



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**Office of General Counsel**  
**Suite 4470**  
**501 West Ocean Boulevard**  
**Long Beach, CA 90802**

December 2, 2014

Ray Newby  
Texas General Land Office  
Coastal Resources Office  
1700 N. Congress Ave.  
P. O. Box 12873  
Austin, TX 78711-2873

Re: Federal Consistency Determination for the T/B DBL 152 Oil Spill Damage  
Assessment and Restoration Plan/Environmental Assessment

Dear Mr. Newby:

The National Oceanic and Atmospheric Administration (NOAA) is the sole federal natural resource trustee for the Tug Barge DBL 152 oil spill (the Spill), which occurred in federal waters of the Gulf of Mexico, beginning on November 11, 2005. In this capacity, and in compensation for losses suffered by the public as a result of the Spill, NOAA is proposing to fund an environmental restoration project in Galveston Bay. Accordingly, NOAA is submitting this letter in compliance with the federal consistency provisions of the Coastal Zone Management Act of 1972 (CZMA) as amended, Section 307c(1).

The project, identified by NOAA in the Restoration Plan for the Spill, is shoreline protection and salt marsh restoration on the northern shoreline of East Galveston Bay on the Texas Chenier Plain National Wildlife Refuge Complex (TCPNWRC) (the Project). Scouring by wind-driven waves at the TCPNWRC has resulted in erosive bluffs up to three feet in height and very patchy remnants of intertidal wetlands. The U.S. Fish and Wildlife Service (USFWS), which manages the refuge, documents shoreline erosion rates within the refuge complex ranging from nine to over 50 feet per year, resulting in significant reductions in ecosystem services provided by the refuge as habitats are lost or converted. The Project will be designed to protect at least 4.23 miles of shoreline. The protective structure will consist of 8.97 acres of rip-rap habitat, and 11.55 acres of salt marsh habitat will be created behind the breakwater. The Project will also protect an anticipated 8.5 acres of existing salt marsh over its lifetime. A more detailed description of the Project is included in the Restoration Plan, which is included as an attachment to this letter.

This Project will occur and have effects inside the Texas coastal zone, as defined in section 304 of the CZMA (in fact, it is anticipated that NOAA or the USFWS will be seeking a submerged lands lease from the State of Texas in order to implement the Project). However, NOAA has concluded that any such effects will be positive overall and will benefit coastal resources. In evaluating the Project, NOAA has carefully considered the provisions of Chapter 33 of the Texas Natural Resources Code and the goals and policies identified in Subchapter B of 16 T.A.C 501. Specifically, T.N.R.C. § 33.602 identifies a policy of “coastal erosion avoidance, remediation, and planning.” The avoidance of coastal erosion is one of the primary elements of the Project. In this instance, erosion prevention will be accomplished through the use of rip-rap barriers in a manner that has been used extensively in the general project area.

Based on the preceding discussion and information contained in the Restoration Plan, NOAA believes that the Project is consistent to the maximum extent practicable (and, indeed, fully consistent) under 15 C.F.R. 990.36 with the enforceable policies of the Texas Coastal Management Program. NOAA requests that the Texas General Land Office concur with this determination.

Thank you for your assistance with this matter. Should you have any questions, please do not hesitate to contact me at 562-980-3237 or by e-mail at Christopher.Plaisted@noaa.gov.

Sincerely,

Christopher J. Plaisted  
Attorney-Advisor  
NOAA Office of General Counsel  
Natural Resources Section