

Environmental Services, Water Permits Division, P.O. Box 4314, Baton Rouge, LA 70821-4314. Electronic comments may be submitted via e-mail to wq_standards@la.gov.

Written responses to the comments will not be provided. Progress on the triennial review will be communicated to the public through the Water Permits Division, Water Quality Standards and Assessment webpage, (<http://www.deq.louisiana.gov/portal/DIVISIONS/WaterPermits/WaterQualityStandardsAssessment.aspx>). Any proposed revisions to the WQS resulting from the review will be subject to the rulemaking provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Herman Robinson
General Counsel

1601#022

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill: Final Phase V Early Restoration Plan and Environmental Assessment

ACTION:

Notice of Availability of Final Early Restoration Plan

SUMMARY:

In accordance with the Oil Pollution Act of 1990 (OPA), the Louisiana Oil Spill Prevention and Response Act (OSPR), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill, notice is hereby given that the federal and state natural resource trustee agencies (trustees) have approved the Phase V Early Restoration Plan and Environmental Assessment (Phase V ERP/EA) describing the first phase of an early restoration project (Florida Coastal Access Project)¹ intended to continue the process of restoring natural resources and services injured or lost as a result of the *Deepwater Horizon* oil spill, which occurred on or about April 20, 2010, in the Gulf of Mexico. The trustees have selected the first phase of the Florida Coastal Access Project, which is consistent with the early restoration program alternatives selected in the Final Phase III Early Restoration Plan/Programmatic Environmental Impact Statement (Phase III ERP/PEIS). The Phase V ERP/EA also includes notices of change and supporting analyses for two Phase III Early Restoration Projects, “Strategically Provided Boat Access Along Florida’s Gulf Coast—City of Port St. Joe, Frank Pate Boat Ramp Improvements” and “Florida Artificial Reef Creation and Restoration”. The purpose of this notice is to inform the public of the availability of the Final Phase V ERP/EA.

ADDRESSES:

Obtaining the Document: You may download the Final Phase V ERP/EA at <http://la-dwh.com/EarlyRestorationPlanning.aspx> and <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the document (see “For Further Information Contact” section below). You may

also review copies of the document at the public facilities listed at <http://la-dwh.com/EarlyRestorationPlanning.aspx> and <http://www.gulfspillrestoration.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Nanciann Regalado at (404) 679-4161 or nanciann_regalado@fws.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP) in the Macondo prospect (Mississippi Canyon 252—MC 252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed for a period of over three months. The *Deepwater Horizon* Oil Spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1,000,000 gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The trustees are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 et seq.). Pursuant to OPA, federal and state agencies and Indian tribes may act as trustees on behalf of the public to assess natural resource injuries and losses, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. For the *Deepwater Horizon* oil spill, designated trustees in four Federal agencies and all five Gulf States—Alabama, Florida, Louisiana, Mississippi, and Texas—have been working together to assess natural resource injuries and prepare a series of restoration plans described below.

The trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (USEPA);
- state of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator’s Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- state of Mississippi Department of Environmental Quality;

- state of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- state of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- for the state of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Background

In the April 20, 2011 framework agreement, BP agreed to provide to the trustees up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The framework agreement represents a preliminary step toward the restoration of injured natural resources and is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The framework agreement provides a mechanism through which the trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the trustees’ natural resource damages claim. Early restoration is not intended to and does not fully address all injuries caused by the *Deepwater Horizon* oil spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses, including recreational use losses, from the *Deepwater Horizon* oil spill.

A notice of availability of the Draft Phase V Early Restoration Plan and Environmental Assessments (Draft Phase V ERP/EAs) was published in the *Louisiana and Federal Registers* on November 20 and December 1, 2015, respectively. The trustees provided the public with a 30-day period to review the Draft Phase V ERP/EA, and held one public meeting in Panama City, FL. The trustees considered the public comments received, which informed the trustees’ analyses and selection of the early restoration project in the final Phase V ERP/EA. A summary of the public comments received, and the Trustees’ responses to those comments, are addressed in chapter 4 of the final Phase V ERP/EA.

In four previous phases, the trustees selected, and BP agreed to fund, a total of 64 early restoration projects expected to cost a total of approximately \$832 million. The trustees selected these projects after public notice, public meetings, and consideration of public comments, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA), Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER), the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III ERP/PEIS), and the Phase IV Early Restoration Plan/Environment Assessments (Phase IV ERP/EA).

The trustees released the Phase I ERP/EA on April 20, 2012 and the Phase II ERP/ER on February 5, 2013. The Trustees released the Phase III ERP/PEIS on June 26, 2014, and subsequently approved that plan and programmatic EIS in a record of decision on October 31, 2014. The Trustees released the Phase IV ERP/EA on September 23, 2015.

These plans are available at: <http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/> and <http://la-dwh.com/earlyrestorationplanning.aspx>.

Overview of the Draft Phase V ERP/EA

The Final Phase V ERP/EA is being released in accordance with OPA, the natural resource damage assessment (NRDA) regulations found in the *Code of Federal Regulations* (CFR) at 15 CFR 990, the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill. The trustees approved the first phase of the Florida Coastal Access Project in the Phase V ERP/EA. The total estimated cost for the first phase of the Florida Coastal Access Project is \$34,372,184, and the total estimated cost of the entire Florida Coastal Access Project is \$45,415,573. The trustees may propose in an additional future phase similar restoration activities that would utilize the remaining \$11,043,389, if approved. Details on the first phase of the Florida Coastal Access Project are provided in the Phase V ERP/EA.

The first phase of the Florida Coastal Access Project is intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered hundreds of projects leading to the identification of the Florida Coastal Access Project and considered both ecological and recreational use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing both the physical and biological environment, as well as the relationship people have with the environment. The Phase V ERP/EA also includes notices of change and supporting analysis for two Phase III Early Restoration Projects: “Strategically Provided Boat Access Along Florida’s Gulf Coast—City of Port St. Joe, Frank Pate Boat Ramp Improvements” and “Florida Artificial Reef Creation and Restoration.”

Administrative Record

The documents comprising the administrative record can be viewed electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon/adminrecord>; or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), the implementing natural resource damage assessment regulations found at 15 CFR 990, the Louisiana Oil Spill Prevention and Response Act [R.S. §§30:2451-2496 (2010)], and the implementing Natural Resource Damage Assessment Regulations found at *La. Admin. Code* 43:101 et seq.

¹The proposed Florida Coastal Access Project would proceed in phases. The additional future phase may consist of similar restoration activities and shall be identified and selected by the Trustees in the same manner and using the same criteria as described in the Draft Phase V ERP/EA and in accordance with OPA, NEPA, and other applicable laws, and after public review of the proposed action.

Kyle Graham
Executive Director

1601#045