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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**[RTID 0648-XV184]**

**Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group Final Restoration Plan/Environmental Assessment #5: Living Coastal and Marine Resources - Marine Mammals and Oysters**

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

**ACTION:** Notice of availability.

**SUMMARY:** The *Deepwater Horizon* Federal natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Final Restoration Plan/Environmental Assessment (RP/EA #5): Living Coastal and Marine Resources - Marine Mammals and Oysters. The Final RP/EA #5 describes, and, in conjunction with the associated Finding of No Significant Impact (FONSI), selects the preferred restoration projects considered by the Louisiana TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Federal Trustees of the Louisiana TIG have determined that the implementation of the Final RP/EA #5 is not a major Federal action significantly affecting the quality of the human environment within the context of the NEPA. They have concluded a FONSI is appropriate, and, therefore, an Environmental Impact Statement will not be prepared.

**ADDRESSES:** *Obtaining Documents:* You may download the Final RP/EA #5 at: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>. Alternatively, you

may request a CD of the Final RP/EA #5 (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed in Appendix A of the Final RP/EA #5.

**FOR FURTHER INFORMATION CONTACT:** National Oceanic and Atmospheric Administration – Mel Landry, NOAA Restoration Center, 225-425-0583, *mel.landry@noaa.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), 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 (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 (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- 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 Louisiana Restoration Area are selected and implemented by the Louisiana TIG which is composed of the following Trustees: CPRA, LOSCO, LDEQ, LDWF, and LDNR NOAA, DOI, EPA, and USDA.

## **Background**

Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #5: Marine Mammals and Oysters (Draft RP/EA #5) was published in the **Federal Register** at 85 FR 16078 on March 20, 2020. The Louisiana TIG hosted a public webinar on April 8, 2020, and the public comment period for the Draft RP/EA #5 closed on April 20, 2020. The Draft RP/EA #5 evaluated seven restoration alternatives: two Marine Mammal alternatives, four Oyster project alternatives, and the No Action alternative in accordance with the OPA and the NEPA. The Louisiana TIG considered the public comments received on the Draft RP/EA #5 which informed the analyses and selection of four restoration projects for implementation in the Final RP/EA #5. A summary of the public comments received and the Trustees' responses to those comments are included in Chapter 6 of the Final RP/EA #5 and all correspondence received are provided in the DWH Administrative Record.

## **Overview of the Final RP/EA**

The Final RP/EA is being released in accordance with the OPA, NRDA implementing regulations, and the NEPA. In the Final RP/EA #5, the Louisiana TIG

selects the following preferred alternatives in the Marine Mammals and Oysters restoration types:

- Increasing Capacity and Expanding Partnerships along the Louisiana Coastline for Marine Mammal Stranding Response (\$3,955,620).
- Enhancing Oyster Recovery Using Brood Reefs (\$9,701,447).
- Cultch Plant Oyster Restoration Projects (\$10,070,000).
- Hatchery-based Oyster Restoration Projects (\$5,850,000).

The Louisiana TIG has examined the injuries assessed by the *Deepwater Horizon* Trustees and evaluated restoration alternatives to address the injuries. In the Final RP/EA #5, the Louisiana TIG presents to the public its plan for providing partial compensation for lost living coastal and marine resources. The selected projects are intended to continue the process of using restoration funding to replenish and protect marine mammals and oysters injured by the *Deepwater Horizon* oil spill. The total estimated cost of the selected projects is approximately \$28,717,075.

The funding proposed for implementation of oyster restoration under the trustees' preferred alternatives represents a commitment of all remaining available funding for oyster restoration in the Louisiana Restoration Area. The programmatic structure of the proposed oyster cultch and brood reef projects would allow the trustees to continue to construct specific reef sites in the future. In alignment with the PDARP, the trustees may propose projects in the future that benefit oysters through the wetlands, coastal, and nearshore habitats restoration allocation. Additional restoration planning for marine mammals and other restoration types in the Louisiana Restoration Area will continue.

### **Administrative Record**

The documents comprising the Administrative Record for the Final RP/EA #5 and FONSI 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: July 30, 2020.

**Carrie Selberg,**

*Director, Office of Habitat Conservation,*

*National Marine Fisheries Service.*

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