Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

[FWS-R4-FHC-2013-N108; **[FVHC98130406900-XXX-FF04G01000]**

Deepwater Horizon Oil Spill; Notice of Intent to Prepare a Programmatic Environmental Impact Statement for a Phase III Early Restoration Plan and Early Restoration Project Types, and to Conduct Scoping Meetings.

AGENCY: Interior.

ACTION: Notice of Intent to conduct scoping.

SUMMARY: The federal and state natural resource trustees for the *Deepwater Horizon* oil spill (Trustees) intend to prepare a PEIS under the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of early restoration project types, as well as the early restoration projects that the Trustees intend to propose in an upcoming Phase III Draft Early Restoration Plan (DERP). The Trustees intend to evaluate early restoration project types programmatically in the PEIS in order to allow the Trustees to better analyze cumulative effects of early restoration, and to tier NEPA analyses for future early restoration plans to the PEIS, where appropriate.

DATES: Public comments must be received by August 2, 2013. Public scoping meetings will be held as listed below. The Trustees will announce specific meeting locations and addresses to the public prior to the meetings, and will post the information on the web at www.gulfspillrestoration.noaa.gov

Date	Location
June 24, 2013	Galveston, Texas
June 27, 2013	Mobile, Alabama

July 16, 2013	Long Beach, Mississippi
July 18, 2013	Houma, Louisiana
July 23, 2013	Washington, DC
July 25, 2013	Pensacola, Florida

ADDRESSES: *Submitting Comments:* You may submit scoping comments on the PEIS by any of the following methods:

- Via the Web: http://www.gulfspillrestoration.noaa.gov.
- For electronic submission of comments containing attachments, email to: earlyrestorationcomments@fws.gov
- U.S. Mail: c/o U.S. Fish and Wildlife Service, P.O, Box 2099, Fairhope, Alabama 36533.

All written scoping comments must be received by the close of the scoping period to be considered.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado at Nanciann_Regalado@fws.gov

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 -MC252), exploded, caught fire and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse

the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill.

The state and federal natural resource trustees (Trustees) are conducting the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. §§ 2701 et seq.). Pursuant to OPA, federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. Pursuant to the process articulated in the Framework Agreement for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement), the Trustees have previously selected, and BP has agreed to fund, a total of ten early restoration projects, expected to cost a total of approximately $71 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP) a and Phase II Early Restoration Plan/Environmental Review (Phase II ERP). These plans are available at: http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/

The Trustees are:

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

Background on Early Restoration

On April 20, 2011, BP agreed to provide up to $1 billion to fund early restoration projects in the Gulf of Mexico to begin addressing injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration

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

of injured natural resources and replacement of the lost use of those resources and their services. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together "to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable" prior to the resolution of the Trustees' natural resource damages claim. Early restoration is not intended to, and does not fully address all injuries caused by the Spill. Restoration beyond early restoration projects will be required to fully compensate the public for natural resource losses from the Spill.

The Trustees' key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public's benefit while the longer-term process of fully assessing injury and damages is underway. As the first step in this accelerated process, the Trustees released, after public review of a draft, a Phase I ERP in April 2012. In December 2012, after public review of a draft, the Trustees released a Phase II ERP. Collectively, the Phase I and Phase II ERPs include a total of ten projects that were selected by the Trustees and, after negotiations in accordance with the terms of the Framework Agreement, agreed to by BP. Those restoration actions include nine separate projects that are ready for implementation, and one project that the Trustees have selected for completion for project design and final NEPA review. The Trustees have begun implementing many of the projects selected in the Phase I and Phase II ERPs.

Phase III Early Restoration

On May 6, 2013, NOAA issued a public notice in the Federal Register on behalf of the Trustees. The public notice announced the Trustees' intent to propose additional future early restoration projects for the purpose of continuing the process of using early restoration funding to

restore natural resources, ecological services, and human use services injured or lost as a result of the *Deepwater Horizon* oil spill disaster. The Trustees expect to propose those early restoration projects, and potentially additional early restoration projects, to the public in a Phase III DERP, which will evaluate restoration alternatives under OPA, the Framework Agreement, and all applicable legal requirements. The Trustees intend to consider both ecological and human use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing the physical and biological environment as well as the relationship people have with the environment.

As noted above, the Trustees intend to prepare a PEIS in accordance with NEPA to evaluate the environmental consequences of restoration projects that the Trustees intend to propose in a Phase III DERP. In addition, the Trustees intend to evaluate early restoration project types in the PEIS in order to allow the Trustees to tier NEPA analyses for future early restoration projects to the PEIS, where appropriate. Examples of the early restoration project types the Trustees intend to evaluate in the PEIS could include: create and improve wetlands; protect shorelines and reduce erosion; restore barrier islands and beaches; restore submerged aquatic vegetation; restore oysters; restore and protect finfish and shellfish; restore and protect birds; restore and protect sea turtles; enhance public access to natural resources for recreational use; enhance recreational experiences; promote environmental and cultural stewardship, education, and outreach; enhance management of recreational uses; and, remove and reduce land-based and marine debris.

Throughout the early restoration process, the Trustees have actively solicited public input on restoration project ideas through a variety of mechanisms, including public meetings, electronic communication, and creation of a Trustee-wide public website and database to share information and receive public project submissions. The Trustees received extensive comments and restoration project ideas during the scoping process for a comprehensive Gulf Spill Restoration PEIS prepared

by NOAA on behalf of the Trustees in 2011 (76 FR 9327 - 9328). NOAA's preparation of a draft comprehensive Gulf Spill Restoration PEIS on behalf of the Trustees is intended to apply to all natural resource restoration following the completion of the NRDA, which is still underway. The PEIS that is the subject of this Notice of Intent is specifically and more narrowly focused on early restoration.

The purpose of the scoping process is to identify the concerns of the affected public and federal agencies, states, and Indian tribes, involve the public in the decision making process, facilitate efficient early restoration planning and environmental review, define the issues and alternatives that will be examined in detail, and save time by ensuring that draft documents adequately address relevant issues. The scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. Following the scoping process, the Trustees will prepare a draft PEIS and Phase III DERP, at which time the public will be encouraged to comment on the document(s). Similar to the scoping process, public comment meetings will be held at that time to gather public input on the document(s).

Invitation to Comment

The Trustees seek public involvement in the scoping process and development of the PEIS. The Trustees invite public comment during the 60-day public comment period regarding the scope, content, and any significant issues the Trustees should consider in the PEIS.

Next Steps

Following scoping, the Trustees intend to release the draft PEIS and Phase III DERP by late 2013 or early 2014. At that time, the Trustees will invite public review and comment on the document(s).

Administrative Record

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

Authority

The authority of this action is the National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 et seq.),and the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990.

Kevin D. Reynolds

Kevin D Reynolds
Acting DOI Authorized Official