

**Date:** December 4, 2024

**To:** Texas Trustee Implementation Group (TIG) for the Deepwater Horizon (DWH) Oil Spill Natural Resource Damage Assessment (Texas TIG) Administrative Record

**From:** Texas TIG

**Subject:** Evaluation of a Change to the Texas Trustee Implementation Group components of the *Deepwater Horizon* Oil Spill: Final Phase IV Early Restoration Plan and Environmental Assessments: Sea Turtle Early Restoration

## **I. Introduction**

Section 9.4.9. of the Trustee Council Standard Operating Procedures for Implementation of the Natural Resource Restoration for the *Deepwater Horizon* (DWH) Oil Spill (TC SOPs) provides that if changes are made to any selected project, those changes may require a re-evaluation of determinations made in existing environmental compliance documents. Section 9.5.2 of the TC SOPs provides that the Trustee Implementation Group (TIG) will conduct a project review to determine several factors. First, the TIG will determine whether any change to the project is consistent with the environmental review in the respective restoration plan/National Environmental Policy Act (NEPA) analysis, or whether there are substantial changes that are relevant to environmental concerns. Second, the TIG will assess whether there are significant new circumstances or information relevant to environmental concerns not addressed in the impact analysis of the respective restoration plan/NEPA analysis consistent with 40 CFR § 1502.9 (c). Third, the TIG will evaluate whether project changes affect their selection under the Oil Pollution Act (OPA).

The Texas TIG portion (Texas Project) of the Sea Turtle Early Restoration Project was analyzed and selected in the *Deepwater Horizon* Oil Spill: Final Phase IV Early Restoration Plan and Environmental Assessments (Phase IV ERP/EA) and selected by the DWH Trustees for funding and implementation in 2015.

The Sea Turtle Early Restoration Project description can be found in the Final Restoration Plan:

<http://www.gulfspillrestoration.noaa.gov/media/document/final-phase-iv-erp-eapdf>

Due to the success of the project, the Texas TIG recognizes the benefits of extending the duration and funding associated with the project activities implemented by the Texas TIG. The project change includes extending the project duration up to 2034 and allocating all the remaining unallocated Texas TIG's Sea Turtle Restoration Type funds (approximately \$2,670,000) to the State's nesting and Sea Turtle Stranding and Salvage Network (STSSN) project components. Therefore, this document evaluates those changes. Changes to the Sea Turtle Early Restoration Project and components of the Project being implemented by the Regionwide TIG are not considered in this memo.

## **II. Project Background**

The Project's goal is to restore sea turtles by addressing threats on their nesting beaches and in the marine environment. The three sea turtle species that are restored by this project include the Kemp's ridley, green, and loggerhead. These species are all protected by the Endangered Species Act (ESA). The Texas portion of the Project is being implemented or overseen by the Department of the Interior (DOI), Texas Commission on Environmental Quality (TCEQ), Texas Parks and Wildlife Department (TPWD) and

Texas General Land Office (GLO) over a 10-year period, which began in 2016. This Project is comprised of three components:

- **Kemp’s Ridley Sea Turtle Nest Detection and Enhancement (Nesting):** This Texas Project component enhanced program activities located in Texas and in Mexico for the detection and protection of Kemp’s ridley nests by providing additional staff, training, education activities, equipment, supplies, and vehicles. Funding was allocated to Gladys Porter Zoo for a joint United States/Mexico conservation program in Mexico, where a large portion of Kemp’s Ridley nest, as well as through other partners for conservation programs in Texas.
- **Enhancement of the STSSN and Development of an Emergency Response Program (STSSN):** This Texas Project component enhanced the STSSN by improving response capabilities to recover dead and injured sea turtles and by providing funding to rehabilitation providers.
- **Texas Enhanced Fisheries Bycatch Enforcement (Enforcement):** This Texas Project component enhanced TPWD law enforcement activities for incidental sea turtle catches in and near Texas state waters. These increased enforcement operations focused on compliance with Turtle Excluder Device regulations during the Gulf of Mexico shrimp fishery season (primarily February through mid-May) to reduce turtle bycatch.

Authorized Budgets currently shown in the Restoration Portal to Implement the Texas Sea Turtle Early Restoration project activities are listed in the table below:

<b>Trustee Agency</b>	<b>Previous Authorized Budget</b>	<b>Amended Budget</b>
Department of the Interior	\$5,077,473.00	\$5,077,473.00
Texas Commission on Environmental Quality	\$215,000.00	\$220,000.00
Texas General Land Office	\$60,000.00	\$65,000.00
Texas Parks & Wildlife Department	\$14,612,527.00	\$17,272,527.00
<b>TOTAL</b>	<b>\$19,965,000.00</b>	<b>\$22,635,000.00</b>

DOI implemented project activities related to the 1) Nesting in Texas and 2) STSSN component. TCEQ, TPWD, and GLO implemented project activities or provided Trustee oversight for activities related to 1) Nesting in Texas and Mexico, 2) STSSN, and 3) Enforcement project components. As described in the Deepwater Horizon Oil Spill Phase IV Early Restoration Plan and Environmental Assessments Restoration Plan (Phase IV Plan) these components would enhance programs for a 10-year period. Since activities began in 2016 and were to last for 10 years, this project would cease at the end of 2025. The Project has thus far been successful in protecting and restoring the three identified sea turtle species.

### **III. Description of Project Change**

The project change includes extending the project duration up to 2034 and allocating all the remaining unallocated Texas TIG’s Sea Turtle Restoration Type funds (approximately \$2,670,000) to the State’s nesting and STSSN project components. The portion of the project being implemented by DOI as

described in the Stipulations<sup>1</sup> will continue to be governed by DOI through the extended duration, with no additional funding allocation from the Texas TIG. The additional funds will be provided to the State of Texas (TCEQ, TPWD, and GLO) to be expended over the extended duration. Examples of funded activities can be found in the [2023 Monitoring Report: DWH Sea Turtle Early Restoration Project](#)<sup>2</sup>. The Enforcement component would not be continued; unspent Enforcement component funds will be reallocated to the Nesting and STSSN components. Additional funds and an extended project time frame will allow the continued protection and benefits that the Project provides through Kemp's Ridley Sea Turtle Nest Detection and Enhancement work and Enhancement of the Sea Turtle Stranding and Salvage Network work.

#### **IV. Consistency with existing Restoration Plan and NEPA Analysis**

A thorough environmental assessment of the original project, including review under applicable environmental regulations, is described in Section 13.2 of the Phase IV ERP/EA. The environmental assessment indicated that adverse effects from the project will largely be minor, localized, and often of short duration, but occurring cyclically over the long-term. Minor adverse impacts would occur to geology and substrates and to individual wildlife species from use of utility terrain vehicles on the beach, but impacts would continue to be minimized by use of BMPs.

The project changes do not involve new activities. The only changes are to increase the authorized budget and extend the Project duration. The activities, or portions of the activities, described in the Final Phase IV ERP/EA would be continued for a longer duration (up to nine additional years). The changes are within the scope of the original project that was defined and analyzed in the Final Phase IV ERP/EA. There are no substantive changes relevant to environmental concerns. Hence, no changes to the conservation measures and best management practices are necessary. The federal Trustees of the Texas TIG have reviewed the environmental conditions and the NEPA analysis in the Phase IV ERP/EA and have determined that the original NEPA determination remains applicable and no moderate to major adverse impacts are anticipated from this project change.

#### **V. Determination of Significant new Circumstances or Environmental Concerns not addressed in the Final Phase IV ERP/EA**

There are no significant new circumstances or information relevant to environmental concerns previously addressed in the impact analysis of the respective restoration plan/NEPA review (See 40 CFR § 1502.9 (c)).

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<sup>1</sup> In addition to the project information in the Phase IV ERP/EA, funding for early restoration projects included stipulations, agreed upon between the Trustees and BP, including which Trustee would receive what funding for implementation. [Stipulation Regarding Early Restoration Project for the Deepwater Horizon Oil Spill - Sea Turtle Restoration](#) can be found in the administrative record (<https://www.doi.gov/deepwaterhorizon/adminrecord>)

<sup>2</sup> The 2023 Monitoring Report: DWH Sea Turtle Early Restoration Project can be found at: [https://pub-data.diver.orr.noaa.gov/restoration/2023\\_MONITORING\\_REPORT\\_DWH\\_Sea\\_Turtle\\_Early\\_Restoration\\_Project%20FINAL%20%281%29.pdf](https://pub-data.diver.orr.noaa.gov/restoration/2023_MONITORING_REPORT_DWH_Sea_Turtle_Early_Restoration_Project%20FINAL%20%281%29.pdf)

## **VI. Consistency with OPA Conclusions**

The original evaluation of the project against the OPA NRDA standards (ERP section 13.1.4) found that the project was technically feasible, using proven techniques and established methods, and could be implemented without delay. Its cost estimates were based on known program costs. The project changes, i.e., extension of the project timeframe and addition of funding, are proposed because the project has been successful thus far and adding time and money will allow these benefits to continue to accrue.

### **Application of OPA NRDA evaluation standards to project with change**

- Project cost estimates continue to be based on known program operational costs and demonstrate that the project can be conducted at a reasonable cost (see 15 C.F.R. § 990.54(a)(1) and Section 6e of the Framework Agreement).
- The project remains consistent with the Trustees' goals and objectives in returning injured natural resources to their baseline and/or compensating for interim losses (see 15 C.F.R. 990.54(a)(2)). The project activities are consistent with restoration approaches described in the PDARP/PEIS and the Trustees have been implementing this work to positive effect for almost 10 years.
- The Project is technically feasible; it uses proven techniques with established methods and documented results and can be implemented with minimal delay. For these reasons, the project has been successful thus far and continues to have a high likelihood of success (see 15 C.F.R. § 990.54(a)(3) and Section 6e of the Framework Agreement).
- Collateral injury will be avoided and minimized during project implementation (construction, operations, and maintenance) (see 15 C.F.R. § 990.54(a)(4)). This project will not prevent future injury.
- The project is not anticipated to benefit other natural resources or species (see 15 C.F.R. 990.54(a)(5)).
- The project is not likely to have any impact on public health and safety (see 15 C.F.R. 990.54(a)(6)).

The changes described above in Section III do not affect the selection of the Project under OPA. The Texas TIG expects the project will continue delivering restoration benefits for up to nine additional years with the requested funding. No additional OPA evaluation is necessary.

## **VII. Determination of Significant New Circumstances or Environmental Concerns not addressed in the Final Phase IV ERP/EA**

There are no significant new circumstances or information relevant to environmental concerns previously addressed in the impact analysis of the respective restoration plan/NEPA review (See 40 CFR § 1502.9 (c)).

## VIII. Conclusions

The changes presented above have been evaluated by the Texas TIG in accordance with the TC SOPs as described in Section I, Introduction. Below is a summary of the evaluation conclusions:

- The project change is consistent with the environmental review in the Final Phase IV ERP/EA NEPA review and no substantial changes are relevant to environmental concerns. Therefore, it was determined that existing completed consultations remain valid.
- There are no significant new circumstances or information relevant to environmental concerns previously addressed in the impact analysis of the respective restoration plan/NEPA review [40 CFR § 1502.9 (c)]. Therefore, the original NEPA determination remains applicable.
- The Texas TIG evaluated whether project changes affect the selection analysis under OPA and determined they do not. The project change would provide additional restoration benefits.

The project changes provide additional restoration benefits since the Project benefits would be achieved for a longer duration. The changes do not affect the selection of this Project under OPA and the Project is consistent with the environmental review conducted for the Phase IV ERP/EA. Therefore, no further analyses under OPA or NEPA are necessary. An opportunity for public comment will be given in conjunction with the January 2025 TX TIG Public Meeting. The TIG will consider any comments received, and if appropriate, adopt this change memo via resolution. If adopted, the TIG will publish a webstory to inform the public at <https://www.gulfspillrestoration.noaa.gov/restoration-areas/texas>.