

# DEEPWATER HORIZON NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

## ISSUE SUMMARY:

In 2010, the Deepwater Horizon (DWH) oil spill impacted the Gulf of Mexico ecosystem and communities from Texas to Florida. The spill injured a wide range of wildlife and habitats, and negatively impacted recreational opportunities, like fishing and boating. EPA, in partnership with federal and state co-Trustees, is helping restore natural resources injured by the spill. The DWH Trustees have allocated more than \$5.23 billion to more than 350 restoration activities. The Agency and co-Trustees will work together to continue this progress into the future.

## UPCOMING MILESTONES:

- **December 2024:** Per the DWH Trustee Council [Standard Operating Procedures](#) (SOPs; rev August 2021), a financial audit or Agreed Upon Procedures (AUP) engagement will be conducted no less than once every three years for the duration of implementation, with the first financial audit or AUP engagement occurring in 2017. EPA is conducting its third engagement with a projected completion of December 2024 with distribution to the DWH Trustee Council.
- **June 2025:** The DWH Trustee Council will hold its 10<sup>th</sup> Annual Public Meeting in June 2025. The Trustees will present updates on the progress made by the Trustee Council and in each of the seven Restoration Areas and provide an opportunity for public comments.
- **Summer 2025:** EPA will implement a pilot project for the Open Ocean Trustee Implementation Group Monitoring and Adaptive Management Activity - [Coastal Restoration Effects On Inshore, Nearshore, And Offshore Ecological Condition](#), which is a multi-year, phased Monitoring and Adaptive Management activity to plan and develop an approach leveraging the EPA National Coastal Condition Assessment (NCCA) estuarine condition assessment protocols with other existing fisheries population and food web evaluation protocols.

## BACKGROUND:

The April 20, 2010 *Deepwater Horizon* oil spill was the largest oil spill in U.S. history. In the wake of the spill, the National Contingency Plan regulation<sup>1</sup> was revised to reflect EPA's designation as a DWH Natural Resource Damage Assessment (NRDA) and restoration Trustee, citing EPA's expertise in water quality. The DWH NRDA is a legal process pursuant to the Clean Water Act, Oil Pollution Act (OPA) (33 U.S.C. 2701 et seq.), and a 2016 Federal Consent Decree (explained below).

On April 4, 2016, a federal court in New Orleans entered a historic \$20.8 billion Consent Decree between the U.S., the five Gulf states, and BP, resolving claims for federal civil penalties and natural resource damages related to the spill. Under the Consent Decree, BP must pay up to \$8.8 billion in natural resource damages over 15 years beginning in 2017.<sup>2</sup> The DWH NRDA-designated federal trustees – DOI, NOAA, EPA, and USDA – and the five Gulf state trustees are jointly responsible for these funds and use them to restore natural resources injured in the spill consistent with the Consent Decree, OPA and the DWH NRDA Trustees' 2016 Programmatic Damage Assessment and Restoration Plan (PDARP) that assessed the injury to natural resources caused by the oil spill and the types of restoration needed

<sup>1</sup> 40 C.F.R. Section 300.600(b)(5). The National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan or NCP) is the federal government's blueprint for responding to oil spills and hazardous substance releases, including designations of natural resource damage trustees. (40 C.F.R. 300, Subpart G).

<sup>2</sup> Natural resource damage restoration pursuant to the 2016 Consent Decree, OPA, and CWA are separate from the RESTORE Act. The scope and requirements for the NRDA Trustee Council and the RESTORE Council are different but there is coordination.

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to compensate the public. Natural resource trustees act on behalf of the public to assess injuries and recover damages (funds) to develop and implement plans for restoring, rehabilitating, replacing, or acquiring the equivalent of the natural resources that have been damaged.

Pursuant to the Consent Decree the DWH NRDA Trustees established a governance structure that includes the overarching Trustee Council and seven Trustee Implementation Groups (TIGs), one for each Restoration Area provided within the Consent Decree for the purposes of planning, administering, and implementing restoration (Alabama, Florida, Louisiana, Mississippi, Texas, Region-wide, and Open Ocean) with authority to produce restoration plans that tier from the PDARP. The Trustee Council has overall responsibility for assuring that restoration is achieved with financial accountability and that obligations set forth in OPA, the Consent Decree, the PDARP, and future restoration plans are met.

As a DWH NRDA Trustee, EPA has a responsibility and key opportunity to work with our state partners on restoration of Gulf natural resources in the wake of the 2010 disaster. For example, restoration projects in the AL, FL, LA, TX and MS Restoration Areas will improve water quality and wildlife habitat conditions in coastal waters by reducing excess nutrient and sediment loss from agricultural and forested lands in coastal watersheds. EPA is contributing water quality science and policy expertise to the long-term restoration of the Gulf ecosystem by assisting in project design to maximize nutrient reduction benefits, and by contributing water quality monitoring experience, support, and capability.

EPA has an established DWH NRDA program and the Deputy Assistant Administrator for Water serves as the Administrator's lead delegate as Designated Natural Resource Trustee Official. The EPA NRDA program is responsible for a large volume of work and has obtained over \$11 million in non-appropriated funding from the Coast Guard Oil Spill Liability Trust Fund, BP, and the settlement for its NRDA trustee responsibilities.

## KEY EXTERNAL STAKEHOLDERS:

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|---|---|--|---------------------------------|--------------------------------|--|
| <input type="checkbox"/> Congress       | <input checked="" type="checkbox"/> Industry          | <input checked="" type="checkbox"/> States   | <input type="checkbox"/> Tribes | <input type="checkbox"/> Media | <input checked="" type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO | <input checked="" type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Other: <u>Federal District Court (ED. La.)</u> |                                 |                                |  |

## MOVING FORWARD:

The Office of Water will continue working across EPA and with state and federal partners to develop and follow through on EPA's NRDA priorities; implement the Consent Decree, MOUs, and SOPs; complete its third independent audit; implement the Open Ocean TIG Monitoring and Adaptive Management Activity - [\*Coastal Restoration Effects On Inshore, Nearshore, And Offshore Ecological Condition\*](#); and evaluate, select and implement long-term restoration projects.

LEAD OFFICE/REGION: OFFICE OF WATER

OTHER KEY OFFICES/REGIONS: R4, R6

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