

Deepwater Horizon Oil Spill; Draft Phase IV Early Restoration Plan and Environmental Assessments

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the Louisiana Oil Spill Prevention and Response Act (OSPRA), the National Environmental Policy Act (NEPA), and the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), the Federal and State natural resource trustee agencies (Trustees) are preparing the Draft Phase IV Early Restoration Plan and Environmental Assessments (Draft Phase IV ERP/EA) describing and proposing a suite of early restoration projects 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 Draft Phase IV ERP/EA proposes 10 early restoration projects that are 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 Draft Phase IV ERP/EA also includes a notice of change and supporting analysis for one Phase III Early Restoration Project; “Enhancement of Franklin County Parks and Boat Ramps-Eastpoint Fishing Pier Improvements.” The purpose of this notice is to inform the public of the availability of the Draft Phase IV ERP/EA, which has an anticipated release date of May 20, 2015, and to seek public comments on the 10 proposed early restoration projects and supporting analysis.

DATES:

Comments Due Date: We will consider public comments received on or before June 19, 2015 (or thirty (30) days from the availability of the Phase IV ERP/EA).

Public Meetings: The Trustees have scheduled a series of public meetings to facilitate public review and comment on the Draft Phase IV ERP/EA. Both written and verbal comments will be taken at each public meeting. The Trustees will hold an open house for each meeting followed by a formal meeting. Each public meeting will include a presentation of the Draft Phase IV ERP/EA. The public meeting schedule is as follows:

Date	Time	Location	Facility
Tues 6/2/2015	6-9 PM	Pensacola, FL	Crowne Plaza Pensacola Grand Hotel Ballrooms A/B 200 East Gregory Street Pensacola, FL 32502
Wed 6/3/2015	6-9 PM	Mobile, AL	Renaissance Mobile Riverview Plaza Hotel Schooner 64 South Water Street Mobile, AL 36602
Thurs 6/4/2015	6-9 PM	Long Beach, MS	University of Southern Mississippi, Long Beach FEC Auditorium 730 East Beach Boulevard Long Beach, MS 39560
Mon 6/8/2015	6-9 PM	Belle Chasse, LA	Belle Chasse Auditorium 8398 Louisiana 23 Belle Chasse, LA 70037
Wed 6/10/2015	6-9 PM	Galveston, TX	Texas A&M University at Galveston Seawolf Parkway on Pelican Island Auditorium, Class Room Lab Building – Building #3007 on campus map Galveston, TX 77554
Thurs 6/11/2015	6-9 PM	Corpus Christi, TX	Harte Research Institute for Gulf of Mexico Studies Texas A&M University at Corpus Christi 6300 Ocean Drive Corpus Christi, TX 78412

ADDRESSES:

Obtaining Documents: You may download the Draft Phase IV ERP/EA once available, which is expected to be on or about May 20, 2015, at: <http://losco-dwh.com/>. Alternatively, you may request a CD of the Draft Phase IV ERP/EA (see FOR FURTHER INFORMATION CONTACT). You may also view the document at any of the public facilities listed at <http://losco-dwh.com/>.

Submitting Comments: You may submit comments on the Draft Phase IV ERP/EA by one of the following methods:

- Via the Web: <http://losco-dwh.com/EarlyRestorationPlanning.aspx>.
- For electronic submission of comments containing attachments, email: Karolien.Debusschere@la.gov
- U.S. Mail: Louisiana Oil Spill Coordinator's Office, P.O. Box 66614, Baton Rouge, LA 70806 or U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345

FOR FURTHER INFORMATION CONTACT: Karolien Debusschere at

Karolien.Debusschere@la.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 – MC252), 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. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of eighty-

seven days. In addition, well over one million 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 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.

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. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency (USEPA);

¹ Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not currently participate in Trustee decision-making.

- 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

On April 20, 2011, BP agreed to provide 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.

Pursuant to the process articulated in the Framework Agreement, the Trustees have previously selected, and BP has agreed to fund, a total of 54 early restoration projects, expected to cost a total of approximately \$700 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA), Phase II Early Restoration Plan/Environmental Review (Phase II ERP/ER), and the Phase III ERP/PEIS. These plans are available at:

<http://losco-dwh.com/EarlyRestorationPlanning.aspx>

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions. Their key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is underway.

The Trustees released the Phase I ERP/EA in April 2012 and the Phase II ERP/ER in February 2013 after public review of drafts of those documents. After public review, the Trustees released the Phase III ERP/PEIS on June 26, 2014. Subsequently, the Trustees approved the Phase III ERP/PEIS in a Record of Decision on October 31, 2014.

The Trustees are proposing 10 additional early restoration projects in Phase IV to address injuries from the *Deepwater Horizon* oil spill. The 10 projects proposed in this Draft Phase IV ERP/EA are consistent with the Programmatic ERP and PEIS included in the Final Phase III ERP/PEIS previously developed by the Trustees. The Trustees are proposing these projects at this time while continuing to work with BP to develop additional early restoration projects in

accordance with the Framework Agreement. The Draft Phase IV ERP/EA is not intended to, and does not, fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and environment whole.

Overview of the Draft Phase IV ERP/EA

The Draft Phase IV ERP/EA is being released in accordance with the Oil Pollution Act, 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 Agreement.

The Trustees are considering 10 projects in the Draft Phase IV ERP/EA. The total estimated cost for proposed Phase IV projects is approximately \$134 million. Details on the proposed projects are provided in the Draft Phase IV ERP/EA. The Draft Phase IV ERP/EA also includes a notice of change and supporting analysis for one Phase III Early Restoration Project; “Enhancement of Franklin County Parks and Boat Ramps-Eastpoint Fishing Pier Improvements.”

The proposed restoration projects are 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 10 projects 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.

Early restoration actions are not intended to provide the full extent of restoration needed to make the public and the environment whole. The Trustees anticipate that additional early restoration projects will be proposed in the future as the early restoration process continues.

Next Steps

As described above, public meetings are scheduled to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing the Final Phase IV Early Restoration Plan and Environmental Assessments (Final Phase IV ERP/EA). After issuing a Final Phase IV ERP/EA, the Trustees will file negotiated stipulations for approved projects with the court. Approved projects will then proceed to implementation, pending compliance with all applicable State and Federal laws.

Invitation to Comment

The Trustees seek public review and comment on the 10 proposed early restoration projects and supporting analysis included in the Draft Phase IV ERP/EA. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be publicly available at any time.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: <http://losco-dwh.com/AdminRecord.aspx> or at <http://www.doi.gov/deepwaterhorizon/adminrecord/index.cfm>

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 (La. R.S. §§ 30:2451-2496 (2014)), the implementing Natural Resource Damage Assessment regulations found at LAC 43:XXIX.101 *et seq.*, and the Framework Agreement.