Stipulation Regarding Early Restoration Project for the Deepwater Horizon Oil Spill - Hancock County Marsh Living Shoreline

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill – Hancock County Marsh Living Shoreline Project ("Project Stipulation" or "Stipulation"), is made by and among BP Exploration & Production Inc. ("BPXP"), the State Trustees and Federal Trustees as defined herein (collectively, with the United States Department of Justice, the "Parties") in accordance with the Framework for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill ("Framework Agreement") executed April 20, 2011. Except as set forth herein, this Project Stipulation is governed by the Framework Agreement and incorporates its terms by reference. This Project Stipulation will be effective when signed by an authorized representative of each of the Parties.

WHEREAS, for purposes of this Project Stipulation, the United States is acting on behalf of the following federal trustees of natural resources: the Secretary of the United States Department of the Interior ("DOI"), through its applicable bureaus, the Administrator of the National Oceanic and Atmospheric Administration ("NOAA"), the Administrator of the United States Environmental Protection Agency ("EPA"), and the Secretary of the United States Department of Agriculture ("USDA") (collectively "Federal Trustees"); and

WHEREAS, for purposes of this Project Stipulation, the States of Alabama, Florida, Louisiana, Mississippi, and/or Texas (collectively, "States") are acting through the following state trustees of natural resources: for the State of Alabama, the Alabama Department of Conservation and Natural Resources and the Geological Survey of Alabama; for the State of Florida, the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission; for the State of Louisiana, the Louisiana Coastal Protection and Restoration Authority, the Louisiana Oil Spill Coordinator's Office, the Louisiana Department of Environmental Quality, the Louisiana Department of Wildlife and Fisheries, and the Louisiana Department of Natural Resources; for the State of Mississippi, the Mississippi Department of Environmental Quality; and for the State of Texas, the Texas Parks and Wildlife Department, the Texas General Land Office, and the Texas Commission on Environmental Quality (collectively, "State Trustees"; the State and Federal Trustees collectively are referred to as the "Trustees"); and

WHEREAS, on or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon experienced an explosion, fire and subsequent sinking in the Gulf of Mexico resulting in a release of oil into the Gulf of Mexico and response actions ("the Oil Spill"); and

WHEREAS, the Trustees are conducting a Natural Resource Damage Assessment ("NRDA"), as that term is defined in 15 C.F.R. § 990.30 and corresponding state law provisions, to determine Natural Resource Damages resulting from the Oil Spill in accordance with federal and state laws and authorities; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (the "Phase III Plan"), dated October 2, 2014, after public notice of the proposed plan, a reasonable opportunity

for public comments, and consideration of all comments received, which includes the project described herein ("Early Restoration Project"); and

WHEREAS, the Trustees have determined that the Early Restoration Project meets the criteria set forth in Paragraph 6 of the Framework Agreement and is consistent with section 1006 of the Oil Pollution Act, 33 U.S.C. § 2706, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.; and

WHEREAS, all Parties agree that this Project Stipulation has been negotiated in good faith and that it is fair, reasonable, and in the public interest;

NOW, THEREFORE, in consideration of the promises exchanged herein, the Parties hereby agree and stipulate as follows:

I. RESTORATION PROJECT

A. The Trustees have selected the Early Restoration Project set forth in Appendix A (including project description, estimated project cost, and location), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 6, 2013, the Trustees published for public notice and comment a Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement that included the Early Restoration Project. On October 2, 2014, after considering all public comments received on the draft plan, the Trustees adopted a final Phase III Plan that included the Early Restoration Project. The final Phase III Plan (along with supporting documentation) is available publicly as described in Appendix B.

B. The Parties agree that the Early Restoration Project is consistent with section 1006 of the Oil Pollution Act, 33 U.S.C. § 2706, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq., is in the public interest and meets all of the following criteria:

   i. contributes 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 Oil Spill, or compensating for interim losses resulting from the Oil Spill;

   ii. addresses one or more specific injuries to natural resources or services associated with the Oil Spill;

   iii. seeks 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 Oil Spill;

   iv. is not inconsistent with the anticipated long-term restoration needs and anticipated final restoration plan; and

   v. is feasible and cost effective.

C. The Early Restoration Project shall be implemented by the following Trustee(s): National Oceanic and Atmospheric Administration (NOAA) and Mississippi Department of Environmental Quality (MDEQ) ("Implementing Trustee(s)").

D. Quarterly Reports: The Implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to BPXP describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until the conclusion of the calendar year in which the implementing Trustee(s) has completed construction of the project, or until the NRD case is concluded by a judicially approved consent decree or final judgment resolving BPXP's potential liability for natural resource damages resulting from the Oil Spill, whichever comes first. For purposes of this reporting, a year will be divided into the following four quarters: (1) January, February, March; (2) April, May, June; (3) July, August, September; (4) October, November, December. The first quarterly status report shall encompass all relevant information from the quarter in which the Project Stipulation was filed as well as the first subsequent quarter; therefore the first quarterly report may encompass a timeframe greater than three (3) months. Quarterly status reports will be due within sixty (60) days after the end of the applicable quarter.

   Annual Reports: Once the Implementing Trustee(s) fulfills its obligations to submit quarterly reports for the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to BPXP describing the status of and any changes to the Early Restoration Project and/or project expenditures during each period. The Implementing Trustee(s) shall provide annual status reports until the applicable performance criteria, monitoring, and maintenance period has expired or until the NRD case is concluded by a judicially approved consent decree or final judgment resolving BPXP's potential liability for natural resource damages resulting from the Oil Spill, whichever comes first. For the purposes of the annual reporting, a reporting year will cover from January 1st to December 31st. The first annual report will cover the calendar year immediately following the calendar year in which the Implementing Trustee(s) has completed construction of the Early Restoration Project. Annual status reports will be due within sixty (60) days after the conclusion of that annual reporting year. The Trustees may group multiple Early Restoration Projects in a single report.

E. All Parties shall also have the right to observe or inspect the implementation of the Early Restoration Project to the greatest extent practicable based on the design of the project, site conditions, and any legal limitations on access controlled by third parties. In addition, BPXP shall have the further right to access and copy final design, permitting, oversight and monitoring data, and reports that are collected or generated for the Early Restoration Project. All such data and reports shall be available to BPXP, after applicable quality assurance/quality control, and may be incorporated into the Administrative Record for the Deepwater Horizon Natural Resource Damage Assessment at the discretion of the Trustees in accordance with the Oil Pollution Act, 33 U.S.C. §§ 2701 et seq., and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.

II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

A. BPXP shall provide total funding in the amount of $50,000,000 for the Early Restoration Project in accordance with Paragraphs II.C. and II.D. below, absent the entry of a judicial stay or other court order that prevents project implementation or otherwise affects the terms of this Project Stipulation. All funds provided to any Trustee under this Stipulation shall be paid and deposited in accordance with the instructions provided by the Implementing Trustee(s) pursuant to Paragraphs II.C. and II.D. below. The $50,000,000 shall be distributed between the implementing Trustees as follows:

i. Mississippi Department of Environmental Quality (MDEQ) shall receive $47,172,620.00; and

ii. The United States National Oceanic and Atmospheric Administration shall receive $2,827,380.00.

iii. These sums shall be distributed under Paragraphs II.C. and II.D. as follows:.

	To MDEQ	To NOAA
Initial $12,500,000.00 (25% pursuant to Paragraph II.C):	$11,793,155.00	$706,845.00
Next $12,500,000.00 (25% pursuant to Paragraph II.D.i)	$11,793,155.00	$706,845.00
Final $25,000,000.00 (50% pursuant to Paragraph II.D.ii)	$23,586,310.00	$1,413,690.00

B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, maintenance, and any agreed upon contingency, except as provided in Paragraphs II.E. and II.F. The estimated cost(s) of the Early Restoration Project is set forth in Appendix A.

C. Initial Payment: Within thirty (30) days of the filing of this Project Stipulation or receipt of written payment instructions from the Implementing Trustee(s), whichever is later, BPXP shall cause the transfer of 25% of the amount specified in Paragraph II.A in the amounts identified in Paragraph II.A(iii) from the Early Restoration Subaccount[1] to the account or accounts and in the manner designated in the payment instructions.

[1] The Early Restoration Subaccount means the separate subaccount within the Deepwater Horizon Oil Spill Trust, the private trust previously established by BPXP that was created and holds the $1 billion BPXP committed toward early restoration projects, as required by the terms of the Framework Agreement.

D. Additional Payments: The remaining 75% of the amount specified in Paragraph II.A. shall be paid from the Early Restoration Subaccount as follows:

   i. The Implementing Trustee(s) elects to perform the Early Restoration Project with the use of contractor(s). Unless other payment arrangements are specified in Appendix A, BPXP shall transfer 25% of the remaining funds to be paid under Paragraph II.A from the Early Restoration Subaccount in the amounts identified in Paragraph II.A(iii) to the account or accounts designated by the Implementing Trustee(s) within fifteen (15) days after the date that BPXP receives written notice from the Implementing Trustee(s) of issuance of a Request for Proposal, or other appropriate applicable procurement mechanism, or within sixty (60) days of the filing of this Project Stipulation, whichever is later; such notice shall include written payment instructions.

   ii. BPXP shall transfer the remaining 50% of the funds to be paid under Paragraph II.A. from the Early Restoration Subaccount in the amounts identified in Paragraph II.A(iii) to the account or accounts designated in the payment instructions within fifteen (15) days of notice to BPXP of the selection of a contractor but before award of a contract to implement the Early Restoration Project, or within seventy-five (75) days of the filing of this Project Stipulation, whichever is later.

E. Any and all funds transferred pursuant to Paragraph 5 of the Framework Agreement and Paragraphs II.C. and II.D. of this Project Stipulation, along with any accrued interest, that have not been spent and remain unobligated after the Trustee(s) has completed the Early Restoration Project, including all performance monitoring and corrective actions, shall be retained by the Trustees. Such funds may only be used by the Implementing Trustee(s) for another restoration project agreed to by all Trustees, provided, however, that such funds may not be used for another project unless and until the Implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

F. If implementation of the Early Restoration Project does not commence, as specified in Appendix A, by the end of the eighteenth (18th) month after the date all Parties have signed this Project Stipulation, unless the Parties agree otherwise, the Project Stipulation shall be void and the funds transferred pursuant to Paragraph 5 of the Framework Agreement and Paragraphs II.C. and II.D. of this Project Stipulation that have not been spent and remain unobligated, along with any accrued interest, shall remain in the account or accounts to which they have been transferred and only be used for another project under a new Project Stipulation agreed to by all the Parties under the terms of the Framework Agreement.

G. Notwithstanding any provision of this Project Stipulation, if the cost of the Early Restoration Project exceeds the amount of funding stated in Paragraph II.A. above, the Parties may agree, in writing, to increase the amount of funding that BPXP will provide for the Early Restoration Project under this Project Stipulation from the Early Restoration Subaccount.

H. The Implementing Trustees may shift or transfer funds that they have received pursuant to this Stipulation between each other, as they determine to be necessary or appropriate to ensure these funds are available where and as needed for completion of the Project.

III. NRD OFFSETS

A. The natural resources and/or services predicted to result from the Early Restoration Project ("NRD Offsets") are set forth in Appendix C, attached hereto and incorporated by reference. Trustee(s) whose resources are addressed in the Early Restoration Project, as designated by the Trustee Council in accordance with Paragraph 11 of the Framework Agreement, are also identified in Appendix C ("Affected Trustees"). NRD Offsets shall be applied only to the injuries within the boundaries of the state or states in which the Early Restoration Project is implemented, or as otherwise provided in Appendix C.

B. Terms used in the NRD Offsets that are defined in OPA or in 15 C.F.R. Part 990 shall have the meaning set forth in the statute or regulations, except where a different definition is provided in Appendix C or in Appendix D (Glossary of Terms), attached hereto and incorporated by reference, in which case the meaning provided in the applicable Appendix shall control.

C. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C.

D. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project (or Replacement Project(s), if applicable) does not achieve the anticipated results.

E. BPXP waives the right to claim that the Early Restoration Project (or Replacement Project(s), if applicable) provides benefits to natural resources or services beyond those identified in Appendix C, or provides benefits to Trustees other than those identified in Appendix C.

F. Except as otherwise agreed to by the Parties, none of the terms of this Stipulation, including, without limitation, the amount of the NRD Offset and the methodology used to calculate the NRD Offset in this Project Stipulation, shall be used as precedent for any other restoration project. Furthermore, neither the amount of the NRD Offset nor the methodology used to calculate the NRD Offset shall be used as precedent for determining NRD Offsets or the benefits or effects of restoration in this or for any other case.

G. (1) Any NRD Offsets set forth in Appendix C shall be applied to reduce the Trustees' assessment of natural resource damages resulting from the Oil Spill in any civil litigation or other proceeding brought by the Trustees, individually or collectively, seeking natural resource damages ("initial application").

(2) If the Court modifies the Trustees' assessment of natural resource damages resulting from the Oil Spill in a way that materially affects their initial application of the NRD Offsets, then the Trustees shall re-apply the NRD Offsets to reduce the natural resource damages determined by the Court, once the Court's determination is final and is not subject to further appeal. The Trustees shall

provide BPXP notice of any proposed re-application of the NRD Offsets and an opportunity of no less than sixty (60) days to submit comments and any relevant information and supporting materials ("BPXP's submission"). After considering BPXP's submission, the Trustees shall issue their modified application of the NRD Offsets. Within thirty (30) days of receipt of the Trustees' modified application of the NRD Offsets, BPXP may seek judicial review of the Trustees' determination based solely on BPXP's submission, any response or explanation provided by the Trustees, and the record of the NRDA and the NRD litigation. Nothing in this Paragraph shall affect the quantity or definition of NRD Offsets as set forth in Appendix C, nor shall this Paragraph require application of the NRD Offsets beyond the limitations set forth in this Stipulation, including the limitations in Appendix C on Affected Trustees and on the type and/or geographic scope of the natural resources and/or services against which the Offsets may be applied.

(3) To the extent NRD Offsets have been applied as provided in this Stipulation, then BPXP is not entitled to any further application of the NRD Offsets in litigation nor other proceedings brought by the Trustees.

IV. EFFECT OF STIPULATION

A. This Project Stipulation is binding upon the Parties and their successors and assigns.

B. Except as provided herein, the Parties make no admission of fact or law by entering into this Project Stipulation.

C. The Trustees agree to incorporate this Project Stipulation into the Administrative Record for the Deepwater Horizon NRDA.

D. Within five (5) days of execution of this Project Stipulation, the United States, acting through the United States Department of Justice, counsel representing those State Trustees who are parties in the Deepwater Horizon Oil Spill Multi-District Litigation ("MDL"), and BPXP shall file a notice of this Project Stipulation, for informational purposes only, with the MDL Court. Such notice shall be substantially in the same form as the notices of Early Restoration Project Stipulations previously filed in the MDL. Any such notice may address multiple Project Stipulations.

E. The Trustees hereby covenant not to sue BPXP for claims for damages or injuries to or losses of natural resources resulting from the activities of the Trustees in implementing the Early Restoration Project or, if applicable, Replacement Project(s).

F. Any modification to this Project Stipulation shall be in writing signed by all Parties, except that (1) a non-material modification may be made in writing signed by the Affected Trustees, DOJ, and BPXP; and (2) the Implementing Trustee(s), DOJ, and BPXP may correct typographical or other non-substantive scriveners' errors by substituting a corrected page for the page containing the error, with the Parties' agreement to the correction(s) documented by exchange of e-mails or letters. Any modification that affects the amount of funding to be provided, the NRD Offsets to be attributed to the project, or the effect of the

Project Stipulation on claims or liabilities shall be considered material. Notice of any modification, including corrections, shall be filed with the MDL Court for informational purposes only.

V. GENERAL PROVISIONS AND RESERVATIONS OF RIGHTS

A. Except for the stipulated NRD Offsets and as set forth herein in Paragraph IV.E., this Project Stipulation shall not be construed to limit in any way the authority of the Trustees to perform assessments, engage in any restoration planning, or select and implement restoration projects; nor shall it require BPXP to fund any of these activities.

B. This Project Stipulation fully reserves and shall not limit the Trustees' rights to recover costs for reasonable oversight costs related to assessments, restoration planning activities, selection and implementation of restoration projects, or other reasonable natural resource damage assessment costs as provided in 33 U.S.C. § 2706 including the Trustees' costs associated with the selection of Early Restoration Projects, development of the Early Restoration Plan(s), and general non-project specific administration and monitoring of the early restoration process; provided, however, nothing in this Project Stipulation shall permit the Trustees to recover additional costs of implementation of the Early Restoration Project except in accordance with Paragraph II.G.

C. Except for the stipulated NRD Offsets and as set forth herein in Paragraph IV.E., this Project Stipulation does not operate to release BPXP from any potential natural resource damage or other liability, and the Trustees reserve all other claims against BPXP and/or other parties related to natural resource damage liability or any other liability arising from the Oil Spill.

D. Except for the stipulated NRD Offsets and as set forth herein in Paragraph IV.E., the Trustees reserve the right to use any appropriate methodologies for assessing natural resources injuries, for determining the natural resource damages and for planning and scaling restoration for the Oil Spill.

E. Except with respect to the Early Restoration Project that BPXP has agreed to fund, any Replacement Project(s) selected in accordance with this Project Stipulation, and the agreed upon NRD Offsets under this Project Stipulation, BPXP reserves all legal and evidentiary defenses it may have against any claim asserted by any Trustee, including, without limitation, any defenses related to natural resource damages arising from the Oil Spill, any natural resource damages assessment associated with the Oil Spill, and any methodologies the Trustees use to assess natural resources injuries, determine the natural resource damages claims, and in planning and scaling restoration. BPXP reserves all claims, cross-claims or counterclaims it may have against any person or entity not a party to this Project Stipulation.

F. Except for the stipulated NRD Offsets and as set forth herein in Paragraph IV.E., the Trustees expressly reserve all claims, demands, and causes of action, either judicial or administrative, past or future, in law or equity, against any person or entity not a party to this Project Stipulation for any matter arising out of or in any way relating to the Oil Spill.

G. The undersigned representative of each Party certifies that he or she is fully authorized to enter into the terms and conditions of this Project Stipulation and to execute and legally bind such Party to this document. This Project Stipulation may be signed in counterparts.

H. To the extent that there is any inconsistency between this Project Stipulation and the Framework Agreement, this Project Stipulation shall govern.

IN WITNESS WHEREOF, the undersigned Parties have executed and delivered this Project Stipulation, effective as of the date of execution by all Parties.

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE UNITED STATES:

10/2/14
Date

SAM HIRSCH
Acting Assistant Attorney General
Environment & Natural Resources Division
U.S. Department of Justice
Washington, D.C. 20530

Date

CYNTHIA K. DOHNER
Deepwater Horizon Authorized Official
Department of the Interior
1875 Century Boulevard
Atlanta, Georgia 30345

Date

KENNETH J. KOPOCIS
U.S. Environmental Protection Agency
Principal Representative
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Date

CRAIG R. O'CONNOR
National Oceanic and Atmospheric Administration
Special Counsel
7600 Sand Point Way NE
Seattle, WA 98155

Date

ANN C. MILLS
U.S. Department of Agriculture
Deputy Under Secretary for Natural Resources and Environment
1400 Independence Ave. SW
Washington, D.C. 20250

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE UNITED STATES:

_____	_____
Date	SAM HIRSCH Acting Assistant Attorney General Environment & Natural Resources Division U.S. Department of Justice Washington, D.C. 20530
10/2/14	
Date	CYNTHIA K. DOHNER Deepwater Horizon Authorized Official Department of the Interior 1875 Century Boulevard Atlanta, Georgia 30345
10/2/14	
Date	KENNETH J. KOPOCIS U.S. Environmental Protection Agency Principal Representative 1200 Pennsylvania Ave. NW Washington, D.C. 20460
10/2/14	
Date	CRAIG R. O'CONNOR National Oceanic and Atmospheric Administration Special Counsel 7600 Sand Point Way NE Seattle, WA 98155
10/2/14	
Date	ANN C. MILLS U.S. Department of Agriculture Deputy Under Secretary for Natural Resources and Environment 1400 Independence Ave. SW Washington, D.C. 20250

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FOR THE STATE OF ALABAMA:

10/2/14
Date

N. GUNTER GUY, JR.
Alabama Department of Conservation
and Natural Resources
Commissioner of Conservation
64 N. Union Street
Montgomery, AL 36130

10/2/14
Date

BERRY H. TEW, JR.
Geological Survey of Alabama
and State Oil and Gas Board of Alabama
State Geologist/Oil & Gas Supervisor
P.O. Box 869999
Tuscaloosa, AL 35486-6999

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FOR THE STATE OF FLORIDA:

10/2/14
Date

LARRY MORGAN
Florida Department of Environmental Protection
Senior Deputy General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000

10/2/14
Date

NICK WILEY
Florida Fish and Wildlife Conservation Commission
Executive Director
620 South Meridian Street
Tallahassee, Florida 32399-1600

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE STATE OF LOUISIANA:

10/2/14
Date

KYLE GRAHAM
Louisiana Coastal Protection and Restoration Authority
Executive Director
P.O. Box 44027
Baton Rouge, Louisiana 70804

10/2/14
Date

BRIAN WYNNE
Louisiana Oil Spill Coordinator's Office
Director
P.O. Box 66614
Baton Rouge, Louisiana 70896

10/2/14
Date

PEGGY HATCH
Louisiana Department of Environmental Quality
Secretary
P.O. Box 4301
Baton Rouge, Louisiana 70821-4301

10/2/14
Date

ROBERT BARHAM
Louisiana Department of Wildlife and Fisheries
Secretary
P.O. Box 98000
Baton Rouge, Louisiana 70898

10/2/14
Date

STEVE CHUSTZ
Louisiana Department of Natural Resources
Secretary
P.O. Box 94396
Baton Rouge, Louisiana 70804-9396

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE STATE OF MISSISSIPPI:

10/2/14
Date

GARY C. RIKARD
Mississippi Department of Environmental Quality
Executive Director
P.O. Box 2261
Jackson, Mississippi 39225-2261

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE STATE OF TEXAS:

10/2/2014
Date

CARTER SMITH
Texas Parks and Wildlife Department
Executive Director
4200 Smith School Road
Austin, Texas 78744

Date

LARRY L. LAINE
Texas General Land Office
Deputy Land Commissioner and Chief Clerk
P. O. Box 12873
Austin, Texas 78711

Date

RICHARD A. HYDE, P.E.
Texas Commission on Environmental Quality
Executive Director
P. O. Box 13807
Austin, Texas 78711

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR THE STATE OF TEXAS:

Date	CARTER SMITH Texas Parks and Wildlife Department Executive Director 4200 Smith School Road Austin, Texas 78744
10/2/14 Date	LARRY L. LAINE Texas General Land Office Deputy Land Commissioner and Chief Clerk P. O. Box 12873 Austin, Texas 78711
Date	RICHARD A. HYDE, P.E. Texas Commission on Environmental Quality Executive Director P. O. Box 13807 Austin, Texas 78711

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FOR THE STATE OF TEXAS:

Date	CARTER SMITH Texas Parks and Wildlife Department Executive Director 4200 Smith School Road Austin, Texas 78744
Date	LARRY L. LAINE Texas General Land Office Deputy Land Commissioner and Chief Clerk P. O. Box 12873 Austin, Texas 78711
October 2, 2014 Date	RICHARD A. HYDE, P.E. Texas Commission on Environmental Quality Executive Director P. O. Box 13807 Austin, Texas 78711

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Hancock County Marsh Living Shoreline Project in the matter of *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, relating to the *Deepwater Horizon* Oil Spill.

FOR BP EXPLORATION & PRODUCTION INC:

2-OCT-2014
Date

Bea Stroy

2-Oct-2014
Date

Laura N. Sobe

Agent authorized to accept notices or service on behalf of BP Exploration & Production Inc:

Name:	Jean Martin, *or successor attorney assigned to manage Deepwater Horizon natural Resource Damage Claims* SP
Address:	BP Legal Department 501 Westlake Park Blvd Houston, Texas 77079
Telephone Number:	281-366-6060
Facsimile Number:	281-366-5901

APPENDIX A

EARLY RESTORATION PROJECT

Appendix A: Hancock County Marsh Living Shoreline

1.0 INTRODUCTION

This document describes the Hancock County Marsh Living Shoreline Project (the "Early Restoration Project") to be implemented with funding provided by BPXP, resulting in the NRD Offsets identified in Appendix C. This document is part of the Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

2.0 PROJECT DESCRIPTION

The objective of the Early Restoration Project is to employ living shoreline techniques, including natural and artificial breakwater material and marsh creation, to reduce shoreline erosion by dampening wave energy while encouraging reestablishment of habitat that was once present in the region. The Early Restoration Project includes shoreline erosion reduction, creation of habitat for secondary productivity, and protection and creation of salt marsh habitat.

Specifically, the proposed project consists of three restoration components:

- Use of living shoreline techniques that utilize natural and artificial breakwater material to reduce shoreline erosion by dampening wave energy while encouraging reestablishment of habitat that was once present in the region. Breakwaters will be constructed along the marsh shoreline in two locations: from the Pearl River to the western limit of Heron Bay (western reach) and from the eastern limit of Heron Bay to approximately four miles to the northeast toward approximately 1.86 miles past the heel of St. Joseph's Point (eastern reach).
- Approximately 46 acres of marsh will be constructed in the St. Joseph's Point area to protect and restore marsh areas that have experienced historical rates of erosion.
- A total of 46 acres of subtidal oyster reef will be created using oyster shell in northeastern Heron Bay to protect the shallow embayment and to increase oyster production in the area.

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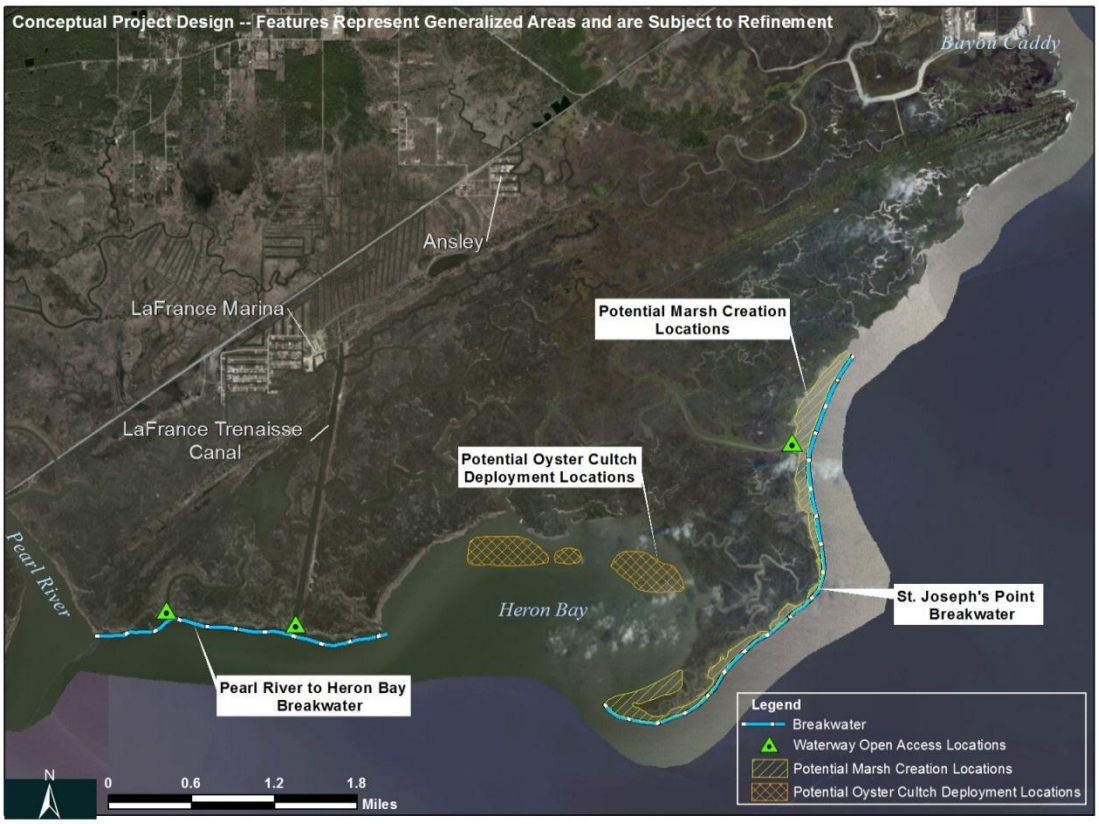

Figure 1 Project Location

3.0 PROJECT IMPLEMENTATION

3.1 Performance Criteria, Monitoring, and Maintenance

Project performance will be assessed as defined in Sections 10.2.4 of the Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement ("Plan").

Project implementation will commence upon the filing of the Notice of Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with Section 10.2.4 of the Plan have been met.

3.2 Estimated Project Costs – Hancock County Marsh Living Shoreline Project

The total estimated cost to implement the Hancock County Marsh Living Shoreline Project is $50,000,000, consistent with Sections 10.2.4 and 10.2.6 of the Plan.

APPENDIX B

EARLY RESTORATION PLAN

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement ("Plan"), available at www.doi.gov/deepwaterhorizon, which was adopted by the Trustees after public review and comment. Public comments received on the Plan are summarized in the Plan, and Trustees' responses to the comments are included. All public comments received on the Plan are included in full in the NRDA Administrative Record for the Plan, which can be found at the same web address.

APPENDIX C

NRD OFFSETS

The NRD Offsets for this Early Restoration Project are:

- 1,594,166 Discounted Kilogram Years (Dkg-Ys) of benthic Secondary Productivity in Mississippi applicable to benthic Secondary Productivity injuries in Mississippi, as determined by the Trustees' total assessment of injury for the Oil Spill; and

- 347.45 Discounted Service Acre Years (DSAYs) of Salt Marsh Habitat in Mississippi applicable to Salt Marsh Habitat injuries in Mississippi, as determined by the Trustees' total assessment of injury for the Oil Spill.

For the purposes of applying the NRD Offsets to the calculation of injury, the Parties agree as follows:

- If the Offsets resulting from the Mississippi Hancock County Marsh Living Shoreline Project exceed the injury to benthic Secondary Productivity in Mississippi then any remaining Offsets for benthic Secondary Productivity are applicable to injuries to benthic Secondary Productivity within federal waters on the Continental Shelf, excluding those associated with mesophotic reefs. The NRD Offsets shall not apply to injuries in Alabama, Florida, Louisiana and/or Texas.

For the purposes of Paragraph III.A. of this Project Stipulation, the Affected Trustees whose resources are addressed by this Early Restoration Project are the Mississippi Department of Environmental Quality, DOI, EPA, NOAA, and USDA.

APPENDIX D

GLOSSARY OF TERMS

These definitions are not considered to be a comprehensive list for all Early Restoration Projects under the Framework for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill executed April 20, 2011. Future projects may require other definitions, including but not limited to, other definitions for habitats included in this list.

Continental Shelf shall mean the contiguous shallow platforms or terraces that surround most of the continents and are terminated seaward by a relatively sharp break in slope, called the shelf edge or shelf break. In the Gulf of Mexico, this generally follows the 200-meter isobaths.

Salt Marsh Habitat refers to transitional marsh areas between land and water that occur in coastal areas at salinities at or approaching that of ocean water. Typical vegetation in salt marsh habitat includes species such as *Spartina alterniflora*, *Juncus romerianus*, and *Distichlis spicata.*

Secondary Productivity: The strict definition of secondary productivity is the rate of production of consumers (heterotrophs) in an ecosystem (Edmondson & Winberg, 1971). For purposes of the offsets for the living shoreline projects, it is more narrowly defined as production of herbivores and detritivores, (the P2 production level in Odum, 1959) and in particular, the net production of mobile and sessile invertebrate infauna and epifauna associated with hard bottom substrates.

Odum 1959, Fundamental of Ecology, 2nd edition W.B. Saunders & Co Philadelphia, 546 p.

Edmondson, W.T. & G.G. Winberg, 1971, IBP Handbook on Secondary Productivity International Biome Programmed, London, 358 p.

Discounted Kilogram Years is expressed in present value 2010 kilogram years.

Discounted Service Acre Years is expressed in present value 2010 service acre years.