OFFICE OF WETLANDS, OCEANS AND WATERSHEDS
WASHINGTON, D.C. 20460

May 5, 2025

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

Re: Request for Consistency Certification with Coastal Zone Management Act for Deepwater Horizon Natural Resource Damage Assessment Monitoring and Adaptive Management Activity Implementation Plan: Coastal Restoration Effects on Inshore, Nearshore and Offshore Ecological Condition

Dear Mr. Brown:

The Open Ocean Trustee Implementation Group (OO TIG) is responsible for restoring natural resources and services within the Open Ocean Restoration Area that were injured by the April 20, 2010, Deepwater Horizon oil spill. The OO TIG has identified a monitoring and adaptive management activity that would be located within the Alabama Coastal Zone, the Monitoring and Adaptive Management Activity Implementation Plan: Coastal Restoration Effects on Inshore, Nearshore and Offshore Ecological Condition (Coastal Effects MAIP).

The OO TIG is comprised of the four federal Deepwater Horizon Natural Resource Damage Assessment (DWH NRDA) Trustees: the U.S. Environmental Protection Agency (EPA); U.S. Department of the Interior, as represented by U.S. Fish and Wildlife Service, National Park Service and Bureau of Land Management; National Oceanic and Atmospheric Administration on behalf of the U.S. Department of Commerce; and U.S. Department of Agriculture. The OO TIG approved the Coastal Effects MAIP for implementation. EPA, as the implementing Trustee for the Coastal Effects MAIP, has reviewed it for consistency with the Alabama Coastal Area Management Program (ACAMP) as required by the Coastal Zone Management Act and have found that this monitoring and adaptive management activity is consistent to the maximum extent practicable with the applicable, enforceable policies of the state's federally approved ACAMP. This letter submits the implementing Trustee's consistency determination for your review.

**Description of Coastal Effects MAIP**
As the implementing Trustee for the Coastal Effects MAIP, EPA will implement a multi-year, phased monitoring and adaptive management (MAM) activity to plan and develop an approach leveraging the EPA National Coastal Condition Assessment (NCCA) estuarine condition assessment protocols with existing fisheries population and food web evaluation protocols conducted by the Alabama Department of Conservation and Natural Resources (ADCNR) in Mobile Bay, Alabama. These protocols will be used to evaluate the ecological effects of DWH NRDA Nutrient Reduction; Water Quality; and Wetland, Coastal and Nearshore Habitats restoration projects on

ecological condition of estuarine ecosystems, such as fish and water column invertebrate species, that rely on estuaries for part of their life cycle.

The first phase of this MAM activity entailed planning activities only, including review of ecological indicator data from existing monitoring programs and data gap analyses as well as the development of a scalable approach for assessing the effects of restoration projects. This phase was conducted in 2024 and concluded in early 2025 with the identification, in coordination with ADCNR, of Mobile Bay as the location for implementation of the field assessment protocols.

The second phase of this MAM activity will utilize the gap analysis and the approach developed during the first phase to implement a pilot project evaluating the effects of restoration projects. The pilot study will test the effectiveness of the approach and demonstrate how it may be used to inform adaptive management of restoration projects. Pilot study implementation activities fall into the following broad categories:

- Creating a baseline through the assimilation of existing pre-restoration data;
- Implementing NCCA protocols co-located with fish sampling protocols; and
- Analysis of differences in water quality, habitat availability/quality, and fish and water column invertebrate populations between pre- and post-restoration.

To accomplish this, water samples, sediment grab samples, and fish tissue samples will be collected at 45 identified sample sites within Mobile Bay, Alabama (see enclosed map). Five (5) of the sites will be sampled a second time for quality assurance purposes. The EPA NCCA field protocols and sample collection will be conducted by personnel from a boat using hand-held equipment, including a water sampling device or water bottle, sediment grab sampler, and fishing hook and line or cast net. Sample collection is expected to occur over an approximately four-week period in summer 2025.

**Alabama Costal Area Management Program Consistency Review**

The purpose of the federally approved ACAMP is to promote, improve and safeguard the lands and waters located in Alabama's coastal area through a comprehensive and cooperative program designed to preserve, enhance, and develop these valuable resources for present and future generations. The enforceable policies of the program are found at Alabama Admin. Code r. 335-8-2-.01 – 335-8-2-.12 and apply to various activities on coastal lands and waters seaward of the continuous 10-foot contour in Baldwin and Mobile Counties.

Pursuant to Alabama Admin. Code r. 335-8-2-.01(1), uses subject to the ACAMP that are determined to be in violation of applicable air or water quality standards shall not be permitted or certified to be in compliance with the ACAMP. The proposed monitoring and adaptive management activity will not violate applicable air or water quality standards. The project activities involve collection of water, sediment, and fish tissue samples collected at 45 identified sample sites within Mobile Bay, Alabama. Sample collection will be conducted by field personnel from a boat. Sample collection is expected to occur over an approximately four-week period. The impacts of the sampling activities on air quality and noise are anticipated to be short term with minor effects. Short term minor effects from increased boating activity and associated emissions and noise in the sampling areas would occur. Effects are not likely to be greater than or distinguishable from background levels that typically occur by other boaters in Mobile Bay and will not violate applicable air quality standards. Water samples will be collected using hand-held equipment such as a water sampling device or water bottle. The maximum volume of water collected at each site is four liters. Sediment will be collected using hand-held equipment such as a sediment grab sampler. The maximum area impacted at each sediment grab site is 1.5 $m^2$ and a total of 2.3 liters of sediment will be collected. Localized short term increased turbidity from the sediment grab samples is expected to occur at each sampling location on the day samples are taken. Although the sampling activities may have short term minor effects on water quality resulting from increased turbidity, effects to water quality will be temporary and will not violate applicable water quality standards.

Pursuant to Alabama 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. The project activities involve collection of water, sediment, and fish tissue samples collected at 45 identified sample sites within Mobile Bay, Alabama. Sample collection will be conducted by field personnel from a boat. Sample collection is expected to occur over an approximately four-week period. Project activities will not adversely impact public access to tidal and submerged lands, navigable waters, beaches and other public recreational resources. Sampling will be conducted within the open waters of Mobile Bay and will not adversely impact public access to this resource during project implementation.

Water and sediment sampling activities will not adversely impact historical, cultural, or archeological resources. Water samples will be collected from a boat using hand-held equipment such as a water sampling device or water bottle. The maximum volume of water collected at each site is four liters. Sediment will be collected from a boat using hand-held equipment such as a sediment grab sampler. The maximum area impacted at each sediment grab site is 1.5 $m^2$ and a total of 2.3 liters of sediment will be collected. Localized short term increased turbidity from the sediment grab samples is expected to occur at each sampling location on the day samples are taken. These sampling activities will not adversely impact historical, cultural, or archeological resources.

Project sampling activities will not adversely impact wildlife and fisheries habitat, including endangered species critical habitat. Fish tissue sampling will involve collecting up to five (5) individuals of the target species to yield a minimum of 300 grams total mass from each site. The field crew may collect these samples using the method that is most efficient, least impactful, and the best use of available time at the site (e.g., fishing hook and line, cast net). Crews are never to collect species that are federally listed as threatened or endangered under the Endangered Species Act for tissue samples. If a federally listed species is encountered while fishing (e.g., hooked, netted), crew members are expected to immediately release the individual, following identification, in an area where it is unlikely to be captured again and cease sampling for five minutes to allow the individual to safely leave the area. Prior to restarting fish sampling, field crews will evaluate whether alternative fishing methods that are less likely to encounter listed species are available. In the event of interactions with federally protected marine species while conducting sampling, the appropriate federal agency and ADCNR will be notified within 24 hours of the interaction. Additionally, if the field crew encounters submerged aquatic vegetation (SAV) habitat or oyster beds at a sampling location, they will move around within up to 500 meters of the site to find adjacent areas free of SAV and oyster beds in order to collect grab samples without disturbing those habitats. If suitable locations are not identified after several attempts, the field crew will record that sample as not collected. Implementation of these measures will help ensure that project impacts are avoided or minimized to the maximum extent possible and will not adversely impact wildlife and fisheries habitat, including endangered species critical habitat.

The following additional elements of the ACAMP were considered but based on our review, did not appear to be applicable to the monitoring and adaptive management activity to be conducted pursuant to the Coastal Effects MAIP:

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)

**Conclusion**

Based on the review discussed herein, EPA as the implementing Trustee finds that this monitoring and adaptive management activity to be conducted pursuant to the Coastal Effects MAIP is consistent to the maximum extent practicable with all the applicable, enforceable policies of the state's coastal management program. The activity will comply and be implemented in a manner consistent with the ACAMP. We submit this determination letter for state review and concurrence and thank you in advance for your assistance.

Sincerely,

TIMOTHY LANDERS

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Date: 2025.05.05 11:32:13 -04'00'

Tim Landers
Deepwater Horizon NRDA Program

ENCLOSURE
1. Map of Sample Sites in Mobile Bay, Alabama

cc: Gale Bonanno
Kaitlyn Brucker

**Sample Sites in Mobile Bay, Alabama**