

## **FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

### **From Implementation of the**

### **Mississippi Trustee Implementation Group 2016-2017 Restoration Plan**

#### **Introduction**

The “Mississippi Trustee Implementation Group 2016-2017 Final Restoration Plan and Environmental Assessment” (RP/EA) fulfills the restoration plan requirement under the Oil Pollution Act (OPA) and the implementing regulations, and the environmental assessment requirement for compliance with the National Environmental Policy Act (NEPA). It was prepared by the Mississippi Trustee Implementation Group (MS TIG) to partially address injuries to natural resources and their services in the Mississippi Restoration Area caused by the *Deepwater Horizon* (DWH) oil spill using Natural Resource Damage funds as set forth in the DWH post-settlement Consent Decree<sup>1</sup>. The RP/EA proposes to implement projects to restore and conserve habitat, replenish and protect living coastal and marine resources, and restore water quality. The document analyzes six alternatives to achieve these goals, as well as a No Action Alternative.

Under OPA, as set forth in the DWH Consent Decree and as described in the 2016 DWH Trustees’ Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS), the MS TIG comprises the following state and federal Natural Resource Trustees Agencies: the Mississippi Department of Environmental Quality; the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); the United States Department of the Interior (DOI), represented by the United States Fish and Wildlife Service (FWS); the National Park Service (NPS), and the Bureau of Land Management (BLM); the United States Department of Agriculture (USDA); and the United States Environmental Protection Agency (EPA).

The RP/EA tiers from the PDARP/PEIS, which is a programmatic document developed by the DWH Trustees to guide and direct the massive DWH oil spill restoration effort. The PDARP/PEIS was prepared in accordance with OPA, NEPA, Council on Environmental Quality (CEQ) NEPA regulations, and the NEPA procedures and guidance applicable to MS TIG federal Trustees. The PDARP/PEIS includes a portfolio of Restoration Types that addresses the diverse suite of injuries that occurred at both regional and local scales. Consistent with that programmatic restoration plan, this RP/EA focuses on implementing projects in the Mississippi

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<sup>1</sup> On April 4, 2016, the Court entered the final Consent Decree negotiated among BP and the Trustees. The Consent Decree settles damages, including natural resource damages as defined under the Oil Pollution Act (OPA) of 1990, in a federal case arising from matters related to the DWH oil spill: *United States v. BPXP et al.*, Civ. No. 10-4536, centralized in MDL 2179, *In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010 (E.D. La.)*

Restoration Area to address three of the five overarching goals set forth in the PDARP/PEIS (Restore and Conserve Habitat; Replenish and Protect Living Coastal and Marine Resources; and Restore Water Quality) and three Restoration Types associated with these goals: Wetlands, Coastal and Nearshore Habitats (WCNH); Birds; and Nutrient Reduction (Nonpoint Source).

### **Lead and Cooperating Agencies**

The Council on Environmental Quality's NEPA implementing regulations (40 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 MS TIG designated the USDA as the lead agency responsible for NEPA analysis for the RP/EA. Each of the other federal and state co-Trustees are participating as a cooperating agency 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*" (page 27, and Appendix F, pages 2 and 3).

### **Public Participation**

On December 27, 2016, the MS TIG published a Draft RP/EA, and the public was encouraged to review and comment on the Draft RP/EA during a forty-five (45) day comment period, which closed on February 10, 2017. A Notification of Availability for the Draft RP/EA was published in the Federal Register, the restore.ms website, and the Trustee Council website. Comments were accepted via an online public comment portal, email delivery, and U.S. Postal Service mail. As a result, the MS TIG Trustees received submissions from private citizens; state and local agencies; and non-governmental organizations. The MS TIG reviewed the comments and considered them prior to finalization of the RP/EA. Section 6 of the RP/EA provides further detail on the public comment process including a summary of all public comments received on the Draft RP/EA and the MS TIG's responses.

### **Adoption of the RP/EA NEPA analysis by Federal Agency members of MS TIG**

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

### **Description of Proposed Actions and Alternatives**

The CEQ NEPA regulations require the decision maker to consider the environmental effects of the Proposed Action and a reasonable range of alternatives, including the No Action Alternative (40 CFR § 1502.14). The RP/EA analyzes six alternatives (three of which are preferred by the MS TIG) as well as a No Action alternative. The MS TIG has determined that implementation of the preferred alternatives and projects associated with those alternatives (Proposed Action) will

result in more efficient restoration benefits than the other action alternatives or the No Action Alternative.

**Table: SUMMARY OF THE ALTERNATIVES CONSIDERED IN THE RP/EA**

Restoration Goals	Restore and Conserve Habitat Replenish and Protect Living Coastal and Marine Resources	Restore Water Quality
Description of the Alternatives	<p>Alternative A (<b>Preferred</b>): Graveline Bay Land Acquisition and Management Project</p> <p>This project would include the acquisition of up to 1,410 acres of land from willing sellers, as well as preservation and habitat enhancement of up to 2,185 acres to partially restore injuries to WCNH and Birds in Mississippi. Habitat to be acquired includes estuarine marsh, shoreline (beach), and other coastal riparian habitats, some of which provide foraging, loafing and nesting for bird species that were injured in the DWH oil spill. Habitat restoration measures and management activities could include vehicular access restriction on Graveline beach; chemical treatment of invasive species; mechanical treatment; prescribed fire; debris removal; and road removal/repair and culvert placement.</p>	<p>Alternative A (<b>Preferred</b>): Upper Pascagoula River Water Quality Enhancement Project</p> <p>The project would improve water quality through the development and implementation of conservation plans and practices to reduce nutrient and sediment runoff into coastal waters. Conservation practices, especially those systems that avoid, control, and trap nutrient and sediment losses, would be implemented on cropland, pasture/grassland, forestland, associated agriculture lands, and riparian areas within farmsteads in the Chunky-Okatibbee watersheds. This project would provide outreach and technical assistance to voluntary participants (landowners) within a 20,000-acre area.</p>
	<p>Alternative B: Grand Bay Land Acquisition</p> <p>This project would include the acquisition of up to 8,000 acres of land from willing sellers at appraised value within the boundaries of the Grand Bay National Wildlife Refuge (NWR), the Grand Bay National Estuarine Research Reserve (NERR), and the Savanna Coastal Preserve (CP).</p>	<p>Alternative B: Pascagoula River Basin Riparian Buffer Maintenance Plan</p> <p>The project would improve water quality through the development and implementation of conservation plans and practices in riparian areas, prioritizing opportunities that are within one mile of tributaries. Conservation practices would be implemented in riparian areas within forestland and associated agriculture lands and forests on farmsteads in the Chunky-Okatibbee watersheds in Mississippi. This project would provide outreach and technical assistance to voluntary participants (landowners) within a 20,000-acre area.</p>
	<p>Alternative C: Grand Bay Habitat Management</p> <p>This project would include habitat management on up to 17,500 acres of current public lands within the NWR, NERR, and CP boundaries.</p>	<p>No Action Alternative (No Action)</p> <p>Under the No Action Alternative, the MS TIG would not pursue Nutrient Reduction (Nonpoint Source) Restoration Type projects at this time, and would instead allow natural recovery processes to occur, which could result in one of four outcomes</p>

	<p>Alternative D (<b>Preferred</b>): Grand Bay Land Acquisition and Habitat Management Project</p> <p>This project would include both habitat acquisition (up to 8,000 acres) and restoration (up to 17,500 acres) to partially restore injuries to WCNH and Birds in Mississippi. Target habitats would include coastal marsh, beach, freshwater marsh, savannas and flatwoods, and forested freshwater scrub-shrub. Habitat restoration measures and management activities could include chemical treatment, mechanical treatment, and prescribed fire.</p>	<p>for injured resources: 1) gradual recovery, 2) partial recovery, 3) no recovery, or 4) further deterioration.</p>
	<p>No Action Alternative (No Action)</p> <p>Under the No Action Alternative, the MS TIG would not pursue WCNH and Birds Restoration Type projects at this time, and would instead allow natural recovery processes to occur, which could result in one of four outcomes for injured resources: 1) gradual recovery, 2) partial recovery, 3) no recovery, or 4) further deterioration.</p>	

### Analysis Summary

Section 3.0 of the RP/EA provides the analysis needed to assess the significance of the impacts of the proposed action.

The RP/EA evaluated both beneficial and adverse impacts of the Proposed Action, which is to implement the three preferred alternatives and associated projects described and analyzed in the RP/EA. Project implementation will provide many benefits to the environment; however, because there is potential to adversely affect one type of resource while improving the condition of another resource, there may at times be minor to moderate site-specific adverse environmental effects. Future NEPA evaluations would be conducted by the Implementing Trustees or on behalf of the Implementing Trustees by their project partners by completing an Environmental Evaluation (Appendix A of the RP/EA) that would document whether impacts are at or below maximum adverse impacts described in the RP/EA. The MS TIG does not propose to take actions that would result in any significant adverse direct, indirect, or cumulative impacts on the environment.

- The Proposed Action is not expected to result in significant adverse effects on public health or safety. The restoration measures/management activities will provide long-term beneficial impacts to improve natural ecosystem functions, and best practices will be implemented on a site-specific basis to mitigate the potential for adverse effects to occur to public health and safety during implementation.
- The Proposed Action will have no significant adverse impacts to unique characteristics of the geographic areas. The Proposed Action is not expected to have any significant adverse 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 purpose of the Proposed Action is to improve the condition of natural resources damaged by the DWH oil spill.
- The effects of the Proposed Action on the quality of the human environment are not controversial. The Proposed Action is supported by the public. No public comments indicated opposition to the Proposed Action.
- There are no highly uncertain, unique or unknown risks associated with the Proposed Action. The land acquisition, habitat restoration and management activities, and conservation practices are successful, well-established, and commonly used practices for habitat restoration and land conservation.
- The Proposed Action neither establishes a precedent for future MS TIG actions with significant effects nor represents a decision in principle about a future consideration. Future MS TIG actions will be determined through separate planning processes.
- The Proposed Action will not result in significant adverse cumulative impacts. As discussed in the RP/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. As the RP/EA also indicates, to the extent there are indications that site-specific projects may have the potential to result in significant adverse effects to the quality of the human environment, an EA or EIS may be prepared separately from the RP/EA.
- The Proposed Action is not expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places and is not expected to cause loss or destruction of significant scientific, cultural, or historical resources. The Proposed Action will be implemented in accordance with all applicable laws and regulations concerning the protection of cultural and historic resources.
- The Proposed Action is not expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973, and in fact is expected to benefit species. Consultations with U.S. Fish and Wildlife Service and National Marine Fisheries Service have been completed and the MS TIG

received concurrence that the Proposed Action will either (1) have no effect or, (2) with the use of conservation measures identified in the consultations and the RP/EA, may affect but is not likely to adversely affect threatened or endangered species or designated critical habitat.

- Based on information in the RP/EA, the Proposed Action is not expected to threaten a violation of Federal, state, or local laws, or requirements imposed for environmental protection. Furthermore, the MS TIG will complete an Environmental Evaluation Worksheet to ensure NEPA and regulatory compliance, and to document whether impacts are at or below maximum adverse impacts described in the RP/EA.<sup>2</sup>
- The Proposed Action will not adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act. This Proposed Action does not require authorization under MMPA.
- The Proposed Action will not adversely affect fish species managed under the Magnuson-Stevens Fishery Conservation and Management Act. No in-water work will be conducted as part of the Graveline Bay Land Acquisition and Management project or the Grand Bay Land Acquisition and Habitat Management project. Some in-stream conservation practices will be implemented in the Upper Pascagoula River Water Quality Enhancement project, however, no federally managed fish species occur in those areas.
- The Proposed Action will not adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act. Consultation with NOAA NMFS has been completed and NMFS concurred that the Proposed Action will not affect essential fish habitat.
- The Proposed Action will not adversely affect vulnerable marine or coastal ecosystems, including but not limited to deep coral ecosystems, because no coastal in-water work will be conducted.
- The Proposed Action is not expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.). The Graveline Bay Land Acquisition and Management project and the Grand Bay Land Acquisition and Habitat Management project are expected to provide long-term benefits by increasing diversity in flora and fauna, and the Upper Pascagoula River Water Quality Enhancement project is expected to improve the water quality of the Pascagoula River, thereby benefiting biodiversity and ecosystem functioning.
- The Proposed Action is not expected to result in the introduction or spread of a nonindigenous species. Project purposes include management of invasive species and best practices are included in the RP/EA to minimize the risk of the introduction or spread of nonindigenous species. All three projects include provisions for invasive species management.

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<sup>2</sup> Described in the RP/EA Section 3.1.2 and 3.7.2

## **Approach to NEPA Review of Restoration and Management Activities**

The MS TIG outlined a process in Sections 3.1.2 and 3.7.2 of the RP/EA that ensures site-specific adverse environmental impacts will continue to be avoided or minimized in the future as restoration measures and management activities and conservation practices are planned for specific parcels. Once these measures are developed, an Environmental Evaluation Worksheet will be completed to document whether impacts are at or below maximum adverse impacts described in the RP/EA. If, upon completion of the Environmental Evaluation Worksheet, impacts are expected to exceed those described in the RP/EA and summarized in this FONSI, the MS TIG will evaluate a plan of action to comply with NEPA and all other applicable environmental compliance requirements.

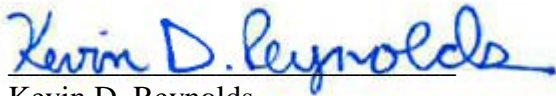
## **DETERMINATION**

In view of the information presented in this document and the analysis contained in the RP/EA, it is hereby determined that implementation of the Restoration Plan will not significantly impact the quality of the human environment as described above. Therefore, an EIS will not be prepared.

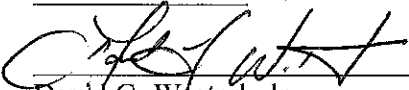
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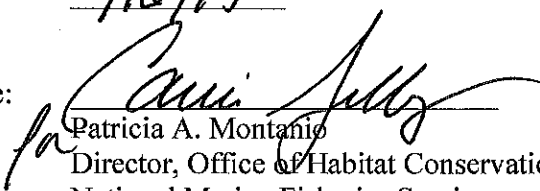
Date:   6/16/17  

Signature:   
Kevin D. Reynolds  
Deepwater Horizon NRDAR Case Manager, U.S. Department of the Interior

Date: 16 Jun 2017

Signature:   
David G. Westerholm  
Director, Office of Response and Restoration  
National Ocean Service  
National Oceanic and Atmospheric Administration

Date: 6/16/17


Signature:   
Patricia A. Montanio  
Director, Office of Habitat Conservation  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration

Date:   6/16/17  

Signature: Homer L Wilkes

Homer Wilkes  
Principal Representative for the U.S. Department of Agriculture

Date:   6/16/17  

Signature:   
Mary Kay Lynch

Alternate to Principal Representative, U.S. Environmental Protection Agency