



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE201

Notice of Availability of the *Deepwater Horizon* Oil Spill Record of Decision (ROD) for the Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS)

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

ACTION: Notice of availability of a Record of Decision.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), notice is hereby given that the *Deepwater Horizon* Federal and State natural resource trustee agencies (Trustees) have issued a Record of Decision (ROD) for the Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS). Based on the Trustees' injury determination established in the Final PDARP/PEIS, the ROD sets forth the basis for the Trustees' decision to select Alternative A: Comprehensive Integrated Ecosystem Alternative. The Trustees' selection of this alternative includes the funding allocations established in the Final PDARP/PEIS.

ADDRESSES: *Obtaining Documents:* You may download the ROD at <http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>. You may also view the ROD at any of the public repositories listed at

<http://www.gulfspillrestoration.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Courtney Groeneveld at gulfspill.restoration@noaa.gov or <mailto:fw4coastalDERPcomments@fws.gov>.

SUPPLEMENTARY INFORMATION:

Background

On February 17, 2011, the Trustees initiated a 90-day formal scoping and public comment period for the 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.

A Notice of Availability of the Draft PDARP/PEIS was published in the **Federal Register** on October 5, 2015 (80 FR 60126). The Draft PDARP/PEIS presented the assessment of impacts of the *Deepwater Horizon* incident on natural resources in the Gulf of Mexico and on the services those resources provide, and determined the restoration needed to compensate the public for these impacts. The Draft PDARP/PEIS presented four programmatic alternatives evaluated in accordance with OPA and NEPA:

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

The Trustees provided the public with 60 days to review and comment on the Draft PDARP/PEIS. The Trustees held public meetings in Houma, LA; Long Beach, MS; New Orleans, LA; Mobile, AL; Pensacola, FL; St. Petersburg, FL; Galveston, TX; and Washington, DC, to facilitate public understanding of the document and provide opportunity for public comment. Additionally, the Trustees solicited public input through a variety of mechanisms, including electronic communications, Trustee Council and individual Trustee public websites, and a public comment portal for public comment collection. The Trustees prepared the Final PDARP/PEIS in consideration of the public comments received and included a summary of the comments and responses in the Final PDARP/PEIS.

A Notice of Availability of the Final PDARP/PEIS was published in the **Federal Register** on February 19, 2016 (81 FR 8483). In the Final PDARP/PEIS, the *Deepwater Horizon* Trustees presented 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, including funding allocations, for restoring those resources and the

services they provide. The Final PDARP/PEIS describes the framework by which subsequent project specific restoration plans will be developed.

As documented in the Record of Decision (ROD) signed on March 22, 2016, the Trustees have: determined the extent of injury to natural resources and services caused by the *Deepwater Horizon* oil spill incident; analyzed alternatives to restore those injuries; considered environmental impacts associated with the restoration alternatives, including the extent to which any adverse impacts could be mitigated; considered public and agency comments; considered the funding allocations required for restoration; and developed a governance approach for implementing restoration. Based on these considerations and the determination of injury, the ROD presents the Trustees' decision to select their Preferred Alternative, Alternative A: Comprehensive Integrated Ecosystem Restoration and the associated funding allocation, for implementation. The Trustees also conclude that all practicable means to avoid, minimize, or compensate for environmental harm from the action have been considered programmatically in the PDARP/PEIS, and that project-specific measures will be adopted at a later date during subsequent restoration planning.

The Trustees considered 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. The proposed Consent Decree for the proposed settlement was the subject of a separate public notice and comment process; the Notice of Lodging of the proposed Consent Decree under the Clean Water Act and Oil Pollution Act was published in the **Federal Register** on October 5, 2015 (80 FR 60180).

Administrative Record

The documents included in the Administrative Record for the final PDARP/PEIS decision can be viewed electronically at the following location:

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

The Trustees opened a publicly available Administrative Record for the Natural Resource Damage Assessment for the *Deepwater Horizon* oil spill, including restoration planning activities, concurrently with publication of a 2010 Notice of Intent to Conduct Restoration Planning (75 FR 60802) (pursuant to 15 CFR 990.45).

Authorities

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing 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: March 23, 2016.

Eileen Sobeck,

Assistant Administrator for Fisheries,

National Marine Fisheries Service.

[FR Doc. 2016-06979 Filed: 3/28/2016 8:45 am; Publication Date: 3/29/2016]