

**MEDIA RELEASE
FOR IMMEDIATE RELEASE**

**Mississippi Sound Coalition Files Legal Action vs. U.S. Army Corps of Engineers
Re: Bonnet Carré Spillway Under Marine Mammal Protection Act**

To download documents and other assets supporting this release, visit this Dropbox Link:
<https://bit.ly/MSSCRelease1-22-24>

GULFPORT, Miss., Jan. 22, 2024, 10:30 a.m. CT – Today, Harrison County, Mississippi, and other members of the Mississippi Sound Coalition (MSSC) filed a Complaint vs. the U.S. Army Corps of Engineers (Corps) for Declaratory and Injunctive Relief with the U.S. District Court for the Southern District of Mississippi under the Marine Mammal Protection Act to protect the Mississippi Sound and its dolphin population from further harm from polluted, low-salinity Mississippi River water entering the Sound via the Bonnet Carré spillway.



The Complaint states that massive volumes Mississippi River water released through the Bonnet Carré Spillway and into the Mississippi Sound in 2019 caused direct and indirect mortality of many resident bottlenose dolphins and that the Corps is required under the Marine Mammal Protection Act to obtain a permit for these incidental “takes” of bottlenose dolphins. The dolphins’ long exposure to low salinity can result in skin lesions (and extraordinary pain), abnormal blood chemistry, secondary infections, and death.

The National Oceanic and Atmospheric Administration defines dolphin “strandings” as circumstances when the animal is found dead, either on the beach or floating in the water, or alive on the beach and unable to return to the water.

Statistics from the National Oceanographic and Atmospheric Administration (NOAA) and cited in the Complaint show that the highest recorded numbers of dolphin strandings in the Mississippi Sound occurred in 2011 and 2019. These two years were major flood years on the Mississippi River that resulted in extremely high discharges through the Bonnet Carré Spillway. These strandings in 2011 and 2019 were designated by NOAA as “unusual mortality events,” defined under the Marine Mammal Protection Act as “a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.”

The extended low salinity caused by Mississippi River water discharged through the Bonnet Carré Spillway, with some contribution from higher flows from coastal rivers, was identified by the National

Oceanic and Atmospheric Administration as the leading hypothesis for the 2019 Unusual Mortality Event in the Mississippi Sound.

Also as stated in the complaint, “These stranded dolphins in Mississippi had an extremely high incidence of lesions caused by extended freshwater exposure,” and, “the number of stranded dolphins documented in Mississippi as exhibiting these shocking lesions was approximately 50% of the total, as compared to approximately 10% in Alabama and 7% in Florida,” further evidence that the closer the dolphins were to the so-called fresh water, the more they were affected.

MSSC announced the legal action today at a public meeting of the Coalition that was also livestreamed during which Robert Wiygul, MSSC Lead Environmental Counsel; Gerald Blessey, Co-counsel and Manager of the Coalition; and Dr. Moby Solangi, Chair, Coalition Science Committee, spoke about the lawsuit and answered questions. *Recording of the livestream will appear on the Coalition’s YouTube page [youtube.com/@SaveOurSoundMS](https://www.youtube.com/@SaveOurSoundMS) within 24 hours of the event.*)

During the meeting, Solangi presented extensive detail through a series of [slides](#) about the effect of the Mississippi River water on the Mississippi Sound’s dolphins. Dr. Solangi is Executive Director of the Institute of Marine Mammal Studies, a 501(c)(3) non-profit organization established in 1984 for the purposes of public education, conservation, and research on marine mammals in the wild and under human care.

Dr. Solangi also made key points about the magnitude of the problem and why it has such an impact on our dolphins. “Rivers and tributaries from 31 states flow into the Mississippi River and eventually empty into the Gulf of Mexico, and, when the Bonnet Carré Spillway is opened, into Lake Pontchartrain, Lake Borgne and the Mississippi Sound. Animal waste and agricultural and industrial runoff present in the Mississippi river drain into the Mississippi Sound, thereby polluting it with



contaminants like antibiotics and mercury and nutrients like phosphates and nitrates. Pollutants in the water travel up the food chain and are ultimately consumed by top predators, including dolphins. The so-called fresh (non-salty) Mississippi River water released by the Bonnet Carré Spillway reduces the salinity in the Mississippi Sound to an unnatural point that is fatal for many dolphins.

Coalition Lead Environment Counsel Robert Wiygul added, “On the one hand, the Corps has a lot of technical legal arguments for why they don't have to consider what happens to the Mississippi Sound, including our dolphins, when they operate the Bonnet Carre Spillway. And on the other hand we have a lot of dead dolphins. I know which side I come down on.”

In summary, through its lawsuit, MSSC is asking for the federal court to 1) declare that the Corps has acted contrary to law and/or has unlawfully withheld or unreasonably delayed agency action in taking bottlenose dolphins through the operation of the Bonnet Carré Spillway and failing to obtain an incidental take permit; 2) order the Corps to fully comply with the requirements of the Marine Mammal

Protection Act; 3) require the Corps to take action to avoid taking of bottlenose dolphins through operation of the Bonnet Carré Spillway; 4) award the plaintiffs their attorneys' fees and costs as required by applicable rules and statutes; and 5) award such other and further relief as is proper.

The Coalition contends that the Corps could accomplish its mission of flood control for public safety of persons and property without doing harm to the Mississippi Sound estuary.

"Scientists have referred to the bottlenose dolphin, due to its role as a long-lived apex predator, as a sentinel of the health of the marine ecosystem," said Co-counsel and Manager of the Coalition, Gerald Blessey in his remarks at the meeting. "The dolphins are telling us something. We must act on these warning signs, protect our dolphins from further harm, and protect our Mississippi Sound estuary along with our economy and our way of life that depend on it."

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MISSISSIPPI SOUND COALITION (MSSC)

The Mississippi Sound Coalition (MSSC) is working to restore and protect the ecosystem of the Mississippi Sound estuary and the economy and way of life that depend on it. Its efforts are focused on causing changes in public policies at national, state and local levels to prevent further damage from the polluted, salt-less water of the Mississippi River that the U.S. Army Corps of Engineers releases from the Bonnet Carré Spillway in Louisiana for flood control and intrudes into the Mississippi Sound. MSSC also focuses on other threats to the Sound such as the Mid-Breton Sediment Diversion project, also in Louisiana. The Coalition provides public education on the subject, and, if necessary, engages in litigation. Members of the Coalition include Harrison County, Hancock County, the Mississippi cities of Biloxi, D'Iberville, Gulfport, Long Beach, Pass Christian, Diamondhead, Bay St. Louis, Waveland, Ocean Springs, Gautier, Pascagoula, the Mississippi Hotel & Lodging Association and the Mississippi Commercial Fisheries United.

CAPTIONS FOR PHOTOS ABOVE:

Photo 1: *Mississippi River watershed/drainage basin. Runoff from 31 states, including pollutants, nutrients (i.e. fertilizer runoff) flows into the Mississippi River and ultimately makes its way to the Mississippi Sound when the Bonnet Carré spillway is opened.*

Photo 2: *Bottlenose dolphin with deadly skin disease caused by decreased salinity.*

Dropbox Link for assets and supporting documents: <https://bit.ly/MSSCRelease1-22-24>

Assets in the folder include

- MSSC Logo
- Graphic of Mississippi Watershed/Drainage Basin
- Photo of Dolphin (shown in the release)
- Filed Complaint
- Dr. Solangi's Slides

RECORDING OF THE LIVESTREAM: *The recording of the livestream of the announcement and public meeting will be posted to the Coalition's YouTube page when available usually within 24 hours. Visit our YouTube page at youtube.com/@SaveOurSoundMS*

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