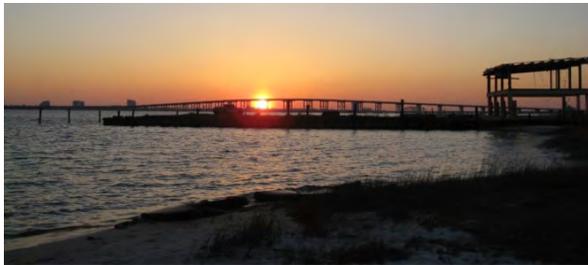
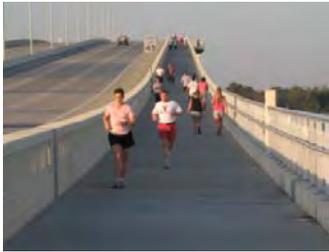


FINAL EVALUATION FINDINGS  
**MISSISSIPPI COASTAL PROGRAM**

*January 2005 – March 2009*

April 2010



Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce

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## I. EXECUTIVE SUMMARY

Section 312 of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally-approved coastal management programs. This review examined the operation and management of the Mississippi Coastal Program (MSCP or Coastal Program) by the Mississippi Department of Marine Resources (DMR), the designated lead agency, for the period from January 2005 through March 2009.

This document describes the evaluation findings of the Director of NOAA's OCRM with respect to MSCP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. The evaluation concludes that DMR is successfully implementing and enforcing its federally-approved coastal management program, adhering to the terms of the Federal financial assistance awards, and addressing the coastal management needs identified in section 303(2)(A) through (K) of the CZMA.

The evaluation team documented a number of Coastal Program accomplishments during this review period. MSCP has improved the effectiveness of its Wetlands Permitting Program through changes in regulations, an increased focus on customer service, improving staff retention, and co-location with U.S. Army Corps of Engineers permitting staff resulting in increased coordination and improved service. The Coastal Program and DMR staff also held a workshop with Louisiana permitting staff to share strategies for improving wetlands permitting. The MSCP and DMR's support and promotion of smart growth principles in coastal Mississippi has led local governments and developers to integrate smart growth principles into local planning efforts and development projects. The MSCP worked with numerous partners to remove enormous amounts of debris from coastal preserves and contain the spread of invasive species after Hurricane Katrina.

The evaluation team also identified areas where the Coastal Program could be strengthened. While the MSCP has made significant progress in updating its Program Document, OCRM encourages the Coastal Program to work closely with OCRM and complete the update of its Program Document. In addition, the MSCP needs to complete the digitization of its wetland maps and begin to submit program changes to OCRM for review. The Coastal Program is also encouraged to enhance its permitting database and to identify and implement opportunities to enhance public involvement in the wetland permitting process. The Office of Coastal Ecology and Coastal Management and Planning Office have completed a draft Coastal and Estuarine Land Conservation Plan and should conduct CELCP competitions as laid out in the draft Plan.

## II. PROGRAM REVIEW PROCEDURES

### A. OVERVIEW

The National Oceanic and Atmospheric Administration (NOAA) began its review of the Mississippi Coastal Zone Management Program (MSCP or Coastal Program) in January 2009. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of particular concern;
- A site visit to Mississippi, including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the state regarding the content and timetables of recommendations specified in the draft document.

The recommendations made by this evaluation appear in boxes and bold type and follow the findings section where facts relevant to the recommendation are discussed. The recommendations may be of two types:

**Necessary Actions** address programmatic requirements of the CZMA's implementing regulations and of the MSCP approved by NOAA. These must be carried out by the date(s) specified;

**Program Suggestions** denote actions that the OCRM believes would improve the MSCP, but which are not mandatory at this time. If no dates are indicated, the state is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

A complete summary of accomplishments and recommendations are outlined in Appendix A.

Failure to address Necessary Actions may result in future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). Program Suggestions that are reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the MSCP.

### B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) 2005 MSCP §312 evaluation findings; (2) program documents; (3) financial assistance awards and work products; (4) semi-annual performance reports; (5) official correspondence; and (6) relevant publications on natural resource management issues in Mississippi.

Based on this review and on discussions with NOAA's Office of Ocean and Coastal Resource Management (OCRM), the evaluation team identified the following priority issues:

- Program accomplishments since the last evaluation;
- Implementation of federal and state consistency authority, including improvements to the consistency process and coordination;
- Changes to the core statutory and regulatory provisions of the MSCP;
- Progress on updating the MSCP program document;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Public participation and outreach efforts;
- Public access;
- Coastal habitat;
- Coastal hazards;
- Water quality;
- Coastal dependent uses and community development;
- Performance measurement efforts; and
- The state's response to the previous evaluation findings dated August 2005. MSCP's assessment of how it has responded to each of the recommendations in the 2005 Evaluation Findings is located in Appendix B.

### **C. SITE VISIT TO MISSISSIPPI**

Notification of the scheduled evaluation was sent to the Department of Marine Resources (DMR), MSCP, relevant environmental agencies, members of Mississippi's congressional delegation, and regional newspapers. In addition, a notice of NOAA's "Intent to Evaluate" was published in the *Federal Register* on February 10, 2009.

The site visit to Mississippi was conducted March 16-20, 2009. The evaluation team consisted of: Carrie Hall, Lead Evaluator, OCRM; Christa Rabenold, Program Specialist, OCRM; Josh Lott, Team Lead, OCRM; Audra Luscher, NOAA Coastal Storms Coordinator; and Brad McCrea, Bay Development and Design Analyst, San Francisco Bay Conservation and Development Commission.

During the site visit, the evaluation team met with federal and state agencies, the Northern Gulf Institute, non-governmental organizations, and the business community. Appendix C lists people and institutions contacted during this review.

As required by the CZMA, NOAA held an advertised public meeting on Monday, March 16<sup>th</sup>, 2009 at 6:00 p.m. at the DMR offices at 1141 Bayview Avenue, Biloxi, MS 39530. The public meeting gave members of the general public the opportunity to express their opinions about the overall operation and management of the MSCP. No members of the public attended the meeting. OCRM's response to written comments submitted during this review is summarized in Appendix E.

The MSCP staff members were crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

### III. COASTAL MANAGEMENT PROGRAM DESCRIPTION

The Mississippi Coastal Program, approved by NOAA's Office of Ocean and Coastal Resource Management in 1980, is comprised of a network of agencies with authority in the coastal zone. The Department of Marine Resources, through the Office of Coastal Ecology, serves as the lead agency.<sup>1</sup> DMR is governed by a Commission on Marine Resources. Members of the Commission are appointed by the governor and represent: commercial seafood processors, nonprofit environmental organizations, charter boat operators, recreational fishermen, and commercial fishermen. The Commission meets monthly to make decisions on major wetland permits and other DMR issues. The primary authority guiding the Coastal Program is the Coastal Wetlands Protection Act of 1973, which includes a wetlands plan designating the allowable use of the state's tidal wetlands.

The Mississippi coast fronts the Mississippi Sound, which is bounded on the south by a series of barrier islands that provide the coast with a buffer against the forces of the Gulf of Mexico. The state's coastal zone encompasses the three tidally influenced coastal counties (Hancock, Harrison, and Jackson) as well as all adjacent coastal waters and the barrier islands and includes 359 miles of coastline. In 2000, the state's coastal population was estimated at 363,988.

Mississippi's coastal wetlands are an important resource for the state and the nation. The Coastal Wetlands Protection Act establishes the public policy of preserving coastal wetlands in their natural state, except where an alteration of a specific coastal wetland serves a higher public interest. The Coastal Program implements this policy largely through two key components:

- The **Wetlands Permitting Program** coordinates the permitting of wetland uses within the state's coastal zone among the permitting authorities (DMR, Department of Environmental Quality, and the U.S. Army Corps of Engineers). The most significant regulated activities are dredging and filling. The program is also responsible for reviewing proposed projects for federal consistency.
- The **Coastal Preserves Program** strives to effectively preserve, conserve, restore, and manage Mississippi's coastal ecosystems. The state has identified 20 coastal preserve areas and aims to acquire land within these areas and manage them to safeguard and protect their natural characteristics, ecological integrity, environmental functions, and economic and recreational values. In 2009, more than 44,000 acres of the identified lands were under protective ownership of the state (35,000+ acres) or the federal government (10,000 acres).

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<sup>1</sup> Other network partners include the Department of Environmental Quality and the Department of Archives.

## IV. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS

### A. OPERATIONS AND MANAGEMENT

#### 1. Organization

The MSCP is located in the Office of Coastal Ecology within DMR. The Office of Coastal Ecology houses the Wetlands Permitting Program, Coastal Preserves Program, and Grand Bay National Estuarine Research Reserve. DMR is overseen by a Commission on Marine Resources, composed of five members appointed by the governor to four-year terms. The MSCP is a networked program and also relies on the authorities of the Department of Environmental Quality and Department of Archives and History to implement the Coastal Program. In addition, the Secretary of State has become an important partner in implementing the MSCP.

- The **Department of Environmental Quality (MDEQ)** is responsible for protecting the state's air, land, and water. MDEQ regulates and manages state water resources through enforcement of applicable statutes and regulations. MDEQ is a partner in permitting wetland projects and implementing the state's Coastal Nonpoint Pollution Control Program.
- The **Department of Archives and History** collects, preserves, and provides access to the archival resources of the state, administers museums and historic sites, and oversees statewide programs for historic preservation, government records management, and publications.
- The **Secretary of State (MSOS)** sets and collects tideland rents which are dedicated to tideland management programs such as conservation, reclamation, preservation, acquisition, education and the enhancement of public access. DMR administers a competitive grant process for tideland funds and annually submits a prioritized list of projects to the legislature through the Commission on Marine Resources. The legislature then appropriates tideland funds to DMR for selected projects.

Staff of the MSCP also work closely with other DMR Offices to implement the Coastal Program.

- **Grand Bay National Estuarine Research Reserve (GBNERR or Reserve)** integrates research, education, and stewardship to help local communities and other partners address coastal issues in the region. The Reserve also provides long-term weather, water quality, and biological monitoring; opportunities for scientists and graduate students to conduct research in a "living laboratory;" K-12 educational opportunities; and training workshops for local decision makers. GBNERR's Coastal Training Program provides Coastal Program staff with numerous training opportunities including wetland delineation training, hydric soils identification, and wetland plant identification. The Reserve and MSCP have also partnered to provide permitting workshops for local government staff

and MSCP staff often serve as presenters at Coastal Training workshops. Reserve research and monitoring programs are used to guide the Coastal Preserve Program's land management and restoration plans and Reserve staff have also partnered with Coastal Preserves on research activities. The Reserve also helps other researchers from across the nation conduct studies at Grand Bay on relevant coastal management issues.

- The **Marine Patrol** provides additional enforcement to ensure wetlands permitting regulations are followed. During routine patrols, officers identify, document and enforce permit violations, non-permitted activities, spill incidents, derelict vessels, and illegal dumping. When a wetland permit violation is spotted, marine patrol officers fill out a standardized form and provide the information to the Wetlands Permitting Program. The Marine Patrol also has a joint enforcement agreement with the U.S. Department of Commerce to provide patrols in the exclusive economic zone. The Marine Patrol is staffed by 37 sworn law enforcement officers and 19 reserve law enforcement officers and has 27 patrol boats.
- The **Public Affairs Bureau** provides community outreach, education, public information, and legislative and media relations to promote awareness of DMR and its roles, responsibilities, and programs.
- Through a contract with the **Mississippi Attorney General**, two full-time legal staff assist with the enforcement of wetlands permitting regulations when legal enforcement actions are necessary, provide assistance with the drafting of proposed rules and legislation, and work to help resolve other complex coastal zone issues.
- The **Coastal Management and Planning Office** (formerly the Comprehensive Resource Management Plan Bureau within the Office of Coastal Ecology) is responsible for the Comprehensive Resource Management Plan, Mississippi Gulf Coast National Heritage Area, Coastal Impact Assistance Program, and Governor's Office of Recovery Projects. It also manages an annual smart growth conference, provides GIS capabilities to DMR, and jointly administers the Coastal and Estuarine Land Conservation Program with the Office of Coastal Ecology.

OCRM awards cooperative agreements to federally-approved coastal management programs to assist with program implementation and enhancement. During the review period, MSCP staff satisfactorily managed their federal funding and closed out cooperative agreements in a timely manner. OCRM also requires coastal management programs to submit semi-annual performance reports for each cooperative agreement; the reports present consolidated information about accomplishments related to a program's financial assistance awards. MSCP submitted complete performance reports, on schedule.

## 2. Hurricane Katrina

On August 29, 2005, Hurricane Katrina made landfall in Louisiana causing damage from central Florida to Texas. The coast of Mississippi was ravaged by Katrina's wind and storm surge and

many buildings were destroyed or severely damaged. The storm surge flooded the lower floors of DMR's office building and many of the Coastal Program's historical documents were lost. Natural areas were covered in storm debris and soon after invasive species began colonizing many areas impacted by Katrina. After the storm, the MSCP was actively engaged in long-term recovery efforts which absorbed a significant amount of the MSCP's staff time and energy. The impacts of Hurricane Katrina also resulted in the MSCP modifying its priorities in areas such as its Coastal Nonpoint Pollution Control Program and Coastal Preserves Program.

### **3. Communication**

DMR's Public Affairs Bureau conducts a variety of community outreach, education, and public information activities and legislative and media relations. The Public Affairs Bureau publishes Coastal Markers a quarterly newsletter, annual reports, calendars, and fishing regulations and organizes and participates in events such as coastal clean-ups and the Gulf Marine Education Festival. These activities are an important part of communicating the importance of DMR's activities and raising public awareness.

During the evaluation period, MSCP allocated federal funds to provide partial support for a position in Public Affairs but specific projects and deliverables were not identified in the cooperative agreements. The Public Affairs Bureau has provided support to the Coastal Program through activities such as the addition of a one-page spread in Coastal Markers, for the Coastal Preserves Program; support for the publication of a news article on wetlands permitting; and an updated list of pump out facilities. However, the evaluation team noted key opportunities for Public Affairs to provide additional assistance to the MSCP (1) updating, expanding, and better organizing the Coastal Program's website; (2) highlighting the link between MSCP and the national CZMA Program; (3) highlighting and communicating MSCP's activities and program successes to the general public through various venues; (4) assisting with development and distribution of information on wetland permitting decisions to the public (*see Section G*); and (5) promoting new concepts such as "living shorelines" to different audiences. Since the evaluation site visit, the MSCP has phased out support of Public Affairs. In the future, if federal funding is used to support a Public Affairs position, specific priority tasks and objectives should be included in the cooperative agreement. Although the MSCP is no longer directly supporting a Public Affairs position, OCRM encourages the MSCP to think strategically about communication needs and to pursue priority projects.

### **B. PUBLIC ACCESS**

The Coastal Program has two goals related to public access:

- "to assist local governments in the provision of public facilities services in a manner consistent with the coastal program" and
- "to encourage the preservation of natural scenic qualities in the coastal area."

The MSCMP is addressing public access through the development of a Public Access Management Plan that will provide the public with information on public access facilities and guidance for the redevelopment of facilities. The Coastal Preserves Program also improves

public access through the acquisition, management, and construction of public access enhancements to lands within coastal preserves.

The MSCMP identified several challenges to providing public access along the Mississippi coast in their 2006-2010 309 Assessment. During the evaluation period, many public access facilities along the coast of Mississippi were destroyed or severely damaged by Hurricane Katrina. New development patterns including the emergence of casinos and condominiums on the coast have restricted public access. In addition, although many locals know where public access points are located, visitors don't always know the location of the nearest public access points.

In response to these public access challenges, the MSCP developed a strategy under the CZMA Section 309 Enhancement Program to bring together state agencies and local governments to create a coastal Public Access Management Plan to comprehensively address public access facilities including: siting; providing the public with information on the location, type of facility, and the condition/status (at the time of the site visit public access facilities were still being rebuilt); and funding for long-term capital improvements. The MSCP hopes the plan will be adopted by both the state and local governments and once adopted will guide the location and development of public access facilities. At the time of the site visit, the project consultant had inventoried public access sites throughout the coastal zone and developed a searchable beta ARC-IMS database. The database is now available on-line at <http://gis.smpdd.com/dmrpublicaccess/>. Another focus of the plan will be to develop strategies to promote low impact pier design to reduce impacts on seagrass beds and wetlands. OCRM commends the MSCP for its efforts to develop the Public Access Management Plan and encourages the Coastal Program to work closely with the Coastal Management and Planning Office, local governments, and developers to encourage and promote public access opportunities. During the evaluation site visit, the evaluation team was impressed by several examples of innovative public access including an extra wide walking lane on the Biloxi-Ocean Springs bridge, which was being used by hundreds of people every evening, and a waterfront walkway along a casino that provided visual access to working boats. OCRM encourages the MSCP to use the Public Access Management Plan as a tool to promote innovative public access.

During the evaluation period, the Coastal Preserves Program acquired additional lands within the Coastal Preserves System and actively managed lands owned by the state to maintain their habitat value and scenic beauty and to provide public access. The Coastal Preserves Program has also partnered with a variety of groups including the Boy Scouts, Mississippi Audubon, NASA, DuPoint Delisle Plant, and others to repair and develop trails within the Coastal Preserve System.

### **C. COASTAL HABITAT**

The MSCP has three goals related to coastal habitat protection:

- “to favor the preservation of the coastal wetlands and ecosystems, except where a specific alteration of a specific coastal wetlands would serve a higher public interest in compliance with the public purposes of the public trust in which the coastal wetlands are held;”

- “to protect, propagate, and conserve the state’s seafood and aquatic life in connection with the revitalization of the seafood industry of the State of Mississippi;” and
- “to conserve the air and waters of the state, and to protect, maintain, and improve the quality thereof for public use, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational, and other legitimate beneficial uses.”

During the evaluation period, the MSCP acquired and preserved almost 1,000 additional acres within the Coastal Preserves System, actively restored coastal wetlands and ecosystems, and through the implementation of the Coastal Wetlands Protection Act, protected coastal wetlands, important nursery grounds for fish and aquatic life.

## **1. Wetlands Permitting**

The MSCP administers the Coastal Wetlands Protection Act and evaluates permit applications for proposed impacts to coastal wetlands, reviews comments from state, federal, and local agencies and from the general public, and conducts on-site inspections of proposed projects. Staff evaluate applications in accordance with the Guidelines for Regulated Activities and Decision Factors and make recommendations to the Commission on Marine Resources to issue, condition, or deny major permits. The commission makes the final decisions on major permits during monthly public meetings. Staff also verify compliance of permitted activities and investigate potential wetland violations and violations of U.S. Army Corps of Engineers (USACE) Section 404 jurisdictional wetlands and make any necessary recommendations regarding mitigation to compensate for wetland loss.

During the evaluation period, permitting staff identified several ways to strengthen the permitting program and permitting staff worked with legal staff to propose legislation that was subsequently passed by the state legislature. The new legislation: (1) allows permitting staff to access private property to investigate violations; (2) sets the start of the permit time clock to when the application is complete; and (3) with commission approval, fines violators \$500 a day until they receive an after the fact permit or remove the violation. These changes ensure the permitting staff will always be able to investigate violations, have the information they need to do a thorough and timely review of a permit application, and are able to levy a penalty that encourages compliance. In addition, MSCP worked with legal staff to develop internal guidance for piers and boat ramps to ensure consistency across permit reviews. OCRM commends the MSCP for identifying and implementing improvements to the wetlands permitting process.

Knowledgeable staff are key to ensuring that state wetland regulations are implemented successfully. During the previous two evaluations, employee retention was identified as a significant issue. The MSCP was hiring and training entry-level permitting staff who quickly left for higher paying job opportunities. The average length of stay was ten months. During the evaluation period, the MSCP made significant progress in retaining trained staff. At the time of the site visit, all members of the permitting staff had been with the agency at least a year. The MSCP undertook several important steps to achieve this change. They petitioned and received approval to change the job classification, increasing the base pay by approximately \$6,000 and standardized training was developed to ensure staff had the skills to accomplish the job and

opportunities for growth. OCRM commends the MSCP and DMR for improving employee retention. The Coastal Program partnered with the GBNERR Coastal Training Program to provide a series of technical trainings including wetland delineation, wetland plant identification, hydric soils, and mitigation concepts. In addition, permitting staff also obtained stakeholder training. OCRM commends MSCP for implementing a standardized training process and encourages the Coastal Program to also consider additional non-technical classes such as presentation skills.

**Accomplishment: The MSCP has improved the effectiveness of the Wetlands Permitting Program through the adoption of new regulations, improved staff retention, and training through GBNERR.**

The implementation of the Wetlands Permitting Program is based on official wetland use maps that were created in the 1970s. These maps are key enforceable mechanisms of the MSCP and they must be kept up-to-date. The previous evaluation noted the need to digitize these maps, to develop a process for keeping the maps updated, and to routinely submit these program changes to OCRM for review and incorporation into the federally approved program. The official wetland use maps were lost during Hurricane Katrina but several smaller copies survived. This information has since been digitized and is housed and maintained in the Office of Coastal Management and Planning but some mapping discrepancies are still being addressed. The Coastal Program plans to incorporate the wetland maps as a data layer in the Coastal Mapper, an interactive mapping application that allows the user to display and query data. The Coastal Mapper currently has over 30 data layers, many of which are available to the public at <http://www.dmr.state.ms.us/ims/mapper.htm>. Inclusion of the wetland use maps in the Coastal Mapper will provide permitting staff with quick visual access to permitting information and land use categories. In addition to adding the wetland maps to the Coastal Mapper, the MSCP hopes to design and use this system to track the performance and success of mitigation activities. The wetlands use maps are part of the regulatory structure of the MSCP and DMR must prioritize the completion and submission of the maps to OCRM as a program change and continue to submit regular updates. *(See Section G for further discussion of the permitting database).*

**Necessary Action: The DMR and MSCP must complete the digitization of the wetlands maps and submit them to OCRM as a program change by October 2011.**

During the evaluation site visit, the evaluation team and permitting staff discussed the benefits of promoting living shorelines. Living shorelines are shoreline management options that provide erosion control benefits, while also enhancing the natural shoreline habitat. They can allow natural coastal processes to continue through the strategic placement of plants, stone, sand fill and other structural and organic materials, while also providing habitat for fish, crabs, and other sea life. Living shorelines are a relatively new concept, and many people are unfamiliar with their benefits to aquatic life and success in addressing erosion issues. The wetlands permitting staff is interested in pursuing grant opportunities to assist with the development of living shoreline projects along the coast of Mississippi, as alternatives to hardened shorelines. OCRM

encourages the Coastal Program to pursue opportunities to promote living shorelines including working with GBNERR and/or other partners to provide training and educational opportunities.

The Commission on Marine Resources has key decision-making authority over wetland activities, yet commission members may not have a strong background in wetland regulations, wetlands permitting issues, and the relationship of the MSCP to the national Coastal Zone Management Program. New members are provided with a one-day course covering a variety of issues, but the course is not required. OCRM encourages the MSCP to consider providing additional refresher information to commission members, perhaps taking 10 minutes at commission meetings to update them on current issues and/or increase understanding of the national Coastal Zone Management Program.

**Program Suggestion: The MSCP should consider providing additional training to commission members to keep them well-informed of wetlands permitting issues and relevant coastal management issues.**

## 2. Habitat Restoration and Storm Debris

During the evaluation period, the Coastal Preserves Program focused on the removal of debris left in the wake of Hurricane Katrina and management of invasive species. After the storm, many Coastal Preserves were littered with debris and many natural areas were not accessible by heavy equipment. Native vegetation in many areas was damaged, allowing invasive species to grow and spread. The Coastal Preserves Program was successful in pursuing outside funding and partnerships with federal agencies and groups, such as Renew our Rivers and Gulf Coast Conservation Group, to clean up and restore natural areas. In addition, program staff are actively involved with the Gulf of Mexico Alliance's Habitat Conservation and Restoration issue team and the Beneficial Use Group.

The Coastal Preserves Program has engaged in a variety of activities, and with various partners, to restore coastal habitat. Since Hurricane Katrina, non-native invasive species, particularly giant salvinia (*Salvinia molesta*), Chinese tallow (*Triadica sebiferum*), cogongrass (*Imperata cylindrica*), Chinese privet (*Ligustrum sinense*) and Japanese climbing fern (*Lygodium japonicum*) have greatly increased in abundance. Habitat restoration activities included:

- partnering with USACE to plant 12,000 smooth cordgrasses (*Spartina alterniflora*), Gulf Coast Research Laboratory to produce 30,000 additional larger smooth cordgrass plants and needlerush plants (*Juncus roemerianus*), and Mississippi State University landscape architects to plant slash pines (*Pinus elliotii*) on Deer Island;
- treating cogongrass and Chinese tallow with herbicide on multiple properties and conducting controlled burns;
- working with USACE to develop ecosystem restoration projects for the Mississippi Coastal Improvement Program (which was developed in response to Congress' request that USACE identify projects to improve Mississippi's coast); and

- developing a successful grant proposal and receiving U.S Geological Survey funding to map salvinia, an invasive aquatic weed; and hired two staff members with NOAA National Marine Fisheries Service funding to continue an ongoing eradication program.

The Coastal Preserves Program worked closely with many partners to remove hurricane debris from coastal preserves. Activities included:

- working with the Gulf Coast Conservation Corps to remove hurricane debris by hand from areas too sensitive for machinery on Deer Island and Hancock County Marshes Preserve;
- working with the Federal Emergency Management Agency, U.S. Coast Guard and MDEQ to remove hazardous hurricane debris from the Dupont property, which contained more than 80,000 cubic yard of debris in tidal marshes;
- partnering with Renew Our Rivers, whose volunteers collected over 30 tons of debris;
- partnering with the North American Association of Environmental Educators to pick up small trash debris on Deer Island;
- partnering with the Boy Scouts to also remove trash from Deer Island; and
- partnering with the Federal Emergency Management Agency, Hancock County and private contractors to remove debris from Admiral Island.

**Accomplishment: MSCP worked with numerous partners to remove enormous amounts of debris from coastal preserves and contain the spread of invasive species after Hurricane Katrina.**

After the storm, the MSCP identified a need to develop restoration plans for coastal preserves and developed a new CZMA Section 309 strategy to target funds towards restoration planning. A contractor, who has since been brought on as an employee, was hired to assess and map potential coastal restoration sites using GIS and GPS, develop site specific restoration plans, and coordinate restoration activities with contractors and partners. These plans will guide restoration efforts and assist the Coastal Preserves Program in obtaining both federal and state restoration funding.

The long-term impacts of Katrina to the natural environment are not fully understood. Through the development of the restoration plans, current data will be collected and compared to data collected after the restoration. The first two targeted areas were the Beckendorf and Wachovia tracts in the Hancock County Marshes Coastal Preserve. The contractor also developed or updated prescribed burn plans for six fire-dependent coastal preserve sites totaling nearly 3,500 acres and is working with the Mississippi Sandhill Crane National Wildlife Refuge, MS Forestry Commission, volunteer fire departments, and other agencies to expand Mississippi’s capabilities to conduct and use prescribed burns to manage habitat in coastal Mississippi.

**Accomplishment: The MSCP developed site specific restoration plans for eight sites within the Coastal Preserve System.**

DMR's GIS staff, which are now part of the Coastal Management and Planning Office provided support to the Coastal Preserves Program and designed and developed mobile mapping applications to develop an invasive species inventory. The inventory has been used to analyze the extent of coverage and assist with the development of treatment programs. GIS staff also mapped conservation properties targeted for acquisition in order to support acquisition efforts and to identify properties for acquisition that would mitigate future hazard risks.

### **3. Land Acquisition and CELCP**

In 1992, the State of Mississippi designated 20 areas as critical coastal wetland habitat or coastal preserves, totaling around 72,000 acres. The land ownership of the coastal preserves is mixed and includes the state and federal government, non-profits, and private owners. Since 1992, the Coastal Preserves Program has sought to acquire lands from willing sellers within program's boundary. During the evaluation period, 10 tracts totaling 907 acres were acquired. In 2009, over 44,000 acres were under the protective ownership of the state or federal government.

Congress established the Coastal and Estuarine Land Conservation Program (CELCP) in 2002 to protect coastal and estuarine lands considered important for their ecological, conservation, recreational, historical or aesthetic values. CELCP is administered by OCRM. The program provides state and local governments with matching funds to purchase significant coastal and estuarine lands, or conservation easements on such lands, from willing sellers. Lands or conservation easements acquired with CELCP funds are protected in perpetuity so that they may be enjoyed by future generations. The Coastal Preserves Program has acquired three parcels with CELCP funds; Gex (77 acres in Hancock County), Ortte (101 acres in Wolf River), and 12 Oaks (30 acres in Old Fort Bayou).

The CELCP guidelines outline the criteria and process for states to nominate land conservation projects to a national competitive process. The program is coordinated at the state level through each state's CELCP lead within the state's lead coastal management agency. According to the CELCP guidelines, each state must develop a CELCP plan which is submitted to OCRM for approval. As part of the plan development process, MSCP consulted with a range of program partners and identified acquisition priorities including: lands with significant ecological value including offshore islands; waterfront lands; marshlands; wetlands and riparian areas; maritime live oak forests and longleaf pine savannas; lands where low impact recreation is compatible with natural resources protection; sites identified by the Department of Archives and History as significant, and sites on the National Register of Historic Places.

DMR's Office of Coastal Ecology and Coastal Management and Planning Office are responsible for implementing the state's program. Mississippi's draft CELCP plan was submitted to OCRM in May 2008 and OCRM staff returned comments to the state in December 2009. OCRM encourages the DMR to continue to work with OCRM to obtain final approval of their CELCP plan to ensure that Mississippi remains eligible to submit projects to the national competitive selection process.

CELCP guidelines state that the lead agency is responsible for soliciting projects that are consistent with priorities outlined in the state's plan, reviewing them for completeness, prioritizing them according to state criteria, and nominating projects to the national selection process. The draft Mississippi CELCP plan includes a competitive process for selecting projects that best meet Mississippi's CELCP priorities. In 2008, DMR did not conduct a competitive project selection process. Although the Mississippi CELCP plan is not yet finalized, OCRM encourages the DMR to select future projects through a competitive CELCP project selection process, as laid out in the draft CELCP Plan.

**Program Suggestion: OCRM encourages DMR to implement a competitive CELCP project selection process as laid out in the draft Mississippi CELCP plan.**

#### **D. WATER QUALITY**

One of Mississippi's 10 Coastal Program goals is "to put to beneficial use, to the fullest extent of which they are capable, the water resources of the state, and to prevent the waste, unreasonable use, or unreasonable method of use of water." During the evaluation period, the MSCP has supplied seed funding to support planning efforts to expand coastal wastewater systems in order to eliminate individual septic systems.

The Coastal Nonpoint Pollution Control Program (CNPCP), or §6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), is jointly administered by NOAA and the Environmental Protection Agency (EPA). Two of the CNPCP's key purposes are to strengthen the links between federal and state coastal zone management and water quality programs, and to enhance state and local efforts to manage land use activities that degrade coastal waters. NOAA and EPA must approve each state's coastal nonpoint program.

Mississippi's CNPCP has been conditionally approved since 1997 and has met most program requirements. The MSCP formally submitted a response to questions from OCRM in October 2005 and provided a legal opinion for review. Since the evaluation site visit, OCRM has completed a review of MDEQ's legal opinion and found it acceptable.

At the beginning of the evaluation period, the MSCP was focused on promoting the Alabama-Mississippi Clean Marina Program administered by the Mississippi-Alabama Sea Grant Consortium, and three marinas achieved the Clean Marina designation. OCRM commends the Coastal Program for its successful efforts to have three marinas designated as Clean Marinas. Unfortunately, Hurricane Katrina destroyed or severely damaged marinas along the Mississippi coast and the Clean Marina program manager left, placing the program on hold. At the time of the site visit, the Clean Marina Program was beginning to be revitalized and DMR's involvement in Clean Marina activities is now through the Coastal Management and Planning Office.

After Hurricane Katrina, the MSCP focused on providing seed funding for wastewater facility expansion planning in order to eliminate individual septic systems, a primary source of nonpoint

pollution within Mississippi's coastal zone. At the time of the site visit, the MSCP was providing seed funding to support a project to bring sewer to residents in Hancock County.

## **E. COASTAL HAZARDS**

Coastal hazards in Mississippi include hurricanes, storm surges, flooding, episodic and chronic erosion, sea-level rise, subsidence, earthquakes, and tsunamis. The MSCP does not have a goal specifically related to hazards, but their 2006-2010 CZMA Section 309 Assessment identifies coastal hazards as a high priority for the program. The MSCP has undertaken several activities to lower risks associated with coastal hazards but most of DMR's coastal hazard-related activities are administered through the Coastal Management and Planning Office. The CZMA calls for state coastal programs to minimize the loss of life and property due to coastal hazards. OCRM encourages DMR and MSCP to include a coastal hazards goal in their updated program document.

**Program Suggestion: MSCP should consider the addition of a coastal hazards goal in their updated Program Document.**

### **1. Community Rating System**

The MSCP developed a CZMA Section 309 strategy to support local community participation in the National Flood Insurance Program's Community Rating System (CRS). The CRS recognizes communities that adopt policies, enhance public education efforts, and conduct activities that lower a community's flood hazard risk by offering its residents reduced flood insurance rates. At the time of the 309 Assessment, one coastal county and eight coastal municipalities were participating in the CRS.

At the time of the evaluation site visit, the MSCP had hired a consultant who was in the initial stages of implementing the strategy. The consultant was reviewing local hazard mitigation plans to identify eligible CRS activities and identifying opportunities to link DMR resources to local communities. The consultant will also be responsible for developing a strategic planning team, drawing representatives from each coastal jurisdiction to develop and implement a project plan, and developing training materials for local staff. The consultant will work with communities to develop and adopt policies encouraging the creation additional floodplain maps and flood data, preservation of open space, higher regulatory standards, land development criteria, flood data management, and stormwater management. OCRM commends the Coastal Program in its efforts to reduce communities' exposure to hazard risks and encourages them to work closely with the Coastal Management and Planning Office, and build on their community development and smart growth work with local governments.

### **2. Lessons Learned from Katrina**

Hurricane Katrina had a tremendous impact on the coast of Mississippi and left the state and Coastal Program facing new and complex issues. Coastal Program staff discussed lessons they

had learned from the recovery with the evaluation team. For example, after Katrina the Commission on Marine Resources issued an executive order allowing commercial and residential structures to be rebuilt, to previous specifications, without a permit. The Coastal Program found it difficult to track redevelopment and ensure that buildings without permits were being rebuilt to previous specifications. If a large storm were to hit the coast of Mississippi again, the MSCP plans to issue a modified executive order, requiring a free permit. Another lesson learned is the importance of backing-up key data and information and storing back-up data and information off-site. The MSCP lost crucial wetland maps to Hurricane Katrina's storm surge.

The impacts of Hurricane Katrina also led to a major change in casino siting restrictions. Prior to the storm, casinos were restricted to public tidelands. Due to the damage incurred by casinos from the storm, new rules were passed that allow casinos to be rebuilt on land within 800 feet of the shore.

OCRM encourages the MSCP to reflect on lessons learned and issues associated with rebuilding in hazard-prone areas and to capture this institutional knowledge. For example, a lessons learned guide could be developed and/or the Coastal Program may identify and wish to pursue changes in policies or regulations that would reduce hazard risks.

## **F. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT**

The Coastal Program's goals promoting coastal dependent uses and community development are:

- “to provide for reasonable industrial expansion in the coastal area and to ensure the efficient utilization of waterfront industrial sites so that suitable sites are conserved for water dependent industry” and
- “to preserve the state's historical and archeological resources to prevent their destruction, and to enhance these resources whenever possible.”

The Coastal Management and Planning Office, which as the Comprehensive Resource Management Plan Bureau was part of the MSCP during part of the evaluation period, has led the development and promotion of smart growth strategies and the development and implementation of the Mississippi Gulf Coast National Heritage Area Management Plan.

### **1. Smart Growth**

The Coastal Management and Planning Office works with local officials, developers, town planners and others to promote smart growth in the Mississippi coast. Smart growth is a movement that promotes town-centers, is transit and pedestrian oriented, and has a mix of housing, commercial, and retail uses. It also preserves open space and many other environmental amenities. Since 2000, the Coastal Management and Planning Office has held an annual smart growth conference, supported by federal funding, that provides a venue for information sharing among elected officials, city and county staff, contractors, developers, bankers, planners, zoning officials, realtors and appraisers, engineers, landowners, students,

industry, environmentalists, resource managers, lawyers, and representatives from federal and state agencies, boards of supervisors, private and corporate entities, and other interested parties in the Gulf Coast region. A broad range of topics are covered such as: the importance of heritage preservation; long-term energy strategies for rebuilding Gulf Coast communities with clean energy and energy efficiency; housing, transportation and land use for smart growth communities; supporting resilient communities; and engaging citizens to sustain coastal communities. The event draws 400-plus participants from throughout the region. The MSCP has provided financial support for this event throughout the evaluation period.

During the evaluation period, the Coastal Management and Planning Office provided advice and assistance to local governments and developers interested in pursuing smart growth projects. The evaluation team met with a developer who discussed the importance of the office in bringing smart growth concepts to developers and local governments in the coastal zone. Due to the Coastal Management and Planning Office's ongoing education and outreach efforts, local communities are knowledgeable about smart growth principles and many have adopted smart growth ordinances allowing more flexibility in their planning and zoning decisions. Due to the office's long-term educational efforts, many communities were able to incorporate at least some smart growth principles into their rebuilding efforts after the storm. OCRM commends the Coastal Program and DMR for their role in promoting smart growth principles in coastal Mississippi, and encourages the Coastal Program to continue to work with the Coastal Management and Planning Office on issues related to community development and smart growth.

Grand Bay NERR has also supported redevelopment efforts and smart growth during the evaluation period. After Hurricane Katrina, Grand Bay NERR reassessed training needs in the region and revised its coastal training program strategy. The program modified some workshops to better address post-storm needs. A Sustainable Building workshop and Builders' Fair were held along with Land Use Planning workshops in Jackson County and Moss Point communities. Floodplain managers were provided GIS training which assisted the interpretation of the new flood plain mapping and redevelopment efforts along the coast.

**Accomplishment: The MSCP and DMR's support and promotion of smart growth principles in coastal Mississippi has led local governments and developers to integrate smart growth principles into local planning efforts and development projects.**

## **2. Mississippi Gulf Coast Natural Heritage Area**

The Mississippi Gulf Coast was designated by Congress as a National Heritage Area in December 2004. The mission of the Mississippi Gulf Coast National Heritage Area is to promote the understanding, conservation, and enhancement of the heritage resources of the six counties of the Mississippi Gulf Coast by telling the area's nationally significant story to residents and visitors through activities and partnerships that celebrate the area's unique history, people, traditions, and landscapes.

During the evaluation period, the Coastal Management and Planning Office successfully led the development of the Natural Heritage Area Management Plan and environmental assessment. The summer after the Mississippi Gulf Coast was designated, Hurricane Katrina damaged many historic landmarks. Staff worked with partners to obtain a 26 million dollar congressional appropriation for heritage conservation to help restore and preserve the damaged landmarks and served on the Governor's Recovery Commission for Heritage Tourism and Environmental Recovery. OCRM commends MSCP and DMR for their work on the National Heritage Area designation for the Mississippi Gulf Coast, developing a management plan and conducting an environmental impact assessment, and obtaining federal funding to conserve the heritage of Mississippi's Gulf Coast.

## **G. GOVERNMENT COORDINATION AND DECISION-MAKING**

The Coastal Program has two goals related to improving coordination and decision making:

- “to consider the national interest involved in planning for and in the siting of facilities in the coastal area” and
- “to ensure the effective, coordinated implementation of public policy in the coastal area of Mississippi comprised of Hancock, Harrison and Jackson Counties.”

During the evaluation period, the MSCP has improved coordination of the permit review process among federal and state agencies and worked closely with applicants to ensure that they understand regulatory requirements early in the project development process. The Coastal Program also developed and participated in a joint Mississippi-Louisiana wetlands permitting workshop to share successful strategies and participated in a re-activated Beneficial Use of Dredged Materials Group.

### **1. Program Document**

State Coastal Programs each have a program document that includes descriptions of: (1) how each program is structured and implemented; (2) state legislation that is part of the federally approved program; and (3) how the program meets federal requirements. The MSCP Program Document is out of date and the past two program evaluations have included program suggestions regarding the need to update the program document and submit program changes on a routine basis. In 2005, MSCP hired a consultant to update their Program Document. At the time of the evaluation site visit, a clear and concise table of enforceable policies and changes to legislation was presented to the evaluation team as a draft updated Program Document. However, the document does not reflect significant changes that have occurred since the program document was approved, such as the changes in development patterns along the coast due to the casino boom and Hurricane Katrina. Mississippi has also reorganized state agencies and these changes should be reflected in a revised document. For example, oil and gas activities were previously regulated by MDEQ but they are now regulated by the Mississippi Development Authority. DMR should work with OCRM to determine if a new memorandum of understanding (MOU) should be established with the Mississippi Development Authority and incorporated into a revised program document. The revised program document should also reflect the increased

role of the MSOS in implementing the Coastal Program and the current role of other DMR offices in implementing the Coastal Program.

At the beginning of the evaluation period, the Coastal Management and Planning Office (previously the Comprehensive Resources Management Plan Bureau) was housed in the Office of Coastal Ecology. In early 2007, the Coastal Management and Planning Office was elevated within DMR to a separate office, reporting directly to the Executive Director of DMR. During the evaluation period, federal Coastal Zone Management funds were used to support a number of Coastal Management and Planning Office projects including the development of a GIS-based permit database and mapping system and support of the annual smart growth conference.

During the evaluation period, as the Coastal Management and Planning Office grew and successfully sought additional funding, the amount of federal CZMA funds supporting the office's activities decreased. The evaluation team noted that the change in funding, coupled with the elevation of the Coastal Management and Planning Office in 2007, has led to decreased coordination and communication between the Coastal Management and Planning Office and the MSCP. The evaluation team noted the importance of facilitating and institutionalizing a strong tie between the Office of Coastal Ecology and the Coastal Management and Planning Office given the importance of the latter's efforts in addressing significant aspects of the CZMA and the Coastal Program's goals. Regardless of its funding sources, the Coastal Management and Planning Office performs critical coastal management functions that complement those of the MSCP, notably coordinating the Mississippi CELCP program with the Office of Coastal Ecology, working with local governments on smart growth and coastal hazards activities, managing much of DMR's geospatial data gathering and analysis, managing the state's Clean Marina and coastal stormwater activities, leading DMR's Coastal Impact Assistance Program activities, and heading up the Gulf of Mexico Alliance's Coastal Community Resilience issue team. OCRM believes that closer coordination between the two offices would result in more efficient and effective implementation of the Coastal Program. The Coastal Management and Planning Office is integral to implementing the goals of the MSCP and this relationship and effective coordination mechanisms should be addressed in the updated MSCP Program Document.

**Necessary Action: The MSCP must complete an update of their Program Document that addresses: (1) changes to DMR regulations (2) changes in development patterns and natural resource issues, and (3) reorganization of relevant state agencies and offices including the incorporation of the Coastal Management and Planning Office as an element of the MSCP by April 2011.**

## **2. Federal Consistency, Routine Program Changes, and Permitting**

The CZMA's federal consistency provision (§307) is a significant incentive for states to join the national coastal zone management program. It is also a powerful tool that states use to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. The federal consistency provision requires that federal agencies funding, licensing, or permitting

activities that have reasonably foreseeable effects on any resource in the coastal zone must be consistent to the maximum extent practicable with the enforceable policies of a state's coastal management program.

State coastal programs are responsible for submitting changes to their enforceable policies to OCRM for review. OCRM then approves or denies the incorporation of enforceable policies, and changes to enforceable policies, into state coastal management programs. If changes are approved by OCRM, a state may then review federal agency activities and permits for consistency with the revised or new enforceable policy. The MSCP last submitted program changes to OCRM for review in 1997. The previous two program evaluations contained program suggestions that the MSCP submit program changes to OCRM for review. OCRM encourages the MSCP to submit program changes as soon as possible to ensure that the program is up-to-date and to develop a process to submit future changes on a regular schedule.

**Necessary Action: By July 2010, the MSCP and OCRM must develop and agree to a schedule for regularly submitting program changes. During the evaluation period beginning April 2009, the MSCP must submit program changes by the agreed deadlines.**

During the evaluation period, the MSCP increased its focus on customer service. The evaluation team met with federal and state partners and several members of the development community, who all praised MSCP for coordinating valuable pre-application meetings. MSCP wetlands permitting staff encourage pre-application meetings and bring together federal and state permitting staff to discuss projects with applicants and conduct extensive onsite evaluations as necessary. These discussions, early in the development of projects, allow projects to be designed from the start to avoid and minimize impacts and assist applicants with navigating the regulatory process. MSCP staff conducted approximately 100 of these pre-application meetings during the evaluation period. After Hurricane Katrina, permitting staff also looked to provide additional support to redevelopment efforts. The staff held a wetlands permitting workshop for over one-hundred developers and consultants and developed and provided a brochure and compact disc with permitting forms.

**Accomplishment: The MSCP has improved customer service by bringing together federal and state regulatory staff and project applicants early in the project design phase to ensure projects minimize environmental impacts from the start and developers do not need to redesign projects to meet regulations.**

DMR has also improved coordination and streamlined the permitting process by providing office space for USACE permitting staff from the Mobil, Alabama office, which has led to an increased exchange of ideas and information. The co-location of USACE staff also provides additional opportunities for staff to meet together with applicants and ensure that they understand both the federal and state environmental regulations and the regulatory process. In addition, the increased communication and coordination assists with the implementation of the federal consistency process. The MSCP and USACE staff have worked together to identify what processes are working well and which are not. This information will be used to develop an updated MOU

between DMR and the USACE. OCRM encourages the MSCP to continue to pursue an update of the DMR-USACE MOU. OCRM commends the MSCP for improving customer service and coordination between federal and state agencies.

**Accomplishment: The MSCP has improved federal-state coordination by providing office space for USACE permitting staff, allowing the two entities to work more closely together.**

To improve the efficiency of the permitting process and to improve the tracking of permits and required mitigation, the MSCP is developing a new database. Although the database is being used, it is still under development and glitches are being worked out. In addition, GIS staff are linking the database to the graphic and locational abilities of the existing web-based interactive mapping application, Coastal Mapper, and MSCP staff are considering additional improvements. OCRM commends the MSCP for developing a database to increase the efficiency of the permitting process and to provide better long-term tracking.

The new database provides the MSCP with new opportunities to improve data tracking and analysis. Currently, the database can't be used to generate reports to meet all of OCRM's reporting requirements. In addition, there may be other information and analysis that could be used to improve the program, such as tracking and analyzing the long-term success of restoration techniques and wetland banking. OCRM encourages the MSCP to continue to improve the database to ensure it can meet reporting requirements and to consider new opportunities for using the database to improve program implementation.

**Program Suggestion: OCRM encourages the MSCP to continue to support efforts to improve its wetlands permitting database in order to meet reporting requirements and better track and analyze long-term impacts and results.**

The CZMA states that coastal management programs should provide opportunities for public and local government participation in coastal management decision making. The previous evaluation noted citizen concerns with the wetland permitting process and contained a program suggestion encouraging DMR to routinely post notices of individual permit applications on its website with instructions on how to comment. During the evaluation period, MSCP began to regularly post notices of permit applications in the public notice portion of its website.

The evaluation team heard from a citizen who stated that too many permit exemptions are granted, the reasoning behind permitting decisions was not clear or available, and they didn't feel their comments were incorporated by the commission into permitting decisions. The evaluation team also heard from NOAA partners that some citizens were unclear on public notice and comment period timelines and commission meetings were not held at convenient times. The MSCP provides Power Point slides at commission meetings that outline the staff's reasoning behind permit recommendations, and transcripts of commission meetings are posted on DMR's website. However, information behind permit recommendations is not compiled in one accessible place, wetland permitting information is scattered throughout the website, and there are informational gaps.

OCRM encourages the MSCP to assess the concerns of interested citizens, identify and evaluate opportunities for increasing citizens' understanding of the process and opportunities for involvement, and to pursue selected opportunities to address citizen concerns. Possible improvements may include (1) making portions of the database accessible to the public and providing information on permit decisions such as the rationale for why a permit was approved or denied, exemptions granted, and acres impacted; (2) an annual report providing summarized information on major permitting decisions and number of permits granted; (3) developing a "citizens guide" that includes information on how citizens can participate in the wetland permitting process, including timelines and a description of how their input is incorporated into the permitting process; and (4) an updated wetland permitting website that includes links to all relevant wetland permitting information including public notices and commission notes.

**Program Suggestion: OCRM encourages the MSCP to assess citizen concerns with public participation in the wetland permitting process, evaluate opportunities for addressing these concerns and enhancing public involvement, and to pursue those opportunities that best address citizen concerns and enhance public involvement.**

### **3. Regional Coordination**

During the evaluation period, the Louisiana and Mississippi Coastal Programs held a two-day Management Strategies Workshop focused on permitting. Permitting staff from both programs shared information about their programs. In particular, Louisiana highlighted the development of its permit database and Mississippi showcased the benefits of having Army Corps staff co-located with Coastal Program staff. Presenters shared information about the organizational structures of the two offices, regulatory procedures, streamlining efforts, and the use of technology in wetlands permitting. Other participating agencies included the USACE and DMR's Office of Marine Patrol. Participants felt the workshop was a great success and the MSCP is discussing participating in similar workshops with other states in the region who have expressed interest. OCRM commends the MSCP for developing and participating in a bi-state coastal management workshop focused specifically on permitting and on sharing lessons learned and best practices.

**Accomplishment: Mississippi and Louisiana permitting staff held a wetlands permitting workshop and shared strategies for improving their programs.**

### **4. Beneficial Use of Dredged Material**

In 2008, MSCP staff began participating in a re-activated Beneficial Use of Dredged Material Group that had been inactive since Hurricane Katrina. Members include NOAA, Department of Interior, USACE, EPA, MSOS, MDEQ, Mississippi Port Authority, the coastal counties, and congressional staff. The Beneficial Use Group is focused on finding opportunities to use dredge material in restoration activities and beach restoration. To further these efforts, DMR has signed a MOU with the Port of Pascagoula to store material for restoration, instead of using an upland

disposal site. In addition, as part of this group, staff worked with Jackson County officials to determine if material from several small dredging projects would be suitable for repairing damage to the Deer Island Marsh Restoration project. Approximately 100 cubic yards of dredged material were placed on the restoration site, but shallow water access issues prevented any further deposition of material on the site. OCRM commends the MSCP for focusing on opportunities to increase the use of dredged materials in restoration activities and beach renourishment.

## V. CONCLUSION

For the reasons stated herein, I find that Mississippi is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved MSCP.

Notable accomplishments of the MSCP during the evaluation period include successfully improving customer service, developing and implementing new wetland regulations, increased employee retention rates, improving coordination with USACE permitting staff by providing them with office space, helping local governments understand and adopting smart growth principles, partnering with numerous organizations to remove large amounts of debris and control invasives after Hurricane Katrina, working collaboratively with the Grand Bay Estuarine Research Reserve, and enhancing regional coordination.

These evaluation findings also contain eight recommendations. The recommendations are in the form of three Necessary Actions and five Program Suggestions. The state must address the Necessary Action regarding submittal of routine program changes by the dates indicated. The Program Suggestions should be addressed before the next regularly-scheduled program evaluation, but they are not mandatory at this time. Program Suggestions that must be repeated in subsequent evaluations may be elevated to Necessary Actions. Summary tables of program accomplishments and recommendations are provided in section VI.

This is a programmatic evaluation of the MSCP that may have implications regarding the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.



Donna Wieting, Acting Director  
Office of Ocean and Coastal Resource Management

APR 13 2010

Date

## VI. APPENDICES

### Appendix A. Summary of Accomplishments and Recommendations

#### Accomplishments

Issue Area	Accomplishment
Wetlands Permitting	The MSCP has improved the effectiveness of the Wetlands Permitting Program through the adoption of new regulations, improved staff retention, and training through GBNERR.
Habitat	MSCP worked with numerous partners to remove enormous amounts of debris from coastal preserves and contain the spread of invasive species after Hurricane Katrina.
Habitat	The MSCP developed site specific restoration plans for eight sites within the Coastal Preserve System.
Community Development	The MSCP and DMR's support and promotion of smart growth principles in coastal Mississippi has led local governments and developers to integrate smart growth principles into local planning efforts and development projects.
Wetlands Permitting	The MSCP has improved customer service by bringing together federal and state regulatory staff and project applicants early in the project design phase to ensure projects minimize environmental impacts from the start and developers do not need to redesign projects to meet regulations.
Wetlands Permitting/ Government Coordination	The MSCP has improved federal-state coordination by providing office space for USACE permitting staff, allowing the two entities to work more closely together.
Wetlands Permitting/ Government Coordination	Mississippi and Louisiana permitting staff held a wetlands permitting workshop and shared strategies for improving their programs.

**Recommendations** are in the form of Necessary Actions (NA) or Program Suggestions (PS).

Issue Area	Recommendation
Wetlands Permitting	NA: The DMR and MSCP must complete the digitization of the wetlands maps and submit them to OCRM as a program change by October 2011.
Wetlands Permitting	PS: The MSCP should consider providing additional training to commission members to keep them well-informed of wetlands permitting issues and relevant coastal management issues.
CELCP	PS: OCRM encourages DMR to implement a competitive CELCP project selection process as laid out in the draft Mississippi CELCP plan.
Hazards	PS: MSCP should consider the addition of a coastal hazards goal in their updated Program Document.

Issue Area	Recommendation
Federal Consistency	NA: The MSCP must complete an update of their Program Document that addresses: (1) changes to DMR regulations (2) changes in development patterns and natural resource issues, and (3) reorganization of relevant state agencies and offices including the incorporation of the Coastal Management and Planning Office as an element of the MSCP by April 2011.
Federal Consistency	NA: By July 2010, the MSCP and OCRM must develop and agree to a schedule for regularly submitting program changes. During the evaluation period beginning April 2009, the MSCP must submit program changes by the agreed deadlines.
Wetlands Permitting Database	PS: OCRM encourages the MSCP to continue to support efforts to improve its wetlands permitting database in order to meet reporting requirements and better track and analyze long-term impacts and results.
Public Involvement	PS: OCRM encourages the MSCP to assess citizen concerns with public participation in the wetland permitting process, evaluate opportunities for addressing these concerns and enhancing public involvement, and to pursue those opportunities that best address citizen concerns and enhance public involvement.

## Appendix B. Response to Previous 2005 Evaluation Finding

### COORDINATION AND COMMUNICATION

**Program Suggestion:** MCZMP should continue to foster and broker communication and coordination with appropriate Federal Agencies, the networked agencies, the public, and with all stakeholders. Opportunities to coordinate at the inter-agency and intra-agency levels should be routine as opposed to ad hoc.

**MSCZMP Response:** The Bureau of Wetlands Permitting (Permitting) has made efforts in several areas to comply with this suggestion. Three statute changes have recently been approved by the legislature and sent to the Governor for his signature. These statutes define a complete application and base the processing deadlines on receipt of a complete application rather than simply receipt of an application in any form. This is more in line with the Corps of Engineers (USACE) and the Department of Environmental Quality (MDEQ) and should allow the application processing times of the three agencies to be more closely coordinated. We are also in the process of updating the Memorandum of Understanding (MOU) with the USACE and MDEQ which designates DMR as the coordinating agency within the three coastal counties and more precisely and clearly defines the responsibilities that are required by this role. Permitting is drafting Standard Operating Procedures to cover all aspects of the regulatory process which incorporate these responsibilities.

The DMR also allows the USACE Mobile District to house a segment of their Coastal Mississippi regulatory team in the Permitting offices. At this time there are two team members, with plans to accommodate more as the opportunity arises. This allows for much easier and faster communication and a greater degree of coordination in the permitting process among the two agencies. These two agencies hold frequent pre-application meetings and include MDEQ, U.S. Fish and Wildlife, National Marine Fisheries and other state and federal agencies as they are able to attend. The Bureau has sponsored several workshops for developers, consultants and appropriate municipal employees and has participated in workshops put on by other organizations and agencies to explain the wetlands permitting process in the Coastal Zone. These workshops have frequently included participation by USACE and MDEQ.

### FEDERAL CONSISTENCY

**Necessary Action:** MCZMP must document and submit its Federal Consistency process to OCRM immediately.

**MSCZMP Response:** This was provided to NOAA in the fall of 2005.

**Program Suggestion:** MCZMP should address the multiple issues affecting the exercise of Federal Consistency (all discussed in the previous evaluation) and seek changes to its processes where possible.

*MSCZMP Response:* This was provided to NOAA in the fall of 2005.

#### **PROGRAM DOCUMENT DEVELOPMENT**

**Program Suggestion:** MCZMP should complete the development of a program document describing in a user friendly manner, its management objectives, how the program works, its processes and procedures, and its legislative and regulatory underpinnings.

*MSCZMP Response:* A draft revision will be hand delivered during the 2009 Evaluation.

#### **PROGRAM CHANGES**

**Program Suggestion:** MCZMP should develop a schedule to ensure that program changes are submitted to OCRM at least once every two years. It is further suggested that drafts of pending legislation be submitted to OCRM informally.

*MSCZMP Response:* We will review our records since 1997, and report, though that will take some time. We will develop a process to report these program changes within Performance Reports. We can easily report use changes since Hurricane Katrina. Finding and reporting earlier use changes will take significant investigation time, but could potentially be done. Currently they are tracked in the permitting database and we have a report that shows all use plan changes during a specified date range. I think we could easily incorporate this into the Performance Report system.

#### **WETLANDS USE MAPS**

**Program Suggestion:** MCZMP should verify that the wetlands use maps exist and are maintained in office facilities and that any changes are being documented to the maps. As a matter of course, the wetland use maps should be digitized, a process for their update should be developed and implemented, and a process to assure that they are routinely submitted as program changes to OCRM needs to be implemented.

*MSCZMP Response:* The wetland use maps have been digitized and we are in the process of ground-truthing.

#### **PROGRAM CHALLENGES**

**Program Suggestion:** MCZMP should consider conducting an analysis of freshwater wetlands (quality and functions), which if degraded or lost might have a direct or an indirect effect on coastal habitats, coastal water quality or coastal flood control issues and consider prioritizing those areas for conservation, protection, or restoration purposes. This could be facilitated through the use of MCZMP GIS data and information. MCZMP should also establish an overall definition of success for their wetlands program.

*MSCZMP Response:* With the ongoing rebuilding efforts in south Mississippi, we have had a

difficult time fulfilling this suggestion. Furthermore, this project would cost a significant amount, and our annual CZM allotment has trended down in recent years.

#### **PUBLIC NOTICE**

***Program Suggestion:*** It is suggested that DMR use its web page to routinely post notices of individual permit applications with a statement of process and how to appropriately register an objection or comment.

***MSCZMP Response:*** Currently on: <http://www.dmr.state.ms.us/> under “Public Notices”.

## Appendix C. Persons and Institutions Contacted

### Mississippi Office of Coastal Ecology

Name	Position
Jan Boyd	Office Director, Office of Coastal Ecology
David Ruple	Grand Bay NERR Manager
Jeff Clark	Coastal Preserves Program
Will Brantley	Wetlands Permitting Program
Mike Walker	Performance Measures, Nonpoint Program

### Mississippi Department of Marine Resources

Name	Office
Dr. William Walker	Director, DMR
Walter Chataginer	Office of Marine Patrol
Lauren Thompson	Public Affairs Bureau
Tina Shumate	Coastal Management and Planning Office
Grant Larsen	Coastal Management and Planning Office , GIS
Joseph Runnels	Mississippi Attorney General Contract Legal Staff
Sandy Chestnut	Mississippi Attorney General Contract Legal Staff

### Federal Agencies

Name	Agency
Becky Allee	NOAA Coastal Services Center
Jenny Jacobson	USACE Planning
Linda Brown	USACE Planning
Craig Litteken	USACE
Paul Necaie	U.S. Fish and Wildlife Service

### State Agencies

Name	Agency
Ray Carter	Secretary of State
LaDon Swan	MS/AL Sea Grant
Robert Seyfarth	Department of Environmental Quality

### Other

Name	Position/Agency
Larry Lewis	Consultant, MSCP Program Document Revision
Marc Foster	Restoration Consultant
Beth Ousley	Southern Mississippi Planning and Development District (consultant current 309 projects)
Vernon Asper	Chair, Commission on Marine Resources
Shelby Drummond	Commissioner, Commission on Marine Resources

Sharon Hodge	Northern Gulf Institute
Scott DeLano	Gulf States Properties
Judy Steckler	Director, Land Trust for the Mississippi Coastal Plain
Robert Wiygul	Environmental Community

## **Appendix D. Persons Attending the Public Meeting**

The public meeting was held on March 16, 2009 at 6:00pm at 1141 Bayview Avenue Biloxi, MS 39530

No members of the public attended the meeting.

## Appendix E. OCRM's Response to Written Comments

OCRM received one written comment regarding the Mississippi Coastal Management Program. The letter is part of the official record of the evaluation and is briefly summarized below, followed by OCRM's response.

**Terese P. Collins, President**  
**Gulf Islands Conservancy, Inc.**  
**COLLINS & ASSOCIATES**  
**Biloxi MS**

**Comment:** Ms. Collins expressed concern that the evaluation team had only heard from a very few citizens and that the evaluation team was not hearing the whole story. She also expressed concerns that the first hearing notice in the paper had the wrong date and when she drove past the building it looked like there was no meeting. She noted that since Katrina many citizens did not have the time to be involved with coastal resource management issues.

Ms Collins also expressed concerns that enforcement of the rules, regulations, guidelines, and procedures is lacking and critical analysis of projects is needed. She stated that there is little transparency with regards to how decisions are being made and that the program was not even online. She recommended that DMR keep open records of permit activities and track and provide information on how many wetlands coastal Mississippi lost or protected in the past 2, 5, or 10 years. She stated that that the talk of smart growth was good but the implementation is poor. Ms. Collins also described coastal issues she would like to see addressed: impaired waters and the need to update sewer plants, wetland filling, degraded air quality, runoff that is not controlled – the DMR parking lot does not have water retention and drains straight into Back Bay; massive developments in the planning state, and beach front jetties built where jetties would never have been allowed 5 or 10 years ago.

*OCRM's Response:* The evaluation and public meeting were noticed in the Federal Register and the local paper as required by Coastal Zone Management Act implementing regulations and on DMR's website. It is unfortunate that the initial hearing notice had the wrong date but the meeting was readvertised with the correct date.

OCRM believes that the MSCP has successfully undertaken several efforts to improve their permitting program during the evaluation period including developing new regulations, improving staff retention and training, developing a database to better track permitting and mitigation information, posting notices of permit hearings on DMR's website, and increasing the number of pre-application meetings and applicants understanding of regulatory requirements to protect wetlands. OCRM concurs with Ms. Collins that DMR should strive for transparency with regards to permitting decisions. OCRM has also encouraged MSCP to provide additional training opportunities for commission members. See section entitled **Wetland Permitting** for more information on wetland permitting issues. OCRM concurs that it is unfortunate that the DMR building and parking lot is not a good example of effective stormwater management. The MSCP

faces a large number of issues and OCRM works annually with the MSCP to determine where to direct limited funding.