UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

OCT 13 2011

Scott Angelle, Secretary
Louisiana Department of Natural Resources
P.O. Box 94396
Baton Rouge, LA 70804-9396

Dear Secretary Angelle:

After we sent you the final evaluation findings for the Louisiana Coastal Resources Program (LCRP) for the period from April 2005 through December 2010 and distributed them to other participants in the evaluation, a factual error in those findings was brought to our attention.

We agree that there was an error in the last sentence of the first partial paragraph (line 6) on page 23. We have corrected the error and are providing you with a corrected copy of the final findings. This document is now the official version. It will also be provided to the other evaluation participants who received the incorrect findings document.

We apologize for any inconvenience or confusion this may have caused.

Sincerely,

Chris McCay

for Kate Barba, Chief
National Policy and Evaluation Division

Enclosure

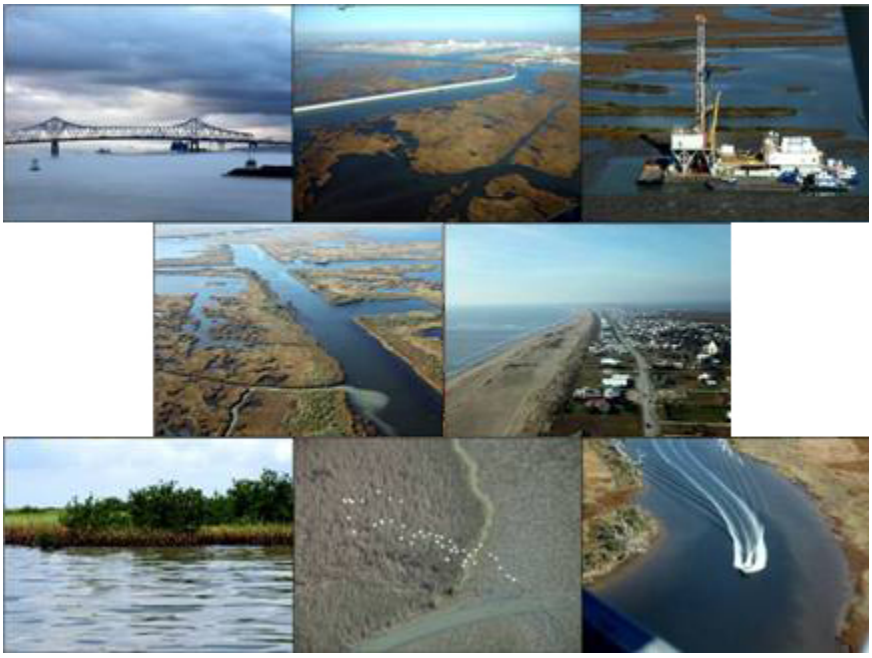
cc: Stephen Chustz, Acting Assistant Secretary, Louisiana DNR Office of Coastal Management
Keith Lovell, Administrator, Interagency Affairs/Field Services Division, Louisiana DNR Office of Coastal Management
Josh Lott, Coastal Programs Division, OCRM
Carleigh Rodriguez, Coastal Programs Division, OCRM
Laren Wooley, Oregon Coastal Management Program, Oregon Department of Land Conservation and Development

FINAL EVALUATION FINDINGS

LOUISIANA COASTAL RESOURCES PROGRAM

April 2005 through December 2010

September 2011



Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
U.S. 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 Louisiana Coastal Resources Program (LCRP) by the Louisiana Department of Natural Resources (DNR) Office of Coastal Management (OCM), the designated lead agency, from April 2005 – December 2010.

This document describes the evaluation findings of the Director of NOAA's OCRM with respect to the LCRP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. The evaluation concludes that the OCM 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 LCRP accomplishments during this review period. The LCRP adapted to changes in coastal priorities after major hurricanes, legislation, and agency reorganizations by aligning policies and practices with the Coastal Protection and Restoration Authority (CPRA) Master Plan and focusing on beneficial use and resiliency against storms and other hazards. Investments and improvements in the Strategic Online Natural Resources Information System (*SONRIS)* and *PermitTrak* helped many LCRP partners and stakeholders to support their own work and interests and improved LCRP transparency and accountability. The Louisiana Coastal Resources Program completed an extensive, science-based study of Louisiana's 30-year old coastal zone boundary that used current scientific data and took into account socioeconomic factors and public input. The recommended changes to the boundary will better serve the state's coastal zone management needs.

LCRP revised its permitting process to implement the master plan, reviewed its mitigation program, pursued changes to strengthen its in-lieu fee program, and implemented new beneficial use rules**.** A mitigation program review identified strategic changes that align better with the CPRA Master Plan. The LCRP applied lessons learned during major hurricanes to inform and improve how it responded to subsequent emergencies. The LCRP committed to increasing community resilience by undertaking projects in specific areas of concern and establishing key partnerships. The LCRP committed to increasing the beneficial use of dredged materials from USACE dredging projects and used the full extent of its federal consistency authority in its efforts to accomplish that goal.

The evaluation team also identified areas where the LCRP could be strengthened. The DNR must work with NOAA's OCRM to develop and submit to OCRM a work plan with interim benchmarks and a time line for meeting the outstanding conditions of its conditionally approved coastal non-point program and then submit documentation to OCRM indicating how Louisiana

met the outstanding conditions. The Louisiana Coastal Resources Program should revise its financial assistance award application and tracking and reporting procedures to ensure compliance with award guidelines and OCRM's performance report guidance.

The LCRP should develop a strategic plan for increasing community resilience, including identification of potential new partners and ways to take advantage of existing partners, priority areas for improvement, and ways to move from projects to the adoption and implementation of changes. Finally, the LCRP should ensure that its federal consistency correspondence and determinations comply with NOAA regulations.

II. PROGRAM REVIEW PROCEDURES

A. OVERVIEW

The National Oceanic and Atmospheric Administration (NOAA) began its review of the LCRP in January 2010. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of particular concern;
- A site visit to Louisiana, including interviews and public meetings;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, based partly 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 coastal management program approved by NOAA. These must be carried out by the date(s) specified;
>
> **Program Suggestions** denote actions that OCRM believes would improve the program, 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 is 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. NOAA will consider the findings in this evaluation document in making future financial award decisions relative to the LCRP.

B. DOCUMENT REVIEW AND ISSUES DEVELOPMENT

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

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

- Program accomplishments since the last evaluation;
- The state's response to the previous evaluation findings dated October 17, 2005. These included seven recommendations in the form of program suggestions, addressing: use of technology, programmatic coordination, local coastal programs, wetland mitigation, coastal forests, pipeline activities, and federal consistency;
- Implementation of federal and state consistency authority;
- Changes to the core statutory and regulatory provisions of the LCRP;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Public participation and outreach efforts;
- Planning, permitting, and enforcement;
- Public access;
- Coastal habitat;
- Coastal hazards;
- Water quality;
- Coastal dependent uses and community development; and
- Performance measurement efforts.

The LCRP's assessment of how it responded to each of the recommendations in the 2005 evaluation findings is located in Appendix B.

C. SITE VISIT TO LOUISIANA

NOAA's OCRM sent notification of the scheduled evaluation to the Louisiana DNR, LCRP, relevant environmental agencies, members of Louisiana's congressional delegation, and regional newspapers. In addition, a notice of NOAA's "Intent to Evaluate" was published in the Federal Register on November 12, 2010.

OCRM conducted its site visit to Louisiana the week of January 3, 2011. The evaluation team consisted of Mr. Gregory Gervais, Evaluation Team Leader, National Policy and Evaluation Division, OCRM; Ms. Carleigh Rodriguez, Coastal Management Specialist, Coastal Programs Division, OCRM; Ms. Kate Barba, Chief, National Policy and Evaluation Division, OCRM; and Mr. Laren Woolley, Coastal Shores Specialist, Ocean-Coastal Management Program, Oregon Department of Land Conservation and Development.

During the site visit, the evaluation team met with LCRP staff, representatives of federal, state, and local agencies and interest groups involved with Louisiana's coastal management efforts. Appendix C lists people and institutions contacted during this review.

As required by the CZMA, NOAA held an advertised public meeting at 6:30 p.m. on January 3, 2011, at the LaSalle Building (Capitol Complex) Griffon Room, 617 North 3rd Street, Baton Rouge, Louisiana. The public meeting gave members of the public the opportunity to express

their opinions about the overall operation and management of the LCRP. Appendix D lists individuals who registered at the meeting. Appendix E summarizes NOAA's response to written comments submitted during this review.

The LCRP staff members provided essential support in setting up meetings and arranging logistics for the evaluation site visit in addition to providing the evaluation team with needed program information before, during, and after the site visit. The evaluation team greatly appreciated their assistance and active, enthusiastic participation.

III. COASTAL MANAGEMENT PROGRAM DESCRIPTION

NOAA's Office of Ocean and Coastal Resource Management approved the Louisiana Coastal Resources Program in 1980. The lead agency is the Louisiana Department of Natural Resources (DNR), Office of Coastal Management (OCM). The OCM is charged with implementing the LCRP under the authority of the Louisiana State and Local Coastal Resources Management Act of 1978, as amended (Act 361, La. R.S. 49:214.21 et seq.). This law seeks to protect, develop, and, where feasible, restore or enhance the resources of the state's coastal zone, which includes portions of 19 parishes and habitats and ecosystems like the Mississippi River deltaic plain and the Chenier plain. Its broad intent is to encourage multiple uses of resources and adequate economic growth, while minimizing adverse effects of one resource use upon another without imposing undue restrictions on any user. Besides striving to balance conservation and resources, the policies of the LCRP also help to resolve user conflicts, encourage coastal zone recreational values, and determine the future course of coastal development and conservation.

The Permits and Mitigation Division and the Interagency Affairs/Compliance Division in OCM regulate development activities and manage the resources of the coastal zone. Two administrators, who report to OCM's Assistant Secretary for DNR, lead the two divisions. As described later in this report, because of reorganization activities within DNR during the evaluation period, the Interagency Affairs/Compliance division administrator served as Louisiana's Coastal Program Manager toward the end of the evaluation period.

The Interagency Affairs/Compliance Division approves and monitors Local Coastal Programs (LCPs) established by coastal zone parishes, serves as a liaison to other state and federal agencies with coastal zone interests and authorities, administers federal consistency authorities, and provides field support to both divisions, including compliance monitoring of permitted and unpermitted coastal activities. It also represents OCM's natural resource trustee interests in the Natural Resource Damages Assessment claims process for oil releases under the federal Oil Pollution Act of 1990, performs biological services assessments for projects in the Joint Public Notice permitting process, and leads OCM's administrative activities related to NOAA CZMA financial assistance awards and reporting. In addition, the division administers the Coastal and Estuarine Land Conservation Program (CELCP) and the Coastal Nonpoint Pollution Control Program (CNPCP),

The Permits and Mitigation Division evaluates all Coastal Use Permit (CUP) applications for compliance with Louisiana's Coastal Use Guidelines and coordinates permit application information among OCM and state and federal agencies through the Joint Public Notice process. The division works with CUP applicants to ensure that impacts to coastal habitats are minimized or that appropriate habitat loss compensation is determined. This division also coordinates the Louisiana Coastal Wetlands Conservation Plan Program created by the federal Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) and provides comprehensive geographic information systems (GIS) and other services to both OCM divisions, including public outreach and budget and funding functions.

The Louisiana State and Local Coastal Resources Management Act of 1978, as amended (Act 361) also provides for the development of local coastal programs (LCPs). Local governments (parishes) may assume management of uses of local concern by developing a local coastal program consistent with Act 361. The Act also provides an organizational structure for coordinated LCP implementation.

While Louisiana primarily executes its coastal management program through the OCM and through local coastal programs approved by the LCRP, other state agencies that support coastal management activities include:

Office of Coastal Protection and Restoration (OCPR) – Because of the devastation of hurricanes Katrina and Rita, the Louisiana Legislature restructured the state's Wetland Conservation and Restoration Authority in December 2005 to form the Coastal Protection and Restoration Authority (CPRA). The OCPR was created to carry out the policies of the CPRA and to implement Louisiana's Comprehensive Master Plan for a Sustainable Coast. The OCPR activities that fall within the coastal management program's work include conducting and participating in flood control and hurricane protection projects, as well as coastal wetland and barrier shoreline restoration activities that include CWPPRA projects. The OCM issues CUPs for many of these projects and participates in planning and advisory roles for OCPR activities.

Department of Environmental Quality (DEQ) – This agency issues Water Quality Certifications under Section 401 of the federal Clean Water Act, including certifications for activities in the coastal zone that require CUPs. The DEQ also implements part of the conditionally-approved CNPCP under its section 319 authorities in the CWA and accompanying funds from the U.S. Environmental Protection Agency. The OCM implements the remaining CNPCP activities under Section 6217 of the Coastal Zone Amendments and Reauthorization Act (CZARA).

Department of Wildlife and Fish (DWF) – This agency manages coastal resources like oysters and shellfish, reviews CUPs when its managed resources may be impacted, and comments on federal consistency determinations related to its coastal resources.

Division of Administration, Office of State Lands (DOA OSL) – This agency identifies, administers, and manages state public lands and water bottoms. As such, it services a broad range of clientele, all having varying degrees of interest in public lands, navigable water bottoms, and the minerals thereunder. The primary goal of the office is to ensure the highest economic return and the maximum public utilization possible of Louisiana's public lands and water bottoms.

IV. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS

A. OPERATIONS AND MANAGEMENT

1. Organization and Administration

Louisiana's coastal management program experienced significant changes and challenges during the evaluation period, including responses to multiple hurricanes and the Deepwater Horizon oil spill. After Hurricanes Katrina and Rita in 2005, the Louisiana legislature held *The First Extraordinary Session of 2005* to address many issues related to resilience to coastal storms and to land subsidence and created the Coastal Protection and Restoration Authority (CPRA) as part of Act 8. The state created the Office of Coastal Protection and Restoration (OCPR) to implement the CPRA Master Plan for a Sustainable Coast ("Master Plan"), a key measure from the session. For the first time in Louisiana's history, a single state authority (CPRA) will integrate coastal restoration and hurricane protection by marshalling the expertise and resources of DNR, the Department of Transportation and Development, and other state agencies.

The OCPR received staff and capabilities from several existing state agencies to perform its mission of protection from coastal flooding and resilience through restoration. The OCPR's creation included the reassignment to OCPR of the former Coastal Restoration Division and Coastal Engineering Division from DNR's Office of Coastal Restoration and Management. After that, only the Coastal Management Division remained within the Office of Coastal Restoration and Management. Louisiana's DNR re-named this office as the Office of Coastal Management in 2009, and it is responsible for implementing the LCRP. While much of DNR's restoration and coastal engineering capabilities moved to OCPR, DNR continues to have a role through OCM's participation in the Integrated Planning Team that jointly coordinates development of the Master Plan with state and federal agencies and political subdivisions, including levee districts. The Integrated Planning Team includes senior staff from OCM. Governor Bobby Jindal also issued Executive Order No. BJ 2008-7, which requires state agencies to operate in a manner consistent with the Master Plan.

The OCM experienced turnover in several key leadership positions during the evaluation period, including three different coastal program managers and two DNR assistant secretaries. These changes, particularly of the program managers, represented a loss of institutional knowledge, though LCRP benefited from retention of several other long-time senior managers. The LCRP also addressed long-time challenges of attrition in its permit specialist positions by using state authority to offer premium pay to these staff, which enabled better retention during the last several years of the evaluation period. Historically, LCRP lost many permit specialists to federal agencies and consulting firms that offer higher salaries than the state can usually pay for these positions. Another significant staffing challenge was the additional workload and time demands created by several hurricanes and the Deepwater Horizon oil spill. OCRM commends the OCM on the dedication of its staff during those difficult times.

The evaluation team noted that key administrative changes over the evaluation period included development of standard operating procedures to enhance customer service, integration of new staff, and alignment of the LCRP's activities to be consistent with the Master Plan. Other emphases during the evaluation period were the beneficial use of dredge spoils as source material for restoration and mitigation projects and improvements to the mitigation program. Additionally, the OCM leadership expressed a vision for Louisiana's coastal management to move beyond permitting to include land use planning for resiliency against coastal storms and other hazards. OCRM acknowledges LCRP's efforts to adapt and expand its program.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program adapted to changes in coastal zone management priorities after major hurricanes, coastal legislation, and state agency reorganizations by aligning policies and practices with the CPRA Master Plan and focusing on beneficial use and resiliency against storms and other hazards.

2. Financial Assistance Awards Management

The LCRP applied for and received six annual financial assistance awards during the evaluation period and completed semi-annual performance reports for each award. Financial assistance application tasks often included broad language rather than specific annual activities and outcomes. While the LCRP submitted its performance reports on time to OCRM, report deficiencies often required revisions that delayed completion of final reports. The main deficiencies were incomplete or inaccurate reporting about the status of the task and activities that occurred during the reporting period. For example, the evaluation team noted instances where the LCRP reported identical activities in multiple awards or in subsequent reports for the same award. Additional areas for improvement include the provision of work products and success stories (section C of performance reports). Therefore, OCRM encourages the LCRP to provide greater specificity in its financial assistance applications and to revise its procedures to ensure performance s reports comply with award guidelines and OCRM's performance report guidance.

PROGRAM SUGGESTION: The Louisiana Coastal Resources Program should revise its financial assistance award application and tracking and reporting procedures to ensure compliance with award guidelines and OCRM's performance report guidance. The revised procedures should also address CZMAPMS reporting.

3. Budget/Finance

The LCRP received approximately $2.5 million per year during the evaluation period and reported approximately $2.0 million in state match. Sources of state match included DNR funds, the Fisherman's Gear Compensation Fund, the Coastal Protection and Restoration Fund, and the Louisiana Oil Spill Coordinator's Office. The evaluation team examined the LCRP's financial assistance budgets for the six awards during the evaluation period. While each award included some different activities and consequently different activity budgets, general budget categories differed little from year-to-year. The evaluation team looked closely at the FY10 budget as an

example of the LCRP's budgeting for the evaluation period. In the FY10 award, the LCRP used approximately 63% of its budgeted funds for labor costs (salary plus fringe), 10% towards its indirect costs, and the remaining 27% for other costs including contracts (e.g., funding to parishes with LCPs), equipment, supplies, and postage.

The LCRP budget appeared reasonable for its proposed activities. The LCRP expressed no difficulty with providing the required non-federal match during the evaluation period, although during the site visit the OCM staff indicated future access to the Coastal Protection Trust Fund for financing LCP support is not guaranteed. The parishes must match federal and state funds for the LCPs, and these parishes generally provide more match than the minimum requirement. Many of the parishes indicated a need and desire for additional federal and state funds to more rigorously implement their approved programs. Funds from the LCRP are only available to support operation and management of the ten approved LCPs; there is no funding to assist the remaining nine coastal zone parishes with the development of a LCP.

As indicated earlier in this report, the LCRP utilized available authorities to provide premium pay for permit specialists over the last several years of the evaluation period. This action, while increasing its annual operating costs, reduced the rate of attrition from these mission-critical positions. It also may have improved the LCRP's CUP processing effectiveness while reducing the administrative burdens associated with recruiting and training new staff.

4. Measuring Success and Measurable Results

The NOAA OCRM requires the LCRP to measure and report performance through the CZMA Performance Management System (CZMAPMS). During the evaluation period, the LCRP took the necessary steps to meet this new reporting requirement. For some measures, however, the LCRP struggled with accurate, complete reporting. For example, two performance measures require reporting on the total funds expended during the fiscal year reporting period under all open CZMA awards. The LCRP frequently reported only the funds associated with a single award, or reported no funds expended even though the progress report indicated specific activities occurred during that time. To ensure accurate CZMAPMS reporting, the LCRP should identify ways to improve the tracking of expenditures and activities completed for each award during the reporting timeframe. Increased specificity in the financial assistance applications may help, but the LCRP should also have a process in place for verifying the quality and accuracy of the information before submitting the report to OCRM.

In addition to the CZMAPMS reporting, the LCRP reports specific measures to the Louisiana legislature such as number of permits processed and time to process permits. The LCRP improved its timeliness during the evaluation period, in part due to efficiency activities like standard operating procedures and increased use of *SONRIS*. Other quantitative representations of results provided to the evaluation team included the LCRP's role in processing 90% of all emergency permit requests during the Deepwater Horizon event within three calendar days.

5. Online Permitting and Multi-User Database and GIS

The LCRP continued to upgrade and support *SONRIS* (Strategic Online Natural Resources Information System or "Sunrise") and the companion *PermitTrak* system during the evaluation period. The LCRP completed its testing and deployment of the online CUP application system at the beginning of the evaluation period. Permit applicants and their agents can either establish a DNR login account and complete the application online, or they can submit a hard copy of the application to OCM and have a permit specialist enter the information into *PermitTrak*. Electronic permitting data enables the LCRP's efficient management of the CUP and Joint Public Notice (JPN) processes.

The geographic information system (GIS) provides critical spatial information for analyzing CUPs. For example, the LCRP added a Master Plan buffer shapefile that it uses to determine if a CUP project conflicts with the Master Plan.

Additionally, the electronic records available in PermitTrak and the location-specific data layers available in the GIS interface of *SONRIS* provide applicants, other state and federal agencies, and stakeholders with information regarding potential projects in the coastal zone and enable a high level of transparency and accountability for the LCRP. The Louisiana DEQ uses *SONRIS'* GIS functionality to examine CUP project sites geospatially as part of its water quality certification process when implementing the federal Clean Water Act section 401 requirements. Non-governmental organizations (NGOs) indicated they use *SONRIS* while reviewing CUP applications to determine whether the proposed project would warrant their further review and comments. The LCPs use *PermitTrak* as a tool in monitoring permit requirements related to applicant submission of as-built drawings, performance of agreed-upon mitigation, and completion of annual reporting.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program continued its investment and improvements in the *SONRIS* and the *PermitTrak* database and GIS systems, which many LCRP partners and stakeholders use to support their own work and interests. These tools enable a high level of transparency and accountability in the administration of the state's coastal management program.

6. Coastal Zone Boundary

The Louisiana state legislature commissioned a coastal zone boundary study in response to the Ascension Parish request for coastal zone inclusion. The legislature tasked the CPRA with completion of a comprehensive study and evaluation of the coastal zone boundary. In 2009, the CPRA commissioned the LCRP to perform the study and evaluation and to provide recommendations regarding changes to the coastal zone boundary. Funding for the LCRP's work came from OCPR, EPA, and NOAA (through CZMA section 309 project funds).

As directed by the CPRA, the LCRP used a science-based approach; considered existing legal issues and other state coastal programs; incorporated economic concerns such as energy, fisheries, maritime transport and tourism; and considered archaeological and cultural concerns.

The LCRP's boundary study team included many of its staff, with support from LSU Sea Grant staff and private consultants for some portions of the work. The LCRP developed nine criteria for assessing a physical location's appropriateness for coastal zone inclusion. Scientific criteria included storm surge modeling of inundation and predicted coastal subsidence and sea level rise.

The LCRP's coastal zone study area included 91,000 square kilometers of Louisiana. It divided the study area into one square kilometer grid cells and scored each assessment criterion from 0 to 9 in each cell. The LCRP included extensive public education and outreach in their study and solicited input from a Stakeholder Advisory Group. Other state agencies and stakeholders who met with the evaluation team indicated the LCRP's approach led to a scientifically defensible set of recommendations that carried substantial public and stakeholder support because of education and outreach efforts throughout the study process.

The study recommended the addition of approximately 2,000 square kilometers and the removal of approximately 200 square kilometers from the Louisiana coastal zone. The area of expanded coastal zone includes a portion of Ascension Parish. The proposed coastal zone boundary changes also include a new Intergovernmental Coordination Management Area, which will enable new areas of the state to be eligible for state restoration funds and provide increased consistency with Master Plan goals.

On May 17, 2011, CPRA approved the study and recommended that the legislature make the necessary statutory changes to implement the boundary change. Several stakeholders expressed their concerns to the evaluation team that the LCRP's recommendations may undergo significant alterations by the legislature that would undermine the scientific defensibility of the new boundary and negatively impact coastal zone management. After legislative adoption, LCRP will request NOAA approval of the new coastal zone boundary as a CZMA program change.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program completed an extensive, science-based study of Louisiana's 30-year old coastal zone boundary that used current scientific data and took into account socioeconomic factors and public input. The recommended changes to the boundary will better serve the state's coastal zone management needs.

7. Local Coastal Programs

Local coastal programs (LCPs) review and permit activities of local concern, taking some permitting burden from the OCM and providing parishes with a greater level of involvement with decision-making for coastal uses in their communities. LCP personnel praised the LCRP staff for their responsiveness and technical and permitting support, and they noted the value of the LCP quarterly meetings for providing staff training and development.

Under Louisiana law, the LCRP must perform periodic reviews of the approved LCPs. The reviews include an analysis of existing parish coastal zone management ordinances and regulations, coastal use permitting procedures and processes, and other information pertinent to the approved parish programs. The purposes of the periodic review process are to ensure that the

LCP remains consistent with the federally approved state program, to determine whether the LCP is operating in a manner that achieves the objectives identified in the parish LCP document, and to help the state and the parish to further improve in their mission to prudently manage the state's and parishes' coastal resources. All ten LCPs (Calcasieu, Cameron, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. James, St. Tammany, and Terrebonne) undergo periodic reviews at the same time.

The LCRP's findings for the most recent LCP evaluation review period (January 2008 through June 2010) included the following recommendations:

- All of the parishes should continue to submit updated code sheets for all permit applications with care and diligence. Timely deliveries of contract deliverables are also of importance in this current climate of shrinking economic capability.

- The parishes should ensure that they send the state copies of public notices, final decision documents and all other important file documentation in a timely fashion for inclusion into the state's electronic permit file storage system. In addition to serving as the official clearinghouse for intergovernmental distribution and comment collection, as the devastating storms of 2005 proved, this also serves as valuable back-up data storage in case of severe damage to parish infrastructure.

- The OCM should redouble its efforts to ensure that all parish comments on state concern activities are adequately addressed. The OCM should continue to provide the information and guidance that is of interest to the parish programs.

OCRM appreciates the LCRP's commitment to performing periodic reviews of its LCPs, as well as its detailed evaluation process and useful findings. Regarding the LCRP-LCP partnerships, OCRM encourages the LCRP to strengthen the role of LCPs and parishes in improving coastal community resiliency against storms and hazards through adoption and use of model ordinances for new development and rebuilding after damage and losses.

B. PUBLIC ACCESS

Public access to the nation's coastlines is a national coastal management priority outlined in the CZMA and a required component in Louisiana's federally-approved coastal management program. Impacts on fishing, public access, and recreational opportunities are one of 19 general factors considered by the LCRP in determining whether a proposed use complies with Louisiana's coastal use guidelines. While the LCRP incorporates public access considerations into its CUP process, it has not planned or implemented meaningful public access aspects into its coastal management program since its inception.

As discussed in its latest Assessment and Strategy under CZMA section 309, public access in Louisiana is a low programmatic priority because LCRP determined its largest public access challenge, namely increasing access points to beaches and other coastline areas, would require significant property acquisition activities that would be performed best by local governments.

Additionally, the LCRP indicated it does not have the funds, mandate, or other resources to fulfill this need but does support the local agencies in developing public recreational areas. Finally, the LCRP indicated that wetland loss prevention and mitigation is its paramount responsibility, and those resource needs dwarf that of public access support it could provide to local jurisdictions.

The OCRM understands the LCRP's prioritization based on Louisiana's most pressing coastal management challenges. Nonetheless, OCRM encourages the LCRP to address strategically public access improvements, perhaps through existing partnerships with coastal parishes and collaborations with land conservation groups. NOAA's Coastal and Estuarine Land Conservation Program (CELCP) grants may serve as funds to enable land acquisition that facilitates public access in areas of greatest need, while also providing buffer and/or storm surge capacity to improve resiliency to coastal storms.

C. COASTAL HABITAT

1. Protection and Restoration

The LCRP implements the coastal habitat protection and restoration aspects of coastal zone management primarily through its Coastal Use Permit (CUP) process. Protection occurs directly through review and conditioning of permits (e.g., requiring compensatory mitigation) for approved activities, while restoration occurs through the application of in-lieu fee funds and beneficial use of dredge materials toward ecosystem-based restoration projects. The LCRP implemented Louisiana's no net wetland loss policy during the evaluation period successfully relative to permitted activities. The OCM leadership expressed a strong desire for the LCRP to do more than just implement no net loss, as ecosystem and watershed approaches more effectively protect and restore coastal wetlands. The following subsections describe Louisiana's activities and outcomes relative to protection and restoration.

a. Coastal Use Permits

The LCRP requires the application for, and receipt of, CUPs to ensure the management and reasonable use of state resources in the coastal zone for uses of concern like dredge and fill work, bulkhead construction, shoreline modification, and other development projects such as marinas, subdivisions, drainage facilities, and energy infrastructure. As further detailed later in this report, LCRP-approved LCPs may issue permits for coastal uses of local concern. The LCRP considers and issues permits for uses of local concern in parishes that do not have approved LCPs and issues permits in all 19 coastal parishes for uses of state concern.

During this evaluation period the LCRP processed about 1,700 CUP applications each year, with 60 percent of applications coming from oil and gas development activities. The LCPs processed about 150 CUP applications each year. During the evaluation period, the LCRP established a CUP steering committee, which includes outside advisors such as permit agents. The committee provided input that informed CUP process changes, such as an increased level of communication with applicants throughout the application process. Applicants normally initiate the CUP process

through the LCRP's online process in *PermitTrak*, although some applicants complete a hard copy version of the application, and LCRP personnel then enter these into *PermitTrak* on behalf of the applicant. The LCRP serves as a gateway for applicants to the coordinated permitting process for the USACE, DEQ, and LCRP permits through the Joint Public Notice (JPN). Permit applicants and other state and federal agencies remarked that several aspects of the JPN process served applicants, agencies, and stakeholders well. For example, pre-application meetings often enabled permitting agencies to identify project improvements like alternate pipeline routes that led to more easily reviewed and approved permit applications.

As discussed earlier in these findings, the LCRP aligned its practices with the Master Plan, which included revisions to the permitting process. The LCRP developed guidance for permit consistency with the master plan to ensure that its permit decisions are consistent with the plan. The document also established a process for coordination between the OCM and OCPR. If a proposed project has little or no probability of a Master Plan conflict, an OCM supervisor may approve the CUP. However, if there is a higher probability of a Master Plan conflict, then OCM provides the CUP application to OCPR for comments and concurrence prior to CUP issuance.

The LCRP applies Louisiana's "no net loss" policy for coastal habitats by first encouraging applicants to design projects that avoid impacts. When applicants cannot avoid impacts, the LCRP requires compensatory mitigation for the activity. The LCRP initiated several key policymaking activities during the evaluation period that dealt with impacts and mitigation.

The LCRP last updated its compensatory mitigation habitat valuation calculations in the 1990s. During this evaluation period, it proposed an increase in the coastal wetland in-lieu fee from $5,000 per acre to $40,000 per acre to reflect more accurately the cost for lost ecological services. In 2010, the LCRP submitted a prospectus outlining the new valuation calculations to the Interagency Review Team, co-led by the USACE. The USACE issued a public notice requesting comments on the proposed valuation calculations. While the LCRP's proposed valuation represents a major step towards accurate reflection of mitigation costs in Louisiana, other state agencies, federal agencies, and stakeholders indicated $40,000 per acre still undervalues the cost to compensate for lost habitat and function.

The LCRP's recent mitigation program assessment indicated it approved mitigation of impacts to 14 percent of all impacted acres permitted under CUPs through in-lieu fees, compared with 50 percent for individual mitigation projects and 36 percent for mitigation banks. Under the current in-lieu fee structure, the LCRP collected over $2.2 million over the 10-year period ending June 2009. Once approved, the LCRP's higher in-lieu fee calculations may significantly increase the amount of funds collected, even as some CUP applicants choose mitigation banks or their own mitigation projects compared with higher in-lieu fees.

The LCRP leveraged accumulated in-lieu fees from multiple CUPs to supplement larger regional and watershed-level restoration efforts like OCPR projects. Because a large portion of restoration costs comes from contractor mobilization and demobilization, the LCPR was able to gain an economy of scale by adding on to existing projects while expanding the overall quality and quantity of projects that align with the Master Plan. Stakeholders were pleased with the LCRP's leveraging of in-lieu fees in this manner. The LCRP's mitigation program assessment concluded

that in-lieu fees eliminate CUP mitigation monitoring, target resources towards projects with proven viability and sustainability characteristics, and align mitigation to occur in locations that meet the objective of the Master Plan.

Louisiana's long-standing requirement for beneficial use of dredged materials lacked clear mitigation alternatives that provided applicants a reasonable, defined set of alternatives. Permit applicants indicated the past requirement's lack of clear alternatives led to uncertainty in scoping dredging projects and stand-alone, isolated mitigation projects that failed to contribute positively to larger state objectives for restoration. The LCRP developed and adopted new rules for beneficial use in 2009 that include four options for permit applicants involved in coastal projects that include dredging more than 25,000 cubic yards of material:

- implementing a project that makes beneficial use of the dredged material,
- providing for the use of the dredged material on an approved coastal restoration project,
- using dredged material at another location that creates the same amount of beneficial use, or
- making a voluntary contribution to the Coastal Resources Trust Fund, based on the amount of material dredged.

The LCRP indicated the new rule resulted in adherence by 100 percent of permitted non-federal dredging projects; only 22 percent of these projects adhered to the beneficial use requirements under the old rule. The LCRP also indicated that federal dredging projects only achieve beneficial use adherence 12 percent of the time. This issue, particularly for USACE navigational dredging projects in the Lower Mississippi River, is discussed later in this report.

The OCRM commends the LCRP for reviewing its mitigation program, pursuing changes to strengthen its in-lieu fee program, and implementing new rules for beneficial use of dredged materials. The OCRM encourages the LCRP to continue assessing and improving the effectiveness of its mitigation program.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program revised its permitting process to implement the master plan, reviewed its mitigation program, pursued changes to strengthen its in-lieu fee program, and implemented new beneficial use rules.

Other state and federal agencies, organizations that represent CUP applicants, and stakeholders provided many suggestions and useful feedback to the evaluation team. The following points summarize several of the items that the LCRP may find useful as it continues identifying and implementing improvements to its permitting and mitigation processes:

- JPN: Printing and mailing of JPNs is expensive, not timely, and occasionally results in an incomplete permanent mailing list entity distribution. Given the approximately $30,000 per year cost for postage plus copying and administrative effort, the LCRP should distribute these electronically as its default and require an "opt in" for receiving a hard copy.

- CUP Process: Why does the LCRP only permit trenasse maintenance projects for 5 years, while the USACE permits them for 10 years?
- CUP Process: Could the LCRP have a few specialized permit specialists deal with unique habitats like cheniers?
- CUP Process: Why do restoration projects have the same permitting process as development projects? If the LCRP wants to encourage restoration, it should make the permitting as straightforward and fast as possible.
- Compensatory Mitigation: $40,000 per acre is still undervalued; the USACE has moved to $60,000 per acre, and NOAA NMFS recently recommended nearly $90,000 per acre to account for the temporal nature of functional loss while waiting for mitigation to re-establish the desired function. Mitigation banks in the coastal zone are becoming impossible to establish because of a 20-year warranty requirement in the context of coastal storms. A disconnect remains between the USACE's and the LCRP's mitigation approaches, which leads to occasional situations where informal coordination between these two entities must occur to avoid "double mitigation" requirements for a permit applicant. The LCRP and the USACE should develop a Memorandum of Understanding to establish a basic framework for resolving these situations under a formal agreement instead of a "handshake agreement" to work out these exceptional situations.

b. Monitoring and Enforcement

The LCRP's public face largely comes from its six field agents who share monitoring and enforcement responsibilities for Louisiana's 5.3 million-acre coastal zone, including all CUPs it issues. Field agents conduct inspections of mitigation projects performed under CUPs to ensure permit compliance. These same field agents also perform biological assessments for proposed projects. Additionally, the LCRP field agents' monthly aerial reconnaissance flights provide monitoring data to the ten LCPs who lead permit compliance activities for CUPs issued for activities of local concern. LCP representatives expressed their appreciation for the LCRP's reconnaissance because it provides information the parishes cannot afford to collect themselves. The LCRP can issue fines of $50 to $12,000 based upon a formula that considers the scope of the work performed and several other factors. Violators may also incur costs for compensatory mitigation in addition to fines. The LCRP's semi-annual performance reports to OCRM indicated approximately 100 new violation investigation cases occurred each year of the evaluation period. No site visit participants expressed concerns regarding the LCRP's enforcement program, nor did the LCRP indicate the program as an area with significant challenges.

2. Land Acquisition/Coastal and Estuarine Land Conservation Program (CELCP)

The LCRP prepared its draft CELCP Plan during the evaluation period and received comments from OCRM on three versions of the draft. The LCRP received NOAA's latest comments in November 2010. As of the end of the evaluation period, the LCRP had not finalized its CELCP Plan; however, the evaluation team understands that, subsequent to the evaluation site visit, LCRP staff initiated final changes to the plan and intends to submit the final plan to OCRM by

the end of June 2011. The OCRM encourages the LCRP to revise its draft plan consistent with the November 2010 comments and finalize the CELCP Plan as soon as possible.

The OCM leadership described its difficulties in identifying competitive CELCP grant proposals during the last portion of the evaluation period. Prior to FY2007, NOAA awarded CELCP grants non-competitively because the funds were congressionally directed. During the evaluation period, NOAA awarded five non-competitive CELCP grants to recipients in Louisiana. Recipients included St. Tammany Parish, the City of Mandeville, and Louisiana's DWF. However, once CELCP grants were awarded on a competitive basis, Louisiana received no CELCP grants during the evaluation period. The LCRP indicated its primary challenges in soliciting competitive proposals included a lack of willing sellers and a discrepancy between the reasonable size and scope of projects that could be funded and the large size of coastal zone properties suitable for CELCP projects. Several NGOs suggested to the evaluation team that there may be willing sellers but that LCRP outreach efforts had not targeted those sellers yet. The NGOs indicated many large landowners wish to retain mineral rights on their properties. Finally, the NGOs suggested the OCPR may be a more suitable host agency for CELCP given its restoration-intense mission.

Presently, NOAA CELCP guidelines are not fully compatible with purchase of properties excepting their mineral rights. The NOAA CELCP team is presently revising the CELCP guidelines and intends to address the mineral rights issues. In the meantime, the CELCP team suggested that an alternative could be the purchase of smaller parcels from large landowners that could serve both as buffers to mineral development and as public access corridors.

D. WATER QUALITY

The Coastal Nonpoint Pollution Control Program (CNPCP or Coastal Nonpoint Program), created by §6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), is jointly administered by NOAA and EPA. Two of the Coastal Nonpoint Program's key purposes are to strengthen the links between federal and state coastal management and water quality programs, and to enhance state and local efforts to manage land use activities that can degrade coastal waters. NOAA and EPA must approve each state's Coastal Nonpoint Program. NOAA and EPA conditionally approved Louisiana's Coastal Nonpoint Program in 1998, and the agencies have provided formal and informal feedback to the State on its progress and remaining conditions since that time. The most recent formal feedback was provided in 2006.

The LCRP summarized the state's evaluation period activities related to addressing the remaining conditions, which included collaborative and cooperative tasks performed by DNR and DEQ as the two Louisiana state agencies responsible for Coastal Nonpoint Program requirements under Section 319 of the Clean Water Act and Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA). Activities and products such as the "Louisiana Coastal Nonpoint Pollution Control Program BMP Manuals" and development and delivery of training and outreach related to the best management practices manuals may meet one or more of the Coastal Nonpoint Program conditions. The LCRP indicated that limited and inconsistent funding from NOAA and EPA for CNPCP implementation, as well as challenges in working

jointly with another state agency to meet the requirements of two federal agencies, has caused delays in satisfying conditions. Louisiana had not submitted comprehensive documentation or a formal request for NOAA and EPA final approval of its Coastal Nonpoint Program as of the end of this evaluation period.

At the time of the site visit, 12 out of 34 states with NOAA-approved coastal management programs had conditionally approved Coastal Nonpoint Programs. Under CZARA, states found to have failed to achieve an approvable Coastal Nonpoint Program are subject to financial penalties through withholding up to 30 percent of CZMA Section 306 funds and CWA Section 319 funds each year a state has failed to submit an approvable program. NOAA and EPA continue to encourage and support states with conditionally approved Coastal Nonpoint Programs to satisfy their remaining conditions and achieve final approval.

Necessary Action: The LDNR must work with NOAA OCRM to develop and submit to OCRM by October 31, 2011 a work plan with interim benchmarks and a time line for meeting the outstanding conditions of its conditionally approved coastal non-point program. The documentation indicating how Louisiana met the outstanding conditions must be submitted to NOAA OCRM no later than May 31, 2015.

E. COASTAL HAZARDS

Louisiana's 15,000 miles of shoreline and 8,200 square miles of coastal zone within 19 parishes face risks associated with coastal hazards on a daily basis. Impacts from hurricanes, wetland loss, land subsidence, coastal storm surge, and sea level rise affect human life and culture, property, and ecosystems that benefit Louisiana and the rest of the U.S.

The evaluation period included the impacts of four major hurricanes that made landfall (Katrina and Rita in 2005, and Gustav and Ike in 2008) and the legislative passage of Act No. 8, which created the Coastal Protection and Restoration Authority (CPRA). The CPRA is discussed in detail in the "Coastal Management Program Description" of these findings. The impacts of these hurricanes on Louisiana cannot be overstated. Katrina is reportedly the most costly coastal storm in U.S. history, with the total damage estimated at over $80 billion. Much of that occurred in Louisiana. Ike is reportedly the third most costly coastal storm in U.S. history, with over $30 billion in damage, though much of that occurred in Texas. Rita dealt another over $10 billion in damage to the Gulf region. Over 1,500 Louisianans died because of Katrina, primarily from the storm surge. Because of Katrina, over 380 square miles of Louisiana's coastal marsh were converted to open water.

The LCRP staff contributed staff time and resources to response efforts while ensuring the program continued to function effectively. Program staff indicated they identified lessons-learned after each incident and applied them to prepare for the next incident. Beyond emergency operations, these hurricanes influenced the OCM's strategic and operational planning and implementation of the LCRP. The realities of storm surge inundation and coastal flooding brought urgency to Louisiana's citizens and public officials to focus on how to improve

community resilience to coastal hazards through coastal protection and restoration, as evidenced by the Master Plan, as well as through local planning.

The LCRP prioritized and performed needed work on developing resilient communities during the evaluation period. One project, which studied how activities affect the integrity of cheniers and their storm surge protection value, led to recommended changes for improving the management of activities on cheniers. During the evaluation period, the state also began a project to evaluate the existing local planning and zoning framework related to at-risk landforms. Based on the information collected, the state will identify strategies and regulations that will provide increased protection to these landforms, which will also support the Master Plan goals.

To help reduce the risks associated with coastal hazards, the LCRP collaborated with the Louisiana Sea Grant Law and Policy Program, the Louisiana State University (LSU) AgCenter, and the Federal Emergency Management Agency to develop the Louisiana Coastal Hazard Mitigation Guidebook. Designed for state and local officials as well as the public, the guidebook addresses hazard mitigation for both rural and urban areas and demonstrates the cost-effectiveness and benefits of incorporating hazard mitigation into the earliest stages of development (or post-storm redevelopment). The LCRP and Sea Grant held guidebook workshops in three Louisiana coastal towns to help local officials, planners, builders, and consumers learn how to rebuild their communities in a way to increase hazard resiliency. Sea Grant staff also presented the guidebook to local permitting staff during an LCP meeting. The LCP representatives indicated that their parish planning boards largely lead planning efforts that would be well-informed by the guidebook, but few local planning board members attended the workshops. The evaluation team understood that the guidebook had not yet achieved widespread dissemination and use by its target audience, but outreach efforts continue.

LSU Sea Grant and LCRP personnel indicated their next steps will include working with one or more LCPs or parish planning departments on demonstration projects that would use the guidebook, at-risk landform protection strategies, and other resources to implement resilient community planning. OCRM strongly encourages the LCRP to strategically plan and implement projects to increase community resilience to coastal hazards.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program applied lessons learned during major hurricanes to inform and improve how it responded to subsequent emergencies. The LCRP committed to increasing community resilience by undertaking projects in specific areas of concern and establishing key partnerships.

PROGRAM SUGGESTION: The Louisiana Coastal Resources Program should develop a strategic plan for increasing community resilience, including identifying potential new partners and ways to take advantage of existing partners, priority areas for improvement, and how to move from projects to the adoption and implementation of changes.

F. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT

1. Waterfront and Port Revitalization

Louisiana's ports on the Lower Mississippi River collectively represent the busiest commercial port complex in the world. Louisiana's ports and waterways are active and vibrant with agricultural and manufacturing goods coming downstream through the Mississippi-Missouri River system and going upstream with seafood, oil, gas, and petrochemical supplies from the Gulf Coast and imported goods from around the world. Louisiana's port system, including western ports associated with the Calcasieu River, represent working waterways and presently do not require revitalization to support Louisiana's economic and cultural needs. As discussed elsewhere in this document, Louisiana's largest port-related use conflict deals with the need for maintaining federal navigable waterways and the cost and purported authority needed for the USACE to satisfy the LCRP's beneficial use policies to the maximum extent practicable as required by the CZMA federal consistency provisions.

2. Aquaculture

Louisiana's aquaculture industry generates over $100 million per year in sales and leads the nation in crawfish, soft crawfish, oyster, pet turtle, and alligator sales. Additional species and products include catfish, tilapia, baitfish, hybrid striped bass, redfish, soft shell crabs, ornamental fish, and a variety of freshwater game fish. The LCRP indicated there is significant concern in the state over the potential impacts of future aquaculture operations to recreational and commercial fishing, as well as other coastal activities. The LCRP convened a work group of involved state agencies to begin identifying possible issues and responses for balancing expanded aquaculture in the future with wild fisheries and traditional coastal uses.

As an example of the current challenges with balancing competing uses of coastal resources, the DWF described conflicts between oyster seed grounds it leases and oil and gas pipeline alignments and/or mineral rights leases near these grounds. The DWF reviews CUP applications for projects that may affect resources it manages, such as oyster seed grounds. The DWF indicated the LCRP's pre-application meetings could provide opportunities for its staff and LCRP staff to recommend alternative pipeline alignments that avoid oyster seed grounds. If DWF and LCRP disagree on the acceptability of a proposed project, their 2005 Memorandum of Understanding provides dispute resolution steps for agency staff and management that could lead to resolution prior to the involvement of agency secretaries or the governor.

G. GOVERNMENT COORDINATION AND DECISION-MAKING

1. Federal Consistency and Program Changes

The Interagency Affairs/Field Services Division staff implemented federal consistency provisions on behalf of the LCRP. Federal consistency work during the evaluation period included technical evaluations of federal activities, federal licenses and permits (those that are not subject to CUP requirements), federal assistance, and Outer Continental Shelf projects that

affect Louisiana's coastal zone. Staff also worked on special projects such as position papers and collaboration with in-house DNR programming staff to develop an online consistency submission and processing system similar to *PermitTrak*. The first phase, online submission, was nearly complete at the end of the evaluation period.

The LCRP reviewed 400-700 federal consistency determinations per year during the evaluation period. It found most projects consistent with the state's enforceable policies. The LCRP staff coordinates closely with its sister commenting agencies including the DWF, which has statutory authority and responsibilities for the management of marine resources. The LCRP also solicits consistency review comments from the LCPs. The LCRP indicated its own federal consistency procedures manual needs an update, that it seldom received consistency review comments from its sister commenting agencies, and that some LCPs occasionally comment. The LCRP identified a need to improve its integration of LCP comments when working to address issues with consistency determinations.

The CZMA requires state programs to update their programs on a regular basis. The LCRP requested OCRM approval for program changes once during the evaluation period. Before the LCRP can use any program changes for federal consistency purposes, changes in Louisiana's laws, executive orders, regulations, and LCRP policies must be submitted to and approved by OCRM. OCRM also encourages the LCRP to maintain a list of its approved enforceable policies on its website to facilitate the preparation of federal consistency determinations and certifications by agencies and applicants.

Federal consistency discussions during the site visit focused on two topics that were high priorities during the evaluation period and are detailed in the following sections. While these sections focus on areas of disagreement, the USACE and the Minerals Management Service Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) both expressed that they had good working relationships with the LCRP.

a. USACE and Beneficial Use

In response to an OCRM program suggestion in the 2005 evaluation findings report, the LCRP used its federal consistency authority to urge the USACE to coordinate its maintenance dredging program with the LCRP to increase beneficial use of dredged material resources. Federal navigational dredging projects by the USACE represent the largest source of dredged materials in Louisiana. However, the USACE indicated that only 50 percent of the dredged materials have properties suitable for beneficial use in coastal Louisiana. The USACE utilizes about 25 percent of its dredged materials from the Lower Mississippi River maintenance dredging program (i.e., half of the suitable dredged materials) for beneficial use. While this 25 percent represents millions of cubic yards of material for beneficial use, the loss of the other 25 percent means millions of cubic yards of dredged materials suitable for restoration projects are unused each year.

During the evaluation period, the LCRP stressed beneficial use in its consistency reviews and attempted multiple proactive approaches in working with the USACE to make a maximum amount of dredged materials available for restoration projects. These efforts have resulted in

increased beneficial use as part of several dredging projects such as the Calcasieu River Ship Channel. Unfortunately, the LCRP has made little progress in increasing the percentage of the USACE's beneficial use from the navigational dredging of Lower Mississippi River's Southwest Pass. The LCRP convened a multi-agency work group to explore alternative approaches for Southwest Pass dredging and disposal that would increase the amount of beneficial use and to develop a white paper with reasonable alternatives that would be consistent with the LCRP. However, the USACE did not act on any of the alternatives contained in the white paper.

Disagreement with the USACE over beneficial use of dredged materials led the LCRP to object to the USACE's finding of consistency with the LCRP for the FY2010 maintenance dredging of Southwest Pass. Specifically, the LCRP disagreed with the USACE's determination that the dredging was consistent to the "maximum extent practicable," as required under section 307 of the CZMA, because of the federal standard and funding limitations. Concurrent with issuing its objection, Louisiana requested mediation by the Secretary of Commerce as provided for in 15 C.F.R. § 930.112. The USACE declined to participate in mediation, even after NOAA sought to persuade the USACE to reconsider its decision, and proceeded with the dredging over the LCRP's objection. The LCRP again objected to, and the USACE proceeded with, the dredging of Southwest Pass for FY2011. The evaluation team saw this as an unfortunate outcome largely out of the LCRP's control. As a result of the USACE's interpretation of "maximum extent practicable" and its refusal to participate in voluntary Secretarial mediation, the LCRP's alternatives for resolving the conflict appear limited.

During the site visit, LCRP leadership indicated a willingness to concur with the USACE's federal consistency determination if the USACE requests the additional funding needed for beneficial use, even if Congress rejects the request through the appropriations process. The USACE was uncertain whether it has the authority to request additional funds for beneficial use. The USACE district leadership also alleged that the state's position regarding beneficial use and additional funds was inconsistent, with the LCRP saying no dredging unless the USACE does 100 percent beneficial use, and other state agencies encouraging the USACE to dredge more and helping the USACE secure additional funding for dredging. Other state agencies and stakeholders, however, expressed strong support for the LCRP's efforts to increase beneficial use.

The evaluation team found the situation to be full of conflict, short on productive discussions between decision makers, and lacking an easy solution. OCRM recognizes the LCRP's work and dedication to resolve the issue and remains supportive of the LCRP's use of its federal consistency authority to increase beneficial use of dredged material from USACE dredging projects.

ACCOMPLISHMENT: The Louisiana Coastal Resources Program committed to increasing the beneficial use of dredged materials from USACE dredging projects and used the full extent of its federal consistency authority in its efforts to accomplish that goal.

b. Minerals Management Service (MMS)/Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE)

The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) (formerly MMS) sells leases for offshore oil exploration and development on the outer continental shelf (OCS) of the U.S, including leases off Louisiana's coast. In the previous evaluation, NOAA concluded that LCRP and MMS cooperative efforts led to standardized information requirements for OCS lease sales and predictability for the oil and gas industry, MMS, and the LCRP. Subsequently, in 2006 the LCRP filed suit against MMS to require more extensive environmental reviews associated with potential adverse impacts from OCS lease sales. The parties reached a legal settlement in 2006, which led to MMS's preparation of a new Environmental Impact Statement. The legal settlement alone has not fully resolved disagreements between the LCRP and MMS.

During the evaluation period, MMS raised concerns about the LCRP's responses to its federal consistency determinations for several OCS lease sales with OCRM. OCRM reviewed the LCRP's letters and concluded the letters used ambiguous language and/or failed to meet the regulatory requirements for a state objection. Accordingly, OCRM communicated in its March 2010 letter to the LCRP that it had determined Louisiana is not properly implementing its federal consistency authority given the identified state response deficiencies. In its April 2010 response to OCRM, the LCRP disagreed with OCRM's determination, stating that the LCRP's correspondence with MMS attempted to comply with the tenets of the CZMA and the rules and regulations for responding pursuant to those provisions. The LCRP further requested that OCRM require MMS to provide in detail any complaints it has with LCRP's letters and that the LCRP have an opportunity to review such complaints and respond formally to them. Because a lease sale has not occurred since this exchange, the evaluation team cannot determine whether the LCRP has addressed OCRM's concerns. The evaluation team, however, reminds the LCRP to ensure that all of its federal consistency correspondence and determinations comply with NOAA regulations.

PROGRAM SUGGESTION: The Louisiana Coastal Resources Program should ensure that its federal consistency correspondence and determinations comply with NOAA regulations.

The evaluation team met with BOEMRE and LCRP representatives during the site visit. The agency staff indicated that, after the Deepwater Horizon event, they struggled to come to an agreement about information requirements for federal consistency review of OCS plans, particularly with regard to oil spill information. The agencies were able to work through these differences and co-developed a document titled "Interim CZM Information Requirements for Consistency Review (15 CFR 930.58) for Louisiana" to ensure that applicants provide the information needed to facilitate the LCRP's federal consistency review. Subsequent to the site visit, the LCRP published the document on its website. The LCRP leadership expressed confidence that the requirements list captured its data needs clearly. The BOEMRE personnel expressed some uncertainty regarding the list. The evaluation team understood the potential positive impact of the post-Deepwater Horizon event discussions and list in providing LCRP

with needed information, while acknowledging BOEMRE's concerns about inconsistent information requests and delays for applicants.

The BOEMRE representatives indicated that the LCRP's requirement of compensatory mitigation as part of a federal consistency determination for a lease sale creates unnecessary work for BOEMRE. The LCRP maintains that BOEMRE needs to address cumulative and secondary impacts from OCS development not attributed to an individual permit. BOEMRE, however, expressed the opinion that it lacks authority to provide compensatory mitigation at the lease sale stage, which only conveys the right to pursue exploration but not production. Since actual production necessitates federal permitting after a lease sale, the LCRP would have authority to require mitigation via federal consistency for those permits. The BOEMRE representatives also expressed a willingness to accept LCRP conditional concurrence with its federal consistency determination, with conditions associated with compensatory mitigation if production occurs.

Additionally, BOEMRE staff said that the current format for federal consistency determinations for lease sales, which was prepared in response to a 1980s lawsuit, is too long. Although the LCRP does not have to approve the format of BOEMRE's consistency determinations, BOEMRE expressed an interest in working with the state to implement a more streamlined, tabular format for determinations. The BOEMRE staff also indicated a lack of clarity on what LCRP enforceable policies pertain to BOEMRE, and they recommended LCRP publish a clear, updated list of enforceable policies that BOEMRE can link to or post on its website. To better inform federal agencies and other interested parties of the LCRP's enforceable policies, OCRM recommends that the LCRP update its consistency website to clearly identify and/or or provide links to its existing enforceable policies. Finally, BOEMRE and LCRP staffs agreed that future multiple uses at oil platforms (e.g., alternative energy production co-located at production wells) will create new coastal zone management and federal consistency issues.

2. Programmatic Coordination and Partnerships

As discussed throughout this findings report, LCRP implements coastal zone management in coordination and partnership with local governments, other state agencies, and federal agencies. The JPN process ties much of the coordination together.

As discussed elsewhere in this report, LCRP's partnership with LSU Sea Grant legal staff led to support and collaboration on coastal management efforts, including the coastal zone boundary study and the Coastal Hazard Mitigation Guidebook development and workshops. OCRM encourages the LCRP and the LSU Sea Grant to continue their partnership and to look for new opportunities for collaboration. For example, the LCRP may be able to utilize Sea Grant field staff who also work as extension agents for the LSU AgCenter in its outreach efforts.

The LCRP coordinated and collaborated with Louisiana's DEQ throughout the evaluation period on coastal non-point pollution control program activities. The collaboration included DEQ providing funds to the LCRP to address the remaining conditions for program approval. The

DEQ views its collaboration with the LCRP as critical to retaining its Clean Water Act authority delegation from EPA.

The DWF and the LCRP successfully implemented their 2005 MOU during the evaluation period. The DWF noted the MOU provides needed clarity on how it participates in CUP application reviews to ensure that its resource protection responsibilities inform project development and permitting. The LCRP and DWF staffs agreed the MOU's dispute resolution steps provide a useful process for working out conflicting resource uses and afford many opportunities to resolve disagreements prior to involving agency secretaries or the Governor. The DWF also praised the LCRP's use of the geologic review as part of the CUP process.

The Governor's Office of Coastal Activities and the OCPR leadership described productive relationships with LCRP leadership and noted the great strides the LCRP took in the last several years to align its activities with the Master Plan. The OCPR leadership indicated the OCM's location within a different agency allows the offices to provide different perspectives, with a balance between the OCPR's mission as the primary implementation agent for the Master Plan and OCM's role in Louisiana's overall coastal zone management.

The LCRP participates in the Gulf of Mexico Alliance (GOMA), a partnership of the states of Alabama, Florida, Louisiana, Mississippi, and Texas designed to increase regional collaboration significantly to enhance the ecological and economic health of the Gulf of Mexico. The GOMA has identified six priority issues that are regionally significant and that can be effectively addressed through increased collaboration at local, state, and federal levels: water quality, habitat conservation and restoration, ecosystem integration and assessment, nutrients and nutrient impacts, coastal community resilience, and environmental education. The LCRP staff and leadership, as well as OCPR staff and leadership, represented Louisiana in GOMA management and issue team activities. The LCRP's administrator for its Interagency Affairs/Compliance Division co-led the GOMA habitat conservation and restoration priority issue team during the evaluation period. The LCRP's anticipated level of future involvement with GOMA activities was unclear to the evaluation team, particularly because of the OCPR's expanding role in leading Louisiana's restoration efforts as well as potential LCRP staff retirements. OCRM encourages the LCRP to maintain or increase its role in regional ocean governance through active participation and leadership in GOMA activities.

The U.S. Fish and Wildlife Service and NOAA National Marine Fisheries Service (NMFS) representatives based in Baton Rouge described collegial relationships with the LCRP staff. They noted some productive changes in LCRP policies and regulations during the evaluation period, including the pending increases in the in-lieu fee calculations to amounts more commensurate with the loss of function. The NMFS personnel indicated more substantive changes to the LCRP are needed to improve mitigation. Both agencies indicated they have some concerns about the LCPs' knowledge of federal mitigation requirements administered by their agencies. These agencies indicated the LCRP's recent requests for federal agency mitigation and permitting training have been for consultants. They think the quarterly LCP meetings might be a great opportunity for educating LCP permitting staff on specific mitigation topics. The NMFS personnel requested better, direct access to LCRP leadership in the future to enable clearer communication of their feedback.

The USACE representatives indicated most of their interactions with LCRP were positive and productive during the evaluation period, aside from the navigational dredging federal consistency determinations issue discussed earlier. These agencies worked together to improve the JPN process, including USACE assigning a regulatory staff member to an office co-located with the LCRP in Baton Rouge. Many site visit meeting participants praised the results of having the co-located USACE staff member on the permitting process. The USACE indicated its desire to have a Louisiana Department of Transportation and Development staff member co-locate to its New Orleans District headquarters office to facilitate similar collaboration. The USACE and LCRP leadership agreed their participation on the interagency environmental team for the Greater New Orleans Hurricane and Storm Damage Risk Reduction System fostered a common understanding of each organization's operating principles and practices. It also facilitated improved communication related to other permitting, mitigation, and restoration activities. The USACE leadership pointed to the interagency environmental team experience as a key to how the LCRP was able to work with the USACE and other federal and state agencies to process 90 percent of emergency permitting requests during the Deepwater Horizon event.

3. Public Participation and Education/Outreach

During this evaluation period, the LCRP integrated public participation into its CUP activities, primarily through the JPN process. Other than a potential glitch in the LCRP's process for distributing JPNs to its permanent mailing list subscribers, no site visit participants expressed concern with the LCRP's public participation efforts. The LCRP's education and outreach activities focused on several targeted areas during the evaluation period. As detailed earlier in this findings report, the LCRP performed extensive outreach and education associated with its coastal zone boundary study. Site visit participants praised the LCRP's efforts in this area.

Additional education and outreach efforts included the dissemination of the Louisiana Coastal Hazard Mitigation Guidebook and workshops, outreach related to the chenier ridge study and coastal non-point pollution control program activities such as best management practices for construction and maintenance of roads, bridges, and highways, and education for wastewater technicians and homeowners responsible for existing urban Onsite Disposal Systems. Finally, the LCRP has been reaching out to the coastal parishes that have not yet chosen to develop LCPs about the benefits of doing so. The LCRP indicated two parishes provided Letters of Intent to signify their desire to perform the steps necessary to develop LCRP-approved local coastal programs.

4. Energy

Louisiana is a leading oil and gas energy producing state. Oil and gas energy production are coastal uses subject to the CUP process when proposed within Louisiana's federally-approved coastal zone and subject to federal consistency in several other instances, including leases and activities on the Outer Continental Shelf. The LCRP incorporated energy considerations throughout its program in numerous ways. The LCRP's administration of the Louisiana

Fisherman's Gear Program, which is designed to streamline the compensation to anglers for gear loss due to underwater obstructions associated with pipelines, led to a study on the use of concrete mats for pipeline protection with minimal impacts to trawl gear. The LCRP implemented Louisiana's policy on requiring liquefied natural gas (LNG) terminals to use closed-loop systems unless applicants demonstrate an open-loop system will have no adverse impacts to the surrounding ecosystem.

The Deepwater Horizon oil spill, the largest single oil spill in U.S. history, occurred during the evaluation period. The event led to shutdowns of much of Louisiana's commercial fisheries, decreased tourism, resulted in a moratorium on Outer Continental Shelf oil exploration leases, damaged coastal wetlands, and caused an indeterminate amount of ecological damage to Louisiana's coastal zone and its adjacent traditional fishing grounds.

The LCRP staff performed urgent, time-critical activities, including staffing the state's response center in Baton Rouge and supporting Louisiana's State Contingency Plan for DNR. Problems with communication and collaboration with other responsible agencies during hurricane Katrina informed the LCRP's work during the event and enabled staff to review and take action on over 90 percent of emergency permit applications within three days of applicant submission. The LCRP staff also participated on Shoreline Cleanup and Assessment Technique teams and represented DNR as a natural resource trustee during all spills of significance. During the evaluation period, these spills included Deepwater Horizon and numerous releases associated with Hurricanes Katrina and Rita.

V. CONCLUSION

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

The Louisiana Coastal Resources Program has made notable progress in the following areas: Organization and Administration, Online Permitting and Multi-User Database and GIS, Boundary Study, Habitat Protection and Restoration, Coastal Hazards, and Federal Consistency.

These evaluation findings also contain four recommendations. The recommendations are in the form of one Necessary Action and three Program Suggestions. The state must address the Necessary Action related to its conditionally approved Coastal Nonpoint Pollution Control Program by the dates indicated. The Program Suggestions, related to Financial Assistance Awards Management, Coastal Hazards, and Federal Consistency, 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 Louisiana Coastal Resources Program 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

SEP 29 2011
Date

VI. APPENDICES

Appendix A. NOAA OCRM Summary of Accomplishments and Recommendations

The evaluation team documented a number of LCRP's accomplishments during the review period. These include:

Issue Area	Accomplishment
Organization and Administration	The Louisiana Coastal Resources Program adapted to changes in coastal zone management priorities after major hurricanes, coastal legislation, and state agency reorganizations by aligning policies and practices with the CPRA Master Plan and focusing on beneficial use and resiliency against storms and other hazards.
Online Permitting and Multi-User Database and GIS	The Louisiana Coastal Resources Program continued its investment and improvements in the *SONRIS* and the *PermitTrak* database and GIS systems, which many LCRP partners and stakeholders use to support their own work and interests. These tools enable a high level of transparency and accountability in the administration of the state's coastal management program.
Boundary Study	The Louisiana Coastal Resources Program completed an extensive, science-based study of Louisiana's 30-year old coastal zone boundary that used current scientific data and took into account socioeconomic factors and public input. The recommended changes to the boundary will better serve the state's coastal zone management needs.
Habitat Protection and Restoration	The Louisiana Coastal Resources Program revised its permitting process to implement the master plan, reviewed its mitigation program, pursued changes to strengthen its in-lieu fee program, and implemented new beneficial use rules. .
Coastal Hazards	The Louisiana Coastal Resources Program applied lessons learned during major hurricanes to inform and improve how it responded to subsequent emergencies. The LCRP committed to increasing community resilience by undertaking projects in specific areas of concern and establishing key partnerships.
Federal Consistency	The Louisiana Coastal Resources Program committed to increasing the beneficial use of dredged materials from USACE dredging projects and used the full extent of its federal consistency authority in its efforts to accomplish that goal.

In addition to the accomplishments listed above, the evaluation team identified several areas where the program could be strengthened. Recommendations are in the form of Necessary Actions and Program Suggestions. Areas for improvement include:

Issue Area	Recommendation
Financial Assistance Awards Management	**PROGRAM SUGGESTION:** The Louisiana Coastal Resources Program should revise its financial assistance award application and tracking and reporting procedures to ensure compliance with award guidelines and OCRM's performance report guidance. The revised procedures should also address CZMAPMS reporting.
Coastal Nonpoint Pollution Control Program	**NECESSARY ACTION:** The LDNR must work with NOAA OCRM to develop and submit to OCRM by October 31, 2011 a work plan with interim benchmarks and a time line for meeting the outstanding conditions of its conditionally approved coastal non-point program. The documentation indicating how Louisiana met the outstanding conditions must be submitted to NOAA OCRM no later than May 31, 2015.
Coastal Hazards	**PROGRAM SUGGESTION:** The Louisiana Coastal Resources Program should develop a strategic plan for increasing community resilience, including identifying potential new partners and ways to take advantage of existing partners, priority areas for improvement, and how to move from projects to the adoption and implementation of changes.
Federal Consistency	**PROGRAM SUGGESTION:** The Louisiana Coastal Resources Program should ensure that its federal consistency correspondence and determinations comply with NOAA regulations.

Appendix B. OCM's Response to Previous (2005) Evaluation Findings

Program Suggestion: NOAA encourages the LCRP to seek out opportunities where its GIS and database capabilities and information/data can be used for coastal management decision-making.

> **Response:** With the addition of the Master Plan data, OCM's automated permit review now uses data sets from OCPR (10 different data sets), Wildlife and Fisheries (5), US Fish and Wildlife Service and the DNR Office of Conservation. These data sets have been provided to the local coastal programs. Consistency Section has been working with in-house DNR programming staff to implement an online Consistency submission and processing system similar to that of the Permits Section. The first phase, online submission, is nearly complete but awaits the completion of higher-priority projects. Consistency Section is also working with DNR GIS staff to implement GIS data sets and reporting capabilities to further integrate geographic review by OCM and Local Programs.

Program Suggestion: NOAA encourages the Department of Natural Resources and the Department of Environmental Quality to revisit existing but outdated memoranda of agreement between the two agencies and revise them as part of permit streamlining and increased interagency coordination efforts. NOAA also encourages the three divisions within the Office of Coastal Management to expand their internal coordination efforts in as many areas as possible.

> **Response:** With respect to our coordination with LDEQ the OCM has a good working relationship with the Water Quality Certification staff. Our Joint Public Notice process is continuing. Since the Office of Coastal Protection and Restoration has become a separate agency, the coordination is not internal. However we do coordinate on aspects of obtaining comments from them for impacts to restoration projects and features, master plan items, and levees and any activities OCM authorizes. Executive Order EO 08-07 requires coordination between all agencies which permit any activities which might impact restoration efforts, including coastal use permitting. The OCM continues to make progress on this suggestion. We have developed a process which makes this coordination efficient and effective.

Program Suggestion: NOAA encourages the CMD to complete mitigation rule revision development and to closely coordinate the revision development with the Coastal Restoration Division and the Local Coastal Programs. In particular, the CMD should make drafts of the rule revisions available to the LCPs, CRD, and other appropriate agencies before the revisions are made available to the public for comment. To the extent possible, the CMD should seek to coordinate its mitigation rule revisions with the Army Corps of Engineers mitigation rule amendments.

> **Response:** Louisiana's Mitigation Program Evaluation, Status Update: December 2010. The Department of Natural Resources, Office of Coastal Management (DNR/OCM) has recently completed a year long evaluation of the current Mitigation Program currently in existence in coastal Louisiana. This evaluation process led to the development of a 50+ page document that provides the data and information required to support all suggestions for programmatic change. Louisiana has a working coast that is currently in a state of crisis due to coastal land

loss. The results of the hurricanes of 2005 changed the 'status-quo' for the Louisiana Coast leading to integrated coastal protection and restoration efforts. The State has no resources to waste – mitigation efforts must be optimized to enhance sustainability and further complement the State's ongoing integrated coastal protection and coastal ecosystem restoration efforts. The U. S. Army Corps of Engineers (USACE) is bound by arbitrary federal regulatory priorities for mitigating in coastal wetlands. The New Orleans District USACE is bound by these same artificial regulatory priorities that apply to Omaha District USACE, Kansas City District USACE and Tulsa District USACE which make mitigation banks the priority in regard to where compensatory mitigation for permitted activities occur. The State of Louisiana's Coastal Management Program strives to implement sustainable and meaningful mitigation for permitted activities to complement the critical mission and objectives of the Master Plan for a Sustainable Coast (2007). In order for the State's mitigation program to better contribute to the comprehensive sustainability of our coastal wetlands and coastal communities, rather than simply compensate for wetlands impacted, it is currently challenging the arbitrary federal regulatory priorities that are currently in place. The U.S. Army Corps of Engineers and other Federal Regulatory Agencies must acknowledge that current federal Rules for Mitigation in Wyoming, Montana and Nebraska are not appropriate in coastal Louisiana and make necessary adjustments that address the dynamics of our fragile coast. Mitigation Banks are part of the solution, but the banks need to be influenced to locate where they are more consistent with the goals and objectives of the State's Master Plan for a Sustainable Coast. There is also a strong need for a more robust and flexible in-lieu-fee mitigation option. The DNR/OCM presented the findings of its mitigation program evaluation to the LA Coastal Protection Restoration Authority on Wednesday, December 8, 2010. Over the course of the year in 2011, the DNR/OCM will begin to draft new state Rules for Mitigation and will strive to promulgate these rules in 2012.

Program Suggestion: The LCRP should continue to stress and request beneficial use in its consistency reviews and coastal use permit activities whenever possible. NOAA also urges the LCRP to work with the Corps of Engineers through any available avenues to keep beneficial use of dredged material in restoration projects and for shoreline protection as a viable option.

Response: The OCM requests, suggests, and demands for beneficial use of dredged material by the Corps of Engineers and other federal agencies has increased since the previous 312 review. As noted below the OCM has significantly increased its efforts to provide the COE with guidance and to coordinate its maintenance dredging program to increase beneficial use of dredged material resources. Further examples of this are noted in the Consistency Section report above. CIAP, Trust Fund and, hopefully soon, LCA funds are becoming more available to assist beneficial use. The new rules for the permit program should vastly improve the beneficial use program. The state of Louisiana has objected to two annual dredging cycle disposal plans for Southwest Pass on the Lower Mississippi River to no avail. During the processing of the first of the two annual consistency determination requests the state put together a beneficial use group and produced a white paper on disposal options that would be consistent with this state's enforceable policies, presented it to the COE/NOD and were summarily rebuffed. The State requested that the Secretary of the Department of Commerce provide mediation to try and resolve the issue but received no positive results

from that request. This remains a significant issue for the state of Louisiana and the management of the coastal resources in the Mississippi River delta. The LCRP respectfully suggests that NOAA should become much more engaged in this dispute and should provide to the state details of its efforts to bring resolution to this matter.

Program Suggestion: NOAA urges the LCRP to consider whether the pipeline corridor concept applied to Lake Pontchartrain could be applied to other areas of the Louisiana coastal zone.

Response: Consistency Section always requires the use of the least-damaging alternative for pipeline routes; additional corridors have not been needed for the few pipeline projects reviewed by Consistency. The extent and expanse of the oil and gas production in most areas of the state make the corridor concept difficult. However, OCM will continue to try to identify areas where is could be practical.

Program Suggestion: NOAA encourages the LCRP to take advantage of the federal consistency process whenever appropriate to encourage the beneficial use of dredge materials and the use of closed loop systems (or open loop systems if negligible impacts to marine life are demonstrated to the State's satisfaction) in LNG facilities.

Response: Regarding beneficial use the OCM has taken full advantage of the federal consistency process. The OCM has objected to a Consistency Determination (CD) provided by the New Orleans District (NOD), Corps of Engineers for its proposed FY2010 maintenance dredging of the Southwest Pass navigation channel. Despite months of coordination and efforts to guide the District to a project that met the enforceable policies of the LCRP, the NOD submitted a CD that was not consistent with the LCRP. Despite continued negotiations, the formation of a Beneficial Use Team by the LCRP which produced a white paper with options for the NOD which would have lead to a consistent project the NOD refused to modify its plan project to bring it into consistency with the LCRP. The OCM has requested mediation by the Secretary of Commerce and has received communications indicating that this will not occur because the COE has rejected the request for mediation. When applications for LNG facilities are reviewed for consistency with the LCRP, staff makes concurrence/denial/condition recommendations based on a number of factors including potential impacts to marine life. The OCM staff coordinates very closely with our sister commenting agencies including the Louisiana Department of Wildlife and Fisheries which has statutory authority and responsibilities for the management of marine resources.

Appendix C. Persons and Institutions Contacted

Louisiana Department of Natural Resources, Office of Coastal Management
Louis Buatt, Assistant Secretary
Stephen Chutz, Deputy Assistant Secretary
Greg DuCote, Interagency Affairs / Compliance Division Administrator
Karl Morgan, Permits, Mitigation, and Support Division Administrator
O.C. Smith, Attorney
Terry Howey, Senior Science Advisor
Ed Britton, Coastal Resources Scientist IV
Christine Charrier, Coastal Resource Scientist Program Manager
Jeff Harris, Coastal Resources Scientist
Timothy Killeen, Coastal Resources Scientist Manager
Nicholas LaCroix, Coastal Resources Scientist
Keith Lovell, Coastal Resources Scientist Manager
Chris Melton, Coastal Resource Scientist Supervisor
Linda Pace, Coastal Resource Science Manager
Charles Reulet, Coastal Resources Science Supervisor
Regina Staten, Coastal Resource Scientist Supervisor
Jon Truxillo, Coastal Resources Scientist IV
Ana Young, IT Geographic Senior Support Analyst

Louisiana Governor's Office of Coastal Activities
Garret Graves, Director

Louisiana Office of Coastal Protection and Restoration
Steve Mathies, Executive Director

Louisiana Department of Environmental Quality
Emelise Cormier
Mitch Mitchell
Jaime Phillippe
Chris Piehler
Dugan Sabins

Louisiana Department of Wildlife and Fish
Kyle Balkum
Dave Butler
Heather Finley

NOAA National Marine Fisheries Service
Lisa Abernathy
Richard Hartman

U.S. Fish and Wildlife Service
Patti Holland

Minerals Management Service Bureau of Ocean Energy Management, Regulation and Enforcement
Brian Cameron
Joe Christopher
Bonnie Johnson
Bob Martinson
Tershara Matthews
Bob Sebastian

U.S. Army Corps of Engineers, New Orleans District
Col. Ed Fleming
Chris Accardo
Troy Constance
Joan Exnicios
Martin Mayer
Bob Northey
Pete Serio
Mark Wingate

Academic/Educational Representatives
Paul Coreil, LSU AgCenter
Brian LeBlanc, LSU AgCenter/Louisiana Sea Grant
Melissa Daigle, Louisiana Sea Grant

Local Government Representatives
Jody Chenier, St. James Parish Coastal Program
Laurie Cormier, Calcasieu Parish Coastal Program
Brian Fortson, St. Tammany Parish Coastal Program
PJ Hahn, Plaquemines Parish Coastal Program
Tina Horn, Cameron Parish Coastal Program
Al Levron, Terrebonne Parish Coastal Program
Pam Mattingly, Calcasieu Parish Coastal Program

Other Organizations and Representatives
Chad Courville, Miami Corporation
Cynthia Duet, National Audubon Society
Paul Frey, Louisiana Landowners Association
Ron Harrell, Louisiana Farm Bureau
Randy Lanchot, Louisiana Wildlife Federation
John Lopez, Lake Pontchartrain Basin Foundation
Bryan Piazza, The Nature Conservancy
Natalie Snider, Coalition to Restore Coastal Louisiana

Appendix D. Persons Attending the Public Meeting

NOAA's Office of Ocean and Coastal Resource Management held a public meeting on Monday, January 3, 2011, at 6:30 p.m. at the LaSalle Building (Capitol Complex) Griffon Room, 617 North 3rd Street, Baton Rouge, Louisiana. The following members of the public attended the meeting:

John Arnold
Rick Bryan
Joe Cancienne
Edward Creef
Nathan Dayan
Jeffrey Dubinsky
Willie Fontenot
Anne Hook
Jamie Phillippe
Jim Rives
Collis Temple, Jr.
Susan Testrort-Bergeron
Mike Wascom
Karen Westphal
Mark Wingate
Jim Wilkins

Appendix E. NOAA's Response to Written Comments

NOAA received written comments regarding the Louisiana Coastal Resources Program. Each of the letters is part of the official record of the evaluation and is briefly summarized below, followed by NOAA's response.

Richard Hartman
Branch Chief, NOAA National Marine Fisheries Service
Baton Rouge, Louisiana
Comment: Mr. Hartman submitted his same comments from the March 2005 evaluation site visit, and indicated verbally that all his comments remained the same since LCRP had not made necessary changes during the 2005-2010 evaluation period to address his concerns. His concerns are related to LCRP's in-lieu fee program; Local Coastal Program communication with federal resource agencies, lack of understanding federal mitigation requirements, and granting variances for some activities from mitigation; and LCRP's mitigation assessment for introduced species, less productive habitats, and inconsistencies with federal guidelines for Wetland Value Assessment.

NOAA's Response: NOAA OCRM reviewed the areas of concern during the 2005-2010 evaluation period. NOAA finds the LCRP's proposed increases in its in-lieu fee calculations to be more commensurate with habitat function calculations but noted the calculations are still significantly lower than NMFS and USACE calculations. NOAA OCRM identified both the accomplishments and areas requiring improvement for Local Coastal Programs approved and overseen by the LCRP. NOAA and the LCRP discussed areas where LCRP's mitigation assessments can more accurately address function and cost. While NOAA OCRM agrees these areas have room for improvement by the LCRP, it also identified in the findings several examples of LCRP actions and improvements in the areas of concern.

Jim Rives
Baton Rouge, Louisiana
Comment: Mr. Rives is a former administrator of the LCRP, including during the first three and a half years of the evaluation period. Mr. Rives provided an overview of the history of the LCRP. He identified the Master Plan as providing a great opportunity for the LCRP and OCPR to work together to produce a more viable coast. Mr. Rives also provided his advice to the evaluation team regarding potential team biases that would affect its evaluation of the LCRP.

NOAA's Response: NOAA OCRM appreciates Mr. Rives long-standing efforts and support of the LCRP, and his insights regarding the history behind and culture of the LCRP as it relates to the evaluation team's ability to perform as an unbiased group tasked with performing a periodic assessment of the LCRP.

Gary D. Goecke
Chief, Environmental Assessment Section, Leasing and Environment, BOEMRE
New Orleans, Louisiana
Comment: Mr. Goecke's written comments mirror the discussion points made during the evaluation team's January 5, 2011 site visit meeting with BOEMRE and LCRP staff in New Orleans, Louisiana. His key points include that overall the LCRP adhered to its CZMA mandates, major consistency issues included postlease activities, conditional concurrences of OCS plans, pre-lease consistency determination objection language used by the LCRP, and the LCRP's request for compensatory mitigation before leaseholders perform work in the OCS related to oil and gas exploration and development.

NOAA's Response: The evaluation team, BOEMRE, and LCRP discussed these issues at length during the site visit meeting. NOAA OCRM addressed the BOEMRE's concerns with the LCRP objection language through official correspondence with the LCRP in 2010. The evaluation findings recount these issues, as well as NOAA OCRM's recommendation that the LCRP ensure its federal consistency materials and determination correspondence comply with NOAA regulations.

William A. Fontenot
Baton Rouge, Louisiana
Comment: Mr. Fontenot's comments focused on four main topics: Louisiana's massive land and wetland losses have been caused by upstream damming of the Mississippi River; USACE and the U.S. Congress failure to connect navigational maintenance of the Mississippi River with the land and wetland losses; impact of oil and gas industry operations and practices on wetlands; and the failure of government and industry officials to properly manage hazardous waste sites found throughout the coastal zone.

NOAA's Response: NOAA OCRM appreciates Mr. Fontenot's thoughtful comments and acknowledges there are numerous, synergistic, complex stressors that have caused and continue to cause losses of coastal wetlands and land, and degradation of water quality and habitats in Lousiana's coastal zone. The LCRP attempts to satisfy the federal Coastal Zone Management Act challenge of balancing economic beneficial use of coastal resources, preserving and protecting the coastal environment, and providing public access to coastal resources. As described in this report, NOAA OCRM finds that OCM is adhering to the programmatic requirements of the CZMA and its implementing regulations in the operation of its approved Louisiana Coastal Resources Program.

Mike Wascom
Baton Rouge, Louisiana
Comment: Mr. Wascom indicated he has been involved with the LCRP on and off since 1975, and that he is impressed with the wonderful job and new programs developed by the LCRP over the last 30 years. Mr. Wascom recommended, as resources allow, that the LCRP look at ocean and coastal spatial planning and ocean policy.

NOAA's Response: NOAA OCRM appreciates Mr. Wascom's input and agrees that the LCRP has developed many productive programs during its existence. Coastal and Marine Spatial Planning are a strategic priority for NOAA and are integral to the U.S. government's National Ocean Policy. NOAA OCRM has passed along Mr. Wascom's comments to the LCRP.

Appendix F. LCRP's Own Summary of Accomplishments for the Evaluation Period

ACCOMPLISHMENTS
APRIL 2005 – DECEMBER 2010

Louisiana Clean Marina Program

Louisiana had just established its Clean Marina Program and certified two marinas in Orleans Parish Southshore Harbor Marina and Orleans Marina when Hurricane Katrina hit. Since then the Louisiana Department of Natural Resources, Coastal Nonpoint Pollution Control Program has been working to get the Louisiana Clean Marina Program re-established. In early 2009 the program took a turn in a positive direction when it certified 6 marinas, two of which were Southshore Harbor Marina and Orleans Marina. By the end of 2010 the program had a total of 13 certified Louisiana Clean Marinas and it plans to increase that number to include all coastal marinas in the state which is estimated to be around 50. The Louisiana Clean Marina Program promotes and celebrates voluntary adoption of measures to assist marinas and recreational boaters in protecting Louisiana's waters. Designated "clean marinas" are recognized as environmentally responsible businesses and enjoy the positive goodwill and economic feedback of being able to promote their business as a Louisiana Clean Marina. Clean Marina Certification is achieved after a marina has met a minimum score on the checklist criteria based on Best Management Practices (BMP). Operators conduct self-assessments which are verified by representatives of the Certification Committee. Certification is maintained through a yearly re-evaluation of marina BMP's. Louisiana's Clean Marinas receive a certificate acknowledging their environmentally responsible actions, authorization to use the Louisiana Clean Marina logo on their letterhead and in their advertising, a flag to fly on their property, and promotion by the Clean Marina Initiative in publications, on the World Wide Web, and at public events. More information can be found on our website at http://dnr.louisiana.gov/cleanmarina.

Consistency Review

Enterprise Products Operating proposed to lower an active 10-inch natural gas pipeline in response to Corps of Engineers requirements for safety, as they upgrade a hurricane protection levee which the pipeline crosses. The project required directional drilling beneath the levee; the drill site and pipeline assembly areas fall within Jean Lafitte National Historical Park and was reviewed by Consistency Section as a Federal License or Permit. OCM found the project consistent with the LCRP in October 2009.

The applicant then determined that the access route to the site would not support the heavy drilling equipment; a new access route on more stable land was needed. This new route would impact Park wetland resources, and the Park was reluctant to agree without convincing reason. Consistency staff and an engineer from LDNR Pipeline Safety facilitated a meeting on December 21, 2009, between the NPS and representatives of Enterprise Products, to discuss the need for the modification and ways impacts might be avoided. The meeting produced information which the Park could confirm with State experts, fostering a full understanding of the need for the additional impacts. The applicant was able to consider alternative solutions to the access problem, explain why some were infeasible, and identify a less-damaging possible alternative to evaluate. When the application for modifying the Federal Permit is submitted, the

Park and the applicant will be in agreement that the project causes the minimum environmental impacts possible.

TORP Terminal LP, Bienville Offshore Energy Liquified Natural Gas (LNG) Terminal, filed for a Deepwater Port license with the USCG for an offshore terminal facility in the Gulf of Mexico off Alabama. The applicant proposed to use an "open-loop" regasification system which uses large quantities of seawater to warm the LNG, which may result in substantial impacts to marine life and fisheries resources. OCM informed the applicant and the Marine Administration of a requirement for a consistency certification for the LNG Terminal and associated pipelines, due to the potential adverse effects on marine life which is in part a Louisiana coastal resource. At the same time OCM requested the applicant to revise the regasification system to a "closed loop" system, which is less harmful to marine organisms. The applicant subsequently revised the project to incorporate a closed loop system, which OCM then considered to be consistent with the Louisiana Coastal Zone Program. OCM withdrew objections to the project on December 29, 2009.

Comprehensive Coastal Protection and Restoration

"Louisiana's Comprehensive Master Plan for a Sustainable Coast" (Master Plan) was created in response to legislation requiring the coordination of federal, state, and local agency efforts to achieve long-term and comprehensive coastal protection and restoration in response to Hurricanes Katrina and Rita. In addition to outlining protection and restoration measures state and federal agencies must undertake, the Master Plan is considered to represent the State's definition of what is 'in the public interest' for future management of activities in Louisiana's coastal zone. In 2008, the Governor issued Executive Order BJ 2008-7, requiring all state agencies to administer their regulatory practices, programs, and other functions in a manner consistent with the Master Plan to the maximum extent possible. In compliance with this Order, OCM coordinates closely with the Office of Coastal Protection and Restoration on the review of any project which may impact a Master Plan feature.

New Rules on Beneficial Use

The Louisiana Department of Natural Resources, Office of Coastal Management, announced that new rules on the beneficial use of material dredged in projects requiring a coastal use permit will took affect October 20, 2009.

The changes include four options for permit applicants involved in coastal projects that include dredging – implementing a project that makes beneficial use of the dredged material, providing for the use of the dredged material on an approved coastal restoration project, using dredged material at another location that creates the same amount of beneficial use, or making a voluntary contribution to the Coastal Resources Trust fund, based on the amount of material dredged. Beneficial use refers to taking material dredged for a project and using it to provide soil to help build or protect coastal wetlands. The intent of the new rules is to ensure as much material as possible from dredging projects under state regulation is put to that beneficial use. "We, as a state, have fought long and hard for funding and assistance in our efforts to save the coast," said Department of Natural Resources (DNR) Secretary Scott Angelle. "We do not have resources to waste. These new rules are an appropriate way to make sure we balance development in our coast with maintaining the health of the coastal zone." The beneficial use rules apply to any

project requiring a state coastal use permit that involves dredging 25,000 cubic yards or more to facilitate the movement or mooring of vessels. The amount of material in eligible projects has amounted to about 3 million cubic yards annually, though only about 22 percent of it was put to beneficial use under the old program.

"These changes will have two major effects on our coastal efforts," said Louis Buatt, DNR Assistant Secretary with the Office of Coastal Management. "It will significantly increase the performance of our beneficial use program, and the framework of the regulations will also better allow for the material, or in-lieu contributions, from several smaller projects to be combined for more comprehensive coastal restoration and protection projects."

The new rules, with the four options, allow for greater flexibility in cases where obstacles, such as project location or dredged material quality could prevent beneficially using the dredged material. According to Asst. Sec. Buatt, one of these options would allow for an in-lieu fee payment. The fee amount this fiscal year is $1.05 per cubic yard. The price from the rule is $1 per cubic yard or 1.5% of the average of the 12 monthly postings by the US Dept of Energy of the spot price of West Texas Intermediate from July 1, 2008 to June 30, 2009. This was calculated by the DNR Energy Office at $69.69 per barrel; therefore the price is $1.05 per cubic yard.

OCS Lease Sales

After many years of comments and negotiations with the Minerals Management Service concerning the environmental review of and adverse impacts from OCS Lease Sales, in July 2006 Louisiana filed suit against the MMS. Of particular concern to the state was the need for MMS to undertake new social and environmental analyses to address lessons learned from the impacts of Hurricanes Katrina and Rita. Consistency Section worked closely with the Office of the Attorney General to provide technical information, historic developments, and documentation of previous complaints. A settlement was reached in October 2006, after which MMS prepared a new Environmental Impact Statement. Though there are still issues remaining, Consistency staff continues to meet periodically with MMS to discuss remaining concerns, and some positive change has been effected.

319 Projects

The DNR CNPCP entered into three Cooperative Agreements with DEQs statewide nonpoint pollution control program for the use of EPA 319 grant funds. These three projects are part of our effort to reach full approval of our CNPCP and were submitted to NOAA and EPA on August 8, 2009.

The first project was titled "Louisiana Coastal Nonpoint Pollution Control Program BMP Manuals." The goal of this project was to meet remaining conditions on the Louisiana CNPCP for: urban stormwater runoff, urban stormwater runoff - roads, highways and bridges, and hydromodification. The first objective was to correlate Louisiana DOTD manuals with the coastal nonpoint urban road, highways, and bridges management measures and prepare a BMP manual and brochure. The second objective was to develop a hydromodification BMP manual and brochure specific to coastal nonpoint hydromodification management measures. The third objective was to develop an Urban Storm Water Runoff BMP manual and brochure specific to

coastal nonpoint urban management measures. All three BMP manuals are intended to be used by local entities, contractors, state governmental entities, educators, and the public. These products include photo examples, diagrams, etc., and were produced in hard copy and electronic format. We have since made the manuals and brochures available on our CNPCP webpage at: http://dnr.louisiana.gov/CRM/coastmgt/interagencyaff/nonpoint/nonpoint.asp

The second project was titled "Louisiana Coastal Nonpoint Pollution Control Program BMP Manual Training and Outreach." The goal of this project was to meet remaining conditions on the Louisiana CNPCP for: urban stormwater runoff - roads, highways and bridges, and appropriate sections of Hydromodification. The objective was to assist the DNR by developing and conducting training sessions and providing outreach and educational opportunities on the practices outlined in the "Coastal Nonpoint Pollution Control Program Best Management Practices Manual." Efforts were targeted towards reaching local people involved in the construction and maintenance of roads, bridges, and highways. This project served as a model which is being used throughout the Coastal Nonpoint Pollution Control Program area. A total of 5 training sessions were held in the southwest region of the State with a total of 108 participants.

The third project was titled "Wastewater Treatment Plant Assistance in North Shore Watersheds." The goal of this project was to meet remaining conditions on the Louisiana CNPCP for: Urban Existing Onsite Disposal Systems (OSDS). The first objective was to train a wastewater tech to assess and offer assistance to the owners of existing OSDS. Assistance to existing OSDS was provided in accordance with the Management Measures listed in the Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters, issued and revised under Section 6217(g) of the CZARA of 1990 and complete a survey of post-Katrina land use and wastewater needs in the south eastern portion of the state. The second objective was to educate OSDS owners on the correct operation and maintenance of OSDS, particularly small home units. Owners of existing OSDS received material on the correct operation and maintenance of their system. An emphasis was placed on small home units.

Field Services and Compliance

Successfully re-opened the New Orleans Field Office after a one year closure due to Hurricane Katrina. This office provided support services to relief efforts of FEMA in the area of southeast Louisiana. Field staff (biologist w/DNR) provided resource base knowledge and experience to interagency (NMFS, EPA, USFWS, USACOE, USGS, NRCS) group led by COE-NOD in reviewing environmental impact of HSDDRS program for levee protection.

The Field Services staff participated actively in baseline NRDA (Natural Resources Damage Assessment) in coastal Louisiana as part of the BP Oil Spill Response Team. The Section Manager was also assigned to the BP Houma Facility to assist in coordination of DNR role as a state trustee in the oil spill response.

Permits/Mitigation/Support Services

OCM Online Permitting System

In 2001, the OCM was instructed to perform an efficiency study in order to identify ways to improve/expedite the processing of Coastal Use Permit applications. Over the next 4 years, consultants interviewed both internal and external stakeholders to get feedback on current

procedures and suggested improvements to the Coastal Use Permitting program. The major issues to arise from these interviews focused on improving communication to and from OCM; making available a real-time tracking system for applications; making the permitting process more predictable; and making use of the latest technologies. In response to this efficiency study, OCM developed online processing system that incorporates many of the suggestions made by the interviewed stakeholders. Development of the basic permitting functions began in December 2004 with an OCM employee working closely with contract IT developers. Testing began in May 2005 with basic function implementation occurring in November 2005. Further development and assessment/improvement of the online processing system is ongoing.

OCM uses an electronic version of the approved application form that allows for online completion and submission of applications. The application review process also was automated through a series of workflow pathways that mimic the standard processing procedures established in the LCRP. Through electronic means, OCM is able to receive incoming applications; review them for completeness; assign them to a permit analyst for processing; perform technical reviews of the projects and surrounding areas; assess impacts; prepare and transmit to the publishing journal public notices; solicit, receive and record internal and external comments; request and received additional information relative to the proposed work; and prepare final recommendations and written permits. Since all of these actions are done electronically through predictable pathways, they are easily tracked real-time. Deadlines are built into each step along the processing pathway and automatic reminders are sent to the permit analyst when deadlines are reached without detectable movement along the process.

All documents and correspondence generated by OCM are created electronically and transmitted to the external users (applicants and other regulatory and/or commenting agencies) via email. In order to serve all users, however, OCM still accepts paper applications but converts them to electronic form in-house. From then on, the processing of the application follows the electronic pathways. If no email address is provided for an applicant, all correspondence is sent to a default OCM employee who prints and mails all transmitted documents to the appropriate persons.

Coastal Zone Pipeline and Offshore Platform Data

Updated releases of this data occurred in March 2005, October 2006, January 2008 and April 2010. This data is the only publically compiled data on the pipelines and platforms in Louisiana and the most extensive dataset available. It is used by most of the companies in the oil and gas industry in Louisiana.

Co-location of a COE employee in the DNR building

The Louisiana Department of Natural Resources and the U.S. Army Corps of Engineers are partnering to provide more efficient coastal use permitting by sharing space in DNR's Baton Rouge office. Through an agreement between the state and federal agencies, a Corps of Engineers representative is sharing space with DNR's Office of Coastal Restoration and Management in Baton Rouge.

"With our shared responsibility of protection and restoration of Louisiana's coast and wetlands, it is appropriate that DNR's coastal staff and the Corps of Engineers have the ability to work together directly on a day-to-day basis," said Louisiana Department of Natural Resources

Secretary Scott Angelle. “We at DNR are always seeking new ways to improve efficiency in our work while maintaining our regulatory standards and protection for our state.”
Having DNR’s coastal staff and a member of the Corps of Engineers’ team sharing space will mean better communication between the agencies and more efficiency in the regulatory review process.

“This is a great chance for the Corps to collaborate more thoroughly and effectively than ever before with DNR,” said Col. Alvin Lee, New Orleans District Commander. “This opportunity of being co-located allows us to discuss any issues at the earliest possible time and to resolve any concerns either organization has.” The arrangement provides opportunities to cut the time needed for resolving differences in state and federal regulatory requirements for coastal activity permits, and the overall application processing time, without sacrificing either agency’s responsibilities for regulatory protection of the coast and wetlands.

“Both DNR and the Corps of Engineers have detailed processes in place to protect coastal wetlands, but we also want to ensure that people and businesses are able to make responsible use of our natural resources,” said DNR Assistant Secretary Louis Buatt for coastal affairs. “This change will mean a quicker, more simplified process for permit applicants, with both agencies having better access to information from one another.”

Applicants will not only have the added convenience and speed that come with having access to both DNR and the Corps of Engineers in the same centrally located office, but DNR staff will also have improved ability to train with the Corps of Engineers on the latest federal requirements for applications and mitigation – meaning greater coordination in assessing and processing coastal use permits. The co-location will also mean greater coordination in handling emergency use requests in times of major disaster, as well as establishing an alternative for the Corps, should its New Orleans office be damaged or otherwise made unusable following a hurricane.

OCM Regulatory GIS web site

Inclusion of the Master Plan into the automated permit review system
After thorough analysis and review of implementation, OCM determined that neither statutory authority nor promulgation of rules and regulations were necessary to implement the inclusion of the State’s Comprehensive Master Plan for a Sustainable Coast (the Master Plan) into permit decisions. This implementation did require the addition of policies and procedures to the permit review process. Implementation of these procedures required a great deal of coordination and interaction with the Office of Coastal Protection and Restoration (OCPR) management and staff. A contractor working closely with OCM staff developed the recommended guidance including the list of projects and GIS data sets. The implementation of the Master Plan review was a major addendum to the permit review process.

The Master Plan concerns were identified as requiring two distinct types of review. The most easily identified were the restoration and levee projects that were planned and could be identified on one or more locations on a map. The second type of review is for those permit applications whereby the Master Plan concern is a concept or guideline to protect people and the environment. An example of this would be “Development in low lying areas, even within

hurricane protection systems, increases the overall levels of risk and diminishes the effectiveness of the protection systems. Such an outcome would be counter to the Master Plan's objectives of sustaining wetland ecosystems and reducing the flooding risks borne by coastal communities." Review of permit applications the might be counter to the objectives of the Master Plan are handled during the already established coastal use guideline review process and in the hazard review. The addition to the permit review policy and procedure is that if a coastal use permit application potentially is counter to the Master Plan concept, the analyst identifies which Master Plan objective(s) might be in nonconformance and that application is forwarded to the OCPR for comment. Those comments are incorporated into the permit decision.

For the first type, the GIS data was formatted and entered with set selected buffers for each type of Master Plan project into the automated permit review system. All the description that follows in this paragraph is new procedure to the permit review process. The automated system generates an item in the report that details the potentially impacted Master Plan project. During initial review of permit applications by the supervisor, the Master Plan items identified by the GIS system are noted. Using a matrix developed by the contractor, the OCM staff member will determine at what level the decision of potential master plan impacts is to be made. Most decisions are made at the staff level. For some permit applications the decision for potential impacts is elevated to the manager or administrator. For the highest level on the matrix, there is no decision at OCM, the applications are to be forwarded to the OCPR. Those whereby the decision is to forward to OCPR, the comments from OCPR are a part of the final permit decision. For all applications whereby there is a decision and for those the matrix indicates to send to OCPR, the matrix sheets are made a part of the permit review record.

The most recent change to the procedures was to include a separate transmittal to a different staff member at OCPR for all potential impacts to existing and planned levees. This change has been implemented.

Beneficial Use Regulations

The Louisiana Department of Natural Resources, Office of Coastal Management, has announced that new rules on the beneficial use of material dredged in projects requiring a coastal use permit went into affect October 22, 2009.

The changes include four options for permit applicants involved in coastal projects that include dredging – implementing a project that makes beneficial use of the dredged material, providing for the use of the dredged material on an approved coastal restoration project, using dredged material at another location that creates the same amount of beneficial use, or making a voluntary contribution to the Coastal Resources Trust fund, based on the amount of material dredged. Beneficial use refers to taking material dredged for a project and using it to provide soil to help build or protect coastal wetlands. The intent of the new rules is to ensure as much material as possible from dredging projects under state regulation is put to that beneficial use.

"We, as a state, have fought long and hard for funding and assistance in our efforts to save the coast," said Department of Natural Resources (DNR) Secretary Scott Angelle. "We do not have resources to waste. These new rules are an appropriate way to make sure we balance development in our coast with maintaining the health of the coastal zone."

The beneficial use rules apply to any project requiring a state coastal use permit that involves dredging 25,000 cubic yards or more to facilitate the movement or mooring of vessels. The amount of material in eligible projects has amounted to about 3 million cubic yards annually, though only about 22 percent of it was put to beneficial use under the old program.

"These changes will have two major effects on our coastal efforts," said Louis Buatt, DNR assistant secretary with the Office of Coastal Management. "It will significantly increase the performance of our beneficial use program, and the framework of the regulations will also better allow for the material, or in-lieu contributions, from several smaller projects to be combined for more comprehensive coastal restoration and protection projects."
The new rules, with the four options, allow for greater flexibility in cases where obstacles, such as project location or dredged material quality could prevent beneficially using the dredged material.

According to Asst. Sec. Buatt, one of these options would allow for an in-lieu fee payment. The fee amount this fiscal year is $1.05 per cubic yard. The price from the rule is $1 per cubic yard or 1.5% of the average of the 12 monthly postings by the US Dept of Energy of the spot price of West Texas Intermediate from July 1, 2008 to June 30, 2009. This was calculated by the DNR Energy Office at $69.69 per barrel; therefore the price is $1.05 per cubic yard.

Extension Regulations
The OCM revised its regulations regarding extensions related to aspects of coastal use permit processing.

Mitigation Program Evaluation
An evaluation of OCM's mitigation program and a white paper was written on this topic. The purpose of the evaluation:
To evaluate the performance of the current mitigation process, to identify strengths and weakness and to recommend improvements to enhance compliance with the goals set forth below and to enhance the efficiency of the mitigation assessment process, and provide a means to perform a comprehensive evaluation of mitigation related activities (i.e. individually approved mitigation projects, existing mitigation banks, and in-lieu fee projects.) The mitigation program should adequately compensate for project impacts and be timely, predictable, and transparent so all parties may evaluate the effectiveness of the program and make economic decisions regarding project(s). The evaluation shall include the evaluation of the monitoring regime to ensure the mitigation is being properly maintained. This evaluation should determine if the State is achieving adequate, holistically sound, ecosystem restoration.

USACE Approved In-Lieu Fee Program
The OCM developed an In-Lieu Fee (ILF) Program Prospectus and submitted it to the NOD in March 2010. In April 2010, the NOD notified the OCM that the Prospectus had been evaluated and determined to be complete. The NOD will now place the State's ILF Prospectus on Public Notice.

4. Program Issues and Challenges

Local Coastal Programs:

Shrinkage of federal coastal program funding has already impacted the LCRP's Local Coastal Management Program (LCP) Operations. In addition, several initiatives at the state and parish level have been undertaken to make more parishes inclusive into the Louisiana Coastal Zone (LCZ). The Office of Coastal Management (OCM) is currently conducting a study to see if the current LCZ is a scientifically valid designation. Several Parishes have petitioned the Louisiana legislature for inclusion and designation as coastal parishes. Also OCM has been pursuing an aggressive education campaign toward the Louisiana coastal parishes that have not as yet chosen to adopt Local Coastal Management Programs about the benefits of doing so. These events lead to the very real possibility of an increased number of Louisiana parishes with approved LCPS. OCM is having a difficult time not shrinking the funds that are made available to the ten currently approved LCPS. The addition of new parish programs will make this task even more daunting.

Also, OCM has placed an ever increasing regulatory compliance and assessment burden on the operating LCPS. Compliance with the Programmatic General Permit, the State Master Plan, State and Federal Mitigation requirements, increased state and federal agency over-sight reporting requirements, monitoring of permit compliance and mitigation compliance and other state and federal protocols and polices has made the operation of a parish LCP more and more complicated and necessitated an ever increasing commitment of parish resources. OCM is worried about the continued successful operation of parish LCP without locating additional funding sources.

The Office of Coastal Management recently conducted a periodic review of the ten Louisiana Parishes Local Coastal Programs (LCPs) for the time period of January 1, 2008 to June 30, 2010. The review included an analysis of existing parish coastal zone management (CZM) ordinances and other coastal zone regulations, coastal use permitting procedures and processes, and other information pertinent to the approved parish programs. The purpose of the periodic review process is three fold: 1) to ensure that the local program remains consistent with the federally approved state program, 2) to ensure that the local program is operating in such a manner as to achieve the objectives spelled out in the Parish LCP document, and 3) to help the State and the Parish to further improve in their mission to prudently manage the state's and parishes' coastal resources. The state and federally approved Louisiana Coastal Resources Programs has ten state and federally approved Parish Local Coastal Management Programs: Calcasieu, Cameron, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. James, St. Tammany and Terrebonne.

The periodic review process for each LCP consisted of the following components:

- OCM and the parishes audited several items for each parish: previous periodic review findings; contract files and deliverables for each individual parish program; data base queries of local concern applications for each parish to ascertain parish determination decisions, types and extent of various habitat impacts, and the appropriate mitigation assessments; samples of the individual parishes' permit files; possible enforcement or after-the-fact permits; parish

ordinances and protocols; and any other changes/improvements implemented during the 2008/2010 review period.

- IA staff inquired of other OCM staff as to whether or not any issues regarding the LCPs needed to be addressed.

- IA staff had numerous discussions with all 10 Parish Coastal Administrators.

- Public notices announcing the meetings were placed in the state and parish journals, placed on the LDNR web page and mailed in the OCM joint public notice (JPN) mail out. The meetings were held in all of the parishes where IA presented the finding of the parish audits and asked questions of the LCP personnel.

- IA requested that each LCP submit a report prior to the review date detailing program administration, permitting issues, program and contract documentation, interagency coordination, and if the parish had any requests or comments to the state program. Questions specific to each parish, based on previous reviews and the reviews of files and comments, were also developed. These questions provided the state and the parishes an opportunity to identify issues that are problematic. In addition, these questions provided an opportunity for the reviewers to commend the parishes on areas in which their parish program excelled.

GENERAL RECOMMENDATIONS

- All of the parishes should continue to submit updated code sheets for all permit applications with care and diligence. Timely deliveries of contract deliverables are also of importance in this current climate of shrinking economic capability.

- The parishes should ensure that they send the state copies of public notices, final decision documents and all other important file documentation in a timely fashion for inclusion into the state's electronic permit file storage system. In addition to serving as the official clearinghouse for intergovernmental distribution and comment collection, as the devastating storms of 2005 proved, this also serves as valuable back-up data storage in case of severe damage to parish infrastructure.

- OCM should redouble its efforts to ensure that all parish comments on state concern activities are adequately addressed. OCM should continue to provide the information and guidance that is of interest to the parish programs.

Consistency

Review of OCS Exploration and Development Plans

Since the Deepwater Horizon incident offshore Louisiana, OCM has worked with BOEMRE and offshore operators to clarify the information Louisiana requires for consistency review. The Department of the Interior has made numerous changes in the content of OCS Plans. For example, BOEMRE has for now ceased approving Oil Spill Response Plans, pending their revision. In lieu of an approved OSRP, BOEMRE accepts the applicant's certification of ability

to respond to a worst case discharge. OCM has had to reconcile the use of certifications with our information needs. BOEMRE has also changed the way Worst Case Discharge scenarios are calculated, but forwarding revisions to OCM has been problematic. OCM has had multiple meetings, phone calls and emails with BOEMRE and the offshore industry, to understand the federal changes and ensure our information requirements are met.

Beneficial Use

In general, beneficial use of dredged material by the New Orleans District is significantly less than what might be accomplished, in portions of at least six of the ten channels maintained by the Corps in the Louisiana Coastal Zone. OCM recognizes that 100 % beneficial use is impractical, but sees little effort on the part of the Corps to find ways to increase beneficial use, nor to provide evidence of attempts to comply by requesting budget adjustments or supplements, or even to provide unambiguous citations as to the legal authority underlying the Federal Standard. The ongoing wetlands losses, exposure of critical infrastructure, and all the resultant secondary impacts continue to be ignored. There are several navigation channels which are the most challenging. Two are described below in more detail. Another is the Houma Navigation Canal which is going through a feasibility study for re-authorization as a deepening project.

Southwest Pass & Pass a Loutre, mediation

In January 29, 2009 LDNR issued a conditional concurrence letter to the Corps of Engineers-New Orleans District, for FY 2009 Operations and Maintenance dredging of the Mississippi River's Southwest Pass. The conditions were (1) prepare a dredging plan for FY 2010 which includes beneficial use of material from Southwest Pass at federal expense, and (2) either (a) place FY 2009 dredged material in the head of South Pass where it won't accumulate in Pass a Loutre, or (b) excavate the entire Pass a Loutre disposal area to a uniform depth. The Corps responded that they would not comply with these conditions and proceeded to dispose of material in the head of Pass a Loutre. The Corps then refused to agree to mediation by the Secretary of Commerce pursuant to NOAA regulations. Plans for FY 2010 O&M dredging appear to be unchanged from the previous year.

Sabine-Neches Waterway Deepening

The Corps of Engineers-Galveston District has completed the feasibility stage of this project to improve navigation on the Waterway and open the channel to larger vessels. A conditional consistency concurrence was provided by Louisiana, requiring the resolution of numerous remaining issues concerning potential impacts to coastal wetlands and infrastructure, and the design and construction of project elements. These issues must be dealt with before construction can proceed.

COE Hurricane Protection projects

Since 2005 the Corps of Engineers has been embarked on a massive and urgent endeavor to repair and upgrade the hurricane protection levee system around New Orleans. The rapid work is facilitated by the Council on Environmental Quality's agreement to postpone normal NEPA requirements in favor of "Individual Environmental Reports" for the approximately 30 major flood protection projects. The IERs allow the Corps to proceed with planning, design and construction while deferring some of the environmental assessments and mitigation. OCM staff is committed to performing CZM consistency reviews in an expeditious manner to facilitate the

protection of the city; the majority of individual levee reaches have been reviewed and approved but the "design-build" approach being used means that changes in plans are common. Keeping up with the influx of changes, and providing timely responses, will remain a challenge to Consistency staff.

Update Consistency Section procedures documents

Procedure manuals for the Section are out of date. Current "Standard Operating Procedures" have been described in general, but specific procedural processes must be updated and documented. This effort must be integrated with the migration to online consistency submission and review procedures which are now being implemented.

Mariculture and Alternative Energy sources in the OCS

Significant concerns exist in the state over the potential impacts of future mariculture operations to recreational and commercial fishing as well as other coastal activities. OCM has convened a work group of involved state agencies to begin to identify possible issues and responses, but as NOAA mariculture permitting begins, significant staff time and attention will be focused on balancing these with traditional coastal uses. Similarly, the siting of wind-, wave- and/or current-driven energy facilities will present new challenges to coastal users and Consistency Section staff.

MMS Compensatory Mitigation, documentation of environmental analyses

The state has for several years commented to the Minerals Management Service that the environmental reviews conducted for the Outer Continental Shelf Lease Sales offshore Louisiana have been deficient in the estimates of adverse impacts to the state, and that compensatory mitigation for cumulative and secondary impacts arising from OCS activities was required both by NEPA and the LCRP. OCM and MMS meet periodically to discuss improvements to the ways MMS evaluates and compensates for impacts; these efforts are likely to continue until improvement is made.

Mitigation vis-à-vis consistency

OCM regulations on mitigation have been interpreted as applying only to Coastal Use Permits applicants. Expanding the regulations to consistency determinations and certifications entails significant potential hurdles which must be assessed and resolved. Examples include the requirement for landowner notification for large civil works projects, double mitigation for situations where NEPA or agency mitigation differs from the state's, and differences in wetland assessment techniques used by federal agencies and OCM.

Electronic Consistency submission, processing, review, response, archiving. Archiving paper records.

Such a system has been in use by Permits Section since 2006. Due to different processing needs, Consistency reviews cannot be processed through the existing system, so a comparable electronic system is under development by DNR programming staff. Phase one, electronic submission of consistency determinations and certifications, is nearing completion; the remaining phases will proceed as resources permit, requiring staff participation and training. The conversion of twenty years of paper documents, in a wide variety of formats, will be a long and complex process at some future date.

Coastal Nonpoint Pollution Control Program:

The Coastal Nonpoint Pollution Control Program (CNPCP) has had a status of conditional approval since June 6, 1998. Although efforts have been made to attain full approval from EPA and NOAA the lack of inconsistent to sometimes no funding makes it very hard to achieve this goal. The CNPCP is a joint effort between both Louisiana's Departments of Natural Resources and Environmental Quality. This relationship although a good one does present some issues when it comes to submitting program status reports contained within the statewide Nonpoint Source Program's Management Plan. In addition, because of the multiple federal and state agency involvement coordination can be a challenge.

Presently the LDNR is working with LDEQ to gain full approval through the submittal and approval by NOAA and EPA of the 2010 319 Louisiana's Nonpoint Source Management Plan. DEQ submitted the document to EPA, Region 6 for a technical review. This plan will ultimately be submitted jointly by LDNR and LDEQ to NOAA and EPA requesting full approval.

Regarding the expectation/intention of NOAA to bring up the CZARA and the CNPCP vis-à-vis a "necessary action" finding in out 312 Final review please be advised that as OCM understands it the expectation/intention is that the Review Team will be placing a "necessary action" finding that will require Louisiana to submit and get approval for a CNPCP w/in some specified period of time. Absent that occurring some or all of the provisions of CZMA Section 312 and 15 CFR 923.133 could be invoked resulting in suspension of financial assistance and/or ultimately withdrawal of approval of a program (see 16USCSection1458 below)

> (c) Suspension of financial assistance for noncompliance; notification of Governor; length of suspension.
>
> **(1)** The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.
>
> **(2)** Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with--
>
> **(A)** written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and
> **(B)** written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

> **(3)** The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.
>
> (d) Withdrawal of approval of program
>
> The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A) of this section.
>
> (e) Notice and hearing
>
> Management program approval and financial assistance may not be withdrawn under subsection (d) of this section, unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d) of this section, the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

Please be advised that Louisiana does understand the potential consequences of this and Louisiana has been and is diligently working to address the issues that remain with our CNPCP and which have resulted in Louisiana being "conditionally approved" to this date. Louisiana believes that there were several outstanding conditions requiring specific actions that we, i.e. LDEQ and LDNR/OCM, discussed w/ NOAA and EPA and developed a path forward to resolving some time ago. We believe that the last remaining one of those actions that the state was to take was to incorporate the CNPCP into the LDEQ 319 Five Year Plan and that once approved by EPA for LDEQ 319 purposes would be submitted jointly by LDEQ and LDNR/OCM to NOAA and EPA for meeting the final condition and thus meeting all criteria for a fully approvable CNPCP. LDEQ has placed on public notice and submitted to EPA its Five Year 319 Plan and expects shortly be getting approval from EPA for that Plan. Louisiana expects to submit the Plan as soon as approved by EPA to NOAA and EPA with a formal request for full approval of our CNPCP.

Field Services and Compliance

Mentor and train two new staff (field CRS III and enforcement CRS III) to perform their respective duties.

Develop enforcement operating procedures to improve tracking of determinations regarding compliance of permit conditions such as compensatory mitigation and green card notification.

Re-evaluation of Coastal Zone Inland Boundary

During the regular session of the 2009 Louisiana Legislature, the issue of the adequacy of the inland boundary of the coastal zone to adequately define the area of south Louisiana where

coastal zone management should occur, arose. Originating as a result of a bill introduced to add Ascension Parish to the coastal zone, the discussion broadened and ultimately resulted in the development and passage of Senate Concurrent Resolution Number 60 which requested the Louisiana Coastal Protection and Restoration to conduct a comprehensive science-based study of this issue, considering also socio-economic factors. The OCM was tasked by the LCPRA to carry out the study. Seed/leverage funding was provided by the LCPRA and OCM secured additional funding support through EPA based on potential benefits to the implementation of the state CNPCP and NOAA/OCRM supported the reprogramming of a portion of Louisiana's grant funding to carry out the project.

Originally scheduled for a fast-track completion date prior to the commencement of the 2010 legislative session, OCM advised the LCPRA and legislature that additional time would be required to complete the effort. A draft report will be presented to the OCM April 28th with recommendations for consideration which include a tiered approach with a broadly expanded coastal zone encompassing and defining geographically, and scientifically, the area covered by the state Master Plan but which would not all require individual permits. An included area, or tier, within this broader coastal zone, would be a coastal use permit area conforming generally to the current coastal zone, expanded somewhat in some areas and expanded more significantly in the Barataria-Terrebonne basin.

The coastal zone inland boundary re-evaluation study and recommendations were completed and presented to the Coastal Protection and Restoration Authority (CPRA) August 18th for their consideration and comment. The report and power point presentation were concurrently posted on the DNR/OCM website for public review. Through the next several weeks educational and explanatory meetings were held with stakeholders and OCM reviewed and considered all comments made. A slightly revised document was prepared as a result of these public comments and meetings and was scheduled to be presented to the CPRA for final approval by resolution, December 8th. However, at the request of a legislator, the final acceptance of the document was postponed until the January, 2011 CPRA meeting. This meeting is likely to be held January 19, 2011.

Upon approval of the resolution accepting the report findings and recommendations, the document will be forwarded to the legislature in fulfillment of provisions of Senate Concurrent Resolution 60 (2009). Also, at the time the CPRA accepts the document, the inland boundary will become operationally effective for that portion of Ascension Parish recommended for inclusion into the coastal zone. OCM estimates that it will take about six months to undertake the necessary coordination to procedurally add Ascension into the coastal zone. During that time OCM will also be working to prepare and submit the boundary change to NOAA pursuant to the program change guidance. The legislature is anticipated to consider the issue of changing the inland boundary and other report recommendations during the 2011 regular session.
Over the course of the next 20+ months, it will be the challenge of OCM to further refine the contents of this report, explain it to stakeholders and develop language for statutory and rule changes necessary to implement an updated coastal zone boundary.