



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

REPLY TO
ATTENTION OF

August 9, 2013

South Alabama Branch
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit Number SAM-2012-1009-DEM, Alabama
Department of Conservation and Natural Resources

Alabama Department of Conservation
and Natural Resources
Attention: Mr. Chris Blankenship
Post Office Box 189
Dauphin Island, Alabama 36528

Dear Mr. Blankenship:

This letter is in response to your request for Department of the Army (DA) verification under Nationwide Permit (NWP) 48, *Existing Commercial Shellfish Aquaculture Activities* to place oyster cultch material in waters of the United States for the purpose of enhancing productivity of Alabama's public oyster resources. The project is located within waters of Bon Secour, Heron and Portersville Bays and Mississippi Sound. Your project has been assigned number SAM-2012-01009-DEM, which should be referred to in future correspondence with this office regarding your project.

DA permit authorization is necessary because your project would involve the discharge of fill material into waters of the United States. Specifically, your project would involve the following work: Project consists of annual planting of oyster cultch material by high pressure hoses or mechanical devices over productive oyster bottoms in lower Mobile Bay and Mississippi Sound. Between 20,000 and 100,000 cubic yards of cultch material will be placed annually on public oyster bottoms.

Based upon the information and plans provided, we hereby verify the work described above, which would be performed in accordance with the enclosed drawings, is authorized by NWP 48, *Existing Commercial Shellfish Aquaculture Activities* in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions can be viewed at our website at www.sam.usace.army.mil/Missions/Regulatory.aspx.

You must comply with all the general conditions and any project specific conditions of this authorization or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or verification may be required. The following project special conditions are included with this verification:

- a. **If any evidence of the presence of Threatened/Endangered Species is found during the authorized work, activities in the immediate vicinity must cease and the permittee shall notify the U.S. Army Corps of Engineers (Corps), Mobile District.**
- b. **Should artifacts or archaeological features be encountered during project activities, work shall cease and the Alabama Historical Commission and the Mobile District shall be consulted immediately.**

U.S. Army Corps of Engineers Telephone: (251) 690-2658
Alabama Historical Commission Telephone: (334) 242-3184

c. By letter dated March 22, 2013, the ADEM (2012-345-COE) issued Water Quality Certification and Coastal Consistency Concurrence. You shall comply with all the terms and conditions of the Alabama Department of Environmental Management (ADEM) Section 401 Water Quality Certification for the Nationwide Permits which can be found our website, www.sam.usace.army.mil/RD/reg/nwp.htm or, at your request, a paper copy will be provided to you.

d. Only suitable material free of waste, metal and organic trash, unsightly debris, etc., may be used as fill and material discharged must be free from toxic pollutants in toxic amounts.

e. It is the permittee's responsibility to ensure the contractor(s) working on this project are aware of all general and special conditions.

This verification is valid until **March 18, 2017**. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required.

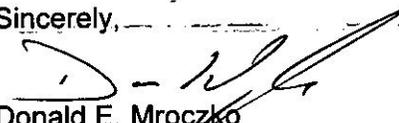
Nothing in this letter shall be construed as excusing you from compliance with other Federal, State or local statutes, ordinances or regulations that may affect this work.

Please note NWP General Condition 30 (Compliance Certification) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. The enclosed Compliance Certification form must be returned to the letterhead address within 60 days of completion of the authorized work to satisfy this requirement.

A copy of this permit is being furnished to the ADEM, Attention: Mr. Scott Brown, 4171 Commanders Drive, Mobile, Alabama 36615 and the ADCNR, State Lands Division, Attention: Mr. Jeff Jordan, 31115 Five Rivers Boulevard, Spanish Fort, Alabama 36527.

Please contact me at (251) 690-3185, if you have any questions. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

Sincerely,


Donald E. Mroczko
South Alabama Branch
Regulatory Division

Enclosures

When the structures or work authorized by this nationwide permit SAM-2012-01009-DEM are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE)

(DATE)



This notice of authorization must be conspicuously displayed at the site of work.

United States Army Corps of Engineers

A permit to perform work authorized by statutes and regulations of the Department of the Army

at BON SECOUR, HERON, AND PORTERSVILLE BAYS AND MISSISSIPPI SOUND, MOBILE AND BALDWIN COUNTIES, ALABAMA

has been issued to ALABAMA DEPT OF CONSERVATION AND NATURAL RESOURCES on APRIL 1, 2013

Address of Permittee POST OFFICE BOX 189, DAUPHIN ISLAND, ALABAMA 36528

Permit Number

SAM-2012-01009-DEM

For the *District Commander*
DONALD E. MROCZKO
REGULATORY SPECIALIST
SOUTH ALABAMA BRANCH
REGULATORY DIVISION, RD-C



Robert Bentley
GOVERNOR

N. Gunter Guy, Jr.
COMMISSIONER

Curtis Jones
DEPUTY COMMISSIONER

STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
MARINE RESOURCES DIVISION

POST OFFICE BOX 189
DAUPHIN ISLAND, ALABAMA 36528
TEL (251) 861-2882
FAX (251) 861-8741
amrddi@gulftel.com

Our mission is to manage the State's marine fishery resources through research, enforcement, and education for the maximum benefit of the resources and the citizens of Alabama.



Christopher M. Blankenship
Director
MARINE RESOURCES DIVISION

July 6, 2012

NEED FOR PROPOSED ACTIVITY

Maintaining productive oyster reefs ensures the continuance of the oyster fishery and it's markets. Oyster management of Alabama's public oyster reefs requires monitoring of annual landings, evaluation of the density of small and adult oysters, as well as the spat settlement rate. Spat settlement is contingent upon the available clean surface area. The more surface area available, the more likely a spat will settle and attach itself to begin shell formation. Based on the results of dive surveys, Alabama Marine Resources Division may increase the amount of clean surface area by placing oyster shells or rock aggregate upon the surface of Alabama's oyster reefs. Cultch material may be fresh oyster shell processed at local shops, quarried fossilized oyster shell from Gulf states or rock aggregate (limestone, calica). Cultch material will be acquired through a contractor, barged to reef sites and dispersed on site using a water canon at a density of 50 -150 cubic yards per acre. Marine Resources personnel will oversee entire operation. Marine Resources request a permit to conduct this activity beginning October 2012 through 30 September 2015.

The Department of Conservation and Natural Resources does not discriminate on the basis of race, color, religion, age, gender, national origin, or disability in its hiring practices nor in admission to, access to, or operations of its programs, services, or activities.
www.outdooralabama.gov

SAM-2012-01009 - DEN
DEPT. OF THE ARMY PERMIT



Robert Bentley
GOVERNOR

N. Gunter Guy, Jr.
COMMISSIONER

Curtis Jones
DEPUTY COMMISSIONER

STATE OF ALABAMA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
MARINE RESOURCES DIVISION

POST OFFICE BOX 189
DAUPHIN ISLAND, ALABAMA 36528
TEL (251) 861-2882
FAX (251) 861-8741
amrddi@gulfnet.com

Our mission is to manage the State's marine fishery resources through research, enforcement, and education for the maximum benefit of the resources and the citizens of Alabama.



Christopher M. Blankenship
Director
MARINE RESOURCES DIVISION

May 29, 2012

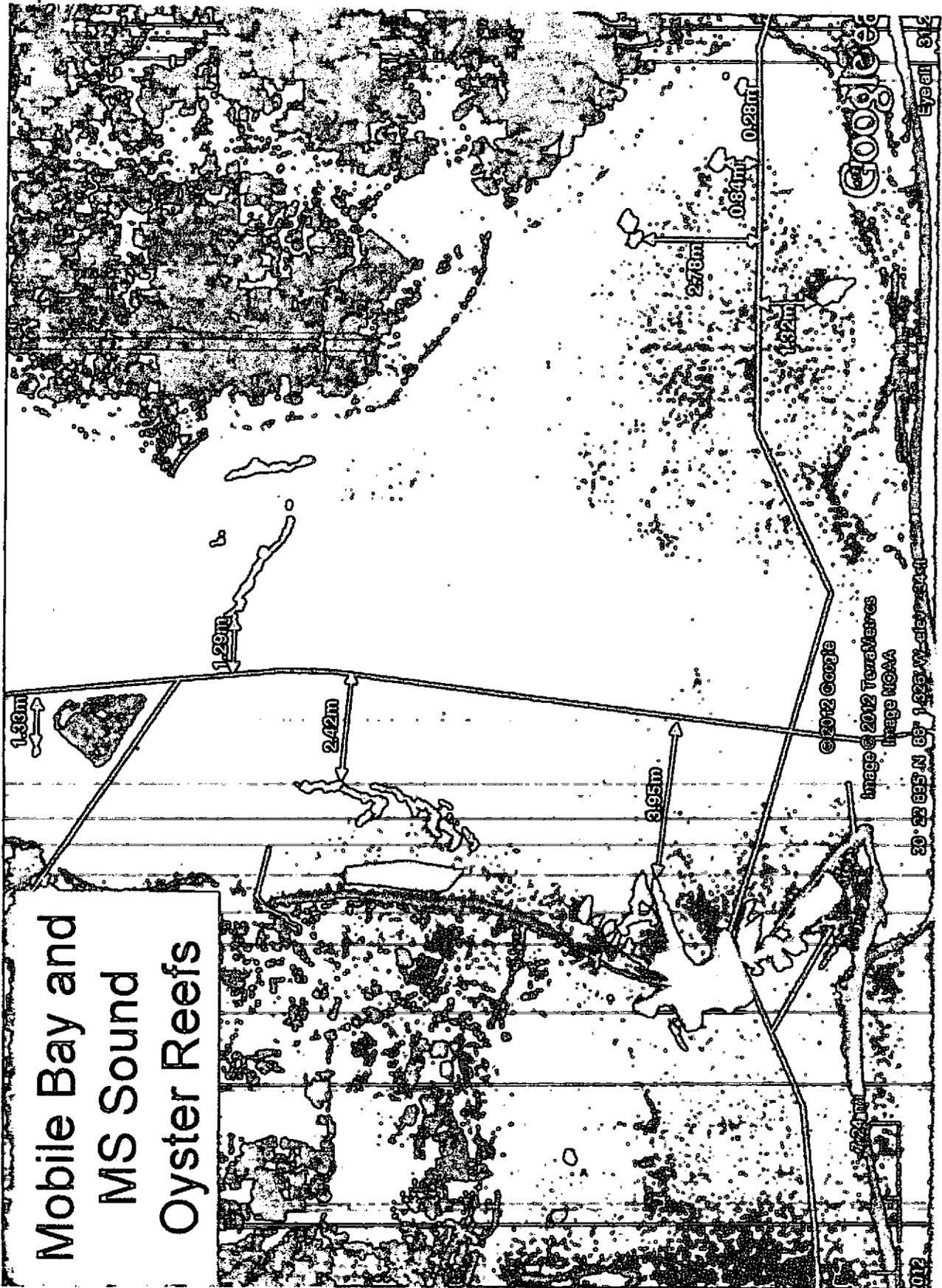
General Coordinates for Alabama Waters with Public Oyster Reefs:

Bon Secour Bay	30° 17.345'N 88° 51.338'W
Heron Bay	30° 19.898'N 88° 08.555'W
Mobile Bay	30° 22.483'N 87° 59.677'W
Mississippi Sound	30° 16.842'N 88° 14.203'W
Portersville Bay	30° 20.786'N 88° 13.475'W

Compiled by:

Jason E. Herrmann, Biologist II
Alabama Marine Resources Division
jason.herrmann@dcnr.alabama.gov
(251) 861-2882

Mobile Bay and MS Sound Oyster Reefs



SAM-2012-01009-DEM
DEPT. OF THE ARMY PERMIT



SAM-2012-01009 - DEM
DEPT. OF THE ARMY PERMIT

Hollinger's Island
Fishing Reef
7.9 Acres



Mid Mobile Bay Oyster Reefs

Point Clear
205.7 Acres

Klondike
160.7 Acres

Whitehouse
452.7 Acres

Point Clear
766.7 Acres

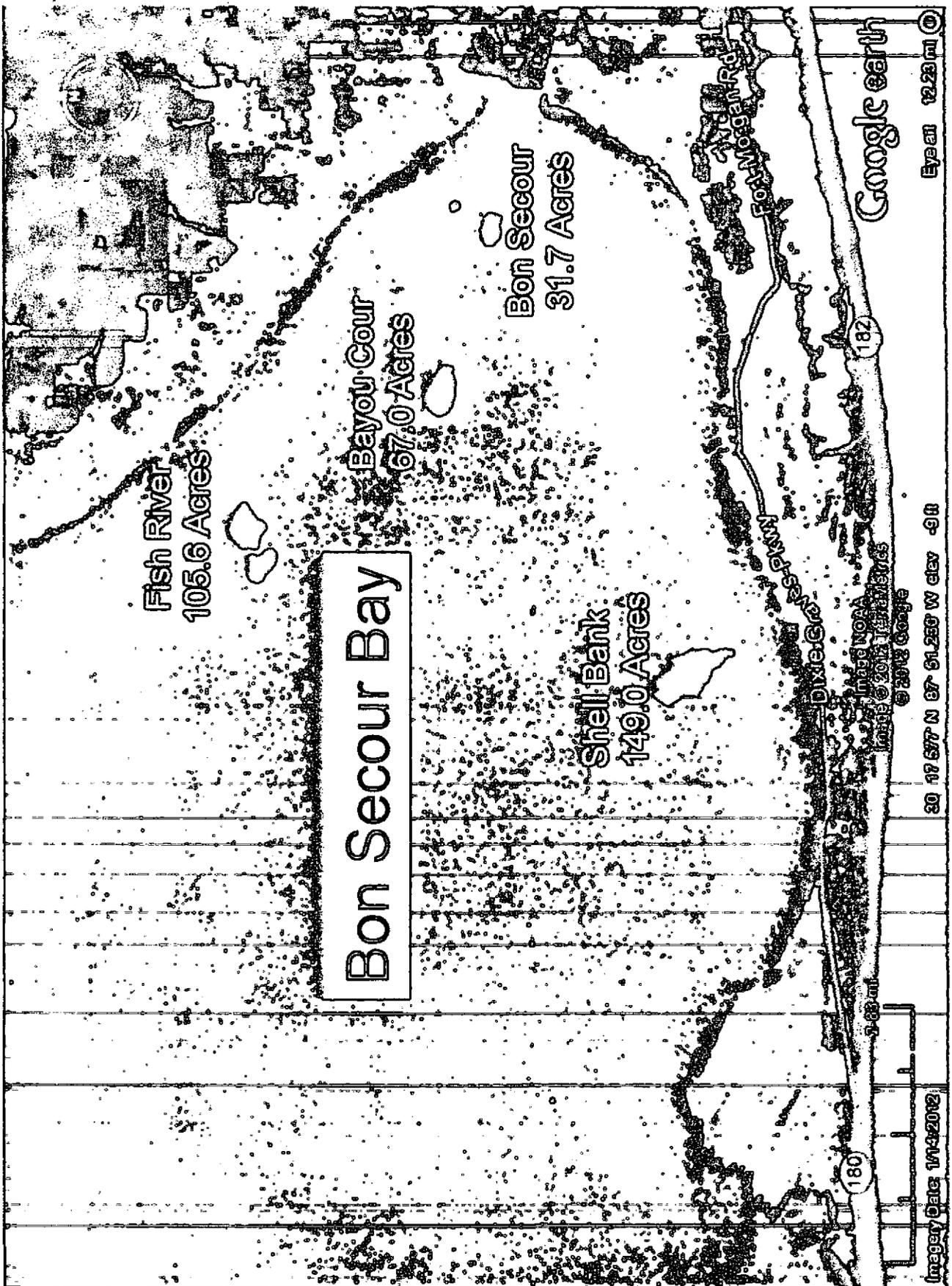
S Gretna Rd

Google earth

Eye alt 17.89 mi

Image © 2012 TerraMetrics
© 2012 Google

30° 29' 22" N 88° 1' 50" W elev -11 ft



SAM-2012-01009-DEM
 DEPT. OF THE ARMY PERMIT

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

July 31, 2013

State of Alabama
Department of Conservation and Natural Resources
Marine Resource Division
Attn: Christopher M. Blankenship, Director
Post Office Box 458
Gulf Shores, Alabama 36547

RE: State of Alabama Clean Water Act (CWA) Section 401(a) Water Quality Certification & Coastal Consistency Concurrence Modification
Alabama Department of Conservation and Natural Resources-Marine Resource Division (ADCNR-MRD)
United States Army Corps of Engineers (USACE) Permit: SAM-2012-1009-DEM
Alabama Department of Environmental Management (ADEM) Tracking Code: 2012-345-COE-M1

Dear Director Blankenship:

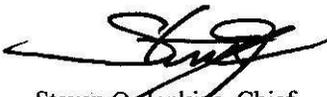
The ADEM has completed its review of ADCNR-MRD's request to modify the previously evaluated project, which involved annually planting oyster cultch material by high-pressure hoses or mechanical devices over productive oyster bottoms in lower Mobile and Baldwin counties. The purpose of annual planting of oyster cultch is to increase the amount of clean surface area for spat to settle and attach. Cultch material may be fresh oyster shell processed from local shops, quarried fossilized oyster shell from Gulf States, or rock aggregate. Between 2,000 and 20,000 yds³ of material was to be placed annually on public oyster bottoms. The cultch material will not be placed in a manner that will create a hazard to navigation.

This project modification involves increasing the annual amount of cultch planted from 20,000 to 100,000 yds³ per year on public water bottoms.

The ADEM certifies that the modification proposed will not violate applicable water quality standards established under Section 303 of the CWA and §22-22-9(g), Code of Alabama (1975), provided all conditions are met. Furthermore, ADEM hereby concurs with ADCNR-MRD's certification of coastal consistency conditional upon continued compliance with the management program and conditions listed in the original March 22, 2013 authorization.

This letter should be attached to the original ADEM certification and coastal consistency concurrence. Always include the ADEM tracking code listed above in any future correspondence. Should you have any questions please contact the Coastal Program Satellite Office at (251) 304-1176. In addition, note that the ADEM Coastal Program Satellite Office address has changed to 3664 Dauphin Street, Suite B, Mobile, Alabama 36608

Sincerely,



Steven O. Jenkins, Chief
Field Operations Division

SOJ/jsb/sed File: CZCERT/

E-copy: Don Mroczko, U.S. Army Corps of Engineers

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
3664 Dauphin Street, Suite B
Mobile, AL 36608
(251) 304-1176
(251) 304-1189 (FAX)

6. Unauthorized deviations from the plans and drawings submitted or implementation of additional impacts exceeding the scope of the project authorized herein may constitute a violation of this certification, resulting in invalidation of this CWA 401 (a) water quality certification and coastal consistency determination.
7. ADCNR-MRD and/or its assigns shall provide written notice to the ADEM of any proposed modifications to the fill and construction proposal. Modification and/or time extension requests must be received 60 days prior to the expiration of this CWA 401 (a) water quality certification. Modification and/or time extension requests should be submitted to the ADEM Coastal Program Satellite Office, 4171 Commanders Drive, Mobile, AL 36615.

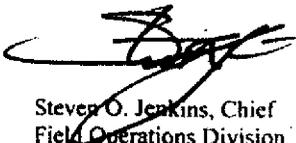
In recognition that projects are site specific in nature and conditions can change during project implementation, the ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case-by-case basis, in order to ensure the protection of water quality and coastal resources.

Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. ADCNR-MRD shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by ADCNR-MRD complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification and may result in an enforcement action.

This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations.

Should you have any questions please contact the Coastal Program Satellite Office at (251) 432-6533. Always include the ADEM Tracking ID referenced above when correspondence relative to this project.

Sincerely,



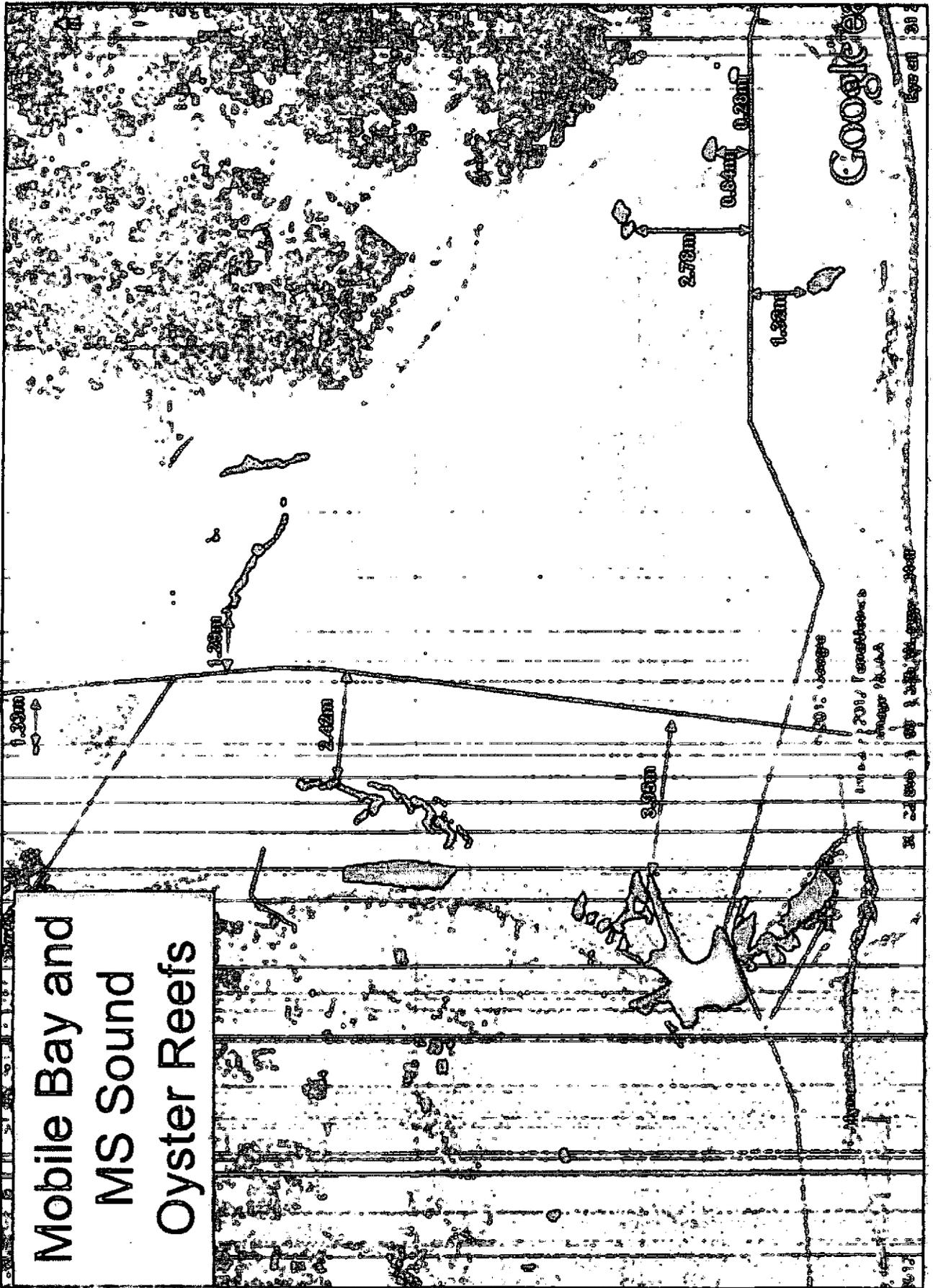
Steven O. Jenkins, Chief
Field Operations Division

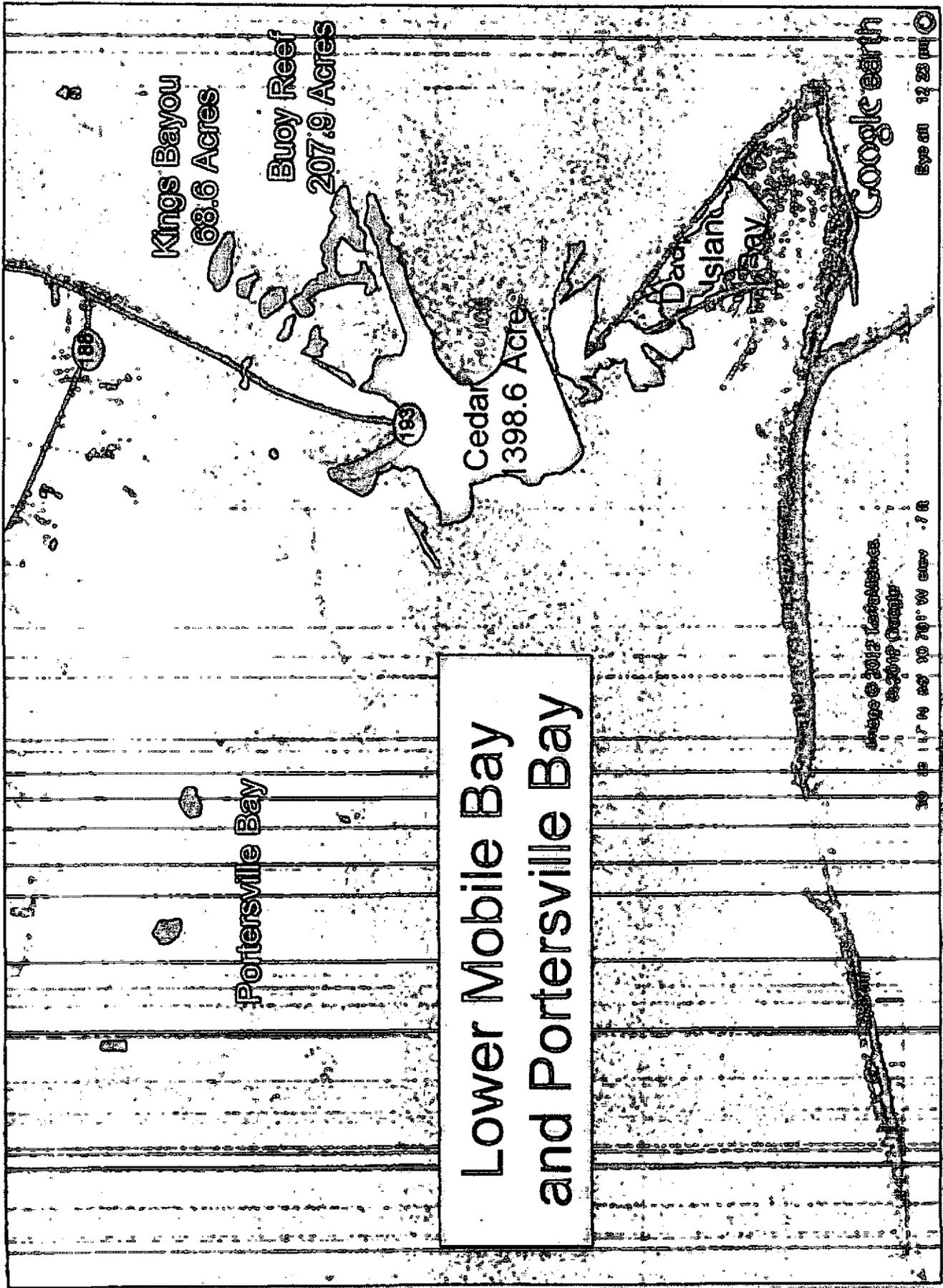
SOJ/jsb/sed File: CZCERT/

Enclosure (4 Pages)

E-copy: Don Mroczko, U.S. Army Corps of Engineers
Rosemary Hall, USEPA Region IV, Atlanta

Mobile Bay and MS Sound Oyster Reefs





**Lower Mobile Bay
and Portersville Bay**

Google earth

Eye alt 12.25 mi

Images © 2012 LandsatMosaic
© 2012 Google

30° 45' 14.7" N 88° 30' 20.1" W elev 0.7 ft

Hollinger's Island
Fishing Reef
7.9 Acres

Mid Mobile Bay Oyster Reefs

Point Clear
205.7 Acres

Slipway Relay
767.7 Acres

Klondike
160.7 Acres

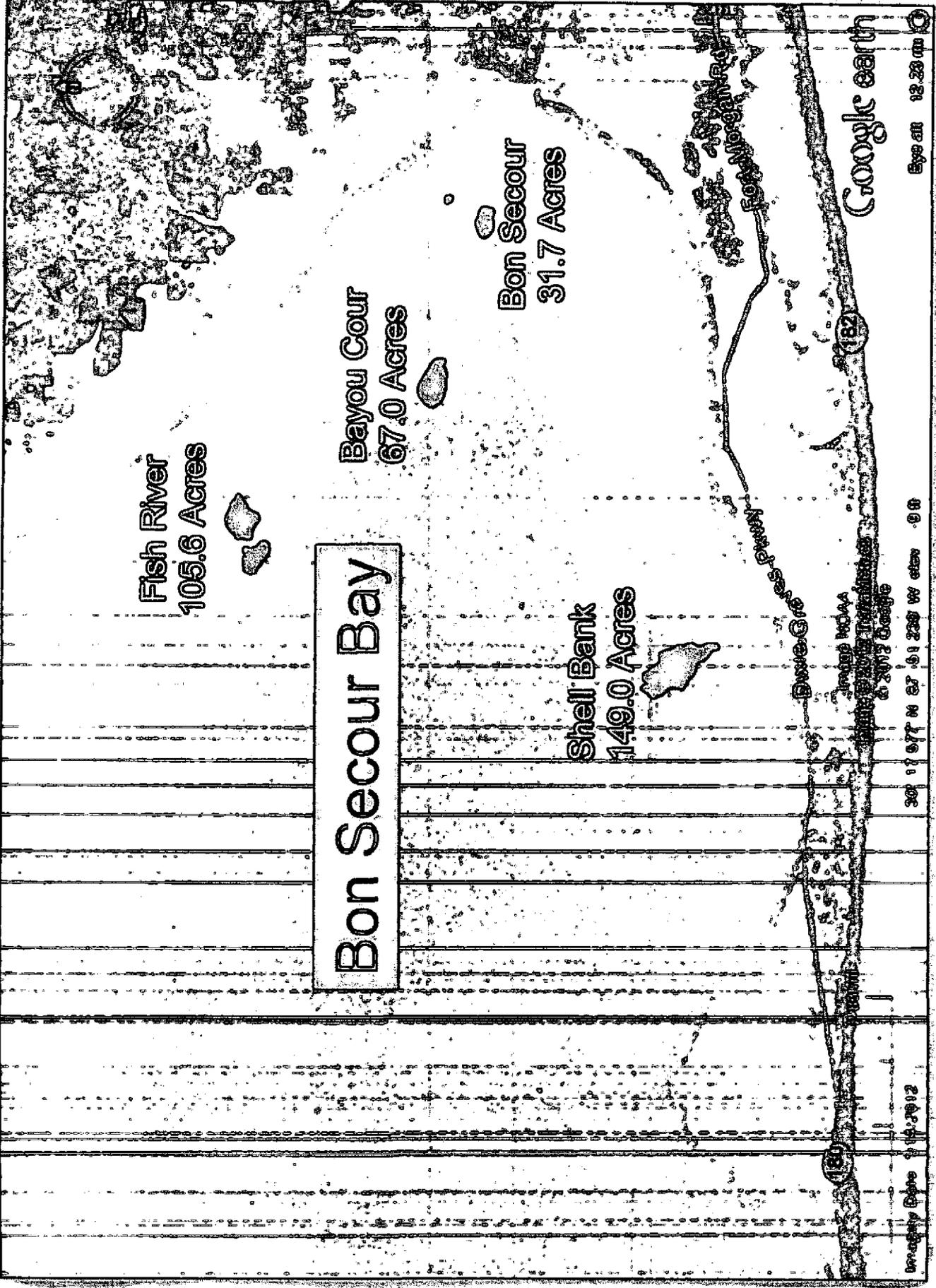
Whitehouse
452.7 Acres

Google earth

Eye alt 17.89 m

© 2012 Google

© 2012 Google



Fish River
105.6 Acres

Bayou Cour
67.0 Acres

Bon Secour
31.7 Acres

Bon Secour Bay

Shell Bank
149.0 Acres

Google earth

Eye alt 12.20 m

30° 17' 57" N 87° 51' 23" W elev 0 ft

Imagery Date 10/20/12

COMMENCEMENT CERTIFICATION



**U.S. Army Corps of Engineers
Mobile District**

Permit Number: **SAM-2012-01009-DEM**

Name of Permittee: **ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

Date of Issuance: **March 22, 2013**

Upon commencement of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Mobile District
Regulatory Division
Coastal Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has commenced and shall be completed in accordance with the terms and conditions of the said permit, and the required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

COMMENCEMENT CERTIFICATION



**U.S. Army Corps of Engineers
Mobile District**

Permit Number: **SAM-2012-01009-DEM**

Name of Permittee: **ALABAMA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

Date of Issuance: **April 2, 2013**

Upon commencement of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Mobile District
Regulatory Division
Coastal Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

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Signature of Permittee

Date