



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

Notice of Availability of the Alabama Trustee Implementation Group Final Recreational Use Restoration Plan I and Final Environmental Impact Statement

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Availability of the Alabama Trustee Implementation Group Final Recreational Use Restoration Plan I and Final Environmental Impact Statement.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Alabama Trustee Implementation Group (Alabama TIG) have prepared a Final Restoration Plan I and Environmental Impact Statement: Provide and Enhance Recreational Opportunities (Final RP/EIS). The Final RP/EIS describes the restoration project alternatives considered by the Alabama TIG to compensate for recreational shoreline use lost as a result of the *Deepwater Horizon* oil spill. The Alabama TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Final RP/EIS.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EIS at <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the Final

RP/EIS (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

- NOAA—Dan Van Nostrand, ALTIG.RecUsePlanComments@noaa.gov
- AL—Amy Hunter, amy.hunter@dnr.alabama.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On 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), exploded, caught fire and subsequently sank 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 87 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 to the environment as a result of the spill.

The *Deepwater Horizon* State and Federal natural resource trustees (DWH Trustees) conducted NRDA 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 DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service and U.S. Fish and Wildlife Service;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- 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.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree¹ approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree,

¹ <https://www.justice.gov/enrd/file/838066/download>

restoration projects in Alabama are now chosen and managed by the Alabama TIG. The Alabama TIG is composed of the following Trustees:

- U.S. Department of the Interior, as represented by the National Park Service and U.S. Fish and Wildlife Service;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Alabama Department of Conservation and Natural Resources; and
- Geological Survey of Alabama.

This restoration planning activity is proceeding in accordance with the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (PDARP/PEIS). Information on the Restoration Type: Provide and Enhance Recreational Opportunities, as well as the OPA criteria against which project ideas are being evaluated, can be found in the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

This restoration planning activity is occurring, in part, in accordance with the February 16, 2016, decision in *Gulf Restoration Network v. Jewell*, Case 1:15-cv-00191-CB-C (S.D. Ala.), in which the court enjoined the use of *Deepwater Horizon* early restoration funds that had been allocated to partially fund construction of a lodge and conference center at Alabama's Gulf State Park as part of the Gulf State Park Enhancement Project, pending additional analysis under NEPA and OPA. This restoration planning activity fulfills the Federal and State natural resource

trustees' responsibilities under this court order while looking more broadly at the potential to provide restoration for lost recreational shoreline use within Alabama.

Background

On July 6, 2016, the Alabama TIG initiated a 30-day formal scoping and public comment period for this Final RP/EIS (81 FR 44007 - 44008) through a Notice of Intent (NOI) to Prepare a RP/EIS, and to Conduct Scoping. The Alabama TIG conducted the scoping in accordance with OPA (15 CFR 990.14(d)), NEPA (40 CFR 1501.7), and State authorities. That NOI requested public input to identify restoration approaches and restoration projects that could be used to compensate the public for lost recreational use opportunities in Alabama caused by the *Deepwater Horizon* oil spill in the Gulf of Mexico.

Notice of availability of the Draft RP/EIS was published in the **Federal Register** on December 16, 2016 (81 FR 91138). The Draft RP/EIS provided the Alabama TIG's analysis of projects to address lost recreational shoreline use under both OPA and NEPA and identified the projects that were proposed as preferred for implementation. The Alabama TIG provided the public with 45 days to review and comment on the Draft RP/EIS. The Alabama TIG also held public meetings in Dauphin Island, AL, and Gulf Shores, AL, to facilitate public understanding of the document and provide opportunity for public comment. The Alabama TIG actively solicited public input through a variety of mechanisms, including convening public meetings, distributing electronic communications, and using the Trustee-wide public website and database to share information and receive public input. The Alabama TIG considered the public comments received, which informed the Alabama TIG's analysis of alternatives in the Final RP/EIS. A summary of the public comments received and the Alabama TIG's responses to those

comments are addressed in Chapter 9 of the Final RP/EIS and all correspondence received are provided Appendix B.

Overview of the Final PDARP/PEIS

The Final RP/EIS is being released in accordance with the OPA, the NRDA regulations found at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

In the Final RP/EIS, the Alabama TIG presents to the public their plan for providing for compensation for lost recreational shoreline use in Alabama. The Final RP/EIS presents ten individual restoration alternatives, including a no action alternative, evaluated in accordance with OPA and NEPA. The ten alternatives under the Final RP/EIS are as follows:

- Alternative 1 (Preferred Alternative): Gulf State Park Lodge and Associated Public Access Amenities

- Alternative 2 (Preferred Alternative): Fort Morgan Pier Rehabilitation
- Alternative 3: Fort Morgan Peninsula Public Access Improvements
- Alternative 4: Gulf Highlands Land Acquisition and Improvements
- Alternative 5 (Preferred Alternative): Laguna Cove Little Lagoon Natural

Resource Protection

- Alternative 6 (Preferred Alternative): Bayfront Park Restoration and Improvements

- Alternative 7 (Preferred Alternative): Dauphin Island Eco-Tourism and Environmental Education Area

- Alternative 8: Mid-Island Parks and Public Beach Improvements (Parcels A, B, and C)

- Alternative 9: (Preferred Alternative): Mid-Island Parks and Public Beach

Improvements (Parcels B and C)

- Alternative 10: No Action/Natural Recovery

The Alabama TIG has examined and assessed the extent of injury and the restoration alternatives. In the Final RP/EIS, the Alabama TIG presents to the public its plan for providing partial compensation to the public for lost recreational use in Alabama. In particular, it considers restoration approaches to help restore, replace, rehabilitate, or acquire the equivalent of the lost recreational shoreline uses in Alabama. The Alabama TIG believes that the preferred alternatives in this Final RP/EIS are most appropriate for addressing lost recreational shoreline use in Alabama at this time. Additional restoration planning for lost recreational use in Alabama will occur at a later time.

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to the NEPA regulations at 40 CFR 1505.2 and OPA regulations at 15 CFR 990.23. The ROD for the Final RP/EIS will provide and explain the Alabama TIG's decisions regarding the selection of the alternatives for implementation. The Alabama TIG will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the **Federal Register** announcing the availability of the Final RP/EIS (40 CFR 1506.10).

Administrative Record

The documents included in the Administrative Record can be viewed electronically at the following location:

<http://www.doi.gov/deepwaterhorizon/adminrecord>.

The DWH Trustees opened a publicly available Administrative Record for the NRDA for the *Deepwater Horizon* oil spill, including restoration planning activities, concurrently with publication of the 2011 Notice of Intent to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS (pursuant to 15 CFR 990.45). The Administrative Record includes the relevant administrative records since its date of inception. This Administrative Record is actively maintained and available for public review.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the implementing NRDA regulations found at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

Dated: April 6, 2017.

Carrie Selberg,
Deputy Director,
Office of Habitat Conservation,
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[FR Doc. 2017-07349 Filed: 4/13/2017 8:45 am; Publication Date: 4/14/2017]