



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



June 12, 2024

In Reply Refer To:
FWS/CI/CIAP/ DCN 081093

Mr. Joe Spraggins
Executive Director
Mississippi Department of Marine Resources
1141 Bayview Avenue
Biloxi, Mississippi 39530

Dear Mr. Spraggins:

It is our understanding that the Mississippi Department of Marine Resources (MDMR) has permitted the City of Ocean Springs (COS) to use the approximately 0.90-acre property, known as the Reynolds Front Beach property, acquired under Coastal Impact Assistance Program (CIAP) award # F12AF70224 to accommodate “overflow” parking for the public to access the park and beach across the road. The August 2023 Memorandum of Agreement between MDMR and COS for maintenance of the Front Beach property was amended in February 2024 to permit the construction of a permeable parking lot. It is our understanding that members of the public routinely park on the tract. Use of the property as a parking lot, overflow or otherwise, does not comport with the purpose for which the property was acquired under CIAP, or the restrictions placed upon the deed resulting in an issue of noncompliance. Please ensure that fencing is immediately installed to secure the property and prevent access by motor vehicles and please cancel the amended MOA signed on February 12, 2024, which allows construction of a permeable parking lot on the site. Signage to inform the public of the allowable ultra-low impact outdoor recreational uses permitted on the property should be installed. Please rectify these noncompliance issues by July 15, 2024.

We have closely reviewed the files for this property and determined the following:

1. The Reynolds Front Beach property was acquired under CIAP Authorized Use 1, “Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.” The proposed project was consistent with Authorized Use 1 because it would use CIAP funds for the purpose of conservation, protection and/or restoration of wetlands and associated buffer areas of the Mississippi Sound and the Old Fort Bayou River system. Funds provided from the CIAP grant would be applied towards the purchase of the property, the permanent protection of the property through deed restrictions, and the future management of the property for conservation and protection.
2. The project narrative states that the acquisition of the parcel was part of a larger strategy among MDMR and other resource agencies to purchase and manage wetlands, riparian buffer zones, and uplands along the Mississippi Gulf Coast. This parcel was prone to flooding and would be managed for flood mitigation, low impact public use, scenic viewsheds, and for wildlife and conservation. Ecological benefits also included habitat for fisheries and wildlife, flood storage and erosion control, groundwater recharge, and water quality protection. Additionally, the parcel may be used as a beachfront park in partnership with the City of Ocean Springs, if deemed suitable through the recommendations from the restoration, management and public use plans developed as part of this project.
3. The Restoration/Management/Public Use Plan for the property which was submitted with the final performance report states that the site would be restored to its historical condition to the maximum practical extent. The proposed site restoration would have removed approximately 5,000 cubic yards of the landward fill material and adjusted final elevations to support natively sourced and grown marsh vegetation. This would have extended the swale outward about 200 feet until it met the landward side of Front Beach Road effectively restoring the upland fill area to tidal marsh and associated habitats. Public uses were to include ultra-low impact activities, such as wildlife viewing. It is our understanding that after the grant was completed MDMR determined that restoration of the property to its historical condition would be cost prohibitive.
4. The property was acquired on September 10, 2010, when the Bureau of Ocean Energy Management, Regulation and Enforcement was administering the program. The warranty deed contains the following language:

THIS PROPERTY HAS BEEN ACQUIRED WITH FUNDS FROM A FEDERAL FINANCIAL ASSISTANCE AWARD -- THE COASTAL IMPACT ASSISTANCE PROGRAM (CIAP). TITLE OF THE PROPERTY CONVEYED BY THIS DEED SHALL VEST IN THE STATE OF MISSISSIPPI BY AND THROUGH THE DEPARTMENT OF MARINE RESOURCES SUBJECT TO THE CONDITION THAT THE PROPERTY SHALL BE MANAGED CONSISTENT WITH THE PURPOSES FOR WHICH IT WAS ENTERED INTO UNDER CIAP, AND SHALL NOT CONVERT TO OTHER USES. IN THE EVENT THE PROPERTY IS SOLD, EXCHANGED OR CONVERTS TO OTHER USES, THE BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION, AND ENFORCEMENT SHALL CONSULT WITH THE RECIPIENT BEFORE DECIDING TO EXERCISE ANY OF THE RIGHTS REGARDING DISPOSITION OF THE REAL PROPERTY UNDER 43 CFR 12.71.

THE PROPERTY HEREIN CONVEYED SHALL BE USED FOR THE CONSERVATION AND PRESERVATION OF ITS NATURAL FEATURES IN RECOGNITION OF THE PUBLIC BENEFITS IN PROTECTING IT AS A COASTAL AREA AND ASSOCIATED ECOSYSTEMS IN THE INTEREST OF PRESENT AND FUTURE GENERATIONS. THE PROPERTY SHALL BE USED AND MAINTAINED FOREVER AS A NATURAL AREA FOR THE PRESERVATION, PROTECTION, RESTORATION AND SUSTENANCE OF ITS NATURAL CHARACTERISTICS AND FEATURES, AND OF ITS ECOLOGICAL INTEGRITY AND ASSOCIATED HABITATS AND FOR COMPATIBLE USE PURPOSES. GRANTEE ACKNOWLEDGES THAT THE PROPERTY IS BEING ACQUIRED FOR PERMANENT PRESERVATION AND PUBLIC PURPOSES ONLY. GRANTEE SHALL NOT DIRECTLY OR INDIRECTLY CONVEY THE PROPERTY TO ANY PERSON OR ENTITY FOR USE IN A COMMERCIAL ENTERPRISE OR OTHER NON-PUBLIC USE, AND GRANTEE SHALL MAKE NO USE OF THE PROPERTY THAT IS INCONSISTENT WITH THE RESTRICTIONS AND USES CONTEMPLATED BY THE COVENANT. THE PROPERTY SHALL BE MANAGED AND MAINTAINED TO THE FULLEST EXTENT POSSIBLE IN ITS NATURAL STATE, EXCEPT FOR PUBLIC OUTDOOR RECREATIONAL PURPOSES CONSISTENT WITH PRESERVATION OF THE PROPERTY IN ITS NATURAL STATE, INCLUDING BUT NOT NECESSARILY LIMITED TO THE UNDERTAKING OF SCIENTIFIC AND EDUCATION RESEARCH, EDUCATION AND NATURE STUDY, AESTHETIC ENJOYMENT, ECOLOGICAL MANAGEMENT, AND MAINTENANCE OF FENCES, A PARK, BOAT LANDINGS AND FOOT TRAILS AS MAY BE APPROPRIATE TO EFFECTUATE THE FOREGOING PURPOSES WITHOUT IMPAIRING THE ESSENTIAL NATURAL CHARACTER OF THE PROPERTY. THESE CONDITIONS SHALL RUN WITH THE LAND IN PERPETUITY. THE GRANTOR OR ANY CITIZEN OF THE STATE OF MISSISSIPPI MAY ENFORCE THESE COVENANTS AND CONDITIONS USING ALL REMEDIES AVAILABLE AT LAW OR EQUITY, INCLUDING INJUNCTIVE RELIEF.

In summary, the primary purpose for which the property was acquired was to protect the site from development and restore the area to tidal marsh and associated habitats. Ultra-low impact public use, such as wildlife viewing, was a secondary purpose for the acquisition. Parking on the property does not support the purpose for which the property was acquired or the underlying authorized uses of CIAP. The property is currently out of compliance with the terms of the deed. Please ensure that these noncompliance issues are rectified by July 15, 2024. Please contact Penny L. Bartnicki, Special Assistant for Program Analysis and Development, at penny_bartnicki@fws.gov or 703-867-9643, with any questions.

Sincerely,

Paul Rauch
Assistant Director
Office of Conservation Investment

cc: Rhonda Price, MDMR