



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG958

Notice of Availability of the *Deepwater Horizon* Oil Spill Open Ocean Trustee

Implementation Group Draft Restoration Plan 2 and Environmental Assessment:

Fish, Sea Turtles, Marine Mammals, and Mesophotic and Deep Benthic

Communities

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

ACTION: Notice of availability; request for comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP),¹ the *Deepwater Horizon* Federal natural resource trustee agencies for the Open Ocean Trustee Implementation Group (Open Ocean TIG) have prepared a Draft Restoration Plan 2 and Environmental Assessment (Draft RP/EA). The Draft RP/EA describes and proposes restoration project alternatives considered by the Open Ocean TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Open Ocean TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and

¹ Consent Decree among Defendant BP Exploration & Production Inc. ("BPXP"), the United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas entered in *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 in the United States District Court for the Eastern District of Louisiana.

also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The proposed projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft RP/EA and to seek public comments on the document.

DATES: The Open Ocean TIG will consider public comments received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public Meetings: The Open Ocean TIG will conduct one public meeting and two webinars to facilitate the public review and comment on the Draft RP/EA. Each of the public meeting and webinars will include a presentation of the Draft RP/EA. Both written and oral public comments will be taken at the public meeting. Only written comments will be taken through the public webinars. Comments will also be taken through submission online or through U.S. mail (see *Submitting Comments* below). Public meetings and webinars will be held on June 4 (public meeting), June 11 (webinar), and June 13 (webinar). The full meeting schedule is listed in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES:

Obtaining Documents: You may download the Draft RP/EA at:

<http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean>. Alternatively, you may request a CD of the Draft RP/EA (see **FOR FURTHER INFORMATION CONTACT**

below). Also, you may view the document at any of the public facilities listed in Appendix G.

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

- Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean>;
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. Please note that mailed comments must be postmarked on or before the comment deadline of 45 days following publication of this notice to be considered; or
- *In Person:* Written and oral comments may be submitted at the public meeting on June 4, 2019 and written comments may be submitted during public webinars on June 11 and June 13, 2019 (see **Invitation to Comment** below).

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration – Laurie Rounds, Laurie.Rounds@noaa.gov, (850) 934-9284.

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), 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 off shore 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 into the environment as a result of the spill.

The Deepwater Horizon Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under OPA (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 *Deepwater Horizon* 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 (EPA);
- 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
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Open Ocean Restoration Area are now selected and implemented by the Open Ocean TIG. The Open Ocean TIG is composed of the following federal Trustees: NOAA; DOI; EPA; and USDA.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Types being considered in the Draft RP/EA, as well as the OPA criteria against which project ideas are being evaluated, can be viewed 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>).

Background

On March 31, 2017, the Open Ocean TIG posted a public notice at <http://www.gulfspillrestoration.noaa.gov> requesting new or revised natural resource restoration project ideas by May 15, 2017 for the Open Ocean Restoration Area. The

notice stated that the Open Ocean TIG was seeking project ideas for the following Restoration Types: (1) Birds; (2) Sturgeon; (3) Sea Turtles; (4) Marine Mammals; (5) Fish and Water Column Invertebrates; and (6) Mesophotic and Deep Benthic Communities.

On February 7, 2018 the Open Ocean TIG announced that it had initiated drafting of its first and second post settlement draft restoration plans; and that the first plan would include restoration projects for Birds and Sturgeon, while the second plan, noticed here, would include restoration projects for Sea Turtles, Marine Mammals, Fish and Water Column Invertebrates, and Mesophotic and Deep Benthic Communities.

Overview of the OO TIG Draft RP/EA

The Draft RP/EA is being released in accordance with OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, NEPA (42 U.S.C. 4321 *et seq.*), the Consent Decree, and the Final PDARP/PEIS.

In the Draft RP/EA, the Open Ocean TIG analyzes 23 alternatives and proposes 18 preferred alternatives for the following restoration types: Fish and Water Column Invertebrates, Sea Turtles, Marine Mammals, and Mesophotic and Deep Benthic Communities:

Fish and Water Column Invertebrates:

- Reduction of Post-Release Mortality from Barotrauma in Gulf of Mexico Reef Fish Recreational Fisheries- Preferred, \$30,011,000.
- Better Bycatch Reduction Devices for the Gulf of Mexico Commercial Shrimp Trawl Fishery- Preferred, \$17,171,000.

- Communication Networks and Mapping Tools to Reduce Bycatch—Phase 1- Preferred, \$4,416,000.
- Restoring for Bluefin Tuna via Fishing Depth Optimization- Preferred, \$6,175,000.
- Reduce the Impacts of Ghost Fishing by Removing Derelict Fishing Gear from Marine and Estuarine Habitats- Not Preferred, \$6,128,000.

Sea Turtles:

- Gulf of Mexico Sea Turtle Atlas- Preferred, \$5,700,000.
- Identifying Methods to Reduce Sea Turtle Bycatch in the Reef Fish Bottom Longline Fishery- Preferred, \$290,000.
- Developing a Gulf-wide Comprehensive Plan for In-Water Sea Turtle Data Collection- Preferred, \$655,000.
- Developing Methods to Observe Sea Turtle Interactions in the Gulf of Mexico Menhaden Purse Seine Fishery- Preferred, \$3,000,000.
- Reducing Juvenile Sea Turtle Bycatch Through Development of Reduced Bar Spacing in Turtle Excluder Devices- Preferred, \$2,153,000.
- Long-term Nesting Beach Habitat Protection for Sea Turtles- Preferred, \$7,000,000.
- Reducing Sea Turtle Entanglement from Recreational Fishing Debris- Not Preferred, \$1,113,600.
- Reducing Sea Turtle Bycatch at Recreational Fishing Sites- Not Preferred, \$1,329,000.

Marine Mammals

- Reducing Impacts to Cetaceans During Disasters by Improving Response Activities- Preferred, \$4,287,000.

- Compilation of Environmental, Threats, and Animal data for Cetacean Population Health Analyses- Preferred, \$5,808,500.
- Reduce Impacts of Anthropogenic Noise on Cetaceans- Preferred, \$8,992,200.
- Reduce and Mitigate Vessel Strike Mortality of Cetaceans- Preferred, \$3,834,000.
- Assessment of Northern Gulf of Mexico Shelf Small Cetacean Health, Habitat. Use, and Movement Patterns- Not Preferred, \$4,620,000.

Mesophotic and Deep Benthic Communities

- Mapping, Ground-Truthing, and Predictive Habitat Modeling- Preferred, \$35,909,000.
- Habitat Assessment and Evaluation- Preferred, \$52,639,000.
- Coral Propagation Technique Development- Preferred, \$16,951,000.
- Active Management and Protection- Preferred, \$20,689,000.
- Habitat Characterization at Known High Priority Sites- Not Preferred, \$21,500,000.

The Open Ocean TIG also analyzes a No Action alternative. One or more alternatives may be selected for implementation by the Open Ocean TIG in the Final RP/EA or in future restoration plans.

The Open Ocean TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In the Draft RP/EA, the Open Ocean TIG presents to the public its draft plan for providing partial compensation to the public for injured natural resources and ecological services in the Open Ocean Restoration Area. The proposed alternatives are intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the projects proposed as

preferred is \$225,680,700. Additional restoration planning for the Open Ocean Restoration Area will continue.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA. A public meeting and webinars are scheduled to facilitate the public review and comment process. After the public comment period ends, the Open Ocean TIG will consider and address the comments received before issuing a Final RP/EA. A summary of comments received and the Open Ocean TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Public Meeting Schedule

The Open Ocean TIG will conduct a public meeting and webinars to provide information and seek input on the Draft RP/EA:

- June 4, 2019 (public meeting), at 5:30 p.m. at the Pensacola City Hall, 222 W Main St, Pensacola, FL 32502;

- June 11, 2019 (webinar), at 12:00 p.m. Central Time. Register at: <https://register.gotowebinar.com/register/7304216670381829899>.

- June 13, 2019 (webinar), at 6:00 p.m. Central Time. Register at: <https://register.gotowebinar.com/register/2042490581520295947>.

Written and oral comments on the Draft RP/EA may be submitted at the public meeting and through the webinars (written comment only). Persons with disabilities may request special accommodations at the public meeting by contacting the Open Ocean TIG by May 24, 2019 (see **FOR FURTHER INFORMATION CONTACT**).

Invitation to Comment

The Open Ocean TIG seeks public review and comment on the Draft RP/EA (see **ADDRESSES** above). Before including your address, telephone number, email address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, will become part of the public record.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Oil Pollution Act Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: May 3, 2019.

Carrie Selberg,

Deputy Director,

Office of Habitat Conservation,

National Marine Fisheries Service.

[FR Doc. 2019-09554 Filed: 5/14/2019 8:45 am; Publication Date: 5/15/2019]