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# In the Supreme Court of the United States

OCTOBER TERM, 1979

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**NO. 9, ORIGINAL**

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UNITED STATES OF AMERICA, *Plaintiff*,

vs.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI,  
ALABAMA AND FLORIDA.

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**MOTION BY THE STATE OF MISSISSIPPI FOR  
ENTRY OF SUPPLEMENTAL DECREE**

**PROPOSED SUPPLEMENTAL DECREE**

**MEMORANDUM IN SUPPORT OF MOTION  
FOR SUPPLEMENTAL DECREE**

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## MOTION BY THE STATE OF MISSISSIPPI FOR ENTRY OF SUPPLEMENTAL DECREE

1. Under the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. §1301 et seq. (1953), Congress confirmed and established the title of each Gulf Coast State to the submerged lands under navigable waters within three geographical miles of its coastline and to its historic boundary to a limit of three marine leagues from the coastline, in the Gulf of Mexico. This Act pertains especially to the submerged lands under navigable waters *beyond* the inland waters of the States, i.e., the territorial or marginal sea.

2. This Court held in a prior stage of this litigation that under the Submerged Lands Act Mississippi was entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico, extending from its coastline for a distance of three geographical miles, but the question of the location of the Mississippi coastline was left open for future determination or agreement.

3. The Court expressly retained jurisdiction to entertain such further proceedings, enter such orders and issue such writs as may from time to time be deemed necessary or advisable to give proper force and effect to its decree.

4. Paragraph 3 of the Court's 1960 decree contemplated the possibility of agreement between the United States and the States as to "the location of the coastline."

5. No agreement subsequent to the decree has been reached between the State of Mississippi and the United States, although the State of Mississippi has made efforts in this direction, with no success.

6. This pleading is filed by the State of Mississippi to request the Court to give force and effect to said 1960 decree by entry of a Supplemental Decree, delimiting the boundary in the Gulf of Mexico between the United States and the State of Mississippi by defining the coastline of Mississippi.

7. By the Submerged Lands Act, approved May 22, 1953, Congress defined coastline as "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters."

8. In cases prior to 1960 this Court has recognized Mississippi Sound as inland waters and held that the bed of these inland waters passed to the State of Mississippi on its entry into the Union in 1817. Consequently, the Mississippi Sound does not come within the purview of the Submerged Lands Act, which dealt with restoring to the coastal States rights in and control over the marginal sea.

9. Since 1817 Mississippi has exercised continuous and uninterrupted dominion and sovereignty over the



waters of Mississippi Sound, which would also qualify it as a "historic bay", and hence internal waters.

10. Following the decision of this Court in *United States v. California*, 332 U.S. 19 (1947) and prior to the passage of the Submerged Lands Act in 1953, the Federal Government never made any claim that these were external or international waters, either territorial sea or high seas.

11. In the 1960 case the United States acknowledged that the waters of Mississippi Sound were not an issue in the case since Mississippi Sound is inland water; that the bed of these inland waters passed to the State on its entry into the Union; and that Mississippi has a marginal belt extending three miles seaward from the islands marking the outer limit of the inland waters of Mississippi Sound, under the ordinary application of the three-mile rule.

12. The chain of islands extending from Petit Bois Island to Cat Island and forming the southernmost boundary of the State of Mississippi does in fact constitute the seaward limit of inland waters and is the coastline of Mississippi for purposes of the Submerged Lands Act. The territorial sea begins at the low watermark of these islands and extends for three geographical miles into the Gulf of Mexico, in accordance with the Submerged Lands Act.

13. The United states, through an interdepartmental committee, has asserted claim to certain areas within the waters of Mississippi Sound as being beyond the three-mile limit and thus forming part of the lands of the outer continental shelf established by the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U.S.C. §1331 et seq. (1953), as belonging to the United States. The Department of Interior has published a map showing such areas

divided into numbered oil and gas leasing blocks, and the remainder of the Sound as "territorial sea", purportedly under the provisions of the Submerged Lands Act, thus casting a cloud on the inherent sovereign title of Mississippi to Mississippi Sound as inland waters of the State upon its entry into the Union in 1817.

14. The State of Mississippi contends that by judicial precedent already established the waters of Mississippi Sound constitute inland waters of the State solely under the jurisdiction and control of the State, which waters and the soil under them have been owned by the State since its admission to the Union in 1817 and its ownership is neither dependent upon, nor derived through, the Submerged Lands Act of 1953. However, if the Court should decide otherwise, as an alternative the State suggests that Mississippi Sound qualifies as a "historic bay" through long assertion of rights in these waters and acquiescence by the Federal Government and foreign powers, and therefore the chain of islands extending from Petit Bois Island to Cat Island constitutes the seaward limit of inland waters and is the coastline of Mississippi for purposes of the Submerged Lands Act.

15. The State of Mississippi, by its undersigned counsel, now moves the Court for entry of a Supplemental Decree declaring that:

1. The coastline of Mississippi is the line of ordinary low water along the seaward side of the chain of islands marking the outer limit of the inland waters of Mississippi Sound, this being the baseline from which the three-mile marginal belt into the Gulf of Mexico is measured.
2. The State of Mississippi is entitled, as against the United States, to all the lands, minerals and other natural resources underlying the Gulf of Mexico

extending seaward from its coastline described above for a distance of three geographical miles, with the exceptions provided by §5 of the Submerged Lands Act, 67 Stat. 32, 43 U.S.C. §1313 (1953).

3. The United States, including all persons claiming under it, is enjoined from asserting claim to any areas within the waters of Mississippi Sound and that any maps purporting to delineate such areas shall be withdrawn as a trespass upon the area in violation of the rights of the State of Mississippi.
4. The Court retains jurisdiction to entertain such further proceedings, enter such orders and issue such writs as may be necessary to give proper force and effect to the decree of December 12, 1960, herein, or to this decree.

Respectfully submitted,

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## PROPOSED SUPPLEMENTAL DECREE

For the purpose of giving effect to the decree of this Court rendered December 12, 1960, it is hereby ordered, adjudged, and decreed that:

1. The coastline of Mississippi as referred to in paragraphs 1 and 2 of this Court's decree of December 12, 1960, is the line of ordinary low water along the seaward side of the chain of islands marking the outer limit of the inland waters of Mississippi Sound, this being the baseline from which the three-mile marginal belt into the Gulf of Mexico is measured.

2. The State of Mississippi is entitled, as against the United States, to all the lands, minerals and other natural resources underlying the Gulf of Mexico extending seaward from its coastline described in paragraph 1 of this

decree for a distance of three geographic miles, with the exceptions provided by §5 of the Submerged Lands Act, 67 Stat. 32, 43 U.S.C. §1313 (1953).

3. The Court retains jurisdiction to entertain such further proceedings, enter such orders and issue such writs as may be necessary to give proper force and effect to the decree of December 12, 1960, or to this decree.

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## MEMORANDUM IN SUPPORT OF MOTION FOR SUPPLEMENTAL DECREE

### I.

Mississippi entered the Union in 1817 on an equal footing with the original States. Act of Admission, 3 Stat. 472, December 10, 1817; *Pollard v. Hagan*, 3 How. 212, 230 (44 U.S., 1845). Section 2 of the Mississippi Enabling Act, March 1, 1817, 3 Stat. 348, provided:

SEC. 2. *And be it further enacted*, That the said state shall consist of all the territory included within the following boundaries, to wit: Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same, thence east along the said boundary line to the Tennessee river, thence up the same to the mouth of Bear Creek, thence by a direct line to the north-west corner of the

county of Washington, thence due south to the Gulf of Mexico, thence westwardly, including all the islands within six leagues of the shore, to the most eastern junction of Pearl river with Lake Borgne, thence up said river to the thirty-first degree of north latitude, thence west along the said degree of latitude to the Mississippi river, thence up the same to the beginning.

The Mississippi Constitution, approved by the Act admitting the State to the Union on December 10, 1817, 3 Stat. 472, contained an identical provision.

This Court has stated repeatedly that "when the Revolution took place the people of each State became themselves sovereign and in that character hold the absolute right to all their navigable waters and the soils under them for their own common use, subject only to the rights since surrendered by the Constitution to the general government." *Martin v. Waddell*, 16 Pet. 367, 410 (41 U.S., 1842); *Pollard v. Hagan*, *supra*, at 229; *Shively v. Bowlby*, 152 U.S. 1, 16 (1893); *Borax Consolidated v. City of Los Angeles*, 296 U.S. 10 (1935). In *Pollard v. Hagan*, *supra*, at 230, this Court concluded, as follows:

First, The shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States, but were reserved to the States respectively. Second, the new States have the same rights, sovereignty, and jurisdiction over this subject as the original States. . . .

In *Shively v. Bowlby*, *supra*, at p. 27, this Court reiterated the holding in *Pollard v. Hagan* that "upon the admission of the state of Alabama into the Union the title in the lands below high water mark of navigable waters passed to the state, and could not afterwards be granted away by the Congress of the United States." The Court stated



further that "the United States never held any municipal sovereignty, jurisdiction, or right of soil, in and to the territory of which Alabama or any of the new states was formed; except for temporary purposes, and to execute the trusts created by the acts of the Virginia and Georgia legislatures, and the deeds of union executed by them to the United States, . . ." *Ibid.* It is clear, therefore, that when Mississippi entered the Union it became entitled, as an attribute of sovereignty, to the tidewaters and the soils under them within her boundaries, including the submerged lands between Mississippi's islands and mainland, in the Mississippi Sound. These are inland waters as described by this Court in *Louisiana v. Mississippi*, 202 U.S. 1, 48 (1905):

Mississippi's mainland borders on Mississippi sound. This is an enclosed arm of the sea, *wholly within the United States*, and formed by a chain of large islands, extending westward from Mobile, Alabama, to Cat Island. The openings from this body of water into the Gulf are neither of them 6 miles wide. Such openings occur between Cat Island and Isle a Pitre; between Cat and Ship islands; between Ship and Horn islands; between Horn and Petit Bois islands; between Petit Bois and Dauphin islands; between Dauphin island and the mainland on the west coast of Mobile bay. (Emphasis added).

These inland waters were never a part of the marginal or territorial sea since they were "wholly within the United States." This was also recognized by the United States in its brief (p. 254) filed in *United States v. Louisiana et al.*, 363 U.S. 1 (1960):

As in the case of Louisiana (*supra*, p. 177), we need not consider whether the language, "including the islands" etc., would of itself include the water area

intervening between the islands and the mainland (though we believe that it would not), because it happens that all the water so situated in Mississippi is in Mississippi Sound, which this Court has described as inland water. *Louisiana v. Mississippi*, 202 U.S. 1, 48. The bed of these inland waters passed to the State on its entry into the Union. *Pollard's Lessee v. Hagan*, 3 How. 212. Also, we agree that Mississippi has a marginal belt extending three miles seaward from the islands marking the outer limit of the inland waters of Mississippi Sound, under the ordinary application of the three-mile rule. Thus, the only practical issue between the United States and Mississippi is whether the statutory expression, "including all the islands within six leagues of the shore," described a water area (containing no islands) extending more than three miles seaward of the outermost islands off Mississippi. For the reasons stated, we submit that it did not.

Despite its admission that the Mississippi Sound was not an issue in the 1960 case, the United States through an interdepartmental committee has now taken the position that Mississippi Sound is international waters, both territorial sea and high seas, and that certain portions of the Sound are submerged lands over which the Federal Government has jurisdiction under the Outer Continental Shelf Lands Act (1953) to lease the soil beneath the waters for oil and gas exploration. The United States Department of Interior has published a map entitled "Outer Continental Shelf Official Protraction Diagram Mobile NH 16-4," dated December 21, 1977, purporting to claim such areas for the United States. A copy of such map is attached hereto as Exhibit 1. Attached hereto as Exhibit 2 is a copy of a letter dated January 27, 1978, to Mr. George Turcott, Acting Director, Bureau of Land Management, Washington, D.C.,

from A. F. Summer, Attorney General, State of Mississippi. Attached as Exhibit 3 is a copy of a letter dated February 16, 1978 to A. F. Summer, Attorney General, State of Mississippi, from John D. Tabb, Assistant Director, United States Department of the Interior, Bureau of Land Management, Washington, D. C. The United States Department of Interior, Bureau of Land Management, published in the *Federal Register*, Vol. 43, No. 178, September 13, 1978, a "Call for Nominations of and Comments on Areas for Oil and Gas Leasing", which included the above-mentioned map NH 16-4. Another call for nominations was published in the *Federal Register*, Vol. 44, No. 127, on June 29, 1979. Copies of such publications are attached as Exhibits 4 and 5, respectively. In each case a letter of protest was written by the Attorney General of the State of Mississippi, copies of which are attached as Exhibits 6 and 7, respectively. This spurious claim of the United States casts a cloud over Mississippi's sovereign title to such submerged lands and has caused the State to request this Court to clarify and define the coastline of Mississippi which was not decided by this Court in its 1960 decree.

## II.

Until this Court's decision in *United States v. California*, 332 U.S. 19 (1947), it had been assumed that the States owned the three-mile marginal belt along their coasts. In its decree this Court held:

1. The United States of America is now, and has been at all times pertinent hereto, possessed of paramount rights in, and full dominion and power over, the lands, minerals and other things underlying the Pacific Ocean lying seaward of the ordinary low-water mark on the coast of California, *and outside of the inland waters*, extending seaward three nautical miles and bounded

on the north and south, respectively, by the northern and southern boundaries of the State of California. The State of California has no title thereto or property interest therein. 332 U.S. 805. (Emphasis supplied).

As noted by the Court in a footnote at page 24 of the opinion, this case “involves land under the open sea, and not land under the inland waters of San Francisco Bay.” It is without question that the State acquired a vested right to its inland waters when it entered the Union. In its opinion this Court further explained:

We are not persuaded to transplant the *Pollard* rule of ownership as an incident of state sovereignty in relation to inland waters out into the soil beneath the ocean, so much more a matter of national concern. *Id.* at 36.

We have seen no evidence that the Federal Government, after the 1947 decision, asserted any claim over Mississippi Sound as being part of the territorial sea (marginal belt). Subsequently, in the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. §§1301-1315 (1953), Congress restored to the coastal states the marginal lands previously held to belong to the Federal Government, by the clause in Section 1311(a):

[T]itle to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters . . . are hereby . . . recognized, confirmed, established, and vested in and assigned to the respective States. . . .

Section 1301(a)(2) defined the term “lands beneath navigable waters” to include all lands covered by tidal waters “seaward to a line three geographical miles distant from the coastline of each such State.” Section 1301(b) defined

the term "boundaries" as including a State's boundaries in the Gulf of Mexico "as they existed at the time such State became a member of the Union," but emphasized that such boundaries could not extend from the coastline more than three marine leagues into the Gulf of Mexico. Section 1301(c) defined the term "coastline" as meaning "the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters."

In *Alabama v. Texas* and *Rhode Island v. Louisiana*, 347 U.S. 272 (1954), this Court held that the Submerged Lands Act was constitutional and that Congress had the power to dispose of the marginal lands as "public lands" under Article 4, §3, Cl. 2 of the Constitution. It has also held that tidelands and submerged lands under tidewaters and inland navigable waters are not "public lands" in the sense that they may be disposed of by Congress since they belong to the States as an inherent attribute of sovereignty. *Pollard v. Hagan*, *supra*; *Barney v. Keokuk*, 94 U.S. 324, 338 (1877); *Shively v. Bowlby*, 152 U.S. 1, 49; *Mann v. Tacoma Land Co.*, 153 U.S. 273, 284 (1894); *Borax Consolidated, Ltd. v. Los Angeles*, 296 U.S. 10, 17.

Since it had already been recognized by this Court in the 1905 case of *Louisiana v. Mississippi*, 202 U.S. 1, 48, that Mississippi Sound is inland waters of the State of Mississippi, when the Submerged Lands Act was passed Congress had no rights in the submerged lands of Mississippi Sound to confer on the State of Mississippi, which had acquired title to such lands on its entry into the Union in 1817. It is clear that Congress by the Submerged Lands Act intended to grant to Mississippi merely the three-mile marginal or territorial sea extending from the seaward side of the barrier islands *into the Gulf of Mexico*. These

islands have at all relevant times been the outer limits of the United States inland waters in an international sense.

In *United States v. Louisiana et al.*, this Court in its opinion, 363 U.S. 1, 83 (1960), and decree, 364 U.S. 502, 503 (1960), held that Mississippi was entitled to all the lands, minerals and other natural resources underlying the Gulf of Mexico, extending seaward from its coastline for a distance of three geographical miles, and the United States was not entitled, as against such State, to any interest in such lands, minerals or resources, with the exceptions provided by §5 of the Submerged Lands Act, 3 U.S.C. §1313. The opinion and decree, however, did not relate to the placement of the seaward boundary of the State or of its coastline, since this was not an issue in that case. As the Court stated:

We must hold that Mississippi is not entitled to rights in submerged lands lying beyond three geographical miles from its coast. 363 U.S. at 82.

and in footnote No. 135 (363 U.S. at 82), the Court stated:

We express no opinion at this time on the location of Mississippi's coastline. See note 108, *ante*.

However, the Court indicated in its opinion that the baseline for measuring the three-mile territorial sea in the Gulf of Mexico was "the line of ordinary low-water mark and outer limit of inland waters." 363 U.S. at 83.

By the Act of March 1, 1817, Congress authorized the creation of the State of Mississippi, specifically setting out its boundaries, in part, as follows: "thence due south to the Gulf of Mexico, thence westwardly, *including all the islands within six leagues of the shore*, to the most eastern junction of Pearl River with Lake Borgne." 3 Stat. 348 (1817) (Emphasis added). This provision is similar, ex-

cept for the distance, to the one in the Louisiana Act of Admission.

In its opinion this Court stated:

We have already held with respect to Louisiana's claim to a three-league maritime boundary that an Act of Admission which refers to all islands within a certain distance of the shore does not appear *on its face* to mean to establish a boundary line that distance from the shore, including all waters and submerged lands as well as all islands. There is nothing in Mississippi's history, just as there is nothing in Louisiana's, to cause us to depart from that conclusion in this instance. 363 U.S. at 81. (Emphasis added)

While the description of boundaries in each Act might not *on its face* (i.e., without further clarification) include all waters and submerged lands as well as all islands, the Court pointed out in Footnote 108 referred to above:

The Government concedes that all the islands which are within three leagues of Louisiana's shore and therefore belong to it under the terms of its Act of Admission, happen to be so situated that the waters between them and the mainland are sufficiently enclosed to constitute inland waters. Thus, Louisiana is entitled to the lands beneath those waters quite apart from the affirmative grant of the Submerged Lands Act, under the rule of *Pollard's Lessee v. Hagan*, 3 How. 212. Furthermore, since the islands enclose inland waters, a line drawn around those islands and the intervening waters would constitute the "coast" of Louisiana within the definition of the Submerged Lands Act. Since that Act confirms to all states rights in submerged lands three miles from their coasts, the Government concedes that Louisiana would be entitled not only to the inland waters en-

closed by the islands, but to an additional three miles beyond those islands as well. We do not intend, however, in passing on these motions, to settle the location of the coastline of Louisiana or that of any other State. 363 U.S. at 67.

### III.

Early maps of Mississippi, copies of which are attached hereto as Exhibits 8 and 9, show Mississippi Sound as "Pascagoula Bay."

Mississippi submits that both history and legal precedent support its title to the waters of Mississippi Sound as inland waters of the State. Even if this were not so, however, these waters would qualify as a "historic bay", and hence inland waters of the State, under the Submerged Lands Act as interpreted by this Court applying the principles of the international Convention on the Territorial Sea and the Contiguous Zone. The term "inland waters" is not defined in the Submerged Lands Act, but this Court has held that the definition of "inland waters", *as used in the Act*, should conform to the international Convention on the Territorial Sea and the Contiguous Zone. (U. N. Doc. A/C.13/L.52 (1958)). *United States v. California*, 381 U.S. 139, 165 (1965). By the terms of the Convention "historic bays" are an exception to the 24-mile closing rule for bays. The term "historic bay" is not defined in the Convention. However, the Court stated: "Essentially these are bays over which a coastal nation has traditionally asserted and maintained dominion with the acquiescence of foreign nations." *Id.* at 172. Mississippi contends that all of the waters of Mississippi Sound meet this test. It is similar to the Breton and Chandeleur Sounds off Louisiana which the United States has recognized as inland waters in that the Mississippi Sound leads only to Lake Borgne, an inland sea, *a cul de sac*. *Id.* at 171.



The United States has indicated on published maps (attached hereto) certain areas in Mississippi Sound as "territorial sea" and as "high seas", the latter right in the middle of Mississippi Sound, which amounts to a disclaimer on the part of the United States to these areas as part of the continental United States vis-a-vis foreign nations. Mississippi challenges the United States to show that since 1817 these were ever considered international waters in which foreign vessels could come and go as they pleased. *United States v. State of Alaska*, 422 U.S. 184, 197, 203 (1975). This Court has rejected this type of claim by the United States, by stating unequivocally:

The national responsibility for conducting our international relations obviously must be accommodated with the legitimate interests of the States in the territory over which they are sovereign. *Thus a contraction of a State's recognized territory imposed by the Federal Government in the name of foreign policy would be highly questionable.* But an extension of state sovereignty to an international area by claiming it as inland water would necessarily also extend national sovereignty and unless the Federal Government's responsibility for questions of external sovereignty is hollow, it must have the power to prevent States from so enlarging themselves. *United States v. California, supra*, at 168. (Emphasis added).

In *Louisiana v. Mississippi*, 202 U.S. 1, 18 (1905), the Court noted that Mississippi alleged that it "had 'exercised sovereignty and jurisdiction over said waters within 18 miles of her shore aforesaid,' and that by her statutes, as codified in 1857, had asserted such jurisdiction. And that, by the legislation of Congress and the state, the 'Mississippi sound' was recognized as a body of water, 6 leagues wide, wholly within the State of Mississippi, from Lake Borgne to the Alabama line, separate and dis-

tinct from 'the Gulf of Mexico.'” This case concerned a boundary dispute between Louisiana and Mississippi brought about by enforcement of the oyster legislation of the two States against non-resident oyster fishermen in the waters of Mississippi Sound. Each State passed a law establishing patrol boats and maintaining armed patrol on these waters. The State of Mississippi passed a law controlling her oyster waters and oyster industry. Laws 1902, Chapter 58. “This act created a state oyster commission, vested with entire control of the Mississippi oyster industry. It took the control of the industry out of the hands of the coast county authorities and centralized it in this state department, which was authorized to *establish a system of patrol of the Mississippi oyster waters, and to main patrol boats to sustain the oyster laws in her territory.*” *Id.* at 34. (Emphasis added). This law presumably applied to all vessels, whether domestic or foreign, caught oystering in Mississippi waters and was an assertion of power over such vessels and navigation. *United States v. Alaska, supra*, at 197. The State has continuously asserted jurisdiction by statute (§§49-15-1 et seq., Mississippi Code of 1972) over commercial fishing, including oysters and shrimp, in the waters of Mississippi Sound. Inspectors qualified as peace officers enforce these laws.

Furthermore, in 1959 and 1964, Mississippi exercised its authority over the Mississippi Sound by granting oil and gas leases covering the entire area of the Sound.

Thus, based on the available evidence, we submit that Mississippi Sound meets the requirements for a “historic bay” or “historic waters” for purposes of the Submerged Lands Act. In accordance with principles outlined in *United States v. Alaska, supra*, at 189, Mississippi has exercised sovereignty over this area; that exercise has been continuous; and since 1817 no foreign state has ever

used these waters as high seas or even territorial seas, thus recognizing the legal status of these waters as "internal waters." See also "Juridical Regime of Historical Waters, Including Historical Bays", 2 Yearbook of the International Law Commission, 1962, p. 25 (U. N. Doc. A/CN. 4/143).

#### IV.

We have shown earlier in this Memorandum that not only has the Federal Government in its 1960 Brief admitted that Mississippi Sound is inland waters of the State of Mississippi but this fact has also been recognized since 1905 by this Court in *Louisiana v. Mississippi*, *supra*. In addition, the Mississippi Sound qualifies as a "historic bay" under the Submerged Lands Act and likewise marks the seaward limit of inland waters.

Therefore, we submit that the barrier islands enclosing Mississippi Sound represent the outer limit of inland waters for the purposes of the Submerged Lands Act and Mississippi is entitled to have this Court designate its "coastline" as extending from the line of ordinary low watermark on the seaward side of such islands a distance of three geographical miles into the Gulf of Mexico.

A. F. SUMMER

Attorney General  
State of Mississippi

P. O. Box 220  
Jackson, Mississippi 39205

JEAN R. RICHEY

Assistant Attorney General

P. ROGER GOOGE, JR.

Assistant Attorney General

C. BRADSHAW FARBER

Special Assistant Attorney General

**PROOF OF SERVICE**

I. A. F. Summer, Attorney General of the State of Mississippi, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the 31st day of October, 1979, I served copies of the foregoing Motion, Proposed Decree and Memorandum on the several parties to said cause as follows:

(1) On the United States, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to the Solicitor General of the United States, Department of Justice Building, Washington, D. C. 20530, and

(2) On the States of Alabama, Florida, Louisiana and Texas, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to their respective Attorneys General at their addresses as follows:

Attorney General of Alabama  
State Administrative Building  
Montgomery, Alabama 36130

Attorney General of Florida  
State Capitol  
Tallahassee, Florida 32304

Attorney General of Louisiana  
State Capitol, P. O. Box 44005  
Baton Rouge, Louisiana 70804

Attorney General of Texas  
Capitol Station, P. O. Box 12548  
Austin, Texas 78711

A. F. SUMMER  
Attorney General of Mississippi

**EXHIBIT 2**

Department of Justice  
OFFICE OF THE ATTORNEY GENERAL  
Jackson, Mississippi 39205

A. F. Summer  
Attorney General

January 27, 1978

Mr. George Turcott, Acting Director  
Bureau of Land Management  
18th & C Streets N. W.  
Washington, D. C. 20240

Dear Mr. Turcott:

I note that you have recently published a map Mobile NH 16-4, entitled "United States Department of the Interior, Bureau of Land Management, Outer Continental Shelf Official Protraction Diagram," and that such map shows certain odd-shaped enclosures subdivided into leasing blocks in Mississippi Sound, apparently indicating that these are Federal waters.

As Attorney General of the State of Mississippi, I hereby notify you that the State of Mississippi disagrees with and takes exception to this unauthorized unilateral assumption by a Federal agency of jurisdiction over State lands underlying the Mississippi Sound. We regard it as a well-established and long-recognized fact that the waters of Mississippi Sound are historic inland waters and for this and other reasons we consider that they are within the territorial boundaries of the State of Mississippi in their entirety.

We reiterate our objection to this map and would appreciate your advising us as to the basis for your conclusions which resulted in the issuance of this map.

Sincerely yours,

/s/ A. F. Summer

A. F. Summer

Attorney General

AFS:db

cc: Mr. Bernard W. Hostrop, Chief  
Division of Cadastral Survey

**EXHIBIT 3**

In Reply Refer to: 9640.2 (420)

UNITED STATES DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Washington, D.C. 20240

FEB 16 1978

Mr. A. F. Summer  
Attorney General  
Jackson, Mississippi 39205

Dear Mr. Summer:

This responds to your letter of January 27, 1978, regarding our Outer Continental Shelf Official Protraction Diagram "Mobil NH 16-4," dated December 21, 1977.

This OCS Official Protraction Diagram with the lease blocks depicted thereon reflects the official position of the Federal Government at the time of its publication on the extent of the U.S. territorial sea and contiguous zone. We might add, however, that these diagrams are subject to revision if satisfactory evidence is furnished that the depiction is incorrect due to geographic or legal factors.

We will examine any evidence you may care to submit to determine if we have incorrectly included the areas within Mississippi Sound as being subject to Federal jurisdiction.

Sincerely yours,

/s/ (Illegible)

Acting Assistant Director

**EXHIBIT 4**

Federal Register, Vol. 43, No. 178—Wednesday,  
September 13, 1978

[4310-84]

**DEPARTMENT OF THE INTERIOR**

Bureau of Land Management

**WESTERN AND CENTRAL GULF OF MEXICO OUTER  
CONTINENTAL SHELF (TENTATIVE SALE NO.  
62)**

**Call for Nominations of and Comments on  
Areas for Oil and Gas Leasing**

Pursuant to the authority prescribed in 43 CFR 3301.3, nominations are hereby requested for areas on the Gulf of Mexico Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343). Nominations will be considered for any or all of that part of the following mapped areas seaward of the submerged lands of the adjacent States.

1. Outer Continental Shelf Leasing Maps—Texas Nos. 1 through 8.

These maps are arranged in two sets (Nos. 1 through 4-7 maps, which sells for \$5 per set and nos. 5 through 8-9 maps, which will sell for \$7 per set).

2. Outer Continental Shelf Leasing Maps—Louisiana Nos. 1 through 12.

This is a set of 27 maps which sells for \$17.



3. Outer Continental Shelf Official Protraction Diagrams:

- NG 14-3—Corpus Christi.
- NG 14-6—Port Isabel.
- NG 15-1—East Breaks.
- NG 15-2—Garden Banks.
- NG 15-12—Ewing Bank.
- NG 15-3—Green Canyon.
- NH 16-4—Mobile.
- NH 16-7—Viosca Knoll.
- NH 16-10—Mississippi Canyon.

These official protraction diagrams may be purchased individually for \$2 each.

All these maps and diagrams may be purchased from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130.

All nominations must be described in accordance with the Outer Continental Shelf Leasing Maps or Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

Those nominating 12 blocks or more that they wish to see considered for offering in this proposed lease sale, are requested to arrange their nominations into 3 groups according to the priority of their interest.

In addition to requesting nominations of blocks for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular blocks recommended to be either specifically excluded from oil

and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socioeconomic, or other information which might bear upon potential leasing and development of particular blocks is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State, and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than November 10, 1978, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf-Western and Central Gulf of Mexico," or "Comments on Leasing in the Outer Continental Shelf-Western and Central Gulf of Mexico," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Conservation Manager, Gulf of Mexico OCS Operations, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, La. 70011 and to the Manager, New Orleans

Outer Continental Shelf Office, Bureau of Land Management at his New Orleans address cited above.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Dated: September 5, 1978

Frank Gregg,  
Director, Bureau of Land  
Management.

Dated: September 5, 1978.

Heather L. Ross,  
Deputy Assistant Secretary  
of the Interior.

[FR Doc. 78-25804 Filed 9-12-78; 8:45 am]

**EXHIBIT 5**

[Tentative Sales No. A66 and 66]

Gulf of Mexico; Call for Nominations of and Comments on Areas for Oil and Gas leasing

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resource development with the protection of the human, marine and coastal environments, as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3301.3, nominations are hereby requested for areas on the Gulf of Mexico, Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 as amended). Pursuant to 43 CFR 3301.4, the Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas. Nominations for two proposed sales are being solicited in one Call.

**Description of Areas**

Nominations will be considered for any or all of the blocks seaward of the submerged lands of the adjacent States which are to be found on the Official Protraction Diagrams and Leasing Maps listed below.

These blocks may be found on Outer Continental Shelf Official Protraction Diagrams and Leasing Maps which may be purchased from the Manager, New Orleans OCS Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130, as follows:

### OCS Leasing Maps

		Latest approval or revision date
<hr/> South Texas set                      \$5.00 This set		
1	South Padre Island Area .....	7/16/54
1A	South Padre Island Area East Addition ....	5/6/65
2	North Padre Padre Island Area .....	7/16/54
2A	North Padre Padre Island Area East Addition .....	5/6/65
3	Mustang Padre Island Area .....	10/31/61
3A	Mustang Island Padre Area East Addition	1/23/67
4	Matagorda Padre Island Area .....	7/16/54
<hr/> East Texas Set                      \$7.00 This Set		
5	Brazos Area .....	7/16/54
5B	Brazos Area South Addition .....	9/24/59
6	Galveston Area .....	7/16/54
6A	Galveston Area South Addition .....	9/24/59
7	High Padre Island Area .....	8/55
7A	High Island Area East Addition .....	1/23/67
7B	High Island Area South Addition .....	9/24/59
7C	High Padre Island Area East Addition South Extension .....	9/24/59
8	Sabine Pass Area .....	3/7/77

## Louisiana Set      \$17.00 This Set

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1	West Cameron Area .....	7/22/54
1A	West Cameron Area West Addition .....	1/30/57
1B	West Cameron Area South Addition .....	9/8/59
2	East Cameron Area .....	8/1/73
2A	East Cameron Area South Addition .....	9/8/59
3	Vermilion Area .....	7/22/54
3A	South Marsh Island Area .....	8/7/59
3B	Vermilion Area South Addition .....	9/8/59
3C	South Marsh Island Area South Addition .....	9/8/59
3D	South Marsh Island Area North Addition .....	1/18/72
4	Eugene Island Area .....	7/22/54
4A	Eugene Island Area South Addition .....	9/8/59
5	Ship Shoal Area .....	6/8/54
5A	Ship Shoal Area South Addition .....	9/8/59
6	South Timbalier, South Pelto, and Bay Marchand Areas .....	12/9/54
6A	South Timbalier Area South Addition ....	7/22/68
7	Grand Isle Area .....	6/8/54
7A	Grand Isle Area South Addition .....	3/7/61
8	West Delta Area .....	6/8/54
8A	West Delta Area South Addition .....	11/24/61
9	South Pass Area .....	5/11/73
9A	South Pass Area South and East Addition .....	9/8/59
10	Main Pass and Breton Sound Areas .....	7/22/54
10A	Main Pass Area South and East Addition .....	9/8/59
11	Chandeleur Area .....	7/22/54
11A	Chandeleur Area East Addition .....	9/8/59
12	Sabine Pass Area .....	3/7/77

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OCS Official Protraction Diagrams  
\$2.00 Per Map

Gulf of Mexico		Latest approval or revision Date
NG 14-3	Corpus Christi .....	1/27/76
NG 14-6	Fort Isabel .....	1/27/76
NG 15-1	East Breaks .....	1/27/76
NG 15-2	Garden Banks .....	12/2/76
NG 15-3	Green Canyon .....	12/2/76
NG 15-4	Alaminos Canyon .....	3/26/76
NG 15-5	Keathley Canyon .....	12/2/76
NG 15-6	Walker Ridge .....	12/2/76
NG 16-1	.....	12/2/76
NG 16-2	.....	12/2/76
NG 16-3	The Elbow .....	12/2/76
NG-16-4	.....	12/2/76
NG 16-5	.....	12/2/76
NG 16-6	.....	12/2/76
NG 17-1	St. Petersburg .....	12/2/76
NG 17-4	Charlotte Harbor .....	12/2/76
NH 15-12	Ewing Bank .....	12/2/76
NH 15-4	Mobile .....	12/21/77
NH 16-5	Pensacola .....	12/2/76
NH 16-7	Viosca Knoll .....	12/2/76
NH 16-8	Destin Dome .....	12/2/76
NH 16-9	Apalachicola .....	1/15/76
NH 16-10	Mississippi Canyon .....	12/2/76
NH 16-11	De Soto Canyon .....	12/2/76
NH 16-12	Florida Middle Ground .....	12/2/76
NH 17-7	Gainesville .....	1/27/76
NH 17-10	Tarpon Springs .....	12/2/76

## Instructions on Call

Nominations must be described by referring to the Outer Continental Shelf official Protraction Diagrams and Leasing Maps prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks may be nominated. Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks where available. Comments should be specific as possible in identifying individual blocks or areas which should receive special concern and analysis.

Nominations and comments must be submitted not later than August 31, 1979, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—Gulf of Mexico" or "Comments on Leasing in the Outer Continental Shelf—Gulf of Mexico", as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies should be sent to the Conservation Manager, U.S. Geological Survey, Gulf of Mexico Area, P.O. Box 7944, Metairie, Louisiana 70010, and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130.

## Use of Information From Call

Nominations will be evaluated and used along with other geologic and geophysical information to determine



what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographic scope of areas which can be successfully planned for a single sale, only a portion of the tracts nominated are selected for further environmental analysis and possible leasing. The nominations from this call will be used to develop two separate sales in the Gulf of Mexico.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analysis does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental, or use conflicts. It simply insures that more information will be available when that decision is made. In performing the additional environmental analysis leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will

be published in the Federal Register stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.  
June 26, 1979.

Approved.

Heather L. Ross,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-20277 Filed 6-28-79; 8:45 am]

Billing Code 4310-84-M

**EXHIBIT 6**

Department of Justice  
**OFFICE OF THE ATTORNEY GENERAL**  
Jackson, Mississippi 39205

A. F. Summer  
Attorney General

October 10, 1978

Mr. Frank Gregg, Director  
Attention 720  
Bureau of Land Management  
Department of the Interior  
Washington, D.C. 20240

Dear Sir:

Subject: Comments on Leasing in the Outer Continental  
Shelf Western and Central Gulf of Mexico (Tentative Sale No. 62)

This letter is written in response to Department of Interior, Bureau of Land Management "Call for Nominations of and Comments on Areas for Oil and Gas Leasing", Western and Central Gulf of Mexico, Outer Continental Shelf (Tentative Sale No. 62), published in the Federal Register, Volume 43, No. 178, on Wednesday, September 23, 1978.

Particular reference is made to Outer Continental Shelf Official Protraction Diagram NH 16-4 which shows certain blocks located in Mississippi Sound on which nominations for possible oil and gas leasing will be considered: 629, 630, 631, 632, 633, 671, 672, 673, 674, 675, 676, 677, 678, 679, 681, 718, 719, 720, 722, 729, 730.

As Attorney General of the State of Mississippi, I hereby notify you that the State of Mississippi requests that the above-mentioned blocks be excluded from oil and gas leasing by the Bureau of Land Management for the reason that such blocks are located in Mississippi Sound, the entire area of which is inland waters of the State of Mississippi and not subject to oil and gas leasing by a Federal agency.

Sincerely yours,

/s/ A. F. Summer

A. F. Summer

Attorney General

AFS:JRR:db

cc: Conservation Manager  
Gulf of Mexico OCS Operations  
Geological Survey  
Suite 336  
Imperial Office Building  
3301 North Causeway Boulevard  
Metairie, Louisiana 70011

Manager  
New Orleans Outer Continental Shelf Office  
Bureau of Land Management  
Suite 841  
Hale Boggs Federal Building  
500 Camp Street  
New Orleans, Louisiana 70130

**EXHIBIT 7**

Department of Justice  
**OFFICE OF THE ATTORNEY GENERAL**  
Jackson, Mississippi 39205

A. F. Summer  
Attorney General

August 20, 1979

Director  
Attention 720  
Bureau of Land Management  
Department of the Interior  
Washington, D.C. 20240

Dear Sir:

Subject: Comments on Leasing in the Outer Continental  
Shelf - Gulf of Mexico (Tentative Sales No.  
66 and A66)

This letter is written in response to Department of Interior, Bureau of Land Management "Gulf of Mexico; Call for Nominations of and Comments on Areas for Oil and Gas Leasing", Outer Continental Shelf (Tentative Sales No. 66 and A66), published in the Federal Register, Volume 44, No. 127, on Friday, June 29, 1979.

Particular reference is made to Outer Continental Shelf Official Protraction Diagram NH 16-4 which shows certain blocks located in Mississippi Sound on which nominations for possible oil and gas leasing will be considered: 629, 630, 631, 632, 633, 671, 672, 673, 674, 675, 676, 677, 678, 679, 681, 718, 719, 720, 722, 729, 730.

As Attorney General of the State of Mississippi, I hereby notify you that the State of Mississippi requests

that the above-mentioned blocks be excluded from oil and gas leasing by the Bureau of Land Management for the reason that such blocks are located in Mississippi Sound in inland waters of the State of Mississippi and not subject to oil and gas leasing by a Federal agency.

Sincerely yours,

/s/ A. F. Summer

A. F. Summer

Attorney General

AFS:JRR:db

cc: Conservation Manager  
U.S. Geological Survey  
Gulf of Mexico Area  
P. O. Box 7944  
Metairie, Louisiana 70010

Manager  
New Orleans Outer Continental Shelf Office  
Bureau of Land Management  
Hale Boggs Federal Building  
500 Camp Street  
Suite 841  
New Orleans, Louisiana 70130

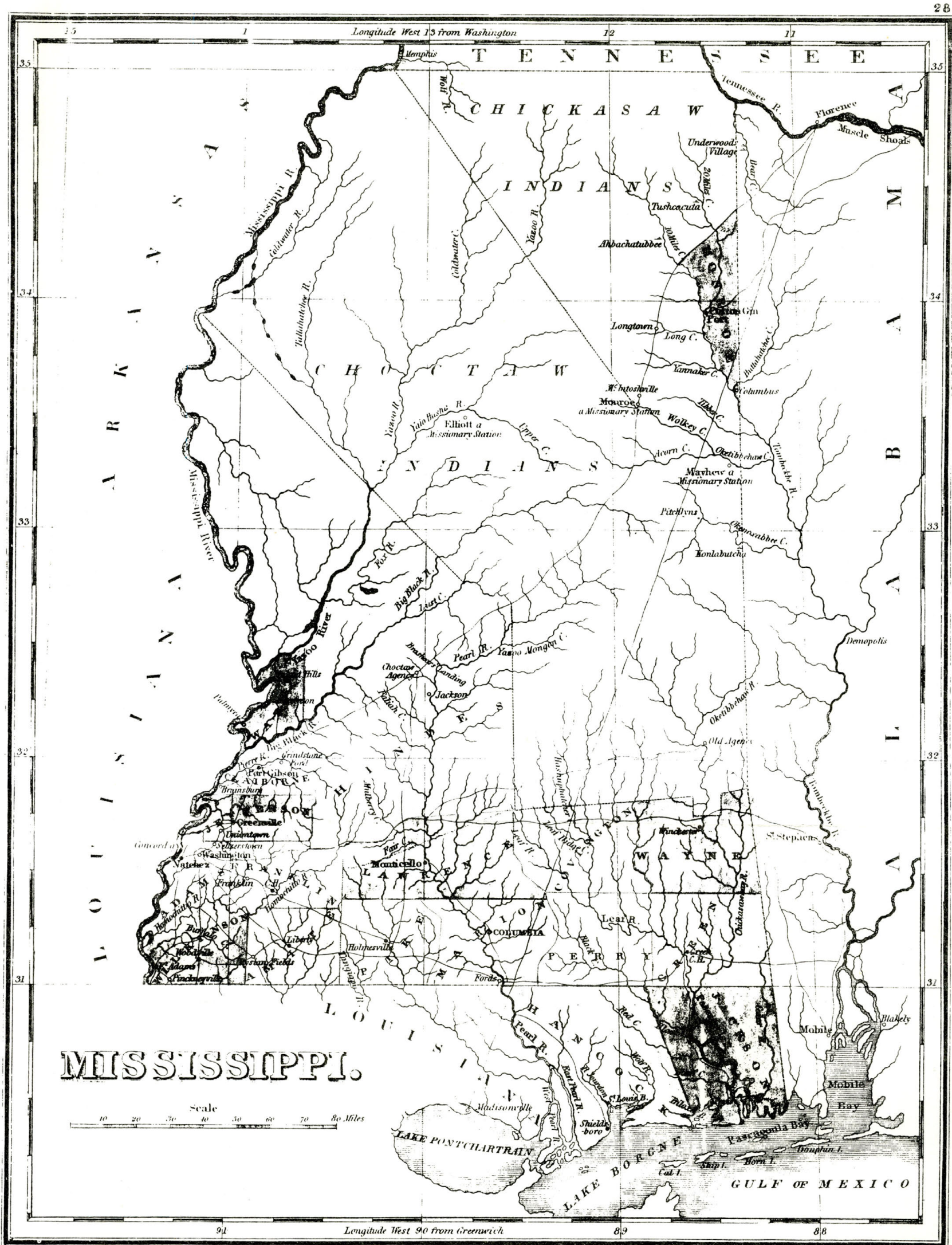












Published by A. Finley Philad<sup>a</sup>

Young & Diller Sc.

Reprinted by Mississippi Historical Society, 1974

EARLY STATEHOOD, ca. 1822

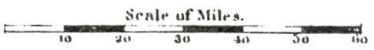
Exhibit 8





A NEW MAP  
OF  
**MISSISSIPPI**  
WITH ITS  
ROADS & DISTANCES.

PUBLISHED BY  
**THOMAS, COWPERTHWAIT & Co.**  
N° 253 Market Street Philadelphia.



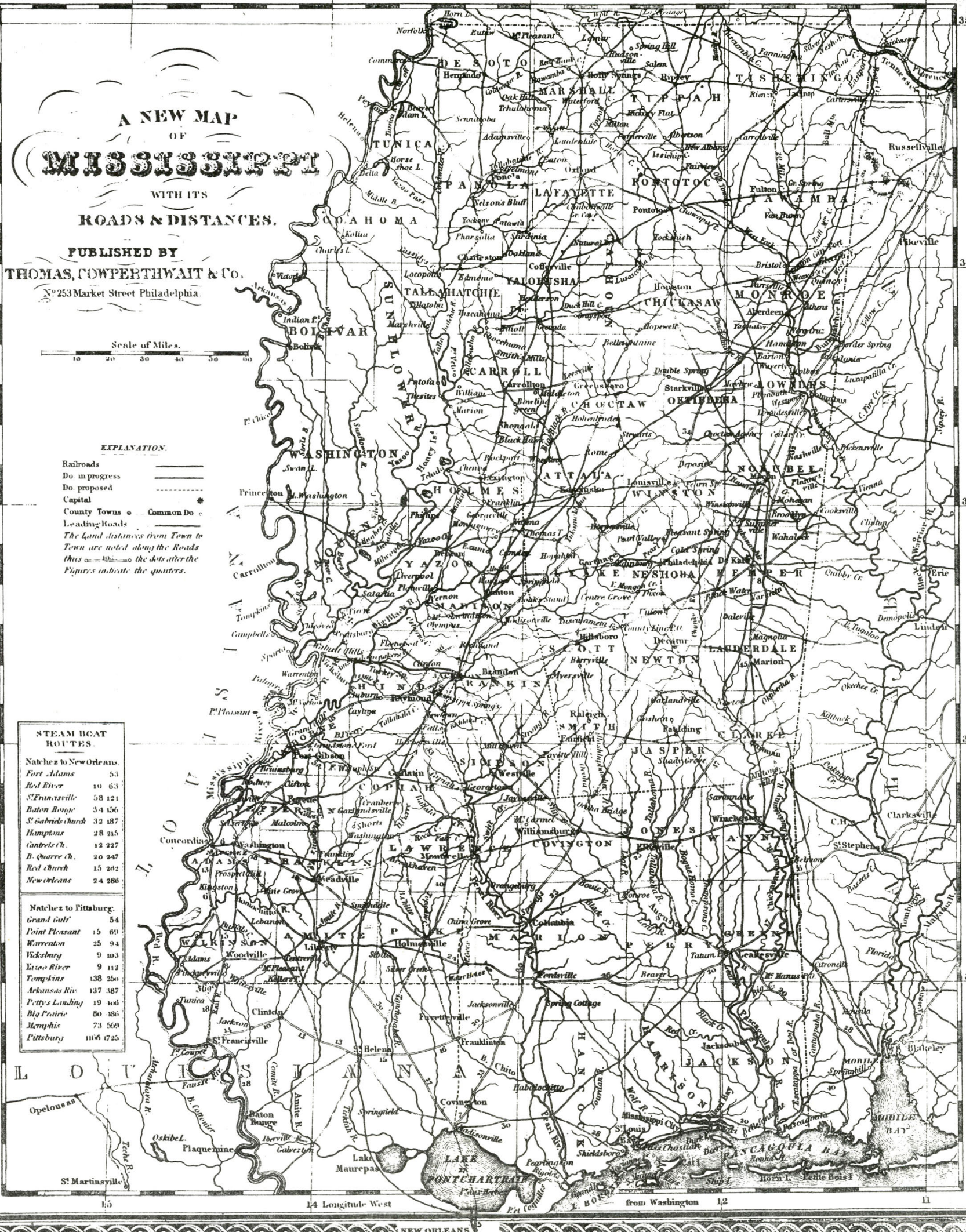
EXPLANATION.

- Railroads
  - Do in progress
  - Do. proposed
  - Capital
  - County Towns
  - Common Do.
  - Leading Roads
- The land distances from Town to Town are noted along the Roads thus — the dots after the Figures indicate the quarters.

STEAM BOAT ROUTES.

Natchez to New Orleans.	
Fort Adams	53
Red River	10 63
S. Francisville	58 121
Baton Rouge	34 156
S. Gabriel Church	32 187
Hampton	28 215
Centels Ch.	12 227
B. Quarry Ch.	20 247
Red Church	15 262
New Orleans	24 286

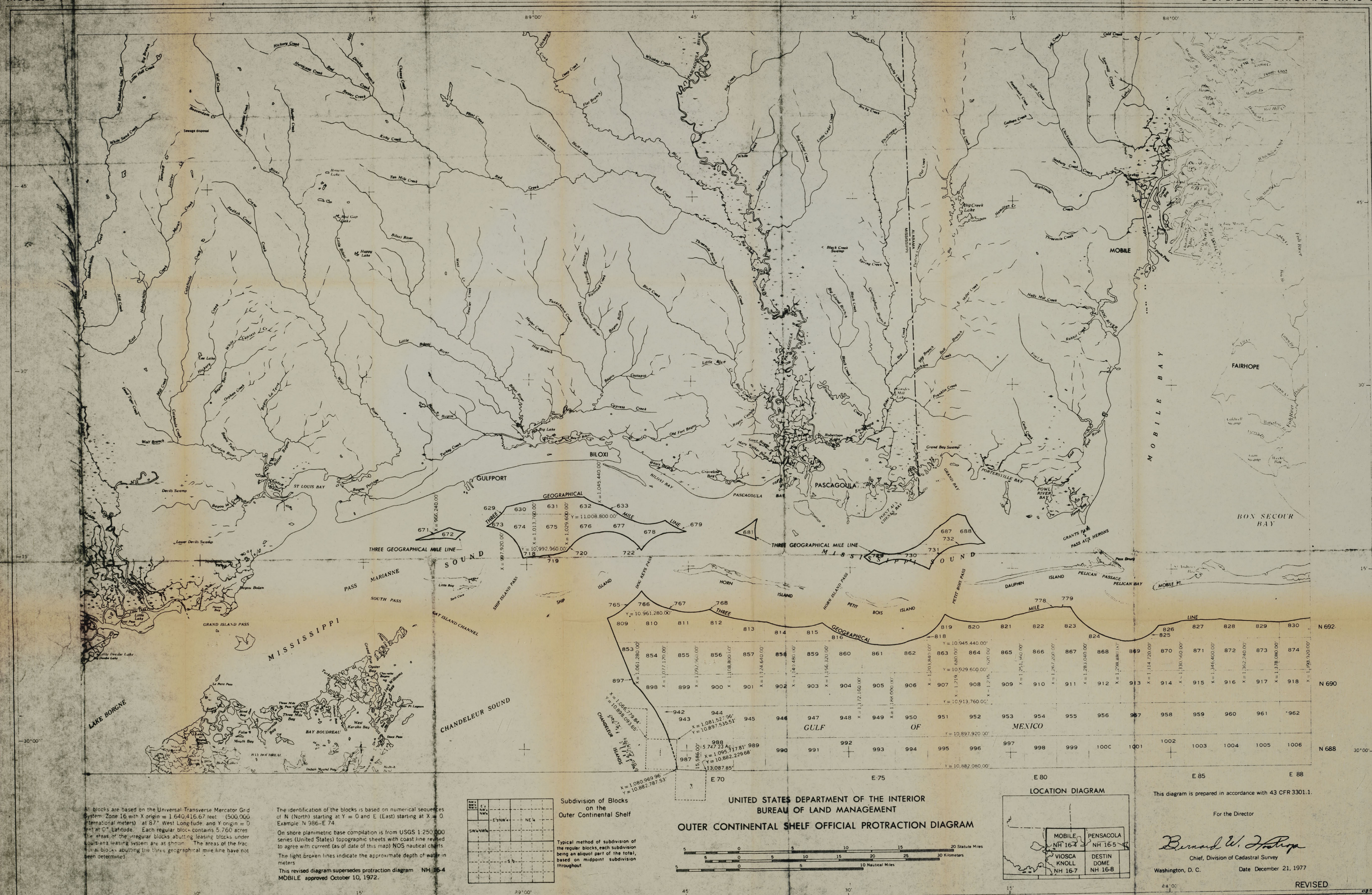
Natchez to Pittsburg.	
Grand Gulf	54
Point Pleasant	15 69
Warrenton	25 94
Vicksburg	9 103
Etowah River	9 112
Tompkins	138 250
Arkansas Riv.	137 387
Petty's Landing	19 403
Big Prairie	80 486
Memphis	73 559
Pittsburg	106 625













**EXHIBIT 1**

**EXHIBIT 8**

**EXHIBIT 9**



