Final Evaluation Findings

Texas Coastal Management Program

January 2007 to June 2014

Published March 2015

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

Table of Contents

Executive Summary

The Coastal Zone Management Act (CZMA) requires the National Oceanic and Atmospheric Administration (NOAA) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This evaluation examined the operation and management of the Texas Coastal Management Program (TX CMP) by the Texas General Land Office (GLO), the designated lead agency, for the period from January 2007 to June 2014. The evaluation focused on three target areas: program administration, coast-wide planning, and the Coastal Erosion Planning and Response Act Program and Beach Dune Program.

The findings in this evaluation document will be considered by NOAA in making future financial award decisions concerning the coastal program. The evaluation came to these conclusions:

Accomplishment: The TX CMP provided extensive assistance to local governments to assist with their recovery from Hurricane Ike. The GLO and TX CMP also analyzed their response and coastal needs and identified and implemented improvements for future disaster response efforts.

Accomplishment: The TX CMP coast-wide planning effort has resulted in federal and state agencies, scientists, and other stakeholders coming together to agree upon data standards and needs to improve information for coastal decision-making, the identification of regional priorities, increased communication and collaboration among coastal decision makers, and sharing of information regarding the value of coastal resources.

Accomplishment: The GLO and TX CMP developed guidelines for voluntary erosion response plans and encouraged and supported communities in their efforts to develop plans to reduce public expenditures for erosion and storm damage losses to public and private property.

Recommendation: The NOAA Office for Coastal Management encourages the TX CMP to continue to build on its successful coast-wide planning efforts to make data accessible in usable formats and its creative development of mechanisms to support coordination and collaboration between coastal stakeholders to improve coastal management.

Necessary Action: The TX CMP must work with the NOAA Office for Coastal Management to develop and submit a work plan with interim benchmarks and a timeline for meeting the goals and objectives it has identified as important to the coastal nonpoint source pollution program by September 30, 2015. The documentation indicating how Texas met the outstanding conditions must be submitted no later than June 30, 2019.

This evaluation concludes that the Texas GLO is satisfactorily implementing and enforcing its federally approved coastal program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in Section 303(2)(A) through (K) of the CZMA.

Program Review Procedures

The National Oceanic and Atmospheric Administration (NOAA) evaluated the Texas Coastal Management Program in fiscal year 2014. The evaluation team consisted of Carrie Hall, evaluation team lead, Office for Coastal Management; Todd Davison, southern region director, Office for Coastal Management; and Kelly Samek, coastal program administrator, Florida Coastal Office. The support of coastal program staff members was crucial in conducting the evaluation and their support is most gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to the commissioner of the Texas General Land Office, published a notice of "Intent to Evaluate" in the *Federal Register* on April 17, 2014, and notified members of Texas' congressional delegation. The coastal program posted a notice of the public meeting and opportunity to comment in the *Corpus Christi Caller Times* on April 21, 2014.

The evaluation process included a review of relevant documents, a survey of stakeholders, selection of three target areas, discussions with staff members about the target areas, and focus group discussions with stakeholders about the target areas. In addition, a public meeting was held on Wednesday, June 4, 2014, at 5:00 p.m. at Texas A&M University–Corpus Christi Natural Resources Center (6300 Ocean Drive, Room 1003, Corpus Christi, Texas 78412) to provide an opportunity for members of the public to express their opinions about the implementation of the coastal management program. Stakeholders and members of the public were given the opportunity to provide written comments. A summary of the written comments received and the NOAA Office for Coastal Management's responses are included in Appendix A. NOAA then developed draft evaluation findings, which were provided to the coastal program for review, and the program's comments were considered in drafting the final evaluation findings.

Final evaluation findings for coastal management programs highlight a program's accomplishments in the target areas and include recommendations, which are of two types:

Necessary Actions address programmatic requirements of the implementing regulations of the Coastal Zone Management Act (CZMA) and of the state coastal management program approved by NOAA. These must be carried out by the date specified. Failure to address necessary actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c).

Recommendations are actions that the office believes would improve the program, but which are not mandatory. The state is expected to have considered the recommendations by the time of the next evaluation or dates specified.

Evaluation Findings

Program Administration

Program Structure and Staffing

The Texas General Land Office (GLO) continues to successfully implement the federally approved Texas Coastal Management Program (TX CMP). During this evaluation period, the TX CMP has undergone legislative changes to its program, initiated a coast-wide planning initiative, and continued to implement the Texas Open Beaches Act, Coastal Erosion Planning and Response Act, and Dune Protection Program. Major events affecting the Texas coast included the financial crisis of 2007-2008 and Hurricane Ike in 2008.

The program was significantly impacted by budget cuts and restructuring in 2010. The TX CMP staff was reduced from 38 to 20 full-time equivalents (47 percent): 7 positions were eliminated, and 11 positions were transferred throughout GLO as staff positions were reorganized based on functions. With the elimination of the seven positions, the TX CMP lost staff members with experience and a strong historical knowledge of the program.

After the 2010 reorganization and staff reduction, TX CMP leadership analyzed and prioritized the program's workload to ensure that priorities would be addressed. To increase efficiency and effectiveness, information sharing within the office is facilitated through biweekly reports to coastal staff members and monthly meetings to share information and promote conversation. In addition, TX CMP staff members have strengthened relationships and increased their coordination with programs within the GLO, other state agencies, and universities to address priorities. Although the TX CMP has faced significant challenges, staff members are continuing to successfully implement the program.

In 2010, the Texas Sunset Advisory Commission reviewed the Texas Coastal Coordination Council and made the recommendation to eliminate the council, concluding that, "Given the Council's limited purpose and lack of effectiveness, the GLO, which has primary administrative responsibility for the CMP, could more efficiently perform the Council's duties." In 2011, Senate Bill 656 was passed which abolished the council and transferred the duties to the land commissioner and GLO. It also created the Coastal Coordination Advisory Committee, composed of four public members appointed by the land commissioner and representatives from the eight natural resources agencies. The new Coastal Coordination Advisory Committee serves a role similar to that of the former executive committee, which provided guidance to the Texas Coastal Coordination Council. The new advisory committee structure has allowed the TX CMP to continue to maintain key relationships with other state agencies and the public. In addition, the new advisory committee has created five issue-based workgroups to provide support and provide input to the TX CMP on identified priorities. The workgroups now have also brought in private-sector expertise on topics such as coastal engineering. TX CMP leadership noted that the workgroups had been very valuable in furthering the TX CMP's efforts in key issue areas. The

elimination of the Texas Coastal Coordination Council also freed limited staff time for other key initiatives, since staff members provided extensive administration support to the council.

Cooperative Agreements and Grants Management

The TX CMP efficiently and effectively awarded and managed more than $13.8 million in Coastal Zone Management Act grant funds to coastal cities and counties, public universities, nonprofit organizations, school districts, chambers of commerce, and neighborhood associations to implement projects that address local needs and further coastal management. In addition, the grants manager also oversees grants under the Coastal Impact Assistance Program and the Gulf of Mexico Energy Security Act. The stakeholders that the evaluation team met with consistently noted the value of the multiple grant programs administered by the TX CMP and how these matching funds enabled them to complete many projects to advance coastal management in the state.

The TX CMP also created a public online database that provides information on each project. The database allows the program to track projects and provide information to the public that is easily searchable. The database has enabled Office for Coastal Management staff to quickly respond to public information requests without requesting assistance from the TX CMP. In addition, the TX CMP developed a data management system for national coastal management performance measures. The evaluation team found that the information management systems allow the program to easily provide exceptionally clear and consistent information on the grant status, accomplishments, and national performance measures. The database serves as a model for other coastal management programs.

EXAMPLE: DATABASES FOR GRANTS AND PERFORMANCE MEASURES
In 2010, the GLO implemented an automated Performance Measure Data Management System for gathering and reporting program measures and submeasures, financial measures, and contextual indicators. The Performance Measure Data Management System was created to help GLO staff members 1) enter new performance measures and supporting data; 2) update supporting data and contact person information; and 3) view the entered data via a series of reports. Before implementing the system, workshops were held to obtain input from stakeholders to aid in data collection and reporting efforts and to discuss comments on the then-draft national performance measurement system. The use of the form by subrecipients creates a uniform way of gathering data, considering that Texas passes-through approximately 90 percent of its CZMA funding.

Federal Consistency

The TX CMP's second routine program change was approved by NOAA in January 2014. The approval and incorporation of changes to statutes and the Texas Administrative Code ensures that the program's policies are up to date and enforceable for federal consistency purposes. The NOAA Office for Coastal Management commends the TX CMP for completing the routine program change and encourages the TX CMP to regularly assess whether enforceable policies

have changed and to submit changes to NOAA for incorporation in the federally approved TX CMP.

Several stakeholders that the evaluation team surveyed noted confusion about how changes to the program (abolishing the coordination council) affected the federal consistency process. At the time of the survey, this had no effect on the process but the TX CMP was in the process of drafting changes to its rules. The NOAA Office for Coastal Management encourages the TX CMP to continue to reach out to partners and stakeholders to provide them with information on the federal consistency process and supports TX CMP's plan to conduct training on the new rules when they are finalized.

Disaster Response

In 2008, Hurricane Ike struck the Texas coast, causing major damage to coastal communities. The GLO and TX CMP staff undertook considerable efforts to assist local communities in their recovery. The evaluation team heard from stakeholders that the TX CMP was very responsive to their needs and provided valuable assistance with their recovery. For example, the TX CMP specifically revised its grant program criteria to assist local communities and other eligible entities in recovering from the hurricane.

Marine debris was a significant problem after Hurricane Ike, and GLO served as the primary Federal Emergency Management Agency (FEMA) contact for marine debris and coordinated environmental requirements, addressed contractor issues, worked with city, county, and federal governments, and worked with the public on issues associated with marine debris removal. Within a year, more than 28,000 cubic yards of debris and 131 vessels were removed from state-owned submerged lands. At the time of Hurricane Ike, there was some confusion over who had primary authority for clean-up. The GLO worked with the state legislature to address this issue and GLO was designated as the responsible agency. This designation enables the GLO and TX CMP to pre-position workers and equipment before a storm.

After Hurricane Ike, the GLO and TX CMP also implemented a program to monitor and survey Coastal Erosion Planning and Response Act beach nourishment projects annually in order to meet FEMA's new requirements and ensure eligibility for federal disaster funding. Stakeholders and partners that the evaluation team met with noted that shoreline monitoring was key to managing shorelines and that GLO and the TX CMP had helped make data more accessible. Stakeholders and partners also discussed the need to bring the monitoring information back to the construction and design community and the ongoing need to find funding to address beach erosion issues.

After Hurricane Ike, the TX CMP recognized the need for and supported an update to the state's Coastwide Erosion Response Plan, which was completed in 2011. The updated plan examines the effects of recent erosion events and erosion response projects constructed since the previous 2004 report. The observations and recommendations in the report were used to help streamline and guide GLO planning and project prioritization efforts and assist in coastal management. In

2009, the Texas legislature clarified and expanded the scope and use of the plan to serve as one of two primary references for local jurisdictions to use in developing local erosion response plans. The land commissioner was also given the responsibility of designating critically eroding areas and the ability to consider coast-wide benefit-cost analyses that account for historical erosion rates and any man-made contributions to erosion.

Regional Coastal Management – Gulf of Mexico Alliance

The TX CMP has also helped support the Gulf of Mexico Regional Alliance (GOMA) and worked with GOMA partners to address regional issues. The TX CMP worked with GOMA to produce the *Texas Homeowner's Handbook to Prepare for Coastal Natural Hazards*, which one stakeholder praised as being very popular at the Lower Texas Coast Hurricane Conference, especially the Spanish version, and noted that they wanted to work with the program to print additional copies and create an online application. In addition, the TX CMP helped support the development of a regional StormSmart Coast website to inform coastal decision makers and to develop the Sea Level Affecting Marshes Model for the Gulf to simulate potential impacts of long-term sea level rise on wetlands and shorelines. The coastal resources deputy commissioner also served as the Texas delegate to the Ecosystems Restoration Taskforce after the 2010 Deepwater Horizon oil spill. As the alliance moves forward, there are opportunities for increased coordination and collaboration in regional activities and exchange of best practices. The NOAA Office for Coastal Management encourages the TX CMP to continue to increase participation and engagement in regional ocean management activities and to learn from, and share, best management practices.

Communication of Success

The TX CMP has been successful in improving coastal management in Texas, and the evaluation team met with stakeholders who encouraged the TX CMP to take the time to communicate its successes and let others know more about the program, what the program does, and how effective and successful it is. As one stakeholder stated, they "don't receive enough credit for all the great work they do and support." During the evaluation period, the TX CMP revised its presentation for coastal communities applying for grants to emphasize what the TX CMP does instead of its history, and this change was reported to be well received by attendees. The NOAA Office for Coastal Management encourages the TX CMP to explore additional opportunities for highlighting the program's accomplishments, including potential partnerships with the NOAA Office for Coastal Management.

Accomplishment: The TX CMP provided extensive assistance to local governments to assist with their recovery from Hurricane Ike. The GLO and TX CMP also analyzed their response and coastal needs and identified and implemented improvements for future disaster response efforts.

Coast-Wide Planning

At the request of the land commissioner, the TX GLO initiated a coast-wide planning effort to enhance and promote a favorable business climate and caring for the state's coastal natural

resources. This long-term initiative is intended to bring industry, environmental, and government stakeholders together to share ideas and develop strategies for continued economic and ecologic prosperity along the Texas coast. Coast-wide planning is the focus of the program's Section 309 five-year strategy for program improvement. The Texas CMP has partnered with other divisions within GLO, state agencies, local governments, and others to implement coast-wide planning. The evaluation team was impressed with the TX CMP's framing of the coast-wide planning effort and its ability to bring partners to the table to address issues that were a priority for Texas. The TX CMP has focused its efforts around data management and acquisition, bringing local communities together to identify priorities, and highlighting the importance of the Texas coast to Texas and the nation.

Coastal Data

A focus of the coast-wide planning strategy is ensuring that coastal decision makers have the information and tools they need for planning and making informed decisions. To improve the use of data in decision-making, the program developed a strategy to inventory and compile existing data, identify data gaps and needs, acquire data to address gaps, create and use existing systems to manage and make available data to a broad audience, and develop tools to analyze data. The TX CMP is implementing this strategy through a process to update the state's resource management codes. The TX CMP formed a Technical Advisory Committee and contracted with the Harte Research Institute to conduct a comprehensive review of current resource management codes (RMCs) and to develop GIS-based resources and tools to assist managers and coastal stakeholders in planning for the use and sustainability of the ecologic, economic, and social assets of the Texas coast. The RMCs are assigned to state-owned tracts in Texas bays and Gulf waters and provide development guidelines for activities within the tracts to minimize adverse impacts to sensitive natural resource areas. The RMC geospatial database and GIS tool are intended to assist potential users of state-owned submerged lands with project planning efforts and enhance the protection of sensitive natural resources.

To assist in this process, two workgroups were formed, the RMC Workgroup and the Data Standards Committee. The RMC Workgroup is focused on information related to permitting and regulatory decision-making—specifically what tools and data are currently used and what are needed to aid in these processes. The GIS tool to be developed will include the updated RMCs to aid in environmental reviews of permits and development activities, particularly in sensitive habitat and resource areas.

The Data Standards Committee consists of people who practice geographic information science. The workgroup will identify needed data and compile, document, and determine data quality. Insufficient data may exist in some cases, and the workgroup will help identify those data gaps and make recommendations for new data acquisitions. The committee will review and advise on the GIS tool development and how best to make the data sets accessible and visual.

The evaluation team heard from stakeholders that the process for updating the RMCs has been very successful and led to agreement among participants for common operating practices for

data sets and visualization, as well as the best data sets being customized to meet identified needs.

Coast-Wide Planning with Communities

EXAMPLE: REGIONAL IDENTIFICATION OF PRIORITIES
To assist coastal communities, and to guide future state funding, the TX CMP worked with a contractor to compile a list and description of coastal projects not funded in each of the four coastal regions. The projects were compiled into four regional books, and decision makers in the regions were invited to provide information for proposed projects. During July and August 2013, five Coastal Issues Forums were held with elected officials in the coastal regions to bring the decision makers together and facilitate a discussion of proposed projects and issues of concern in their coastal communities. The stakeholders at the forums identified a number issues of concern, including wetland and habitat loss, gulf and beach erosion, flooding and storm surge, and impacts to fish and wildlife, as high priorities for all coastal regions.

For many of the attendees, it was the first time they had discussed coastal projects with neighboring jurisdictions. The meetings increased communication between jurisdictions and in the case of the City of South Padre Island and Cameron County, they are now meeting regularly to discuss regional issues and working together to apply for funding to address common issues of concern.

Local government officials and staff members that the evaluation team met with were very appreciative of the state's efforts to look at, and assist them with, prioritizing projects and expressed interest in repeating a similar process annually or biennially. The TX CMP also used the information to analyze the projects that they had not funded and found that most addressed these priority issues of concern. The TX CMP was able to use to the priority issues of concern to identify priority projects in their 2015 grant guidance document. The results of the Coastal Issue Forums will also assist local communities with determining priorities for future funding opportunities, such as RESTORE Act funding. The NOAA Office for Coastal Management encourages the TX CMP to build on these initial efforts to identify priorities and link resources with identified needs and facilitate communication between the local governments, nonprofits, researchers, and others engaged in coastal management.

The Texas Coast: Shoring Up Our Future

As a result of participation in the Task Force, the TX CMP used the coast-wide planning initiative to work with partners to identify the most important coastal issues, to develop messages around these issues, and to better share existing information and tools.

EXAMPLE: THE TEXAS COAST: SHORING UP OUR FUTURE
The 16-page booklet, The Texas Coast: Shoring Up Our Future*, highlights the value of coastal resources and includes the regional priority issues identified through the coast-wide technical and local official planning workshops for the four coastal regions. The booklet emphasizes statistics,*

graphics, and photos to tell key messages about coastal issues. The booklet is available on the web and copies were distributed to state legislators and other interested parties. The deputy commissioner also provided the booklet to, and met with, members of Texas' congressional delegation to discuss coastal issues. In addition, the Army Corps of Engineers has used the document to assist with its planning for the Coastal Texas Study*, and according to TX CMP staff members, the statistics cited in the publication are now widely used.*

Accomplishment: The TX CMP coast-wide planning effort has resulted in federal and state agencies, scientists, and other stakeholders coming together to agree upon data standards and needs to improve information for coastal decision-making, the identification of regional priorities, increased communication and collaboration among coastal decision makers, and sharing of information on the value of coastal resources.

Recommendation: The NOAA Office for Coastal Management encourages the TX CMP to continue to build on its successful coast-wide planning efforts to make data accessible in usable formats and its creative development of mechanisms to support coordination and collaboration between coastal stakeholders to improve coastal management.

Beach Dune and Coastal Erosion Planning and Response Act Programs

The Open Beaches Act, Dune Protection Act, and the state's beach/dune rules in the Texas Administrative Code are key to protecting coastal habitat and providing for coastal resilience and public access to the coast. Coastal local governments are required to adopt a beach access and use plan to protect and promote public access and a dune protection plan to protect the beach and dune system. After Hurricane Ike, the state legislature also created the opportunity for local governments to develop erosion response plans to reduce public expenditures for erosion and storm damage losses to public and private property, including public beaches. The TX CMP also administers the Coastal Erosion Planning and Response Act, which calls for implementing coastal erosion response projects and conducting studies to reduce the effects of, and understand the process of, coastal erosion.

Local Erosion Response Plans

In 2009 after Hurricane Ike, the state legislature passed a law creating the opportunity for local governments to develop local erosion response plans to reduce public expenditures for erosion and storm damage losses to public and private property. The law allows erosion response plans (ERP) to include provisions for establishing a building setback, protecting public beach access and the public beach easement, and preserving, restoring, and enhancing critical sand dunes that are necessary to protect public and private property from storms and erosion. Local governments are required to use the information in the statewide Erosion Response Plan and historical erosion rates published online by the University of Texas Bureau of Economic Geology to develop their plans. The development of local ERPs included public outreach and input, and the plans were formally adopted by rule by local governments and incorporated in the local dune protection and beach access plans.

The GLO established guidelines for the development of local ERPs that include provisions for prohibiting building habitable structures seaward of the building setback line, with specific exemptions, and provisions to limit construction of structures in at-risk areas near eroding beaches. The ERPs also contain a plan to evaluate public access points and determine which sites need to be improved to protect them from erosion and storm damage. The plans inventory potential funding sources used to construct the access points and establish a procedure to deal with post-storm recovery of the public access ways. The ERPs include best management practices to preserve natural sand dunes and specific information on restoration standards that establish and maintain the critical foredune ridge, which will help protect public and private property from severe meteorological events.

To encourage local governments to develop ERPs, GLO required that drafts be developed by December 2012 for communities to remain eligible for state Coastal Erosion Planning and Response Act funding. The TX CMP also supported this effort by providing grant funds to several early adopter communities to complete their plans, including the City of Corpus Christi, Nueces County, City of Port Aransas, Brazoria County, Cameron County, and South Padre Island. During the evaluation period, nine communities completed and adopted their ERPs.

A number of stakeholders felt that the ERPs provided for a range of benefits, from making communities more resilient to tracking the maintenance and use of public access points, as well as serving as a "working bible" that helped elected local officials make consistent decisions. The TX CMP also set as one of its three evaluation metrics a target that, "Between 2012 and 2017, ten percent of permits issued for dune restoration or compensatory mitigation projects are in priority areas that are specifically identified in the ERPs and restored to standards specified in the ERPs." During the first two years, 13 out of 13 permits issued met the criteria.

Beach and Dune Program

A core element of the TX CMP is the Beach Access and Dune Protection Program (Beach Dune Program), administered by the GLO, which is designed to accomplish several major objectives. The program is designed to protect the public's right of access to, use of, and enjoyment of the public beach—and to assist local governments in managing the Texas coast so that the interests of both the public and private landowners are protected. In compliance with the Open Beaches Act and the Dune Protection Act, 15 coastal local governments each developed and adopted a dune protection and beach access plan, which was certified by the GLO.

Permitting

The GLO addresses the siting of some coastal-dependent uses through the permitting and federal consistency processes. The TX CMP provides two permit service centers on the coast that provide free permitting assistance to small businesses, individuals, and local government organizations. The permit service centers were complimented by stakeholders the evaluation team heard from,

including one stakeholder who stated that they had "been a great addition/asset to assist with the permitting process."

Staff members from the permit service centers and U. S. Army Corps of Engineers (USACE) closely coordinate their review of permits and have a joint permit form. In addition, permit center staff members also participate in joint evaluation meetings with all involved federal and state agencies to meet with applicants and screen projects at the beginning of the permitting process. To streamline the permitting process, the GLO entered into a cooperative agreement with the USACE in 2009. The agreement addresses the administration of a general permit simultaneously with authorization from the GLO for proposed residential structures that meet criteria. In 2013, the staff also began working with the USACE to further streamline the permitting process and facilitate the administration of more USACE general permits in association with GLO authorization. Staff members also continue to work with the USACE to develop general permits for actions that recur on a regular basis and have already developed general permits for derelict vessel and marine debris removal.

The TX CMP's strong relationship with the USACE was also noted by a partner as very helpful to their efforts and cited a specific project in which the TX CMP was able to give them early notice of a dredging project. They were then able to raise corporate funding to provide match funding for the incremental costs, and the dredged material was placed on an island to improve bird habitat.

Stakeholders the evaluation team met with and surveyed also brought up opportunities for improvements. A number of stakeholders raised the issue that they were not sure how the line of vegetation was being applied and that there should be consistency. Although GLO offers training and always references its rules in its comments, it appears that there are additional needs to provide local communities with information and training on the new process for determining the vegetation line. Another participant stated that permits seemed to be taking longer to review. The NOAA Office for Coastal Management encourages the TX CMP to continue to solicit input from local governments and permittees on their information needs and opportunities for streamlining and improving the permitting process.

Coastal Erosion Planning and Response Act Program

The Texas legislature determines and appropriates the funding available on a biennial basis, and local governments, state or federal agencies, institutions of higher education, homeowner associations, and other public and private entities are eligible to seek Coastal Erosion Planning and Response Act funding as a potential project partner. Types of projects funded include beach nourishment, shoreline stabilization, habitat restoration and protection, dune restoration, beneficial uses of dredged material, coastal erosion related studies, demonstration projects, structure relocation, and debris removal. In addition, owners of structures determined to be located on the public beach are eligible to apply for partial removal expense reimbursement as a potential project partner on a relocation or demolition project authorized under the Coastal Erosion Planning and Response Act Program. The Texas CMP has also worked to coordinate funding and capitalize on the ability to use state funding sources to meet required federal funding

match requirements.

Building Coastal Resilience through Partnerships

The TX CMP works with partners to build coastal resilience through a number of approaches. The TX CMP has partnered with the Mission-Aransas National Estuarine Research Reserve and Texas Sea Grant to support their efforts to assist communities with building their resilience to coastal hazards. The TX CMP provided funding to the Mission-Aransas Reserve to support Coastal Community Resilience Index trainings that led coastal communities through a process to identify their vulnerabilities. In addition, the TX CMP supported the Texas Sea Grant Coastal Watershed Program and sponsored the participation of a Nueces County staff member who was able to exchange ideas with Gulf practitioners and share real-world, practical examples of successful dune management and sea level rise planning with other Gulf communities at the Gulf Climate Community of Practice meeting in Alabama.

The TX CMP also helped support a workshop for coastal decision makers in Port Aransas where researchers discussed the results of the resilience and coastal hazards-related research and how to join the Community Rating System (CRS), or improve their CRS score, to reduce national flood insurance premiums for their communities. The workshop resulted in the creation of a user group of those interested in joining the CRS or improving their score. The workshop also raised awareness among participants of opportunities to increase their scores, and Nueces County was able to obtain additional CRS points for its dune preservation regulations. This workshop also served as a model for similar workshops in Mississippi and Florida.

Stakeholders that the evaluation team met with emphasized the importance of working with communities to improve coastal resilience and looked forward to continuing to work with the TX CMP to build local capacity through trainings, technical assistance (including helping communities choose the right tools), supporting efforts to increase participation in the CRS, and connecting resources to community needs. One opportunity that was discussed was expanding a model GOMA project that provided the City of Aransas Pass with a small grant to develop a comprehensive coastal hazards plan to other communities.

The TX CMP has also supported research and data collection that has increased understanding of beaches and dunes management. One stakeholder that the evaluation team met with noted that this information has had a big impact on local permitting and cited Nueces County Erosion Response Plan and Beach Advisory Board as an example. Another stakeholder noted that the scientific studies supported by the TX CMP had reduced the need to nourish beaches. The use of geohazards maps by South Padre Island for coastal decision-making was another example cited by stakeholders of research and monitoring results being used by coastal decision makers.

The TX CMP has also helped support the development of the Coastal Communities Planning Atlas, which is housed at the Institute for Sustainable Coastal Communities at Texas A&M University. The Coastal Atlas serves as a central access point for geographic data for the 29 coastal counties. The evaluation team heard from stakeholders that the atlas was a very useful tool, especially in

workshops and a hurricane conference to help visualize storm impacts. The atlas has also been used for the regional Red Cross planning process for identification of hurricane evacuation shelters. The TX CMP is supporting expansion of the atlas to include information on public access sites.

The TX CMP has also supported resilience by providing grants to protect and restore designated critical natural resource areas. From 2006 to 2013, CZMA funding resulted in 87 acres of riparian habitat being protected through acquisition or easement, 179 acres of tidal wetlands restored, and 843 acres under restoration. In addition, TX CMP has coordinated the restoration of 17,100 meters of beach and dune habitat since 2010. The TX CMP also supports habitat improvements through the Coastal Impact Assistance Program (CIAP), and one of three evaluation metrics for 2012-2017 is to "restore and/or acquire 5,000 acres with funding allocated directly to the state under the CIAP." The TX CMP exceeded this target within the first two years.

Open Beaches Act

The Texas Open Beaches Act provides the public with the free and unrestricted right to access Texas beaches, which are located "from the water to the line of mean high tide." The dry sand area that extends from the "wet beach" to the natural line of vegetation is usually privately owned but may be subject to the public beach easement.

A concern noted in the previous two evaluations has been the issue of houses that are suddenly in the public beach easement area and remain on the beach after a storm. In 2010 and 2012, the Texas Supreme Court ruled in the Severance vs. Patterson case that erosion that suddenly changes the location of the dry beach, such as erosion caused by storms or hurricanes, does not move the established public easement from its original location. However, that public easement may "move according to gradual and imperceptible changes" that are part of a dynamic coast.

This new interpretation of the Texas Open Beaches Act leaves many questions without a clear answer. In 2013, H. B. 3459 was signed into law, providing additional guidance after the final 2012 Texas Supreme Court ruling. The bill grants authority to the land commissioner to suspend action on conducting a "line of vegetation" determination for up to three years after a meteorological event. For the duration of the order, the public beach would extend to a line 200 feet inland from the line of mean low tide. Following the expiration of the order to suspend, the land commissioner would make a determination regarding the line of the vegetation, which would constitute the landward boundary of the area subject to public easement. The line of vegetation is also described as dynamic, and it could move landward owing to the forces of erosion.

To assist homeowners whose damaged homes remain on the public beach after storms, the GLO has used Coastal Erosion Planning and Response Act and Federal Emergency Management Agency funding to provide homeowners with financial assistance to remove the structures. The issue of public access to the beach will continue to be a challenge as the Texas courts, GLO, local governments, and others continue to interpret legal issues of the Open Beaches Act and

Severance decision. One stakeholder noted that the ruling had resulted in a heightened interest in acquiring more coastal lands in order to guarantee public access to the coast long term.

Public Access

During the evaluation period, TX CMP worked to enhance public access in the state, including a focus on beach accessibility for persons with disabilities. The TX CMP worked with GLO, the American with Disabilities Act (ADA) Federal Board, and the Texas Department of Licensing and Regulation (Texas Accessibility Standards) to develop the Texas Beach Accessibility Guide to share guidelines with builders and communities. In addition, during the evaluation period, the program has funded the enhancements of 16 public beach access points to support ADA access. In addition, several communities received grant funds to purchase Mobi-mats and chairs to provide access to the water for people with physical disabilities. The TX CMP also set a 2012-2017 evaluation metric as providing five new ADA access measures to the public for accessing the beach along the Texas coast, installed using the construction standards from the Texas Beach Accessibility Guide. The target was met within two years.

The TX CMP provides CZMA grants to eligible entities to support public access projects such as dune walkers and restrooms. The evaluation team heard from stakeholders that the grants were of great assistance to local governments in their efforts to improve public access, and as one stakeholder stated “we rely very much on the public access grants program and it really helps the city!”

Accomplishment: The GLO and TX CMP developed guidelines for voluntary erosion response plans and encouraged and supported communities in their efforts to develop plans to reduce public expenditures for erosion and storm damage losses to public and private property.

Coastal Nonpoint Pollution Control Program

In accordance with Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), all states with federally approved coastal management programs must develop comprehensive coastal nonpoint pollution control programs (coastal nonpoint programs). These programs must be developed and implemented in accordance with guidance by NOAA and the U.S. Environmental Protection Agency (EPA). Under CZARA, if NOAA and EPA find that a state has failed to submit an approvable program, the federal agencies must withhold funding for the state coastal management program under Section 306 of the CZMA and Section 319 of the Clean Water Act.

Ensuring that all states fully satisfy their coastal nonpoint program requirements under CZARA and the CZMA to maintain full funding of their coastal management programs is important. Having an approved coastal nonpoint program is an identified requirement for state coastal management programs. The CZMA states that coastal management programs shall “[contain] enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title,” Section

306(d)(3)(16). Since the Section 312 evaluation process is designed to assess how well the state is carrying out the goals and objectives of the CZMA, which include protecting water quality, NOAA uses the evaluation process to assess a state coastal management program's progress in meeting coastal nonpoint program requirements.

The State of Texas submitted program documentation for review by NOAA and EPA in December 1998 and supplemental material thereafter. After carefully reviewing Texas' coastal nonpoint program submission to evaluate the extent to which Texas' program conforms to the requirements of CZARA, NOAA and EPA approved Texas' program, with conditions, on March 31, 2003. The conditions outlined actions the state needed to take to fully satisfy all CZARA requirements and receive full approval of its coastal nonpoint program. Since then, NOAA and EPA have worked with Texas to address its remaining conditions. The state of Texas is working on addressing the remaining conditions and has funded projects through Clean Water Act and other funding sources to further these efforts. In 2012, the state submitted materials for approval of the Onsite Disposal Systems (OSDS) condition, and NOAA and EPA reviewed the documentation in 2012 and found that the condition was not fully met. The Texas networked programs continue to meet monthly to address remaining conditions and to prepare a new submittal.

The evaluation team recognizes Texas' good faith effort to move forward with full approval of its conditionally approved coastal nonpoint program. The evaluation team met with staff members from the Texas Commission on Environmental Quality (TCEQ). TCEQ is a partner with the TX CMP, NOAA, and EPA, working to adequately address the remaining coastal nonpoint program conditions.

Necessary Action: The TX CMP must work with the NOAA Office for Coastal Management to develop and submit a work plan with interim benchmarks and a timeline for meeting the goals and objectives it has identified as important to the coastal nonpoint source pollution program by September 30, 2015. The documentation indicating how Texas met the outstanding conditions must be submitted no later than June 30, 2019.

Evaluation Metrics

To inform program evaluations, the TX CMP developed three evaluation metrics reflecting the program's priorities for the five-year period of fiscal years 2012-2017. Each evaluation metric includes a goal, objective, strategy, performance measure, and target to provide quantitative data for the evaluation.

METRIC 1 REDUCTION OF VULNERABILITY

Goal: Lessen vulnerability along the Texas coast and reduce exposure to hazards and public expenditures due to storm surge and erosion.

Objective: By 2017, ten percent of Beachfront Construction Certificates and Dune Protection Permits issued for dune restoration or compensatory mitigation projects in priority areas which

are identified in individual local government ERPs.

Strategy: This goal was developed to capture the percentage of permits that local jurisdictions receive that demonstrate procedures for preserving, restoring, and enhancing critical sand dunes for storm protection and conservation purposes through implementation of erosion response plans as a result of local jurisdictions complying with beach and dune rule revisions under the Coastal Planning and Erosion Response Act. The GLO ensures that dune restoration on the Texas coast by property owners and developers that affects the beach and dunes is performed according to state law. Both the Open Beaches Act and the Dune Protection Act are designed to help local property owners and communities protect and preserve beaches so that all Texans have unrestricted access to the beach, while also maintaining an environmentally healthy beach/dune system. In addition, the Coastal Erosion Planning and Response Act requires that coastal communities adopt an erosion response plan to reduce public expenditures caused by impacts from storms and erosion. Local communities must adopt plans to remain eligible for Coastal Erosion Planning and Response Act funding.

Performance Measure: Percentage of permits issued for dune restoration or compensatory mitigation projects are in priority areas that are specifically identified in the ERPs and restored to standards specified in the ERPs.

Target: Between 2012 and 2017, ten percent of permits issued for dune restoration or compensatory mitigation projects are in priority areas that are specifically identified in the ERPs and restored to standards specified in the ERPs.

First Year Results: 11 out of 11 (100%) permits issued for dune restoration, compensatory mitigation, and beach nourishment are in priority areas specifically identified in the ERPs and restored to standards specified in the ERPs.

Second Year Results: 2 out of 2 (100%) of permits issued for dune restoration, compensatory mitigation, and beach nourishment in priority areas specifically identified in the ERPs and restored to standards specified in the ERPs.

Discussion: The TX CMP met its target for two consecutive years.

METRIC 2 PROTECT COASTAL HABITAT

Goal: Protect coastal habitat by restoring and/or acquiring critical areas in the 18 coastal counties included in the coastal zone management boundary.

Objective: By 2017, 5,000 acres restored and/or acquired with funding allocated directly to the state under the Coastal Impact Assistance Program (CIAP).

Strategy: This goal was developed to capture the amount of acreage restored and/or acquired with funding allocated directly to the state under the CIAP. Through the implementation of the

coastal management program, the GLO ensures the long-term environmental and economic health of the Texas coast through management of the state's coastal natural resource areas. Because Texas has a federally approved coastal management program, it was eligible to receive CIAP funding. The CIAP is used to fund a wide range of coastal projects; however, there is currently not a mechanism for tracking acreage restored or acquired for CIAP projects. Using the CMP performance measurement structure, the GLO would set up a similar mechanism for tracking restored and/or acquired areas with funding directly allocated to the state under the CIAP.

Performance Measure: Number of acres restored and/or acquired with funding allocated directly to the state under the CIAP.

Target: Between 2012 and 2017, 5,000 acres restored and/or acquired with funding allocated directly to the state under the CIAP.

First Year Results: 7,677 acres restored and/or acquired with funding allocated directly to the state under the CIAP.

Second Year Results: 2,028 acres restored and/or acquired with funding allocated directly to the state under the CIAP.

Discussion: The Texas CMP has exceeded its five-year target for restoring or acquiring habitat within critical areas and continued to add to the acreage in year two.

METRIC 3 PUBLIC ACCESS MEETING ADA MEASURES

Goal: Provide ADA accessible measures to the public using construction standards from the Texas Beach Accessibility Guide.

Objective: By 2017, five new ADA access measures provided to the public for accessing the beach along the Texas coast that were installed using the construction standards from the Texas Beach Accessibility Guide.

Strategy: This goal was developed to capture the number of new ADA access measures utilizing construction standards from the Texas Beach Accessibility Guide for public access to the beach along the Texas coast. The GLO prepared a guidance document, Texas Beach Accessibility Guide, for local governments adopting and implementing beach accessibility measures for persons with disabilities. This guidance document was developed in consultation with the Texas Department of Licensing and Regulation. The public has historically used the beaches along the Texas coast for numerous recreational activities ranging from swimming to beachcombing. In recent years, increasing coastal construction and decreasing beach widths have prompted local governments to restrict vehicles from public beaches, particularly in areas with concentrated urban development. Although intended to prevent health and safety hazards, these restrictions often hinder beach access for persons with disabilities. This is a guidance document; however, the GLO

would track the number of measures utilizing construction standards from the Texas Beach Accessibility Guide. Permit applications will be counted at the time the GLO issues comments on individual permit applications submitted to local jurisdictions as part of the Beachfront Construction Certificate and Dune Protection Permit process.

Performance Measure: Number of new ADA access measures provided to the public for accessing the beach along the Texas coast that were installed using the construction standards from the Texas Beach Accessibility Guide.

Target: Between 2012 and 2017, five new ADA access measures provided to the public for accessing the beach along the Texas coast that were installed using the construction standards from the Texas Beach Accessibility Guide.

First Year Results: 3 permits issued for providing enhanced ADA access to the public for accessing the beach along the Texas coast utilizing standards from the Texas Beach Accessibility Guide.

Second Year Results: 2 permits issued for providing enhanced ADA access to the public for accessing the beach along the Texas coast utilizing standards from the Texas Beach Accessibility Guide.

Discussion: The TX CMP met its five-year target at the end of year two.

Conclusion

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

These evaluation findings contain one necessary action and one recommendation. The necessary action is mandatory and must be completed by the dates given. The recommendation must be considered before the next regularly scheduled program evaluation, but is not mandatory at this time. Recommendations that must be repeated in subsequent evaluations may be elevated to necessary actions.

This is a programmatic evaluation of the Texas Coastal Management Program, which may have implications for the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.

Jeffery Payne, PhD
Acting Director
Office for Coastal Management

3/19/15
Date

Appendix A: Response to Written Comments

Kristin Ransom
Mission-Aransas National Estuarine Research Reserve

Ms. Ransom stated her appreciation for the TX CMP and noted that the two programs had worked to build their partnership over the past three years. She stated that the support and funding from the General Land Office had allowed the Mission-Aransas Reserve to work with partners to help local communities in South Texas to assess their vulnerabilities to coastal hazards and that several communities were now undergoing comprehensive planning efforts to address these vulnerabilities. She also stated that the GLO had greatly contributed to the reserve's efforts to increase the technology capacity of partners by providing support and funding for a three-day introductory GIS course and support for a Teachers on the Estuary training.

NOAA Office for Coastal Management's Response: The NOAA Office for Coastal Management thanks Ms. Ransom for providing written comments.