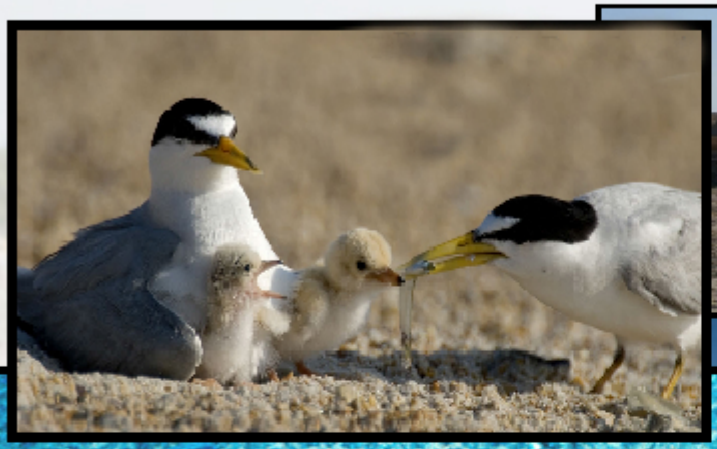
Deepwater Horizon Oil Spill
Phase II Early Restoration Plan and Environmental Review



Prepared by the Deepwater Horizon Natural Resource Trustees from

State of Alabama
State of Florida
State of Louisiana
State of Mississippi
State of Texas
United States Department of the Interior
National Oceanic and Atmospheric Administration
United States Department of Agriculture
United States Environmental Protection Agency

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State of Alabama (Department of Conservation and Natural Resources;
Geological Survey of Alabama)

State of Florida (Department of Environmental Protection;
Fish and Wildlife Conservation Commission)

State of Louisiana (Coastal Protection and Restoration Authority;
Department of Environmental Quality; Department of Wildlife and Fisheries;
Department of Natural Resources; Oil Spill Coordinator's Office)

State of Mississippi (Department of Environmental Quality)

State of Texas (Texas Commission on Environmental Quality; Texas General Land Office;
Texas Parks and Wildlife Department)

United States Department of the Interior

National Oceanic and Atmospheric Administration

United States Department of Agriculture

United States Environmental Protection Agency

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EXECUTIVE SUMMARY

Introduction

The Gulf of Mexico (Gulf) is a priceless national treasure. Its natural resources – water, fish, beaches, reefs, marshes, oil and gas – are the economic engine of the region. The Gulf is likewise vitally important to the entire nation as a bountiful source of food, energy and recreation. The Gulf Coast's unique culture and natural beauty are world-renowned. There is no place like it anywhere else on Earth.

On April 20, 2010 the eyes of the world focused on an oil platform in the Gulf, approximately 50 miles off the Louisiana coast. The mobile drilling unit *Deepwater Horizon*, which was being used to drill an exploratory well for BP Exploration and Production, Inc. (BP), violently exploded, caught fire and eventually sank, tragically killing 11 workers. But that was only the beginning of the disaster. Oil and other substances from the well head immediately began flowing unabated approximately one mile below the surface. Initial efforts to cap the well were unsuccessful, and for 87 days oil spewed unabated into the Gulf. Oil eventually covered a vast area of thousands of square miles, and carried by the tides and currents reached the coast, polluting beaches, bays, estuaries and marshes from the Florida panhandle to west of Galveston Island, Texas. At the height of the spill, approximately 37% of the open water in the Gulf was closed to fishing. Before the well was finally capped, an estimated 5 million barrels (210 million gallons) of oil escaped from the well over a period of approximately 3 months. In addition, approximately 1.84 million gallons of dispersants were applied to the waters of the spill area, both on the surface and at the well head one mile below. Shoreline communities and other responders along the Gulf coast raced to protect coastal habitats as beaches, coastal waters, estuaries, and marshes were put at risk of oiling. Floating booms were placed across inlets, within estuaries, and along sandy beaches creating a barrier to people and to important wildlife habitats. Heavy equipment and lines of workers moved large amounts of sand to form additional berms and barriers. Some response activities to the spill negatively impacted sandy beaches and marshes as thousands of workers descended on the beaches and sensitive wetland areas preparing for the oil to come ashore, searching for oil and removing product by hand and with machines. It was an environmental disaster of unprecedented proportions. It also was a devastating blow to the resource-dependent economy of the region.

While the extent of natural resources impacted by the *Deepwater Horizon* oil spill and response (collectively, "the Spill") is not yet fully evaluated, impacts were widespread and extensive. The full spectrum of the impacts from the Spill, given its magnitude, duration, depth and complexity, will be difficult to determine. The trustees for the Spill, however, are working to assess every aspect of the injury, both to individual resources and lost recreational use of them, as well as the cumulative impacts of the Spill. Affected natural resources include ecologically, recreationally, and commercially important species and their habitats across a wide swath of the coastal areas of Alabama, Florida, Louisiana, Mississippi, and Texas, and a huge area of open water in the Gulf. When injuries to migratory species such as birds, whales, tuna and turtles are considered, the impacts of the Spill could be felt across the United States and around the globe.

The Role of the Trustees

Under the Oil Pollution Act (OPA), which became law after the 1989 Exxon Valdez oil spill, the federal government, impacted state governments, federally recognized Indian tribes and foreign governments act as "trustees" on behalf of the general public. Trustees are charged with recovering damages from the parties responsible for oil spills and to restore injuries to the public's natural resources. Trustees assess the nature and extent of natural resource injury and develop and implement a restoration plan that involves rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources and services those resources provide under their trusteeship. The *Deepwater Horizon* Trustees (Trustees) are:

- The United States Department of the Interior (DOI), as represented by the National Park Service, United States Fish and Wildlife Service, and Bureau of Land Management;
- The National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce;
- The United States Department of Agriculture;
- The United States Environmental Protection Agency;
- The State of Louisiana's Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources;
- The State of Mississippi's Department of Environmental Quality;
- The State of Alabama's Department of Conservation and Natural Resources and Geological Survey of Alabama;
- The State of Florida's 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.[1]

The Trustees began working together in the early days of the Spill. The result has been an unprecedented state-federal collaboration, with a unity of vision and purpose, and a strong desire by all the Trustees to act as quickly as possible to restore the Gulf. Trustee efforts to assess the injuries to natural resources began within hours of the explosion and continue to the present. The Trustees uniformly believe that restoration of the natural resources in the Gulf must begin as soon as possible. This Phase II Early Restoration Plan and Environmental Review (Phase II ERP/ER) contains the plan for the second set of restoration actions that will be undertaken by the Trustees, paid for by those responsible for injuries to natural resources and the services they provide, representing a step on the road to a full recovery for the Gulf. The ultimate goal of the Trustees is comprehensive and long lasting repairs to the Gulf ecosystem, and the communities that depend on it, to the condition they would have been in if the Spill had not occurred (i.e., the baseline conditions), as well as to compensate the public for its lost use of the resources during the time they were injured.

From the outset, the Trustees expected that the restoration of resources injured by the Spill would be a massive undertaking, and that during the assessment, injuries would continue to accrue. The

[1] The Department of Defense (DOD) is also a trustee of natural resources associated with DOD-managed land on the Gulf Coast, which is included in the ongoing natural resource damage assessment (NRDA).

Trustees decided that because of the pervasive and ongoing nature of the damages to natural resources in the region, it would be in the best interest of the public to accelerate restoration and begin implementing projects, if possible, even before completion of the full damage assessment. The Trustees approached BP in the fall of 2010, and negotiations on an early restoration fund commenced.

Exactly one year after the explosion on the *Deepwater Horizon* rig, the Trustees and BP entered into an unprecedented agreement whereby BP set aside one billion dollars to fund early restoration projects agreed to by BP and the Trustees, incorporating public review. This early restoration agreement, known as the "Framework Agreement,"[2] represents the initial step toward the restoration of natural resources injured by the *Deepwater Horizon* Spill. It is a down payment against the ultimate claim for damages from the Spill. The Trustees expect, pending agreement with BP, to be able to fund more early restoration projects in addition to the eight projects addressed in the Phase I Early Restoration Plan and Environmental Assessment (Phase I ERP/EA; Trustees, 2012) and the two projects selected herein. The Trustees continue to assess the injuries to natural resources and services resulting from the Spill and pursue the ultimate claim for damages. Restoration work will take many years to complete, and long-term monitoring and adaptive management of the Gulf ecosystem will likely continue for decades until the Trustees can be certain that the public has been fully compensated for its losses.

Early Restoration Project Selection

Following signature of the Framework Agreement, the Trustees invited the public to provide early restoration project ideas and proposals. The Trustees received hundreds of proposals, which were made publicly available at http://www.gulfspillrestoration.noaa.gov/restoration/give-usyour-ideas/view-submitted-projects/. The Trustees implemented a project selection process to evaluate proposals and ensure that restoration would begin as soon as possible. Figure ES-1 depicts the general selection process, which included project solicitation, project screening and identification, negotiation, public review and comment, and final selection.

The Trustees evaluated potential early restoration projects using criteria included in applicable damage assessment and restoration regulations and programs, the Framework Agreement, and factors that are otherwise key components in planning early restoration. Under OPA regulations, restoration alternatives are evaluated with regard to:

- The cost to carry out the alternative;
- The extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses (the ability of the restoration project to provide comparable resources and services, that is, the nexus between the project and the injury);
- The likelihood of success of each alternative;
- The extent to which each alternative will prevent future injury as a result of the incident, and avoid collateral injury as a result of implementing the alternative;

[2] See http://www.restorethegulf.gov/sites/default/files/documents/pdf/framework-for-early-restoration-04212011.pdf.

- The extent to which each alternative benefits more than one natural resource and/or service; and
- The effect of each alternative on public health and safety.

Under OPA regulations, if the Trustees conclude that two or more restoration alternatives are equally preferable, the most cost-effective alternative must be chosen.

In addition, the Framework Agreement provides that early restoration projects meet the following criteria:

- Contribute to making the environment and the public whole by restoring, rehabilitating, replacing, or acquiring the equivalent of natural resources or services injured as a result of the Spill, or compensating for interim losses resulting from the incident;
- Address one or more specific injuries to natural resources or services associated with the incident;
- Seek to restore natural resources, habitats, or natural resource services of the same type, quality, and of comparable ecological and/or human-use value to compensate for identified resource and service losses resulting from the incident;
- Are not inconsistent with the anticipated long-term restoration needs and anticipated final restoration plan; and
- Are feasible and cost-effective.

In early restoration planning, the Trustees are also taking into account several practical considerations that, while not legally mandated, are nonetheless useful and permissible to help screen the large number of potential qualifying projects. None of these practical considerations are used as a "litmus test"; rather, they are used as flexible, discretionary factors to supplement the decision criteria described above. For example, Trustees:

- Take into account how quickly a given project is likely to begin producing environmental benefits;
- Seek a diverse set of projects providing benefits to a broad array of potentially injured resources;
- Focus on types of projects with which they have significant experience, allowing them to predict costs and likely success with a relatively high degree of confidence and making it easier to reach agreement with BP on the Offsets (see Section 1.3) attributed to each project, as required by the Framework Agreement; and
- Give preference to projects that were closer to being ready to implement.

The Trustees acted promptly in 2011 to identify project proposals that met selection criteria, and then narrowed the potential project list down to an initial group to move forward into discussion with BP on cost and Offsets. The Trustees and BP came to preliminary agreement on a set of proposals, which the Trustees proposed as Phase I projects in a Draft Phase I ERP/EA released for public comment in December 2011 and finalized as the "*Deepwater Horizon* Oil Spill Phase I Early Restoration Plan and Environmental Assessment" in April 2012 (Trustees, 2012).

Partially in response to some specific public comments received on the Phase I Draft Early Restoration Plan (DERP)/EA, the Trustees proposed two more early restoration projects to address injuries to the nesting habitat of beach nesting birds and of nesting loggerhead sea turtles that resulted from response activities to the Spill. These two projects were included in the Draft Phase II ERP/ER released for public comment on November 6, 2012. These projects were proposed at this time because loggerhead sea turtles and beach nesting birds begin nesting along the Northeast Gulf coast in February and implementation of these projects needs to begin in advance of nesting season to provide benefits during the 2013 nesting season. A public meeting was also held on November 13, 2012 in Pensacola, Florida to facilitate public review and comment. The Trustees accepted comment on the proposed plan through December 10, 2012.

Selected Projects

Consistent with OPA and the National Environmental Policy Act, the Trustees considered public comment prior to final selection of these Phase II projects. A summary of comments on the Draft Phase II ERP/ER, the Trustees' responses to comments and the final selected Phase II projects are included in this final "*Deepwater Horizon* Oil Spill Phase II Early Restoration Plan and Environmental Review" (Phase II ERP/ER), together with the Trustees' environmental review documentation. In addition, this Phase II ERP/ER includes a description and quantification of the Offsets preliminarily agreed to by BP and the Trustees.

This Phase II ERP/ER consists of the two projects listed in Table ES-1, and more fully described in this document. They address response injuries to habitat of beach nesting birds and of nesting loggerhead sea turtles and have project components located in Florida, Alabama and Mississippi. While this plan includes two projects, each project was viewed and evaluated as independent from the other.

It is important to emphasize that restoration proposals developed pursuant to the Framework Agreement are not intended to provide the full extent of restoration needed to satisfy the Trustees' claims against BP. Restoration will continue until the public is fully compensated for the natural resources and services that were lost as a result of the Spill.

Next Steps

This Phase II ERP/ER serves as the Trustees' final selection of Phase II early restoration projects, taking into account the suite of potential projects proposed, the NRDA and Framework Agreement process, and public comment on the Draft Phase I ERP/EA and Draft Phase II ERP/ER. Per the Framework Agreement, the Trustees will move forward with agreements with BP to fund these projects and commence implementation, as described in more detail throughout this document. Updates on the progress of project implementation will be available at http://www.gulfspillrestoration.noaa.gov.

As previously noted, the projects selected in this Phase II ERP/ER represent only the second set of projects in the early restoration process. The Trustees continue to evaluate projects already submitted by the public for consideration, as well as any new projects as they are received, with the intent of proposing additional projects until funds made available under the Framework Agreement are exhausted. It is important to emphasize that restoration proposals developed

pursuant to the Framework Agreement are not intended to provide the full extent of restoration needed to satisfy the Trustees' claims against BP. At the end of the NRDA process, the Trustees will credit all the Offsets identified for approved early restoration projects against their assessment of the **total** injury for the Spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses from the Spill and will continue until the public is fully compensated for the natural resources and services that were lost as a result of the Spill.

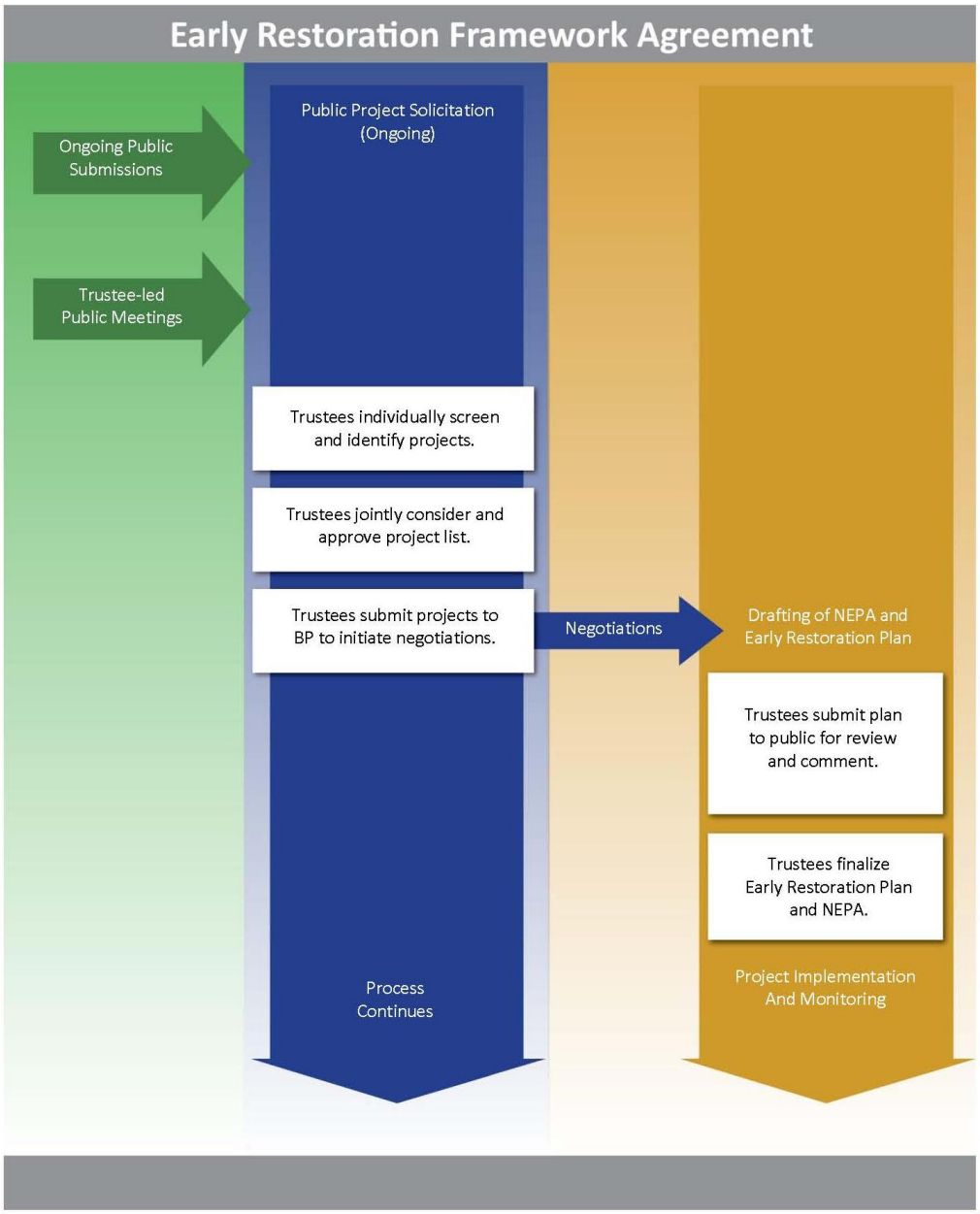

Figure ES-1. General early restoration project selection process.

Table ES-1. Early restoration projects included in the selected Alternative.

Project Title	Location	Selected Restoration	Estimated Cost (including potential contingencies)[3]	Resources Benefitted
Enhanced Management of Avian Breeding Habitat Injured by Response in the Florida Panhandle, Alabama, and Mississippi	Florida: Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties. Alabama: Bon Secour National Wildlife Refuge (NWR) in Baldwin and Mobile counties. Mississippi: Gulf Islands National Seashore (GUIS) – Mississippi District.	Symbolic fencing, predator control, and stewardship around important nesting areas to prevent disturbance	$4,658,118	Nesting and foraging habitat for beach nesting birds in Florida, and on DOI lands in Alabama and Mississippi.
Improving Habitat Injured by Spill Response: Restoring the Night Sky	State-owned beaches within the boundaries of the Gulf State Park in Baldwin County, AL, and properties in Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties, FL.	Reduce artificial lighting impacts on nesting habitat for loggerhead sea turtles	$4,321,165	Nesting habitat for loggerhead sea turtles in Florida and state lands in Alabama.

[3] Actual costs may differ depending on future contingencies, but will not exceed the amount shown without further agreement between the Trustees and BP.