

TRUSTEE COUNCIL RESOLUTION 10-1
ADOPTED 9/29, 2010

**DEEPWATER HORIZON OIL SPILL TRUSTEE COUNCIL RESOLUTION
REGARDING
Proposed Emergency Restoration**

1. The United States (acting through the United States Department of the Interior and the National Oceanic and Atmospheric Administration), the State of Alabama (acting through the Alabama Department of Conservation and Natural Resources and the Geological Survey of Alabama), the State of Florida (acting through the Florida Department of Environmental Protection), the State of Louisiana (acting through 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 & Fisheries, and the Louisiana Department of Natural Resources), the State of Mississippi (acting through the Mississippi Department of Environmental Quality), and the State of Texas Trustees (acting through the Texas Parks and Wildlife Department) are the natural resource trustees ("Trustees") for natural resources injured or potentially injured by releases of oil into the Gulf of Mexico and associated removal actions resulting from an explosion aboard the mobile offshore drilling unit *Deepwater Horizon* on or about April 20, 2010 (the "Spill").
2. The Trustees have agreed to establish a Trustee Council ("Deepwater Horizon Oil Spill Trustee Council" or "Trustee Council") composed of representatives from each agency listed above.
3. At the time of this resolution, there still exists an unknown amount of oil from the Spill in and around the Gulf of Mexico, and removal actions are ongoing.
4. Pursuant to 15 C.F.R. 990.26, the Trustees have authority to identify and implement "Emergency Restoration" actions when:
 - a. The action is needed to avoid the irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action;
 - b. The action will not be undertaken by the lead response agency;
 - c. The action is feasible and likely to succeed;

- d. Delay of the action to complete the restoration planning process established in this part likely would result in increased natural resource damages; and
 - e. The costs of the action are not unreasonable.
5. The Trustees, with the exception of the State of Louisiana,¹ have, to date, identified several potential Emergency Restoration actions that meet the criteria in the preceding paragraph. Further, the Trustees have specifically identified three priority projects. This is not an exhaustive list of potential Emergency Restoration actions, and the effort to identify risks that could be minimized by undertaking additional emergency restoration is ongoing. These three Emergency Restoration projects will be referred to as follows, and summary descriptions are attached to this resolution:
- a. Native Vegetation Collection, Propagation, and Transplantation (Gulf-wide)
 - b. Habitat Conservation Projects on Mississippi Wildlife Management Areas (MS)
 - c. Emergency Restoration of Propeller Scarring and Other Vessel Impacts to Submerged Aquatic Vegetation Beds (Gulf-wide)
6. The Trustees hereby find that these three projects meet the criteria set out in paragraph 4 and select these as emergency restoration projects. In accordance with 15 C.F.R. § 990.26(d), the Trustees hereby agree to provide notice to the public of the selection of the three priority projects.
7. In accordance with 15 C.F.R. § 990.26(c), the Trustees hereby agree that these projects should be presented by the Trustee Council to the Responsible Parties for the Spill.
8. The effective date of the resolution shall be the date on which the last Trustee signs this document.
9. The undersigned, on behalf of their agencies, hereby adopt the foregoing. This document may be signed in counterparts. A copy with all original executed signature pages affixed shall constitute the original.

SIGNATURES ON FOLLOWING PAGES:

¹ The State of Louisiana abstains from this resolution but does not object to these proposed Emergency Restoration actions.

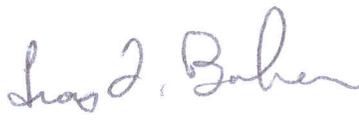
Dated: Sept. 29, 2010

**UNITED STATES DEPARTMENT OF
THE INTERIOR**

By: 
Peter Tuttle

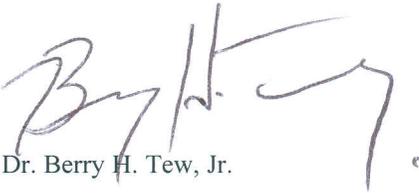
Dated: 8/29th, 2010

**NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION**

By: 
Troy Baker

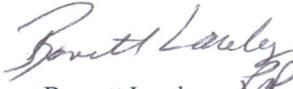
Dated: Sept 29th, 2010

**GEOLOGICAL SURVEY OF
ALABAMA**

By: 
Dr. Berry H. Tew, Jr.

Dated: 29, 2010

**ALABAMA DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES**

By: 
Barnett Lawley 

Dated: 9/29, 2010

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

By: 
Lee Edmiston

Dated: Sept 29 2010

**MISSISSIPPI DEPARTMENT OF
ENVIRONMENTAL QUALITY**

By: Trudy D Fisher

Trudy D. Fisher

Dated: 9/29, 2010

**TEXAS PARKS AND WILDLIFE
DEPARTMENT, for all Texas Trustees**

By:



Don Pitts



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

Ms. Cynthia K. Dohner
Regional Director Southeast Region
U.S. Fish and Wildlife Service
1875 Century Boulevard Northeast
Suite 400
Atlanta, GA 30345

Dear Co-Trustees:

In accordance with the National Environmental Policy Act (NEPA) of 1969, the National Oceanic and Atmospheric Administration (NOAA) is initiating the preparation of a Programmatic Environmental Impact Statement (PEIS) to support development of restoration alternatives and selection of proposed actions resulting from the Deepwater Horizon (DWH) oil spill. The PEIS will aid in the effective planning for use of DWH restoration funds. Because of the magnitude and geographic scope of the DWH oil spill, we believe a PEIS is the appropriate document to develop for this case, because it will allow for the consideration of categories of restoration actions, rather than attempting to identify all of the restoration projects that may ultimately be taken to compensate for ecological losses resulting from the spill. The restoration planning process will be used to solicit public and agency comment to aid in restoration planning. This planning process complies with Council on Environmental Quality's (CEQ) NEPA regulations at 40 CFR 1502.9 (c). The PEIS and subsequent accompanying documents are also intended to ultimately comply with the Oil Pollution Act's (OPA) restoration planning and public notice provisions found in 33 USC 2706.

In order to adequately prepare the PEIS and evaluate the potential environmental effects of the restoration alternatives and selection of proposed actions, NOAA is inviting the participation of the U.S. Department of the Interior (DOI) and the U.S. Department of Defense (DOD) as Federal cooperating agencies (in accordance with CEQ regulation 40 CFR Part 1501 and CEQ Cooperating Agency guidance issue 1/30/2002); as well as each of the affected states: Alabama, Florida, Louisiana, Mississippi, and Texas, due to your agencies' trusteeship and expertise regarding certain natural resources that may have been injured as the result of DWH oil spill.

Responsibilities of the lead agency (NOAA), and cooperating agency, have been outlined below.

LEAD AGENCY RESPONSIBILITIES:

1. Assume primary responsibility for meeting the requirements of NEPA, including the preparation of the draft and final PEIS. In this capacity, the lead agency will ensure that the PEIS includes information needed to address state and federal compliance requirements.
2. Consult with cooperating agencies regarding issues of concern, range of PEIS alternatives, and mitigation measures to be analyzed in the PEIS.



Printed on Recycled Paper

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



3. Provide cooperating agencies with copies of the preliminary draft(s) of the PEIS and interim work products, such as individual PEIS sections or maps, in a timely manner.
4. Provide a minimum of fifteen working days (unless a different, agreed upon-time frame is established) for review of the preliminary and final drafts of the PEIS by cooperating agencies.
5. Revise drafts of the PEIS in response to comments/concerns/issues identified by cooperating agencies.
6. Ensure that cooperating agencies receive copies of all comments received on the PEIS during the public comment periods and provide an initial identification of those comments pertaining to your agencies' expertise or regulatory authority. This may require cooperating agencies to prepare a written response for inclusion in the PEIS.
7. Ensure that the PEIS identifies cooperating agencies as such.

COOPERATING AGENCY RESPONSIBILITIES:

1. Participate in the development of the PEIS.
2. Provide expertise relating to the natural resources injured by DWH under cooperating agencies' trusteeship.
3. Review preliminary documents and provide comments to the lead agency in accordance with specified timelines.
4. Provide the lead agency with timely identification of significant issues, range of PEIS alternatives, and mitigation measures for the lead agency to consider for inclusion in the PEIS related to each cooperating agency's responsibilities and authorities.

Thank you for your cooperation in this matter. We look forward to your earliest response. If you have any questions, please contact me at 301-713-2239 x 195 or by email at Eric.schwaab@noaa.gov. Comments can also be sent to Brian Hostetter at Brian.Hostetter@noaa.gov.

Sincerely,



Eric C. Schwaab
Assistant Administrator
for Fisheries

Cc: Pat Montanio, OHC
Members of the Deepwater Horizon Oil Spill
Trustee Council Restoration Subgroup

*Deepwater Horizon Oil Spill
Emergency Restoration Project Proposal
September, 2010*

Project Name: Gulf-wide emergency restoration of propeller scarring and response vessel impacts to SAV Beds

Project Location: Locations throughout the Gulf of Mexico coastal and estuarine waters where SAV beds have sustained injuries

States Impacted: Louisiana, Mississippi, Alabama, and Florida

Lead Agency (and supporting agencies as appropriate): NOAA (Lead), NPS, USFWS, and State Agencies

Agency Point of Contact: Sean Meehan

Contact Information: sean.meehan@noaa.gov, 263 13th Ave S, St. Petersburg, Fl 33701, 727-824-5330

SECTION A: Project Description

There are an increasing number of observations of damage to seagrass and submerged aquatic vegetation (SAV) beds by motorized vessels either engaged in booming operations or recreational activities (attempting to avoid boomed areas). This project will provide immediate restoration of SAV habitat from vessels scarring beds during booming and other oil impact prevention activities. Working in coordination with the SAV Technical Work Group, impacts from vessels will be recorded, documented, and measured using published techniques utilized for vessel grounding injuries in the Florida Keys National Marine Sanctuary (Kirsch et al 2005). Emergency restoration methods will include, but are not limited to: mapping of recent propeller scars from response vessel activities, placement of fill into propeller scars to restore grade, installation of seagrass planting units, placement of bird stakes into injured areas, and monitoring of restoration activities to ensure successful habitat rehabilitation. This project is intended to provide emergency restoration to areas at risk of further injury, and is not proposed as a means to restore for all injuries. Furthermore, as this project proceeds, additional emergency restoration needs may be identified.

Relevancy for Emergency Restoration:

Progressive exacerbation of seagrass injuries from storm and hurricane force wave energy has been documented from SAV impacts caused by vessels (Whitfield et al., 2002). The increased movement of water and currents from such events causes scouring along the path of the propscar. This continued excavation of sediments not only prevents the seagrass from growing back into the scar, but the removal of sediments causes continual lateral erosion of the seagrass beds. This exposure results in increased mortality of the plants as well as tearing of entire sods within the SAV beds. It is a negative feedback loop that rarely heals by itself. Numerous examples exist to demonstrate that without quick and effective emergency restoration actions and with wave and wind energies not uncommon to the Gulf of Mexico, these propscars can expand dramatically. One example is a seagrass injury created in 2003 from a vessel's propellers where the initial seagrass impact was 141m². After Hurricane Wilma had passed through the area, the injury grew to over 450m².

Project Requirements:

- Identify and prioritize restoration within areas of impact
- Apply GIS and assessment data to help ground-truth location and scale of restoration sites.
- Design and implement emergency restoration plan based on injury characteristics and features of the SAV habitat.
- Design and implement restoration monitoring plan.

SECTION B: Estimated Project Cost:

Restoration costs:

- 1) Site identification, mapping, and restoration plan development = \$310,000
- 2) Sediment placement into propscars and other injuries that are greater than 20cm in excavated depth = \$1,200,000 (based on assumption of a 50,000 m prop scar total)
- 3) Planting and bird staking = \$100,000 (applicable in some SAV habitats found in the gulf)
- 4) Warning Signage = \$100,000
Subtotal = \$1,710,000
- 5) Monitoring = \$513,000 (30 percent of subtotal)
- 6) Administration and contracting costs = \$333,450 (15 percent of subtotal + monitoring)

Total Project Costs = \$2,556,450

SECTION C: Project Implementation

1. Permits/Consultations (if required):

All permits and NEPA requirements will be met. This project is expected to be covered under the USACE Nationwide 32 permit.

2. Time to Implementation:

This project could start immediately with the identification of restoration sites and subsequent contracting for restoration actions.

SECTION A: Project Description:

This project involves a centrally coordinated approach to replanting vegetated shorelines critically injured by the oil spill. Although the majority of the plant material will be transplanted from non-impacted areas or acquired from local nurseries, in some cases where local genotype is rare and important, this may involve collecting plant materials (e.g. seeds, cuttings) first, propagating them, and then distributing and planting the material. The project includes emergent vegetation within the gulf states and federal bureaus where vegetation has been moderately or heavily damaged because of the spill, or where response-related injuries to shoreline occurred. This project is intended to be a first-step at restoring those areas that are at significant risk of further erosion and is not proposed as a means of restoring for all injuries.

This project is being proposed as emergency restoration because of the trustee objective to prevent additional injury related to the spill. Vegetative mortality caused by oiling reduces above and below ground biomass which provides stability to underlying sediments. As root material deteriorates, sediment is more susceptible to erosion. Shoreline impacts may be exacerbated by accelerated erosion in areas that could otherwise be stabilized through the rapid planting of native vegetation. Failure to act quickly could result in unnecessary additional resource loss. Additionally, vegetative mortality negatively affects habitat and can have injurious indirect effects on resident fauna. Rapid planting of native vegetation here will minimize further injuries to fauna.

In order to streamline this effort and maximize efficiencies and minimize costs, the National Park Service' Denver Service Center (DSC) will manage this project. The DSC will use its project management and contracting expertise along with its technical capabilities and existing contractual agreements to implement the project. Supporting agencies such as NOAA and the state trustee agencies will partner with DSC, as may the Natural Resources Conservation Service (NRCS) Plant Material Centers. The DSC has existing indefinite-delivery-indefinite-quantity contracts that can be utilized in addition to various funding vehicles of supporting partners. Other DSC responsibilities will include establishing and maintaining communication with all federal and state Points of Contact, and to determine parameters of existing agreements with these entities and if needed, negotiate new agreements to accomplish the project goals as efficiently as possible.

Once the project begins, DSC will prepare an Implementation Plan for all stakeholders, partners, and participants to refer to and to understand the process. This will explain the approach, methodology, roles and responsibilities of all participants, points of contact for the project, contracting procedures, etc.

SECTION B: Estimated Project Cost:

The project cost is broken down by shoreline mile, with a focus on shorelines that have been moderately to heavily impacted or damaged because of response activities. The cost was estimated on the assumption of 200 miles being re-vegetated gulf wide in those areas that are at the greatest risk of increased erosion and habitat destruction. The cost assumes that, on average, four rows of vegetation spaced on three-foot centers would be planted, yielding a total requirement of 1,400,000 plugs of multi-stem vegetation. In addition, seed collection is anticipated especially in ecologically sensitive areas where unique genotypes exist. A lump sum value is requested to cover collection, storage, propagation, and planting costs. Lastly, administrative, monitoring, travel, equipment, and supply costs have been factored in as a percent of total construction costs.

- 1) Plant acquisition and planting = \$3 per plant x 1,400,000 = \$4,224,000
- 2) Seed/stem collection, storage, and propagation = \$1,200,000
- 3) Equipment, travel, fuel, and supplies = \$540,000 (10 percent of construction)
Subtotal = \$5,964,000
- 4) Monitoring and Evaluation costs = \$1,192,800 (20 percent of subtotal)
- 5) Administration and contracting = \$1,073,520 (15 percent of subtotal + monitoring)

Total Project Costs = \$8,230,320

SECTION C: Additional Material to Facilitate Environmental Project Consideration:

1. Permits/Consultations (if required):

Permits/Consultations required for project implementation will be met, as well as NEPA compliance.

2. Time to Implementation:

The project can begin immediately and will involve the following activities: preparation of the Implementation Plan, identifying high-risk shorelines in each state, coordinating project partners, and scheduling acquisition of plant material and installation. In cases where rare or genetically important native plant material will be collected and used for grow-out, the following activities will occur: contacting stakeholders and partners; coordinating collections, storage, and propagation, and scheduling plant installation upon maturity.

*Deepwater Horizon Oil Spill
Emergency Restoration Project Proposal
September, 2010*

Project Name: Mississippi Alluvial Valley WMA's Migrating and Wintering Waterfowl and Shorebird Project

Project Location: Howard Miller WMA in Issaquena County, Mississippi
Malmaison WMA in Leflore County, Mississippi

States Impacted: Mississippi

Lead and Supporting Agencies: DOI - USFWS

Agency Point of Contact:

Ed Penny
MDWFP Waterfowl Program Coordinator
edp@mdfwfp.state.ms.us
(601) 432-2202

Sandy Tucker
U.S. Fish and Wildlife Service
FW4NRDALEAD@fws.gov
(251) 644-8342

SECTION A: Project Description

The Mississippi Department of Wildlife, Fish, and Parks (MDWFP) Waterfowl Program staff proposes the following projects on state-owned Wildlife Management Areas (WMA) to attempt to modify overwinter and migratory behavior in wetland dependent birds. These projects are aimed at minimizing and/or preventing injury by reducing risk of exposure to birds that may use habitats affected by oil from the Deepwater Horizon event. Total cost of implementation is \$168,900.

Howard Miller WMA Wetland Enhancement Project (\$115,900): This project would improve water management of approximately 2,400 acres at Howard Miller WMA in Issaquena County, Mississippi. This project will install 4 water control structures, install 5 well power units on existing water wells and repair degraded levees. Once funds are received, work can be completed in 14-21 days. Immediate completion of this work will facilitate flooding of approximately 2,400 acres of moist soil units on the WMA. No permitting or engineering issues exist.

Malmaison WMA Wetland Enhancement Project (\$53,000): This project will improve 58 acres of moist soil units for shorebirds, wading birds, and waterfowl at Malmaison WMA in Leflore County, Mississippi. The project would repair levees, install 5 water control structures, and reset an existing water control structure. Once funds are received, work can be completed in 21-31 days. No permitting or engineering issues exist.

These projects will attempt to modify migratory and wintering behavior in wetland dependent birds by providing alternate habitat that will either quicken their migratory journey by improving body condition (certain shorebird species) or extend their overwintering stay by increasing food and shelter (certain waterfowl species and certain shorebird species). Furthermore, this project will ensure productive habitat independent of rainfall rate. If periods of drought occur, birds will use tidal areas and this increases their risk to oil if it is present. This project provides alternative habitat that can prevent additional injury should birds seek coastal areas that are oiled.

SECTION B: Estimated Project Cost:

Total Project Cost = \$168,900

SECTION C: Additional Material to Facilitate Environmental Project Consideration:

1. Permits/Consultations (if required):

All applicable federal, state, and local permits will be acquired prior to construction.

2. Time to Implementation:

30 days