

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XV183]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Final Phase II Restoration Plan and Environmental Assessment #3.3: Large-Scale Barataria Marsh Creation: Upper Barataria Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability.

SUMMARY: The *Deepwater Horizon* Federal natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Final Phase II Restoration Plan #3.3 and Environmental Assessment (Final RP/EA #3.3). The Final RP/EA #3.3 describes and, in conjunction with the associated Finding of No Significant Impact (FONSI), selects the preferred design alternative considered by the Louisiana TIG to restore natural resources and ecological services injured or lost as a result of the *Deepwater Horizon* oil spill. The Federal Trustees of the Louisiana TIG have determined that the implementation of the Final RP/EA #3.3 is not a major Federal action significantly affecting the quality of the human environment within the context of the NEPA. They have concluded a FONSI is appropriate, and, therefore, an Environmental Impact Statement will not be prepared.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EA #3.3 at: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>.

Alternatively, you may request a CD of the Final RP/EA #3.3 (see **FOR FURTHER INFORMATION CONTACT** below). Also, you may view the document at any of the public facilities listed in Appendix A of the Final RP/EA #3.3.

FOR FURTHER INFORMATION CONTACT: National Oceanic and Atmospheric Administration—Mel Landry, NOAA Restoration Center, 225–425–0583, mel.landry@noaa.gov.

SUPPLEMENTARY INFORMATION:**Introduction**

On 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), experienced a significant explosion, fire, and subsequent sinking 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 off shore 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 into the environment as a result of the spill.

The *Deepwater Horizon* Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment for the *Deepwater Horizon* oil spill under OPA (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 of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* 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. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- 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
- State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

The Trustees reached and finalized a settlement of their natural resource damage claims with BP in an April 4, 2016, Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are selected and implemented by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA, LOSCO, LDEQ, LDWF, LDNR, NOAA, DOI, EPA, and USDA.

This restoration planning activity is proceeding in accordance with the *Deepwater Horizon* Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/EIS). Information on the Restoration Type considered in the Final RP/EA #3.3, as well as the OPA criteria against which project ideas are evaluated can be viewed in the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>) and in the Overview of the PDARP/PEIS (<http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>).

Background

On March 20, 2018, the Louisiana TIG completed its Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA #3). In addition to identifying a restoration strategy for the Barataria Basin and confirming its 2018 decision to move forward the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project, the SRP/EA #3 also advanced the Mid-Barataria Sediment Diversion and Large Scale Marsh Creation: Component E in northern Barataria Basin for further evaluation and planning in a future Phase II restoration plan. After approval of the SRP/EA #3, engineering and design (E&D) was initiated for the Large Scale Marsh Creation: Component E. A portion of that project, now identified as Large Scale Barataria Marsh Creation: Upper Barataria Component, is now at a stage of E&D where NEPA analyses can be conducted on the design alternatives. Therefore, tiering from the SRP/EA #3, the Louisiana TIG proposed in RP/EA #3.3 implementation of the Large-Scale Barataria Marsh Creation:

Upper Barataria Component Restoration project.

The RP/EA #3.3 evaluated three design alternatives and the No Action alternative in accordance with the OPA and the NEPA. Prior to finalizing the Draft RP/EA #3.3, public review was solicited. A Notice of Availability was published in the **Federal Register** at 85 FR 16081 on March 20, 2020. The Louisiana TIG hosted a public webinar on April 2, 2020, and the public comment period for the Draft RP/EA #3.3 closed on April 20, 2020.

The Louisiana TIG considered the public comments received on the Draft RP/EA #3.3 which informed the analyses and selection of the preferred design alternative for implementation in the Final RP/EA #3.3. A summary of the public comments received and the Trustees' responses to those comments are included in Chapter 6 of the Final RP/EA #3.3 and all correspondence received are provided in the DWH Administrative Record.

Overview of the Final RP/EA #3.3

The Final RP/EA #3.3 is being released in accordance with the OPA, NRDA implementing regulations, and the NEPA. The analysis focuses on an area ("the Project Area") in the upper Barataria Basin, 15 miles (24 km) south of New Orleans, in Jefferson and Plaquemines Parishes, Louisiana, from approximately 5.4 miles (8.7 km) west of the Mississippi River to the Mississippi River between river miles (RM) 64 and 67. In the Final RP/EA #3.3, the Louisiana TIG proposes a preferred design alternative to be funded under the DWH Louisiana Restoration Area Wetlands, Coastal and Nearshore Habitats restoration type allocation. The preferred design alternative would include filling of a combination of marsh creation areas (MCAs) for the creation of approximately 1,207 acres (12.1 km²) of intertidal marsh platform with a design life of 20 years. A total of approximately 10.6 million cubic yards (MCY) of fill

(sediment), comprising 8.4 MCY of currently available material to be dredged from the borrow areas and an additional 2.2 MCY expected to accumulate at the borrow areas during the construction time frame. This alternative would require a single construction mobilization and has an estimated time frame of 26 months for an estimated total project cost of approximately \$172 million, inclusive of Phase I design, construction, contingency, project management, and monitoring & adaptive management.

The Louisiana TIG has examined the injuries assessed by the DWH Trustees and evaluated restoration alternatives to address the injuries. In Final RP/EA #3.3, the Louisiana TIG presents to the public its plan for providing partial compensation to the public for injured natural resources and ecological services in the Louisiana Restoration Area. The proposed alternative is intended to continue the process of using DWH restoration funding to restore natural resources injured or lost as a result of the *Deepwater Horizon* oil spill. Additional restoration planning for the Louisiana Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final RP/EA #3.3 can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and its implementing Oil Pollution Act Natural Resource Damage Assessment regulations found at 15 CFR part 990 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: July 14, 2020.

Carrie Selberg,

*Director, Office of Habitat Conservation,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA295]

Marine Mammals and Endangered Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permits and permit amendments/modifications.

SUMMARY: Notice is hereby given that permits and permit amendments/modifications have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to NMFS.Pr1Comments@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Sara Young (Permit Nos. 19108-04 and 23283) and Malcolm Mohead (Permit Nos. 19641-02 and 20314-01); at (301) 427-8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment/modification had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the research, go to www.federalregister.gov and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS, PERMIT AMENDMENTS, AND PERMIT MODIFICATIONS

Permit No.	RTID	Applicant	Previous Federal Register Notice	Issuance date
19108-04	0648-XD953	Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA 95064.	84 FR 27767; June 14, 2019.	June 15, 2019.
19641-02	0648-XA109	Connecticut Department of Energy and Environmental Protection, P.O. Box 719, Old Lyme, CT 06371 (Responsible Party: Tom Savoy).	85 FR 21833; April 20, 2020	June 16, 2020.
20314-01	0648-XA143	U.S. Fish and Wildlife Service, Virginia Fisheries Field Office, 11110, Kimages Road, Charles City, VA 23030 (Responsible Party: Albert Spells).	85 FR 23813; April 29, 2020	June 16, 2020.