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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

Notice of Availability of a *Deepwater Horizon* Oil Spill; Draft Programmatic Damage Assessment and Restoration Plan (PDARP) and Draft Programmatic Environmental Impact Statement (PEIS)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement; request for comments.

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 (Trustees) have prepared a Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement (Draft PDARP/PEIS). As required by OPA, in this Draft PDARP/PEIS, the *Deepwater Horizon* Trustees present the assessment of impacts of the *Deepwater Horizon* oil spill on natural resources in the Gulf of Mexico and on the services those resources provide, and determine the restoration needed to compensate the public for these impacts. The Draft PDARP/PEIS describes the Trustees' programmatic alternatives considered to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees evaluate these

alternatives under criteria set forth in the OPA natural resource damage assessment regulations, and also evaluate 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 Draft PDARP/PEIS and to seek public comments on the document.

DATES: The Trustees will consider public comments received on or before December 4, 2015.

Public Meetings: The Trustees will host a series of public meetings to facilitate public review and comment on the Draft PDARP/PEIS. Both written and verbal public 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 PDARP/PEIS. Public meetings will be held between October 19th and November 18th. The full public meeting schedule is listed in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES:

Obtaining Documents: You may download the Draft PDARP/PEIS at <http://www.gulfspillrestoration.noaa.gov>. Alternatively, you may request a CD of the Draft PDARP/PEIS (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>. The Draft PDARP/PEIS also will be available for download at <http://www.justice.gov/enrd/deepwater-horizon>.

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

- Via the Web: <http://www.gulfspillrestoration.noaa.gov> and
- U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345.

Please note that mailed comments must be received on or before the comment deadline of December 4, 2015 to be considered.

FOR FURTHER INFORMATION CONTACT: Courtney Groeneveld at gulfspill.restoration@noaa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the *Deepwater Horizon* mobile drilling unit exploded, caught fire, and eventually sank in the Gulf of Mexico, resulting in a massive release of oil and other substances from BP's Macondo well. Tragically, 11 workers were killed and 17 injured by the explosion and fire. Initial efforts to cap the well following the explosion were unsuccessful, and for 87 days after the explosion, the well continuously and uncontrollably discharged oil and natural gas into the northern Gulf of Mexico. Approximately 3.19 million barrels (134 million gallons) of oil were released into the ocean, by far the largest offshore oil spill in the history of the United States.

Oil spread from the deep ocean to the surface and nearshore environment, from Texas to Florida. The oil came into contact with and injured natural resources as diverse as deep-sea coral, fish and shellfish, productive wetland habitats, sandy beaches, birds, endangered sea turtles, and protected marine life. The oil spill prevented people from fishing, going to the beach, and enjoying their typical recreational activities along the Gulf. Extensive response actions, including, use of dispersants, cleanup activities, and actions to try to prevent the oil from reaching sensitive resources, were undertaken to try

to reduce harm to people and the environment. However, many of these response actions had collateral impacts on the environment. The oil and other substances released from the well in combination with the extensive response actions together make up the *Deepwater Horizon* incident.

The Trustees are conducting the natural resource damage assessment for the *Deepwater Horizon* incident 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 of those resources and the loss of services they provide 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 Trustees¹ are as follows:

- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- 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;
- U.S. Department of Agriculture (USDA);
- 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, the U.S. Department of Defense (DOD) is not a member of the Trustee Council and did not participate in development of this Draft PDARP/PEIS.

- 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 February 17, 2011, the Trustees initiated a 90-day formal scoping and public comment period for this Draft PDARP/PEIS (76 FR 9327) through a Notice of Intent (NOI) to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS. The Trustees 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 and evaluate a range of restoration types that could be used to fully compensate the public for the environmental and recreational use damages caused by the spill, as well as develop procedures to select and implement restoration projects that will compensate the public for the natural resource damages caused by the spill. As part of the scoping process, the Trustees hosted public meetings across all the Gulf States during Spring 2011.

Overview of the Draft PDARP/PEIS

The Draft PDARP/PEIS is being released in accordance with the OPA, the

Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, and the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*).

In the Draft PDARP/PEIS, the Deepwater Horizon Trustees present to the public their findings on the extensive injuries to multiple habitats, biological species, ecological functions, and geographic regions across the northern Gulf of Mexico that occurred as a result of the Deepwater Horizon incident, as well as their programmatic plan for restoring those resources and the services they provide. The Draft PDARP/PEIS proposes four programmatic alternatives evaluated in accordance with OPA and NEPA. The *Deepwater Horizon* Trustees decided to fulfill NEPA requirements by conducting a PEIS that evaluates broad (as opposed to project-specific) restoration alternatives. As the Draft PDARP/PEIS shows, the injuries caused by the *Deepwater Horizon* incident cannot be fully described at the level of a single species, a single habitat type, or a single region. Rather, the injuries affected such a wide array of linked resources over such an enormous area that the effects of the *Deepwater Horizon* incident constitute an ecosystem-level injury. Consequently, the Trustees' preferred alternative for a restoration plan employs a comprehensive, integrated ecosystem approach to best address these ecosystem-level injuries. The Trustees' evaluation determines this alternative is best, among several other alternatives, at compensating the public for the losses to natural resources and services caused by the *Deepwater Horizon* incident.

The four alternatives under the Draft PDARP/PEIS are as follows:

- Alternative A (Preferred Alternative): Comprehensive Integrated Ecosystem Restoration Plan based on the programmatic Trustee goals;

- Alternative B: Resource-Specific Restoration Plan based on the programmatic Trustee goals;
- Alternative C: Continued Injury Assessment and Defer Comprehensive Restoration Plan; and
- Alternative D: No Action/Natural Recovery.

The Trustees have jointly examined and assessed the extent of injury and the restoration alternatives. In the Draft PDARP/PEIS, the Trustees present to the public their findings on the extensive injuries to multiple habitats, biological species, ecological functions, and geographic regions across the northern Gulf of Mexico that occurred as a result of the *Deepwater Horizon* incident, as well as the programmatic plan for restoring those resources. In particular, they considered restoration types and approaches to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources and services. The Trustees believe that the preferred alternative in this Draft PDARP/PEIS is most appropriate for addressing the injuries to natural resources.

The Trustees' proposed decision is to select a comprehensive restoration plan to guide and direct subsequent restoration planning and implementation during the coming decades. The Draft PDARP/PEIS is programmatic; it describes the framework by which subsequent project specific restoration plans will be identified and developed, and sets forth the types of projects the Trustees will consider in each of several described restoration areas. The subsequent restoration plans would identify, evaluate, and select specific restoration projects for implementation that are consistent with the restoration framework laid out by the PDARP/PEIS. The Trustees are considering this programmatic

restoration planning decision in light of the proposed settlement among BP, the United States and the States of Louisiana, Mississippi, Alabama, Florida, and Texas to resolve BP’s liability for natural resource damages associated with the *Deepwater Horizon* incident. Under this proposed settlement, BP would pay a total of \$8.1 billion for restoration to address natural resource injuries (this includes \$1 billion already committed for early restoration), plus up to an additional \$700 million to respond to natural resource damages unknown at the time of the settlement and/or to provide for adaptive management. As noted below, the proposed Consent Decree for the proposed settlement is the subject of a separate public notice and comment process.

Next Steps

The public is encouraged to review and comment on the Draft PDARP/PEIS. As described above, public meetings are scheduled to facilitate the public review and comment process. After the close of the public comment period, the Trustees will consider and address the comments received before issuing a Final PDARP/PEIS. A summary of comments received and the Trustees’ responses will be included in the final document. After issuing the Final PDARP/PEIS, the Trustees will prepare a Record of Decision that formally selects an alternative.

The public is also encouraged to review and comment on the proposed Consent Decree through a separate process managed by the Department of Justice. A link for the proposed Consent Decree and directions for comment to the Department of Justice is available at www.gulfspillrestoration.noaa.gov.

Public Meeting Schedule

Date	Time (local times)	Location
Mon., Oct. 19, 2015	5 PM Open House	Courtyard by Marriott –

	6 PM Public Meeting	Houma Versailles Parlour 142 Liberty Boulevard Houma, LA 70360
Tues., Oct. 20, 2015	5 PM Open House 6 PM Public Meeting	University of Southern Mississippi, Long Beach FEC Auditorium 730 East Beach Boulevard Long Beach, MS 39560
Thurs., Oct. 22, 2015	5 PM Open House 6 PM Public Meeting	Hilton Garden Inn New Orleans Convention Center Garden Ballroom 10001 South Peters Street New Orleans, LA 70130
Mon., Oct. 26, 2015	6 PM Open House 7 PM Public Meeting	The Battle House Renaissance Mobile Hotel & Spa Moonlight Ballroom A 26 North Royal Street Mobile, AL 36602
Tues., Oct. 27, 2015	6 PM Open House 7 PM Public Meeting	Pensacola Bay Center 201 E Gregory Street Pensacola, FL 32502
Thurs., Oct. 29, 2015	6 PM Open House 7 PM Public Meeting	Hilton St. Petersburg Bayfront Salon AB 333 1st Street South St. Petersburg, FL 33701
Tues., Nov. 10, 2015	6 PM Open House 7 PM Public Meeting	Hilton Galveston Island Resort Crystal Ballroom 5400 Seawall Boulevard Galveston, TX 77551
Wed., Nov. 18, 2015	6 PM Open House 7 PM Public Meeting	DoubleTree by Hilton Hotel Washington DC Terrace Ballroom 1515 Rhode Island Avenue, NW Washington, DC 20005

Invitation to Comment

The Trustees seek public review and comment on the Draft PDARP/PEIS. 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 included in the Administrative Record can be viewed electronically at the following location:

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

The 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 NOI (pursuant to 15 CFR 990.45).

Authority

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

Dated: September 28, 2015.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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