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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 130501428-3428-01]

Deepwater Horizon Oil Spill; Proposal of Future Early Restoration Projects and Environmental Reviews

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The federal and state natural resource trustees for the *Deepwater Horizon* oil spill (Trustees) intend to propose the additional early restoration projects described below to continue the process of using early restoration funding to restore natural resources, ecological services, and human use services injured or lost as a result of the *Deepwater Horizon* oil spill disaster. All early restoration projects will be selected and implemented in accordance with the Oil Pollution Act of 1990 (OPA), the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), and all applicable legal requirements, including the National Environmental Policy Act (NEPA).

SUPPLEMENTARY INFORMATION:

Introduction

On or about 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), exploded, caught fire and subsequently sank 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 oil spill in U.S. history due to the millions of barrels of oil discharged 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 to the environment as a result of the spill. Affected natural resources include ecologically, recreationally, and commercially important species and their nearshore and offshore habitats in the Gulf of Mexico and along the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas.

The state and federal natural resource trustees (Trustees) are conducting the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill 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 and services from those resources from the time of injury until the time they are restored. Pursuant to the process articulated in the Framework Agreement, the Trustees have previously selected, and BP has agreed to fund, a total of ten early restoration projects, expected to cost a total of approximately \$71 million, through the Phase I and Phase II Early Restoration Plans.

The 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. Department of Defense (DOD);¹
- U.S. Environmental Protection Agency (USEPA);
- 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 Early Restoration

On April 20, 2011, BP agreed to provide up to \$1 billion to fund early restoration projects in the Gulf of Mexico to begin addressing injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources and the lost use of, and services from, those resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the Trustees' natural resource damages

¹ Although a trustee under OPA by virtue of the proximity of its facilities to the *Deepwater Horizon* oil spill, DOD is not a member of the Trustee Council and does not participate in Trustee decision-making.

claim.

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions. The Trustees' key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is underway. As the first step in this accelerated process, the Trustees released, after public review of a draft, a Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP) in April 2012. In December 2012, after public review of a draft, the Trustees released a Phase II Early Restoration Plan/Environmental Review (Phase II ERP). Collectively, the Phase I and Phase II ERPs include a total of ten projects that were selected by the Trustees and, after negotiations in accordance with the terms of the Framework Agreement, agreed to by BP. Those restoration actions include nine separate projects that are ready for implementation, and one project that the Trustees have selected for completion for project design and final NEPA review. The Trustees have begun implementing many of the projects selected in the Phase I and Phase II ERPs.

In continuation of the early restoration process, following lengthy negotiations with BP to secure funding under the Framework Agreement, the Trustees intend to propose the additional early restoration projects described herein to partially restore injured natural resources and lost natural resource services caused by the *Deepwater Horizon* oil spill. If selected, these projects collectively would represent close to \$600 million in funding (in addition to the \$71 million previously committed) to support early restoration. The Trustees anticipate seeking formal public comment on these projects in accordance with the OPA regulations, 15 C.F.R. §§ 990 et seq. The Trustees intend to evaluate proposed restoration alternatives in accordance with all applicable

law and regulations, including, without limitation, OPA and its implementing regulations, the National Environmental Policy Act, 42 U.S.C §§ 4321 et seq., the Endangered Species Act, 16 U.S.C. §§ 5131 et seq., the National Historic Preservation Act, 16 U.S.C. §§ 470 et seq., the Coastal Zone Management Act, 16 U.S.C. §§ 1451 et seq., the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq., and any applicable permitting requirements. The Trustees will also evaluate the proposed alternatives pursuant to the criteria included in the Framework Agreement.

In addition to the early restoration projects identified below, the Trustees will continue to identify potential additional early restoration projects. Those projects will be subject to early restoration planning. Ultimately, all early restoration plans will be incorporated into a single, comprehensive OPA Restoration Plan/Environmental Impact Statement, which will address natural resource damages resulting from the *Deepwater Horizon* oil spill.

The additional early restoration projects that the Trustees presently intend to propose are described below.

Alabama

- Gulf State Park Enhancements (Baldwin County, Alabama). This project would restore lost recreational use services and lost dune habitat services through the following five primary elements: 1) construction of a coastal ecosystems interpretive center, 2) construction of an environmental research and education facility to benefit Alabama students, 3) trail construction and enhancement in the park, 4) dune restoration along the park's extensive undeveloped beachfront and 5) contribute to the construction of a lodge and meeting facility to facilitate the enhanced visitor experience. The estimated cost of this project is approximately \$85.5 million.

- Oyster Reef Restoration in Mobile County (Mobile County, Alabama). This project would restore approximately 319 acres of oyster reef in the estuarine waters of the State of Alabama. The project would utilize oyster shell cultch to restore non-producing oyster

reefs in Mobile County, Alabama, an area impacted by the DWH spill. These restored reefs would be in proximity to other reefs that are currently managed by the state and will be within the historic footprint of oyster reefs in the area. The estimated cost of this project is approximately \$3.2 million.

- Swift Tract Living Shoreline (Baldwin County, Alabama). This project would construct an oyster breakwater/living shoreline to stabilize and protect 1.6 miles of shoreline from erosion by dampening wave energy while also providing substrate for oyster colonization. The purpose is to reduce coastal marsh loss from shoreline erosion and reestablish substrate for shellfish colonization. The estimated cost of this project is approximately \$5 million.

Florida

- Perdido Key Dune Restoration (Escambia County, Florida). The project would consist of planting 20 acres of appropriate dune vegetation (e.g., sea oats, panic grasses, cord grasses, sea purslane, and beach elder) approximately 40' seaward of the existing primary dune over a length of approximately 4 miles of frontage. The purpose would be to provide a buffer which would lead to enhanced dune habitats. The estimated cost of this project is approximately \$600,000.

- Pensacola Bay Living Shoreline (Escambia County, Florida). By constructing breakwaters, this project would stabilize shorelines at Sanders Beach and Project Greenshores Site II areas within Pensacola Bay. The purpose would be to protect the embayment and create salt marsh habitat by reducing wave energy and providing substrate for oyster larvae, which would help restore benthic secondary productivity. Also included would be the creation of salt marsh habitat, which would help to restore important habitat for many species of fish and birds. The estimated cost of this project is approximately \$11 million.
- Florida Bay Seagrass Recovery Project (Gulf, Franklin and Bay counties Florida). This project would provide for the restoration of seagrass beds by stabilizing propeller scars over approximately two acres in three Aquatic Preserves within Alligator Harbor, St. Joseph Bay and St. Andrew Bay. Also included would be boater outreach educational information and Shallow Seagrass Area signage. The estimated cost of this project is approximately \$2.7 million.
- Florida Cat Point Living Shoreline Project (Franklin County, Florida): By constructing a breakwater, this project would stabilize shoreline in St. George Sound. The purpose would be to protect the embayment and create salt marsh habitat by reducing wave energy and providing substrate for oyster larvae, which would help restore benthic secondary productivity. Also included would be the creation of salt marsh habitat, which would help to restore important habitat for many species of fish and birds. The estimated cost of this project is approximately \$800,000.
- Florida Oyster Reef Restoration (Escambia, Santa Rosa, Bay and Franklin Counties, Florida). This project would involve placing cultch material over approximately 210

acres for the settling of oyster larvae and oyster colonization in the Pensacola Bay system in Escambia and Santa Rosa Counties, the St. Andrew Bay system in Bay County, and in the Apalachicola Bay system in Franklin County. The estimated cost of this project is approximately \$5.4 million.

- Florida Gulf Coast Marine Fisheries Hatchery/ Enhancement Center (Escambia County, Florida). This project would provide for the construction and operation of a saltwater sportfish hatchery. Lost recreational fishing opportunities would be restored by providing hatchery production and eventual release of sportfish species such as red snapper, red drum, and spotted seatrout. The estimated cost of this project is approximately \$20 million.
- Scallop Enhancement for Increased Recreational Fishing Opportunity in the Florida Panhandle (Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties, Florida). This project would enhance naturally occurring bay scallop (*Argopecten irradians*) populations in Florida's panhandle bays to support expanded recreational fishing opportunities. The estimated cost of this project is approximately \$3 million.
- Florida Artificial Reef Creation and Restoration (Escambia, Santa Rosa, Okaloosa, Walton, and Bay counties, Florida). This project would provide for enhancement at different depths, both nearshore and offshore, of various permitted artificial reef areas off the western panhandle counties. The purpose is to restore lost recreational use through improved fishing and diving opportunities. The estimated cost of this project is approximately \$11.4 million.
- Beach Enhancement Project at Gulf Island National Seashore (Escambia County, Florida). This project involves removing tens of thousands of cubic yards of asphalt

fragments and road base material that has been scattered over hundreds of acres and approximately 11 miles of the Fort Pickens and the Santa Rosa areas of Gulf Island National Seashore. The purpose is to help restore lost recreational opportunities to the Gulf. The estimated cost of this project is approximately \$11 million.

- Big Lagoon State Park Boat Ramp Improvement (Escambia County, Florida). This project would include adding an additional lane to the boat ramp, expanding boat trailer parking, improving traffic circulation at the boat ramp and providing a new restroom facility. The purpose is to enhance visitors' access to coastal natural resources and help restore lost recreational opportunities. The estimated cost of this project is approximately \$1.5 million.
- Bob Sikes Pier Restoration (Escambia County, Florida). This project would improve access to and add amenities of the existing Bob Sikes Fishing Pier and parking area. Historically, the Bob Sikes fishing pier has provided an opportunity for the general public to access the Gulf of Mexico for fishing and site-seeing. The estimated cost of this project is approximately \$1 million.
- Ferry Boat Access to Ft. Pickens, Gulf Island National Seashore (Escambia County, Florida). This project would provide for the purchase of two ferry boats for use in a new ferry service. The purpose is to help restore lost recreational opportunities by improving visitor access to the Gulf Island National Seashore. The estimated cost of this project is approximately \$4 million.
- Perdido Key Boardwalk Improvements (Escambia County, Florida). The project would replace the six boardwalks leading to the beach, thus restoring lost recreational use services by improving visitor access. The project includes two beach access areas with

three boardwalks at each location. The estimated cost of this project is approximately \$600,000.

- Shell Point Beach Nourishment (Wakulla County, Florida). The project would provide for beach nourishment to improve public recreational opportunities by placing approximately 15,000 cubic yards of dredged sand from an approved upland borrow area on about one mile of Shell Point Beach. The estimated cost of this project is approximately \$880,000.

Louisiana

- Louisiana Outer Coast Restoration (Plaquemines Parish and Terrebonne Parish, Louisiana). Barrier island restoration would restore beach, dune, and back-barrier marsh habitat and will take place at the following locations: Caillou Lake Headlands (also known as Whiskey Island), Cheniere Ronquille, Shell Island (East and West Lobes), and North Breton Island. The restoration work at each island involves placement of appropriately-sized sediments to create beach, dune, and back-barrier marsh areas; installation of sand fencing to trap and retain wind-blown sediments and foster dune development; and revegetation of appropriate native species. Louisiana barrier islands provide important habitat for a wide variety of fish, shellfish, birds, and other wildlife; they also were among the first terrestrial habitats to be oiled during the Spill because of their position along the outer coast. The estimated cost is approximately \$320 million.
- Louisiana Marine Fisheries Enhancement, Research and Science Center (Calcasieu Parish and Plaquemines Parish, Louisiana). This project would involve the development of two sites in Louisiana, one in Calcasieu Parish and one in Plaquemines Parish, into facilities that will assist with research and enhancement of marine fisheries. The estimated cost of

this project is approximately \$22 million.

Mississippi

- Hancock County Marsh Living Shoreline (Hancock County, Mississippi). This project would construct an approximately six mile Living Shoreline to reduce shoreline erosion, re-establish oyster habitat, and enhance fisheries resources and marsh habitat. Approximately 46 acres of marsh would be constructed to protect and restore marsh and 46 acres of sub-tidal oyster reef would be created in Heron Bay to protect the shallow embayment and to increase oyster production in the area. The estimated cost of this project is approximately \$50 million.
- Restoration Initiatives at the INFINITY Science Center (Hancock County, Mississippi). INFINITY is a state-of-the-art interactive science research, education, and interpretive center located in Hancock County. This project would provide for the construction of wetland walkways, viewing structures, piers and interpretive centers. Additional components would include indoor exhibits and a greenhouse/nursery for growing native wetland species. The purpose would be to replace lost recreational opportunities through enhanced visitors' access to coastal natural resources. The estimated cost of this project is approximately \$10.4 million.
- Popp's Ferry Causeway Park (Harrison County, Mississippi). The project would provide for construction of an interpretive center with trails and boardwalks, and other recreational enhancements. This project would replace lost recreational opportunities by enhancing existing amenities for visitors to be able to fish, crab, walk and observe nature. The estimated cost of this project is approximately \$4.7 million.
- Pascagoula Beach Front Promenade (Jackson County, Mississippi). The project would

provide a two-mile, 10-foot wide lighted concrete pathway complete with benches, shower stations, fire pits, sculptures, fishing areas and a playground. The purpose would be to restore the loss of shoreline recreational opportunities by enhancing access to the Mississippi Sound and its natural resources. The estimated cost of this project is approximately \$3.8 million.

Texas

- Texas Artificial Reef (mid/upper coast; Jefferson or Nueces County). This project would provide artificial reef structure along the Texas coast. Artificial reefs would be placed offshore if the necessary large-scale materials are available or nearshore using constructed stable and clean materials. The artificial reefs would be developed in existing permitted reef sites. Artificial reefs are used by fishermen and scuba divers as recreational areas due to the aquatic community that develops in reef habitat. The estimated cost of this project is approximately \$1.8 million.
- Development of Nearshore Artificial Reefs in the Texas Waters of the Gulf of Mexico (Brazoria County, Texas). This project would provide for the enhancement of a nearshore reef site off Freeport, Texas. The estimated cost of this project is approximately \$2 million.
- Enhancement of the Matagorda Nearshore Artificial Reefs in the Texas Waters of the Gulf of Mexico (Matagorda County, Texas). This project would include the construction of a new nearshore artificial reef site off of Matagorda, Texas. The estimated cost of this project is approximately \$3.5 million.
- Sea Rim State Park Amenities (Jefferson County, Texas). The project would provide for construction of facilities that provide enhanced recreation within Sea Rim State Park,

including a fish cleaning station, restroom facility, and two wildlife viewing blinds. The purpose would be to allow for enhanced fishing experiences, observation, and interpretive opportunities. The estimated cost of this project is approximately \$210,000.

- Galveston Island State Park Beach Re-development (Galveston County, Texas). This project would provide for the construction of multi-use campsites, tent campsites, an equestrian trail head, beach access via dune walk-over boardwalks and other recreational enhancements on the Gulf side of Galveston Island State Park. The purpose would be to restore the loss of recreational opportunities by enhancing access to the Gulf. The estimated cost of this project is approximately \$10.7 million.

Next Steps

In the coming months the Trustees will provide more information about the proposed projects and will at that time invite public review and comment in accordance with the OPA regulations, 15 C.F.R. §§ 990 et seq.

Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location: <http://www.doi.gov/deepwaterhorizon>.

Authority

The authority of this action is 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.

Dated: May 1, 2013. _____

Lois J. Schiffer
NOAA General Counsel

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