Final Supplement to the

Final Damage Assessment and Restoration Plan and Environmental Assessment for the

Koppers Site, Charleston, South Carolina

Prepared by:

National Oceanic and Atmospheric Administration

on behalf of

U.S. Department of Commerce

U.S. Fish and Wildlife Service

on behalf of the

U.S. Department of the Interior

South Carolina Department of Health and Environmental Control

and

South Carolina Department of Natural Resources

Contents

1 INTRODUCTION

The National Oceanic and Atmospheric Administration (NOAA), the Department of Interior (DOI), the South Carolina Department of Natural Resources (SCDNR) and the South Carolina Department of Health and Environmental Control (SCDHEC) (collectively, the Trustees) amend the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site, Charleston, South Carolina (Final DARP/EA or DARP/EA) (May 2017) and select Restoration Alternative 2, which includes the Oyster Reef Creation project described therein, as preferred, in lieu of Restoration Alternative 1, which was previously selected for implementation by the Trustees and included the Long Branch Creek Marsh Restoration project.

In June 2017, the Trustees released the Final DARP/EA to the public, which outlined the Trustees' preferred restoration to compensate the public for natural resources and natural resource services injured, lost, or destroyed as a result of releases at and from the National Priorities List (NPL) Superfund site known as the Koppers Co., Inc. (Charleston Plant) NPL Site (Koppers Site or Site). In the Final DARP/EA, the Trustees preferred Restoration Alternative 1 for implementation, which included two salt marsh restoration projects: the Drayton Hall project and the Long Branch Creek Marsh Restoration project. Pursuant to the consent decree entered by the U.S. District Court for the District of South Carolina on January 7, 2019 (Civil No. 2:18-cv-3051-DCN) (Consent Decree), which resolves the Trustees' natural resource damages claims, the Drayton Hall project is being implemented by the Responsible Party (RP), Beazer East, Inc., pursuant to the Drayton Hall Restoration Project Statement of Work (Consent Decree, Appendix A). The Long Branch Creek Marsh Restoration project was to be implemented by the Trustees, through the use of settlement funds provided by Beazer East, Inc. under the Consent Decree, in the amount of $400,000.00.

Due to circumstances unforeseen at the time of the publication of the Final DARP/EA, the Long Branch Creek Marsh Restoration project is no longer feasible. Therefore, the Trustees now amend the Final DARP/EA and select Restoration Alternative 2, which includes the Drayton Hall project and the Oyster Reef Creation project. The Trustees propose to implement the Oyster Reef Creation project in collaboration with the SCDNR's Oyster Restoration Program, in 2020 and 2021.

The Trustees fully evaluated the Oyster Reef Creation project in the Final DARP/EA, under the Comprehensive Environmental Recovery and Compensation Liability Act (CERCLA) and the National Environmental Policy Act (NEPA), as part of their evaluation of Restoration Alternative 2. While not initially selected as part of the Proposed Action in the Final DARP/EA, the Trustees determined that the Oyster Reef Creation project meets all of their restoration objectives as well as the Trustees' restoration selection criteria (see Final DARP/EA, Section 6.2.1). This analysis is incorporated by reference in this Final Supplement to the Final DARP/EA (Final Supplement).

1.1 PROPOSED ACTION, PURPOSE AND NEED

Proposed Action. The Trustees are proposing to carry out oyster reef creation activities within the Charleston Harbor watershed, in lieu of the previously selected restoration activities proposed for Long Branch Creek, also located in Charleston, South Carolina.

The Oyster Reef Creation project proposes to construct one or more intertidal oyster reefs in the Charleston Harbor estuary, encompassing approximately 2.4 acres (total) of oyster creation. The Trustees expect that the project would eventually provide ecological services equivalent to those of a natural oyster reef of equivalent size. As described in the Final DARP/EA, the SCDNR would place and maintain a foundation of purchased or recycled oyster shell cultch, on which oyster spat could settle and grow into mature oysters. These oysters would serve as the "keystone" species in the development of a functional oyster reef community. The Trustees propose to use the settlement funds paid to the Trustees pursuant to Paragraph 21 of the Consent Decree to implement the Oyster Reef Creation project evaluated in the Final DARP/EA. The Oyster Reef Creation project would be implemented according to the 2019 Workplan described in this Final Supplement, in Section 4.1.

Purpose. The purpose of the Proposed Action is to restore benthic habitat to compensate the public for natural resources, including ecological services, injured, lost or destroyed due to releases of hazardous substances at and from the Koppers Site. The purpose of this Final Supplement is to describe the restoration action the Trustees now propose to address those injuries.

Need. In order to achieve this purpose, the Trustees must evaluate alternative restoration measures that will adequately compensate the public for the injured resources, and the services they provide. The Final Supplement incorporates by reference the evaluation of the Oyster Reef Creation project, prepared for the Final DARP/EA.

1.2 AUTHORITY

This Final Supplement was prepared jointly by the Trustees pursuant to their respective authority and responsibilities as natural resource trustees under the CERCLA, 42 U.S.C. § 9601 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq. (also known as the Clean Water Act or CWA), and other applicable federal or state laws, including Subpart G of the National Oil and Hazardous Substances Contingency Plan (NCP), at 40 C.F.R. §§ 300.600 through 300.615, and DOI's CERCLA NRDA regulations at 43 C.F.R. Part 11 (NRDA regulations) which provide guidance for this restoration planning process under the CERCLA.

1.3 NEPA COMPLIANCE

Actions undertaken by the Trustees to restore natural resources or services under CERCLA and other federal laws are subject to the NEPA, 42 U.S.C. § 4321 et seq., and the regulations guiding its implementation at 40 C.F.R. Parts 1500 through 1517. NEPA outlines the responsibilities of federal agencies, including environmental documentation. In general, federal agencies contemplating implementation of a major federal action must produce an environmental impact statement (EIS) if the action is expected to have significant adverse impacts on the quality of the human environment. When it is uncertain whether a contemplated action is likely to have significant impacts, federal agencies prepare an environmental assessment (EA) to evaluate the need for an EIS. If the EA demonstrates that the proposed action will not significantly impact the quality of the human environment, the agency issues a Finding of No Significant Impact (FONSI), which satisfies the requirements of NEPA, and no EIS is required.

NOAA was the lead agency for preparing the Final DARP/EA, and is the lead agency for preparation of this Final Supplement. This document incorporates by reference the Affected Environment described in the Final DARP/EA; describes the purpose and need for the proposed restoration action; assesses the restoration action's applicability and potential impact on the quality of the physical, biological and cultural environment; and summarizes the opportunity the Trustees provided for public participation in the decision-making process. Based on the EA integrated into the Final DARP/EA, the federal Trustees (NOAA and USFWS) conclude that the impacts associated with the ecological restoration actions identified herein do not meet the threshold requiring an EIS and, accordingly, issue a FONSI (Appendix B).

1.4 PUBLIC PARTICIPATION

The Trustees prepared this Final Supplement to provide the public with information on the proposed change in restoration action. Public review of the Draft Supplement is an integral and important part of the restoration planning process and is consistent with applicable state and federal laws and regulations, including NEPA and its implementing regulations, and the guidance for restoration planning found within 43 C.F.R. Part 11.

The Draft Supplement was released for public review and comment between January 10 and February 12, 2020. No public comments were received..

1.5 ADMINISTRATIVE RECORD

The Trustees have maintained records documenting the information considered and actions taken by the Trustees during this restoration planning process, and these records collectively comprise the Trustees' administrative record (AR) supporting the DARP/EA. These records are available at

https://www.diver.orr.noaa.gov/web/guest/diver-admin-record?diverWorkspaceSiteId=6217

2 SITE AND INJURY OVERVIEW

This Final Supplement summarizes the Koppers Site background and the injury assessment. For more details, please see the Final DARP/EA (Sections 2, 4), which are incorporated by reference.

2.1 SITE BACKGROUND

The Koppers Site is approximately 102 acres in size, and is located in "the neck" area of the city of Charleston, on the west side of the peninsula formed by the Ashley and Cooper rivers. The current use of the area surrounding the Site is a mixture of industrial, commercial, and residential properties.

From 1940 to 1978, the Koppers Company operated a wood-treatment facility on approximately 45 acres of the Site that is generally bounded by Milford Street, Braswell Street, King Street Extension, and the Ashley River. The remaining 57 acres of the Site was used for phosphate and fertilizer production by a series of owners from the turn of the century until 1978. EPA incorporated these 57 acres into the Site boundaries to determine the environmental impact that the previous dredging operations had on the Ashley River and neighboring tidal marsh.

Beazer East, Inc., the RP, is the successor in interest of the Koppers Company, Inc. and is thus the same corporation that operated the former wood treatment plant at the Site.

The Site was proposed to the Superfund's NPL in February 1992 and became Final on the NPL in December 1994. As described in the Final DARP/EA, various remedy components were implemented and constructed. The Final Remedial Action report was submitted in August 2003 and approved by EPA in September 2003. As of the Fourth 5-Year Review Report (2018), an estimated 21,700 gallons and 14,000 gallons of non-aqueous phase liquids (NAPL) have been recovered from the former treatment area and old impoundment area, respectively.

2.2 INJURY ASSESSMENT SUMMARY

As described in the Final DARP/EA, the Trustees determined that the contaminants threatening trust natural resources were polycyclic aromatic hydrocarbons (PAHs) and heavy metals, especially arsenic, chromium, copper, lead, and zinc. These compounds have been shown to cause a range of toxic responses in marine and estuarine organisms including mortality, reduced growth, and diminished reproductive capacity. These compounds are designated as "hazardous substances" under CERCLA, a designation that includes solutions and mixtures of these substances. See 42 U.S.C. §9701(14) (A) and 40 CFR §116.4. These hazardous substances were found in the surface soils, surface waters, sediments, groundwater, and adjacent wetlands at or near the Site.

The Trustees chose to focus exclusively on injury to the benthic community. The rationale behind this decision was two-fold. One, injury and subsequent restoration scaling to the benthic community could be conducted in a protective yet cost-effective manner. Two, restoration for benthic injury would provide additional ecological service flows to other resources (e.g., fish, birds, and wildlife) potentially injured at the Site.

3 RESTORATION PLANNING PROCESS

The overall objective of the restoration planning process is to identify restoration alternatives that are appropriate to restore, rehabilitate, replace or acquire natural resources and their services equivalent to natural resources injured or lost as a result of releases of hazardous substances.

As described in the Final DARP/EA, and in accordance with NRDA regulations, the Trustees evaluated a reasonable range of project alternatives that could be used to restore or enhance estuarine marsh habitat in the Charleston Harbor area. Due to the size of the injury, and the estimated restoration benefits for each project, the Trustees developed restoration alternatives that combined the Drayton Hall project with either the Long Branch Creek (Alternative 1) or the Oyster Reef Creation (Alternative 2) actions. The alternatives were considered carefully by the Trustees based on criteria outlined in the Final DARP/EA (See Section 5.2.). While both restoration alternatives met all Trustee criteria, the Final DARP/EA preferred Restoration Alternative 1 for implementation, the alternative combining the Drayton Hall project with the Long Branch Creek project, because it was determined to most effectively compensate the public for natural resource injuries related to hazardous substance releases at and from the Site.

3.1 Drayton Hall Marsh Restoration Project Summary and Update

The Drayton Hall project consists of three components: 1) restoring tidal hydrology and salt marsh functions in a 70-acre partially impounded brackish marsh located across the Ashley River from the historic Drayton Hall plantation; 2) eliminating existing stands of *Phragmites australis*, an invasive non-native species that spreads rapidly, replacing native salt marsh vegetation, and 3) establishing a conservation easement to ensure long-term preservation of the restored marsh, and the immediate uplands buffer.

This RP-implemented project is currently underway, with construction activities beginning in spring, 2020.

3.2 Long Branch Creek Project Summary and Update

The Long Branch Creek project consisted of enhancing and restoring approximately 45 acres of tidal salt marsh and fishery habitat within Long Branch Creek, Charleston, South Carolina. Proposed work included removing three undersized, failing 48" pipes running under the West Ashley Greenway and creating a breach that would provide tidal exchange above and below the causeway. The goal was to restore natural hydrology to the salt marsh system, improving the overall health and function of benthic and marsh habitat. The project was proposed to be implemented by the Trustees in partnership with the City of Charleston.

Since publication of the Final DARP/EA in 2017, the City has been working on city- and county-wide plans to address flooding issues in the region and develop strategies for stormwater protection for at-risk neighborhoods. The City and its partners are laying the groundwork for multiple stormwater projects in the Church Creek basin, including in Long Branch Creek. As this comprehensive planning effort has continued over the last two years, the Trustees have come to recognize that the timeframe for work at the lower Long Branch Creek site, as proposed in the Final DARP/EA, is not feasible until at least 2021. This is based on the City's plan to prioritize work in Church Creek, Lake Dotterer, and the upper stretch of Long Branch Creek. While the Trustees still see the potential for habitat restoration at the site proposed for the Long Branch Creek Marsh Restoration project in the Final DARP/EA, currently there is uncertainty whether the restoration objectives laid out in the Final DARP/EA could still be met by the Long Branch Creek Marsh Restoration project, as its viability and design would be affected by the City's stormwater work upstream.

For these reasons, the Trustees are proposing not to move forward with implementation of the Long Branch Creek Marsh Restoration project at this time, and to redirect the settlement funds formerly designated for that restoration action to the Oyster Reef Creation project evaluated as part of Restoration Alternative 2 in the Final DARP/EA.

3.3 Oyster Reef Creation Project Summary

The Trustees are now selecting the Oyster Reef Creation project evaluated in the Final DARP/EA and described more fully in Section 4.1 of this Supplement. Specifically, the Trustees are proposing to undertake oyster reef restoration at one or more of the six (6) large-scale planting sites in the Charleston Harbor estuary. This would involve constructing one or more intertidal oyster reefs, encompassing approximately 2.4 acres (total) of oyster reef creation. The Trustees expect that the project would eventually provide ecological services equivalent to those of a natural oyster reef of

equivalent size. As described in the Final DARP/EA, which is incorporated by reference here, the SCDNR would place and maintain a foundation of purchased or recycled oyster shell cultch, on which oyster spat could settle and grow into mature oysters. These oysters would serve as the "keystone" species in the development of a functional oyster reef community.

4 ALTERNATIVES EVALUATION

4.1 OYSTER REEF CREATION

4.1.1 Project Description

As described in the Final DARP/EA, the Oyster Reef Creation project would create approximately 2.4 acres of oyster reef habitat in the Charleston Harbor estuary. Six potential reef construction sites have been identified by SCDNR (Figure 1). Oyster shell would be purchased, transported (approximately 740 U.S. bushels per load), and stockpiled at the State Ports Authority Veterans Terminal on the Cooper River. Prior to large-scale planting, the site(s) selected for oyster restoration would be staked with 1" PVC poles, approximately 100' apart, which would facilitate shell placement when the site(s) are underwater during planting operations. During planting, 1,100-1,350 bushels of oyster shell would be loaded onto a barge for each planting event, using a conveyer loader and S250 Bobcat©. Shells would then be floated overboard, using a high-pressure water cannon, approximately ½ hour before and after high tide at a depth of 3"- 6" based on shoreline bottom type. After planting, the PVC stakes would be removed. The shells would then be expected to serve as cultch for free-swimming larvae to attach to and grow into three-dimensional oyster reefs.

A target of 2.4 acres total would be planted at the project's completion. The planting of oyster shells is anticipated to take place in 2020 and 2021, with approximately half of the target acreage being planted in each year.

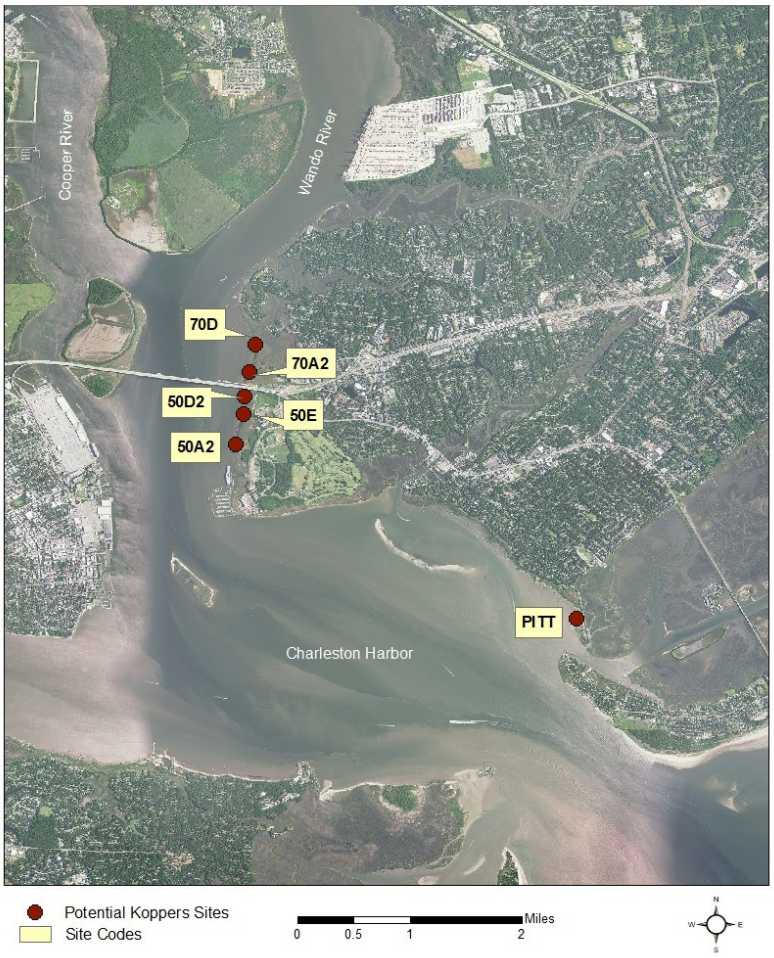


Figure 1. Potential Oyster Restoration Sites Identified for Implementation of the Oyster Reef Creation Project.

Immediately following shell placement, a footprint of each planted area would be recorded, by walking the shell perimeter with a GPS. Digital photographs, tagged by GPS point data and other metadata, would be taken to document planting results. Further, monitoring of the oyster reef restoration site(s) would be performed by SCDNR marine biologists post shell deployment. The potential recruitment of juvenile oysters would be determined using plastic trays filled with oyster shells, which are deployed in early spring and collected nine months to one year later. Using trays to assess oyster recruitment at natural and restored sites in South Carolina has occurred since 1998.

Additionally, a preliminary assessment of the oyster population development would be conducted at the restoration site(s) by taking replicate ¼ meter quadrat samples from the restored reefs, after they are approximately one year old. Live oysters would also be counted and measured to determine average density of oysters per site, and to assess relative growth. An intensive population assessment would be conducted for the site(s) once they are approximately three years old. Replicate ¼ meter samples would also be collected to determine density and size distributions of recruited oysters. Data would be compared to the following success criteria:

1) After three years of grow out, the footprint of the planted oyster reef must be greater than or equal to 2.4 acres.

2) After three years of grow out, oyster density must be greater than or equal to 900 live oysters/m2.
3) After three years of grow out, size distribution must include (1) at least 25% recruits (<20 mm shell height) to ensure continuing reef propagation and (2) average shell height of 24 mm or greater to ensure oysters are growing.

Detailed analysis and results would be included in a final report for the project, and will be aligned with the universal metrics for oyster restoration described in Chapter 3 of the Oyster Habitat Restoration Monitoring and Assessment Handbook (http://www.oyster-restoration.org/wp-content/uploads/2014/01/Oyster-Habitat-Restoration-Monitoring-and-Assessment-Handbook.pdf).

4.1.2 Evaluation

This Final Supplement incorporates by reference the evaluation of the Oyster Reef Creation project contained in the Final DARP/EA in Section 6.2.1.

As described in the Final DARP/EA, implementation of Restoration Alternative 2, which includes the Oyster Reef Creation project, provides an opportunity for cost-effective estuarine habitat enhancement, by combining salt marsh restoration (the Drayton Hall project) with oyster reef restoration. In addition to the benefits expected from the Drayton Hall project—including, but not limited to, benthic and pelagic habitat improvement—the Oyster Reef Creation project would be expected to improve water quality and increase habitat complexity and species diversity in the vicinity of the restored oyster site(s). Oyster reef creation is an activity routinely undertaken by the SCDNR's Oyster Restoration Program and, based on the Program's past results, the Trustees anticipate the constructed oyster reefs would be largely self-sustaining, require minimal intervention following construction to achieve functional success, and would provide an uninterrupted flow of services into the future.

The South Atlantic Fish Management Council (SAFMC) has designated oyster reefs as essential fish habitat (EFH). Federally managed species that utilize this type of habitat during various life stages include red drum and penaeid shrimp. Other species of commercial, recreational and ecological importance include Atlantic croaker, spot, Atlantic menhaden, blue crab, killifish and striped mullet. In turn, these fish provide prey for Spanish and king mackerel, cobia, and others managed by the SAFMC, for migratory species such as sharks and billfishes managed by NOAA, and for federally protected migratory birds. In South Carolina, oyster reefs generate biodiversity and are identified as critical habitats of concern in both the State Conservation Plan and SCDNR's Comprehensive Wildlife Conservation Strategy.

4.2 No Action Alternative

This Final Supplement incorporates by reference the evaluation of the No Action Alternative contained in the Final DARP/EA in Section 6.3.1.

As described in the Final DARP/EA, the alternatives under consideration by the Trustees must include a No Action Alternative as prescribed by 40 CFR 1502.14. Under the No Action Alternative evaluated in this Final Supplement, the Trustees would not select and implement a restoration project using the settlement funds previously allocated to the Long Branch Creek Marsh Restoration project in the Final DARP/EA, at this time. Therefore, under this alternative, providing additional compensation to the public for the resource losses attributed to the Koppers Site would be delayed pending the completion

of a future restoration plan. While the remedial activities at the Site addressed the actions needed to allow injured resources to recover, the remedial activities did not compensate the public for interim ecological resource service losses. Such compensation serves to make the public whole for the full harm done to natural resources injured by the release of hazardous substances from the Site. Accordingly, the No Action Alternative would not meet the restoration criteria established in the Final DARP/EA or the purpose and need of this Final Supplement.

5 NEPA SUMMARY

This Final Supplement describes and evaluates the potential impacts of the proposed action, i.e., creating 2.4 acres of oyster reef habitat in the Charleston Harbor estuary through implementation of the Oyster Reef Creation project (Restoration Alternative 2) described in the Final DARP/EA. In Section 7 of the Final DARP/EA, the Trustees evaluated the potential for restoration actions associated with all alternatives (Restoration Alternative 1, Restoration Alternative 2, and the No Action Alternative) to impact the following: the physical environment (air and noise pollution, water quality, geological and energy resources, and contaminants), the biological environment (benthos, finfish, vegetation, wildlife, and endangered species), socioeconomic environment (environmental justice, recreation, commercial fishing, traffic, and cultural resources), and the potential for cumulative impacts. This Final Supplement incorporates by reference the evaluation of potential environmental impacts contained in Section 7.3 of the Final DARP/EA.

5.1 AFFECTED ENVIRONMENT

The Affected Environment of the proposed action is the Charleston Harbor watershed. The physical, biological, cultural, and socioeconomic environment are described in the Final DARP/EA (Section 3) and incorporated by reference here.

5.2 ENVIRONMENTAL CONSEQUENCES

The expected environmental consequences from the action proposed in this Final Supplement, i.e., creating 2.4 acres of oyster reef habitat in the Charleston Harbor estuary, are described in the Final DARP/EA (Section 7.3). In summary, oyster reef creation activities would have short-term, minor, adverse impacts to noise, and air and water quality due to vessels used for shell transport and planting methods. There would be long-term, minor to moderate, adverse or beneficial impacts to bathymetry due to expanded footprint of oyster reefs. There would be long-term, minor to moderate, beneficial impacts to water quality due to increased filtering capacity in reef habitat. Oyster reef creation activities would have short-term, minor, adverse impacts to habitat and wildlife (including benthos and finfish) from shell planting activities. However, long-term, beneficial impacts to fish and wildlife are anticipated with the creation of new benthic habitat. Long-term, minor, beneficial impacts may be realized for recreational fisheries due to increased habitat quantity and quality. No long- or short-term, beneficial or adverse impacts are anticipated for cultural or historical resources, infrastructure, or public health and safety. There have been no changes in circumstances or environmental conditions since publication of the Final DARP/EA that indicate to the Trustees that implementation of the Oyster Reef Creation project

would result in any different or greater environmental consequences than those evaluated in Section 7.3. Accordingly, this Supplement incorporates the analysis in Section 7.3 by reference here. Consultation with NOAA's Habitat Conservation Division, the U.S. Fish and Wildlife Service, the South Carolina Office of Coastal Resource Management, and the State Historic Preservation Office were initiated to ensure the Oyster Reef Creation project's environmental compliance and consistency with all federal, state and local laws and regulations (see Section 6 of this Supplement). All such consultations will be completed prior to project implementation. Concurrence letters received prior to the Final Supplement's release can be found in Appendix A.

5.3 No Action Alternative

As described in section 4.2 in this Final Supplement, under the No Action Alternative, the Trustees would not select and implement a restoration project using the settlement funds previously allocated to the Long Branch Creek Marsh Restoration project, at this time. Accordingly, the No Action Alternative would not be expected to result in any long- or short-term, adverse or beneficial impacts for the physical, biological, and socioeconomic environments.

5.4 Cumulative Impacts Summary

As described in the Final DARP/EA, the oyster reef creation action selected in this Final Supplement is expected to result in cumulative, positive impacts by increasing the area and ecological function of oyster habitat, including increased habitat acreage and stability. The creation and enhancement of wildlife habitat supplements existing habitat in the region. A net cumulative beneficial impact may result from the synergy with past oyster restoration activities. Further, the Proposed Action is intended to compensate the public, i.e., make the public and the environment whole, for resources injuries caused by releases of hazardous substances into the watershed.

The No Action alternative would not be expected to result in cumulative adverse or beneficial impacts to the physical, biological, and socioeconomic environments, and would not provide the conditions necessary for full compensation of the injured resources at this time.

This Final Supplement incorporates by reference the evaluation of cumulative impacts contained in Sections 7.3.2 (Restoration Alternative 2) and 7.3.3 (No Action Alternative) of the Final DARP/EA.

6 COMPLIANCE WITH OTHER KEY FEDERAL STATUTES, REGULATIONS, AND POLICIES

Legal authority associated with the proposed restoration action were fully described in the Final DARP/EA in Section 8, and are incorporated by reference here. As described in Section 5.2 of this Final Supplement, the Trustees initiated consultation with the appropriate agencies and offices to ensure compliance with the following authorities:

- Magnuson-Stevens Fishery Conservation and Management Act
- Endangered Species Act
- Coastal Zone Management Act

- National Historic Preservation Act

Additional applicable federal and state laws may include, but are not limited to:

- Clean Water Act
- Rivers and Harbors Act
- Fish and Wildlife Conservation Act
- Fish and Wildlife Coordination Act
- Marine Mammal Protection Act
- Migratory Bird Treaty Act
- Information Quality Guidelines issued pursuant to Public Law 106-554
- Executive Order 12898 (59 Fed. Reg. 7629) - Environmental Justice
- Executive Order Number 11514 (35 Fed. Reg. 4247) - Protection and Enhancement of Environmental Quality
- Executive Order Number 11990 (42 Fed. Reg. 26,961) - Protection of Wetlands
- Executive Order Number 12962 (60 Fed. Reg. 30,769) - Recreational Fisheries
- Violation of environmental protection laws

Prior to project implementation, the Trustees will ensure that the proposed restoration actions are in compliance with all relevant federal, state and local laws and regulations. Concurrence letters received prior to the Final Supplement's release can be found in Appendix A.

7 LIST OF PREPARERS

Agency	Name	Position
State of South Carolina		
Department of Health and Environmental Control	Heather Cathcart	Natural Resource Trustee, Federal Remediation Section
Department of Health and Environmental Control	Susan Fulmer	Natural Resource Trustee, Federal Remediation Section Manager
Department of Health and Environmental Control	Joel Padgett	Natural Resource Trustee, Federal Remediation Section
Department of Health and Environmental Control	Nathan Haber	Attorney-Advisor
Department of Natural Resources	Stacie Crowe	Natural Resource Trustee, Coastal Environmental Project Manager
Department of Natural Resources	Shannon Bobertz	Attorney-Advisor
Department of the Interior		

Solicitor's Office	Brigette Beaton	Attorney-Advisor
United States Fish and Wildlife Service	Anthony Sowers	Natural Resource Trustee, Biologist
National Oceanic and Atmospheric Administration		
Restoration Center/Earth Resources Technology, Inc.	Krista McCraken	Natural Resource Trustee, Marine Habitat Resource Specialist
Restoration Center	Howard Schnabolk	Natural Resource Trustee, Marine Habitat Resource Specialist
Office of General Counsel	Corinna McMackin	Attorney-Advisor

8 APPENDICES:

A: Concurrence Letters

- Magnuson-Stevens Fishery Conservation and Management Act
- Endangered Species Act
- National Historic Preservation Act

B: Finding of No Significant Impact

C: Trustee Resolution Approving Final Supplement Release

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
https://www.fisheries.noaa.gov/region/southeast

March 4, 2020 F/SER47:CC/pw

(Sent via Electronic Mail)

Ms. Krista McCraken
NOAA Restoration Center
2234 South Hobson Avenue
Charleston, South Carolina 29405-2413

Dear Ms. McCracken:

NOAA's National Marine Fisheries Service (NMFS) reviewed your letter dated January 15, 2020, your email dated January 21, 2020, and the draft Supplement to the Final Damage Assessment and Restoration Plan for the Koppers Site, Charleston, South Carolina, dated December 13, 2019 (supplemental DARP). NOAA, the Department of the Interior, the South Carolina Department of Natural Resources, and the South Carolina Department of Health and Environmental Control, collectively "the Trustees," propose to complete an Oyster Reef Creation project to compensate the public for damage to natural resources from releases of hazardous substances at the National Priorities List Superfund site known as the Koppers Site. The Trustees are taking this action under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act, and the proposed restoration includes creation of oyster reefs within the Charleston Harbor estuary. The Trustees have determined the proposed restoration would not have a net adverse impact to essential fish habitat (EFH) or federally managed fishery species. As the nation's federal trustee for the conservation and management of marine, estuarine, and anadromous fishery resources, the NMFS provides the following comments and recommendations pursuant to authorities of the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act.

The Trustees previously released a Final Damage Assessment, Restoration Plan, and Environmental Assessment in 2017 (Final DARP/EA) selecting preferred restoration projects at Drayton Hall and Long Branch Creek. The NMFS provided a letter of concurrence for these projects on June 7, 2016. The Long Branch Creek restoration project is now no longer feasible, and the Trustees are amending the Final DARP/EA to select Restoration Alternative 2, which includes the Drayton Hall project and an Oyster Reef Creation project. The Oyster Reef Creation project proposes to create one or more intertidal oyster reefs in the Charleston Harbor estuary, encompassing approximately 2.4 acres (total) of oyster creation. The Trustees fully evaluated the Oyster Reef Creation Project in section 8.2 of the Final DARP/EA and have incorporated this analysis by reference in the draft supplemental DARP.

The NMFS has no objection to the proposed oyster creation project and offers no EFH conservation recommendations to reduce the impacts to EFH and fishery species. Further, unless project details change from those provided in the draft supplemental DARP report, the NMFS

does not expect to provide EFH conservation recommendations for the project when it is evaluated by the U.S. Army Corps of Engineers for permitting under the Clean Water Act.

The NMFS appreciates the opportunity to provide these comments and thanks the NOAA Restoration Center for their efforts in complying with the Magnuson-Stevens Act. Please direct related correspondence to the attention of Cindy Cooksey at our Charleston Area Office. She may be reached at (843) 460-9922 or by e-mail at Cynthia.Cooksey@noaa.gov.

Sincerely,

WILBER.THOMAS.PAYSON.1365820186 Digitally signed by WILBER.THOMAS.PAYSON.1365820186 Date: 2020.03.03 17:19:05 -05'00'

/ for

Virginia M. Fay
Assistant Regional Administrator
Habitat Conservation Division

cc: F/HC3, Howard.Schnabolk@noaa.gov, Krista.McCraken@noaa.gov
F/SER47, Cynthia.Cooksey@noaa.gov

United States Department of the Interior

FISH AND WILDLIFE SERVICE
176 Croghan Spur Road, Suite 200
Charleston, South Carolina 29407

February 13, 2020

Ms. Krista McCraken
Marine Habitat Resource Specialist
ERT, NOAA Restoration Center
2234 South Hobson Avenue
Charleston, SC 29405-2413

Re: Koppers - Natural Resource Damage Assessment and Restoration, ESA Coordination, Charleston County, South Carolina FWS Log No. 2016-I-0520

Dear Ms. McCraken:

The U.S. Fish and Wildlife Service (Service) has received your February 5, 2020, letter regarding the recent changes to the proposed restoration of two sites near the City of Charleston, Charleston County, South Carolina. The National Oceanic and Atmospheric Administration (NOAA), the United States Fish and Wildlife Service on behalf of the U.S. Department of the Interior, the South Carolina Department of Natural Resources (SCDNR) and the South Carolina Department of Environmental Control, collectively, "The Trustees" have determined through a natural resource damage assessment (NRDA) process that natural resources and their services were lost due to releases of hazardous substances from the Superfund site known as the Koppers Site adjacent to the Ashley River. As part of the NRDA process, funds have been provided to the above agencies for use in restoration activities to compensate for lost resources. Pursuant to section 7 of the Endangered Species Act of 1973 (ESA), NOAA Restoration Center is seeking the Service's concurrence regarding the project's impacts to federally protected threatened and endangered species.

The Trustees released a Final Damage Assessment, Restoration Plan, and Environmental Assessment (DARP/EA) in 2017, which selected two preferred restoration projects: the Drayton Hall project and the Long Branch Creek project. The South Carolina Ecological Services Office of the USFWS previously concurred with the Trustees determination that the Drayton Hall and Long Branch Creek projects were *may affect, but not likely to adversely affect* federally threatened or endangered species under the authority of the Service in a letter dated June 27, 2016. Due to unforeseen circumstance, the Long Branch Creek restoration project is no longer feasible; therefore, the Trustees are amending the DARP/EA to select Restoration Alternative 2, which includes the Drayton Hall project and an Oyster Reef Creation project. Draft Supplement to the Final DARP/EA indicating this alternative selection was released for public comment on January 10, 2020.

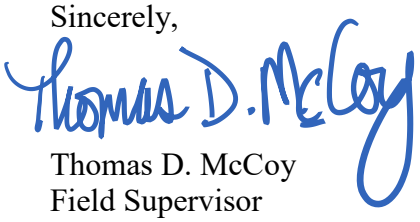
The Oyster Reef Creation project proposes to create one or more intertidal oyster reefs in the Charleston Harbor estuary, encompassing approximately 2.4 acres (total) of oyster creation. The Trustees expect that the project would eventually provide ecological services equivalent to those of a natural oyster reef of equivalent size. The Trustees propose to implement the Oyster Reef Creation project in collaboration with the SCDNR Oyster Restoration Program, in 2020 and 2021.

The Trustees have determined that the threatened West Indian manatee (*Trichechus manatus*), the threatened American wood stork (*Mycteria americana*), the threatened piping plover (*Charadrius melodus*), and the threatened red knot (*Calidris canutus rufa*) may occur in and around the Oyster Reef project area. However, piping plover and red knot would not utilize the project area and wood storks are expect to vacate under their own accord. In order to avoid impacts to West Indian manatee, manatee protection guideline would be followed. After consideration of the information received and the project's potential impact to endangered and threatened species, the Service concurs with your determination that the proposed restoration efforts *may affect, but are not likely to adversely affect* endangered and threatened species. Further, no designated critical habitat for any species occurs in either project area. In addition, the Service has produced a recently updated version of the manatee protection guidelines (attached) that are to be followed.

Please note that due to obligations under the ESA the potential impacts of this restoration effort must be reconsidered if: (1) new information reveals impacts of this identified action may affect any listed species or critical habitat in a manner not previously considered; (2) this action is subsequently modified in a manner, which was not considered in this assessment; or (3) a new species is listed or critical habitat is designated that may be affected by the identified action.

The Service appreciates your conservation efforts as well as the opportunity to work with NOAA Restoration Center and assist in this project. If you have any questions on this matter, please contact Melanie Olds at (843) 727-4707 ext. 205 or melanie_olds@fws.gov and reference FWS Log No. 2016-I-0520.

Sincerely,



Thomas D. McCoy
Field Supervisor

TDM/MJO
Attachment

Updated: September 17, 2019

Manatee Guidelines
for South Carolina

To reduce potential construction-related impacts to the manatee to discountable and insignificant levels, the Service recommends implementing the following *Standard Manatee Construction Conditions* to all projects affecting the coastal waters of South Carolina.

The permittee will comply with the following construction conditions for manatee protection:

a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel **must** monitor water-related activities for the presence of manatee(s) during May 1 - November 15. Construction personnel are requested to monitor outside of that timeframe as manatees may be in the area before or after the above dates.

b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973.

c. Any siltation barriers used during the project shall be made of material in which manatees cannot become entangled and must be properly secured, and regularly monitored to avoid manatee entrapment.

d. All vessels associated with the project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

e. If manatee(s) are seen within 100 yards of the active construction area all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet to a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.

f. The permittee understands and agrees that all in-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water. Where appropriate in water wires, cables,

should be fitted with PVC sleeve from the surface to the bottom to prevent any potential scraping of the passing manatees.

g. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service contacts: Melanie Olds, South Carolina Manatee Lead, Charleston Field Office, at 843-727-4707 ext. 205; or Terri Calleson, Manatee Recovery Coordinator, North Florida Field Office, at 904-731-3286.

SOUTH CAROLINA DEPARTMENT OF
ARCHIVES & HISTORY

February 21, 2020

Krista McCraken
NOAA
2234 S. Hobson Ave
Charleston, SC 29405

Re: Oyster Reef Creation Project, Charleston Harbor
Charleston County, South Carolina
SHPO Project No. 20-KL0038

Dear Krista McCraken:

Our office received documentation on January 29, 2020 regarding the subject-referenced project. We also received the Section 106 Project Review Form and the *Draft Supplement to the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site, Charleston, South Carolina* as supporting documentation for this undertaking. The State Historic Preservation Office (SHPO) is providing comments to the National Oceanic and Atmospheric Administration (NOAA) pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR 800. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public.

The proposed undertaking is defined as the creation of approximately 2.4 acres of additional oyster reef habitat in the Charleston Harbor. In detail, reef creation will be accomplished by "spraying" oyster shell before and after high tide in areas identified as potential reef sites. The Area of Potential Effect (APE) for the undertaking is defined as the harbor shoreline habitat as well as the subtidal and open water areas closest to the shoreline which include the existing oyster reef.

Our office defers to the expertise of the Maritime Research Division (MRD), under the direction of the State Underwater Archaeologist, for undertakings that may include submerged resources. The following are the comments and recommendations of the MRD:

"We would also like to bring to your attention the concrete river steamer *Col. J. E. Sawyer* which is located within the APE. The MRD recommends a 100' buffer around the site found in the vicinity of coordinates Latitude 32.798759, Longitude -79.906914."

Please contact Ryan Bradley at 803-576-6565 or rbradley@sc.edu if you have any questions or require additional information about this recommendation. A map of the location of the Col J. E. Sawyer is attached.

Based on the description of the Area of Potential Effect (APE), the identification of historic properties within the APE, and the recommended avoidance of the Col. J. E. Sawyer vessel, our office concurs with the assessment that no properties listed in or eligible for listing in the National Register of Historic Places will be affected by this project.

If archaeological materials are encountered during construction, the procedures codified at 36 CFR 800.13(b) will apply. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials. The federal agency or the applicant receiving federal assistance should contact our office immediately.

Please refer to SHPO Project Number 20-KL0038 in any future correspondence regarding this project. If you have any questions, please contact me at (803) 896-6181 or KSchroer@scdah.sc.gov.

Sincerely,

Keely Lewis-Schroer

Keely Lewis-Schroer
Archaeologist
State Historic Preservation Office

cc: Ryan Bradley, MRD

FINDING OF NO SIGNIFICANT IMPACT

Supplement to the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site, Charleston, South Carolina

Background:
Starting as early as 1942, wood treatment and fertilizer manufacturing facilities were located at the property now known as the Koppers Co., Inc. (Charleston Plant) NPL Site in Charleston, South Carolina (Koppers Site). Hazardous substances were released at and from these facilities, including into wetland and river habitat in and near the Ashley River in Charleston. Accordingly, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Oceanic and Atmospheric Administration (NOAA) on behalf of the Department of Commerce; the U.S. Fish and Wildlife Service on behalf of the Department of the Interior; and the South Carolina Department of Health and Environmental Control and the South Carolina Department of Natural Resources, on behalf of the South Carolina Governor's Office (Trustees) conducted a Natural Resource Damage Assessment (NRDA) of those natural resources and natural resource services injured, lost, or destroyed as a result of the releases of hazardous substances at and from the Koppers Site. The NRDA concluded that approximately 140 acres of tidal marsh and creeks, as well as groundwater, were impacted by the released hazardous material. Contaminants included polycyclic aromatic hydrocarbons (PAHs) consistent with those found in creosote, and heavy metals. Further, the NRDA determined that both intertidal and subtidal habitats were affected by the Koppers Site contamination.

As part of the NRDA, the Trustees released the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site in Charleston, South Carolina (Final DARP/EA) in 2017. In the Final DARP/EA, the Trustees identified and evaluated potential restoration alternatives to compensate the public for the natural resource injuries resulting from releases of hazardous substances at and from the Koppers Site. The Final DARP/EA was intended to guide implementation of the Trustees' NRDA restoration activities and to analyze the anticipated environmental impacts of the alternatives considered by the Trustees to restore, replace, rehabilitate, and/or acquire the equivalent of the injured natural resources and their services. The Final DARP/EA selected Restoration Alternative 1 for implementation, which included two salt marsh restoration projects: the Drayton Hall project and the Long Branch Creek Marsh Restoration project. Due to changes in project feasibility, the Trustees are now selecting Restoration Alternative 2 for implementation, which includes the Drayton Hall project and the Oyster Reef Creation project, in lieu of the Long Branch Creek Marsh Restoration project, in a Final Supplement to the Final DARP/EA (Final Supplement). The Trustees fully evaluated the Oyster Reef Creation project, under CERCLA and the National Environmental Policy Act (NEPA), as part of their evaluation of Restoration Alternative 2 in the Final

DARP/EA. The Final Supplement incorporates by reference the evaluation and environmental assessment provided in the Final DARP/EA.

Restoration Project:
The Trustees focus in the Final DARP/EA was to identify and evaluate potential restoration projects within the Charleston Harbor watershed. For example, the Drayton Hall project will restore tidal hydrology to an impounded brackish marsh, remove existing stands of the invasive plant *Phragmites australis*, and ensure long-term preservation of the project site, which is located on the Ashley River, through a conservation easement. As described in the Final Supplement, the Oyster Reef Creation project will create one or more intertidal oyster reefs in the Charleston Harbor estuary, encompassing approximately 2.4 acres (total) of oyster creation.

Public Involvement:
Throughout the NRDA process, the Trustees have made information available to the public. The Final DARP/EA was released following public notice and comment. Similarly, the Trustees sought the public's input on a draft version of the Supplement. Public review of the Draft Supplement occurred between January 10, 2020, and February 12, 2020, and no public comments were received.

Alternatives Considered Under CERCLA:
In developing the Final DARP/EA, the Trustees considered the "Drayton Hall Rice Dike Removal or Breaching" project (Drayton Hall project), the "Charleston-Area Oyster Reef Creation/Restoration" project (Oyster Reef Creation project), and the "Long Branch Creek Greenway Culvert Replacement" project (Long Branch Creek Marsh Restoration project), as the parts of Restoration Alternatives 1 and 2. The Trustees also evaluated the "No action" alternative. The Final Supplement incorporates the analysis contained in the Final DARP/EA.

Environmental Consequences:
NEPA requires an analysis of the effects of federal actions on the quality of the human environment. The Federal Trustees determined it was appropriate to combine the DARP and NEPA impacts analysis into one document, and included an evaluation of alternatives for restoration under both CERCLA and NEPA in the Final DARP/EA. The Final Supplement incorporates those evaluations.

NOAA's Companion Manual (Jan 13, 2017) for NOAA's Administrative Order (NAO) 216-6A (April 22, 2016) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. § 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." The significance of the action proposed in the Final Supplement (to substitute the Oyster Reef Creation Project for the Long Branch Creek Marsh Restoration project) is analyzed

based on the NAO 216-6 criteria and CEQ's context and intensity criteria. The criteria listed below are relevant to making a Finding of No Significant Impact, and have been considered individually, as well as in combination with the others, and include:

(1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson Stevens Act and identified in Federal Management Plans (FMPs)?

> Response: No. As documented in the Final Supplement, the Trustees do not expect the Oyster Reef Creation project to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act. Any short-term and temporary localized impacts from the restoration activities, such as those associated with spraying shell, would be minimized by the use of Best Management Practices (BMPs). As documented in the Final Supplement, the Trustees expect the selected project to result in long-term, beneficial impacts to coastal habitat and associated species by increasing the area and ecological function of oyster habitat, including increased habitat stability.

(2) Can the proposed action be expected to have a substantial impact on biodiversityand/or ecosystem function within the affected area (e.g., benthic productivity, predator prey relationships, etc.)?

> Response: No. The Oyster Reef Creation project is not expected to have any substantial impacts beyond a local level; the beneficial impacts on ecosystem function and species biodiversity would not be substantial at a regional or larger scale. As documented in the Final Supplement, the project is expected to provide additional habitat to support recovery of benthic communities and result in greater habitat complexity, diversity, and productivity. Any potential adverse impacts are expected to be minimal, short term, localized, and not expected to decrease function or species biodiversity.

(3) Can the proposed action reasonably be expected to have a substantial adverse impacton public health and safety?

> Response: No. The Oyster Reef Creation project is not expected to have any impacts on public health and safety. Implementation of the restoration project would not present any unique physical hazards to humans.

(4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

> Response: No. The Oyster Reef Creation project is not expected to adversely affect

endangered or threatened species, their critical habitat, marine mammals, or other non-target species. Overall, the project is expected to benefit species through increased habitat area and availability.

(5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The Trustees do not expect there to be significant adverse social or economic impacts interrelated with natural or physical environmental effects of the Oyster Reef Creation project.

(6) Are the effects on the quality of the human environment likely to be highlycontroversial?

Response: No. The effects on the quality of the human environment from the Oyster Reef Creation project are not highly controversial.

(7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: No. The project area and associated environment includes open water, salt and estuarine marsh, and benthic habitat. While these areas do contain unique characteristics, the Oyster Reef Creation project is expected to be beneficial to the unique ecological characteristics of the area, and improve ecological function. Furthermore, no unique or rare habitat would be destroyed due to the restoration proposed in the Final Supplement or the Final DARP/EA. Additionally, the Oyster Reef Creation project will not adversely affect National Historic Places or cultural, scientific, or historic resources. Consultation with the South Carolina State Historic Preservation Office pursuant to Section 106 of the National Historic Preservation Act was already undertaken and concurrence was received.

(8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The project area is well known to the project implementers, and project implementation techniques are not unique, controversial, or untried.

(9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The Trustees evaluated the Oyster Reef Creation project in conjunction with other known past, proposed or foreseeable closely related projects and determined that

there are no significant cumulative impacts. The project will only temporarily impact resources during implementation and will utilize all BMPs to minimize these impacts. Cleanup activities and other restoration projects that may occur in the vicinity would similarly incorporate BMPs. Over the mid- and long- term, the project will be wholly beneficial with no potential for incremental contribution to significant cumulative impacts.

(10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. As noted above, the Oyster Reef Creation project will not adversely affect National Historic Places or cultural, scientific, or historic resources, and all necessary consultations and concurrences have taken place.

(11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. The project will not result in the introduction or spread of a non-indigenous species.

(12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No. The Oyster Reef Creation project is not expected to set a precedent for future actions that would significantly affect the human environment or represent a decision in principle about a future consideration.

(13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. Implementation of the Oyster Reef Creation project would not require any violation of federal, state or local laws designed to protect the environment. The Trustees will ensure that the proposed restoration actions are in compliance with all relevant federal, state and local laws and regulations prior to project implementation.

(14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. As described above the Trustees reviewed reasonably foreseeable cumulative impacts in the Final DARP/EA and the Final Supplement, determined that implementation of the Oyster Reef Creation project would not result in significant cumulative impacts.

DETERMINATION

Based upon the environmental review and evaluation of Restoration Alternative 2, which includes the Oyster Reef Creation project, in the "Final Supplement to the Koppers Damage Assessment and Restoration Plan and Environmental Assessment," which is summarized above, it is determined that implementation of the supplement to the restoration plan does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Accordingly, an environmental impact statement is not required for this action.

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Chris Doley — Date
Chief, Restoration Center
National Marine Fisheries Service
As designated by the Director of the Office of Habitat Conservation

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Date: 2020.03.23 08:47:25 -04'00'

Tony Penn — Date
Chief, Assessment and Restoration Division
National Ocean Service
As designated by the Director of the Office of Response and Restoration

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1875 Century Boulevard
Atlanta, Georgia 30345

In Reply Refer To:
FWS/R4-R2/GULF/072276

April 14, 2020

Ms. Corinna McMackin
Natural Resources Section NOAA
General Counsel Office
55 Great Republic Drive
Gloucester, Massachusetts 01930

Dear Ms. McMackin:

The U.S. Fish and Wildlife Service (Service) has reviewed the Finding of No Significant Impact (FONSI) for the Supplement to the Final Koppers Damage Assessment and Restoration Plan and Environmental Assessment (DARP/EA) for the Koppers National Priorities List (NPL) Site in Charleston, South Carolina, developed by the National Oceanic and Atmospheric Administration (NOAA), as the lead federal natural resource trustee.

The Service concludes that the DARP/EA and Supplement adequately describe the oyster reef creation actions planned by the natural resource trustees and conduct analyses appropriate to describe the nature, scope, and scale of impacts from the planned actions. The Service agrees with NOAA's conclusion that the implementation of oyster reef creation, as described in the DARP/EA and Supplement will not significantly affect the quality of the human environment. Therefore, the Service concurs with NOAA's FONSI determination.

If you have any questions concerning this matter, please contact Anthony Sowers in the Georgia Ecological Services Office at 912-832-8739 extension 3 or at anthony_sowers@fws.gov.

Sincerely,

Leopoldo Miranda
Authorized Official
U.S. Fish and Wildlife Service

Koppers Co., Inc. (Charleston Plant) NPL Site Trustee Council Resolution
Approving Release of the Final Supplement to the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site
Resolution 2020-001

1. The State of South Carolina, acting through the Department of Natural Resources (SCDNR) and the South Carolina Department of Health and Environmental Control (SCDHEC); the National Oceanic and Atmospheric Administration (NOAA); and the Department of the Interior (DOI), acting through the U.S. Fish and Wildlife Service (USFWS), are the Trustees responsible for restoring those natural resources injured by the releases of hazardous substances from the Koppers Co., Inc. (Charleston Plant) NPL Site in Charleston, South Carolina (the Site).

2. On January 7, 2019, a consent decree was entered by the U.S. District Court for the District of South Carolina (Civil No. 2:18-cv-3051-DCN) finalizing the Trustees' settlement with the responsible party for the Site, Beazer East, Inc. (Beazer), a successor in interest to Koppers Co., Inc. The Consent Decree resolves Beazer's liability for damages for injury to, destruction of, loss of, or loss of use of natural resources under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as well as for the Trustees' costs of assessing those injuries and related restoration planning.

3. The Consent Decree provides a settlement that includes (1) a 70-acre marsh restoration project that will be implemented by Beazer, (2) a $400,000 payment to the Trustees to fund additional restoration implemented by the Trustees, and (3) a payment of $1,000,000 to reimburse federal and state trustee costs. The Consent Decree also specifies the distribution of that $1,000,000 among the Trustees for payment of costs.

4. Pursuant to the Final Damage Assessment and Restoration Plan and Environmental Assessment for the Koppers Site, Charleston, South Carolina (DARP/EA), published by the Trustees in 2017, the Trustees initially planned to use the $400,000 payment under the Consent Decree to fund Trustee implementation of the Long Branch Creek Marsh Restoration Project, which was described and analyzed as part of Restoration Alternative 1 in the Final DARP/EA. The Long Branch Creek Project was intended to restore approximately 40 acres of tidal salt marsh and benthic habitat within Long Branch Creek in Charleston, South Carolina.

5. Due to circumstances unforeseen at the time of the publication of the Final DARP/EA, the Long Branch Creek Project is no longer feasible.

6. Therefore, and as proposed and evaluated in the Draft Supplement to the Final DARP/EA, which the Trustees released for public comment on January 10, 2020, the Trustees now seek to use the $400,000 payment to implement the Oyster Reef Creation Project, which was described and analyzed as part of Restoration Alternative 2 in the Final DARP/EA. Restoration Alternative 2 includes the 70-acre marsh restoration project to be implemented by Beazer, and the Oyster Reef Creation Project to be implemented by the Trustees, in the place of the Long Branch Creek Project.

7. Public comment on the Draft Supplement to the Final DARP/EA closed on February 12, 2020. The Trustees received no public comments on the Draft Supplement.

8. NOW THEREFORE, in accordance with CERCLA and the National Environmental Policy Act (NEPA), the undersigned representatives of the Trustees hereby adopt and approve the release of the Final Supplement to the Final DARP/EA for the Koppers Site, Charleston, South Carolina.

9. All Trustees agree that all applicable regulatory compliance activities must be completed prior to the implementation of the Oyster Reef Creation Project, and that the terms and conditions of all federal and state permits must be complied with in the course of completing the Project.

10. The effective date of this resolution shall be the date on which the last Trustee signs this resolution.

Anthony Sowers, Trustee Representative
U.S. Fish and Wildlife Service on behalf of the U.S. Department of the Interior

Howard Schnabolk, Trustee Representative
National Oceanic and Atmospheric Administration

Susan Fulmer, Trustee Representative
South Carolina Department of Health and Environmental Control

SRE Crowe 3/12/2020

Stacie Crowe, Trustee Representative
South Carolina Department of Natural Resources

DATE OF LAST SIGNATURE:

3/11/2020

Anthony Sowers, Trustee Representative
U.S. Fish and Wildlife Service on behalf of the U.S. Department of the Interior

3-24-20

Howard Schnabolk, Trustee Representative
National Oceanic and Atmospheric Administration

3/16/2020

Susan Fulmer, Trustee Representative
South Carolina Department of Health and Environmental Control

Stacie Crowe, Trustee Representative
South Carolina Department of Natural Resources

DATE OF LAST SIGNATURE: 3/24/20