a reasonable range of alternatives to be further evaluated under OPA and NEPA. This process is more fully described in Section 2.4, Screening for Reasonable Range of Alternatives, of the RP II/EA. Ultimately, the AL TIG identified alternatives preferred for implementation in the RP II/EA based on the criteria set forth in OPA, NEPA, and additional factors developed by the AL TIG. More information is provided on these processes in Chapter 3 and Chapters 5 through 13 of the RP II/EA. As a result of this evaluation, 22 restoration alternatives are proposed by the AL TIG for funding (see Table 1-2 in the RP II/EA) using Restoration Type and MAM funds. As stated in the Final PDARP/PEIS, the no action alternative “does not meet the purpose and need for restoration of injured resources and services,” and therefore is not identified as a preferred alternative in the RP II/EA.

In the RP II/EA, the AL TIG addresses NEPA requirements by tiering from environmental analyses conducted in the Final PDARP/PEIS, evaluating existing analyses, and preparing environmental consequences analyses for projects as appropriate. The purpose of the Proposed Action is to improve the condition of natural resources injured by the DWH oil spill. The analysis included in the RP II/EA supports the following conclusions:

- *Impacts that may be both beneficial and adverse.* The RP II/EA evaluates both beneficial and adverse impacts of the Proposed Action.
- *The degree to which the proposed action affects public health or safety.* The Proposed Action will have no significant adverse impacts on public health and safety. Some alternatives, such as those that reduce shoreline erosion through land acquisition or living shorelines, would have long-term, beneficial impacts to public health and safety.

⁵ As noted in Section 2.7 of RP II/EA, Preferred Alternative, ultimately this project was considered appropriate for MAM funding and would be implemented using that funding, rather than from the Marine Mammal Restoration Type.

- *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* The Proposed Action will have no significant adverse impacts on the unique characteristics of the geographic areas. Specifically, the Proposed Action is not expected to have significant effects on wetlands, floodplains, municipal water sources, ecologically critical areas, wild and scenic river corridors, park lands, wilderness, wilderness research areas, research natural areas, inventoried roadless areas, national recreation areas, or prime farmlands, particularly on a regional basis. The Proposed Action is not expected to result in the introduction or spread of a nonindigenous species. All projects with an identified potential for invasive species colonization include provisions for invasive species management and best practices to minimize the risk of the introduction or spread of nonindigenous species.
- *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* The effects of the Proposed Action on the quality of the human environment are not controversial. Public comments were received on the draft RP II/EA, and none of those comments indicates controversy or opposition to the alternatives considered in RP II/EA.
- *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Implementation of the Proposed Action would not pose uncertain risks to the human environment. The Proposed Action has uncertainties associated with the outcomes of each project identified in the MAM plans. The plans identify key sources of uncertainty, incorporate monitoring data needs and decision points that address these uncertainties, and establish a decision-making process for making adjustments, if needed.
- *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* As shown in the RP II/EA analysis, no significant effects would occur under the Proposed Action or represent a decision in principle about a future consideration. Although information gathered from the analysis of the restoration alternatives may inform future alternatives identification and analysis; however, it does not commit the AL TIG to future actions. The AL TIG will include full OPA and NEPA analyses of related alternatives if proposed in a future restoration plan.
- *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The Proposed Action will not result in significant adverse cumulative impacts. As discussed in the RP II/EA, the Proposed Action is intended to benefit natural resources. Though some minor, primarily short-term, adverse effects may occur in some locations, the cumulative effects of these actions on the quality of the human environment are not expected to be regionally significant, particularly when focusing on the significant adverse impacts that NEPA is intended to help decision makers avoid, minimize, or mitigate.
- *The degree to which the 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.* In compliance with the National Historic Preservation Act and the implementing regulations at 36 CFR Part 800, the AL TIG (through ADCNR) initiated Section 106 consultation with the Alabama Historical Commission (AHC) on March 30, 2018, regarding the effects of the proposed projects on cultural resources at all locations under consideration in the RP II/EA. On May 3, 2018, AHC responded to ADCNR with comments regarding the effects of the proposed projects (Appendix E). These comments were subsequently addressed in the appropriate chapters and sections for each project in the final RP II/EA. If any further work is undertaken at any of the project locations, all cultural resource studies will adhere to applicable federal procedures, as well as State of Alabama

procedures for conducting archaeological and historical/architectural investigations and evaluations (AHC, 2006; AHC, n.d.).

- *The degree to which the 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.* In some cases, based on coordination with resource agencies, the Trustees have made preliminary determinations that a proposed project *May Affect, but is Not Likely to Adversely Affect* certain ESA-listed species. The effects determinations and the respective listed species are described in Chapters 7 through 13 of the RP II/EA under the “Rare and Protected Species – Affected Environment” and “Rare and Protected Species – Environmental Consequences” subsections. The Trustees are consulting with the appropriate agencies for ESA compliance, which will be completed prior to project implementation.
- *Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.* The Proposed Action is expected to comply with all applicable federal laws and regulations relevant to the preferred projects. Environmental reviews and consultations will be finalized prior to the initiation of the relevant project activities. Table 15-1 in the RP II/EA and Table 3 below provide a summary of the federal regulatory compliance review and approvals as of August 1, 2018. For all projects in which the compliance status is labeled as complete, no significant or adverse effects were found. Environmental reviews and consultations not yet completed will be finalized prior to the initiation of the relevant project activities.
- *Impacts to marine mammal stocks and managed fish species.* While there could be temporary disturbance to marine mammals and managed fish species during any project that includes in-water work during construction or short-term events using vessels, these impacts would be expected to be minor and short term. Over the long term, adverse impacts to marine mammal stocks and managed fish species are not expected with the majority of projects having long-term benefits from the improvement of aquatic habitats through land acquisitions or other habitat improvements.
- *Impacts to biodiversity/ecosystem functioning and essential fish habitat.* The RP II/EA analyzes impacts on coastal, nearshore and marine habitats, and essential fish habitat. Impacts on these ecosystems would range from no impacts to short term and adverse, and include long-term, beneficial impacts, depending on the alternative. For those alternatives where adverse impacts on marine and coastal ecosystem were identified, mitigation measures will be implemented.

Table 3: Status of Federal Regulatory Compliance for Evaluated Alternatives in the Final RP II/EA

Alternative	Bald and Golden Eagle Protection Act (USFWS)	Coastal Zone Management Act (ADEM)	Endangered Species Act - Terrestrial Species (USFWS)	Endangered Species Act - Marine Species (NAMS)	Magnuson-Stevens Fishery Conservation and Management Act (NMFS)	Marine Mammal Protection Act (NMFS)	Migratory Bird Treaty Act (USFWS)	National Historic Preservation Act (AHC)	Rivers and Harbors Act/Clean Water Act (ADEM & USACE)
Wetlands, Coastal, and Nearshore Habitats									
Perdido River Land Acquisition - Molpus Tract	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Magnolia River Land Acquisition - Holmes Tract	In Progress	Complete	In Progress	Complete	N/A	N/A	In Progress	In Progress	N/A
Weeks Bay Land Acquisition - East Gateway Tract	In Progress	Complete	In Progress	Complete	N/A	N/A	In Progress	In Progress	N/A
Weeks Bay Land Acquisition - Harrod Tract	In Progress	Complete	In Progress	Complete	N/A	N/A	In Progress	In Progress	N/A
Lower Perdido Islands Restoration Phase I	In Progress	Complete	In Progress	In Progress	N/A	N/A	In Progress	In Progress	N/A
Sea Turtles									
CAST Conservation Program	In Progress	Complete	In Progress	Complete	N/A	N/A	In Progress	In Progress	N/A
CAST Triage	In Progress	Complete	In Progress	Complete	Complete	N/A	In Progress	In Progress	In Progress
CAST Habitat Usage and Population Dynamics	In Progress	Complete	In Progress	In Progress	N/A	Complete	In Progress	In Progress	N/A

Alternative	Bald and Golden Eagle Protection Act (USFWS)	Coastal Zone Management Act (ADEM)	Endangered Species Act - Terrestrial Species (USFWS)	Endangered Species Act - Marine Species (NIMS)	Magnuson-Stevens Fishery Conservation and Management Act (NMFS)	Marine Mammal Protection Act (NMFS)	Migratory Bird Treaty Act (USFWS)	National Historic Preservation Act (AHC)	Rivers and Harbors Act/Clean Water Act (ADEM & USACE)
CAST Protection: Enhancement and Education	In Progress	Complete	In Progress	In Progress	N/A	Complete	In Progress	In Progress	N/A
Marine Mammals									
Enhancing Capacity for the Alabama Marine Mammal Stranding Network	In Progress	Complete	In Progress	In Progress	N/A	Complete	In Progress	In Progress	N/A
Bottlenose Dolphin Populations and Health	In Progress	N/A	In Progress	In Progress	N/A	Complete	In Progress	N/A	N/A
Bottlenose Dolphin Protection: Enhancement and Education	In Progress	Complete	In Progress	In Progress	N/A	Complete	In Progress	In Progress	N/A
Oysters									
Oyster Cultch Relief and Reef Configuration	In Progress	Complete	In Progress	In Progress	Complete	Complete	In Progress	In Progress	N/A
Side-scan Mapping of Mobile Bay Relic Oyster Reefs	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	In Progress	N/A
Oyster Hatchery at Claude Peteet Mariculture Center	In Progress	Complete	In Progress	In Progress	N/A	Complete	In Progress	In Progress	N/A
Oyster Grow Out Restoration Reef Placement	In Progress	Complete	In Progress	In Progress	Complete	Complete	In Progress	In Progress	N/A

Alternative	Bald and Golden Eagle Protection Act (USFWS)	Coastal Zone Management Act (ADEM)	Endangered Species Act - Terrestrial Species (USFWS)	Endangered Species Act - Marine Species (NEMS)	Magnuson-Stevens Fishery Conservation and Management Act (NMFS)	Marine Mammal Protection Act (NMFs)	Migratory Bird Treaty Act (USFWS)	National Historic Preservation Act (AHC)	Rivers and Harbors Act/Clean Water Act (ADEM & USACE)
Birds									
Southwestern Coffee Island Habitat Restoration Project Phase I	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	N/A	N/A
Colonial Nesting Wading Bird Telemetry Study	In Progress	Complete	In Progress	In Progress	N/A	N/A	In Progress	N/A	N/A
Habitats on Federally Managed Lands									
Little Lagoon Living Shorelines	In Progress	Complete	In Progress	Complete	Complete	Complete	In Progress	In Progress	N/A
Restoring the Night Sky	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	N/A	N/A
Nutrient Reduction									
Toulmins Spring Branch Engineering and Design	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	N/A	N/A
Bayou La Batre Nutrient Reduction	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Fowl River Nutrient Reduction	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	In Progress	N/A
Weeks Bay Nutrient Reduction	In Progress	Complete	In Progress	Complete	N/A	Complete	In Progress	In Progress	N/A

Notes: N/A – not applicable

7.0 LITERATURE CITED

Alabama Historical Commission (AHC)

- n.d. Architectural Survey Guidelines. Alabama Historical Commission, Montgomery, Alabama.
- 2006 Policy for Archaeological Survey and Testing. Alabama Historical Commission Administrative Code, Chapter 460-X-9. Montgomery, Alabama.

Deepwater Horizon Trustees

- 2016 Trustee Council Standard Operating Procedures for Implementation of the Natural Resource Restoration for the Deepwater Horizon (DWH) Oil Spill (SOPs)

National Oceanic and Atmospheric Administration (NOAA)

- 2016 Gulf Spill Restoration. Trustees Settle with BP for Natural Resource Injuries to the Gulf of Mexico. Available at: <http://www.gulfspillrestoration.noaa.gov/2016/04/trustees-settlebp-natural-resource-injuries-gulf-mexico>.

United States Department of Justice

- 2016 Consent Decree Among Defendant BP Exploration & Production Inc. (BPXP), The United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas. Available at: <https://www.justice.gov/enrd/deepwater-horizon>.

8.0 DETERMINATION

Based on the information presented in this document and the analysis contained in the RP II/EA, it is hereby determined that implementation of the Restoration Plan (the Proposed Action) will not significantly impact the quality of the human environment, as described above. Therefore, an environmental impact statement will not be prepared.

FOR THE STATE OF ALABAMA:



A handwritten signature in black ink, appearing to read "Christopher M. Blankenship", is written over a horizontal line. The signature is cursive and stylized.

9/4/2018

DATE

CHRISTOPHER M. BLANKENSHIP

Principal Representative, Alabama Department of Conservation and Natural Resources

FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

DOLEY.CHRISTOPH
ER.D.1365844042

Digitally signed by
DOLEY.CHRISTOPHER.D.1365844042
Date: 2018.08.30 17:30:13 -04'00'

CHRISTOPHER D. DOLEY
Principal Representative, National Oceanic and Atmospheric Administration

8/30/2018

DATE

PENN.TONY.MAR
TIN.1365863640

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PENN.TONY.MARTIN.1365863640
Date: 2018.08.30 09:11:25 -04'00'

TONY PENN
Chief, Assessment and Restoration Division
National Ocean Service
National Oceanic and Atmospheric Administration

8/30/2018

DATE

FOR THE U.S. DEPARTMENT OF THE INTERIOR:

Kevin D. Reynolds

KEVIN D. REYNOLDS

Designated Department of Interior Natural Resource Trustee Official

9/5/2018

DATE

FOR THE U.S. DEPARTMENT OF AGRICULTURE:

Homer L Wilkes

HOMER L. WILKES
Principal Representative, U.S. Department of Agriculture

9/4/2018

DATE

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



MARY KAY LYNCH
Alternate to Principal Representative, U.S. Environmental Protection Agency

8/30/2018

DATE