



**Billing Code 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XG958]**

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

**Implementation Group Final Restoration Plan 2 and Environmental Assessment:**

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

**Communities and Finding of No Significant Impact**

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

**ACTION:** Notice of availability.

**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),<sup>1</sup> 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 also evaluated the environmental consequences of the restoration alternatives in

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<sup>1</sup> Consent Decree among Defendant BP Exploration & Production Inc., 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.

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 Final RP II/EA and Finding of No Significant Impact (FONSI).

**ADDRESSES:** *Obtaining Documents:* You may download the Final RP/EA and FONSI at: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/open-ocean>. Alternatively, you may request a CD of the Final RP/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT** below). In addition, you may view the document at any of the public facilities listed in Appendix G.

**FOR FURTHER INFORMATION CONTACT:** National Oceanic and Atmospheric Administration – Laurie Rounds, [Laurie.Rounds@noaa.gov](mailto: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 evaluated in the Final 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.

Notice of availability of the Draft RP/EA was published in the **Federal Register** on May 15, 2019 (84 FR 21753). The Draft RP II/EA provided the Open Ocean TIG's analysis of alternatives which would meet the Trustees' goals to restore and conserve Sea Turtles; Marine Mammals; Fish and Water Column Invertebrates; and Mesophotic and Deep Benthic Communities under both OPA and NEPA and identified the alternatives that were proposed as preferred for implementation. The Open Ocean TIG provided the public with 79 days to review and comment on the Final RP/EA. The Open Ocean TIG also held a public meeting in Pensacola, FL and held two public webinars to facilitate public understanding of the document and provide opportunity for public comment. The Open Ocean TIG actively solicited public input through a variety of mechanisms, including convening a public meeting, distributing electronic communications, and using the Trustee-wide public website and database to share information and receive public input. The Open Ocean TIG considered the public comments received, which informed the Open Ocean TIG's analysis of alternatives in the Final RP/EA. A summary of the public comments received and the Open Ocean TIG's

responses to those comments are addressed in Chapter 5 of the Final RP/EA and all correspondence received are provided in the DWH Administrative Record.

### **Overview of the Open Ocean TIG Final RP/EA**

The Final 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 Final RP/EA, the Open Ocean TIG selected the following 18 restoration projects from 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.

#### *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, \$2,249,000.
- Long-term Nesting Beach Habitat Protection for Sea Turtles- Preferred, \$7,000,000.

#### *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.

#### *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.

The Open Ocean TIG also analyzed five additional non-preferred alternatives, as well as a No Action alternative. None of these alternatives were selected at this time. 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 Final RP/EA, the

Open Ocean TIG presents to the public its final 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 \$225,776,700. Additional restoration planning for the Open Ocean Restoration Area will continue.

In accordance with NEPA and as part of the Final RP/EA, the Trustees issued a FONSI. The FONSI is available in Appendix H of the Final RP II/EA.

### **Administrative Record**

The documents comprising the Administrative Record for the Final 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: November 25, 2019.

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