

**UNITED STATE DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

<b>In Re:</b>	<b>Oil Spill by the Oil Rig</b>	<b>:</b>	<b>MDL NO. 2179</b>
	<b>“Deepwater Horizon” in the</b>	<b>:</b>	
	<b>Gulf of Mexico, on</b>	<b>:</b>	<b>SECTION: J</b>
	<b>April 20, 2010</b>	<b>:</b>	
		<b>:</b>	<b>JUDGE BARBIER</b>
<b>This Document Relates to:</b>	<b>10-4536, 10-3059</b>	<b>:</b>	
	<b>10-4183, 10-4182 and 11-516</b>	<b>:</b>	<b>MAG. JUDGE SHUSHAN</b>
. . . . .			

**Notice of Filing of Stipulations Under the  
“Framework for Early Restoration Addressing Injuries  
Resulting from the Deepwater Horizon Oil Spill”**

The United States of America, the States of Alabama and Louisiana, and BP Exploration and Production, Inc. (“BP”) jointly provide this Notice. These parties had previously provided the Court with a “Report” [Doc. 2239] about the administrative agreement entitled “Framework for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill” (hereinafter, “Framework Agreement”) [Doc. 2239-1].<sup>1</sup> The Framework Agreement calls for the Parties (specifically, those with claims filed in the MDL) to file with this Court a stipulation concerning each natural resource restoration project that BP has agreed to fund under the Framework Agreement. [Doc 2239-1 ¶ 13]. This Notice is provided solely to inform the Court and the public about the filing of the Stipulations; no action is required or requested of this Court.

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<sup>1</sup> Although five states are parties to the Framework Agreement and signatories of the Stipulations, only Alabama and Louisiana are providing this Notice because the other three states, Mississippi, Florida, and Texas, are not now parties to MDL 2179. The States of Mississippi, Florida, and Texas do not acknowledge federal jurisdiction over any potential actions they may file as a result of the Deepwater Horizon Oil Spill and reserve their rights to object to federal jurisdiction in any such future actions.

**I. Background: NRDA and the Framework Agreement.**

As set out in the previously-filed “Report” on the Framework Agreement, the Oil Pollution Act (“OPA”) calls for the designation of State and Federal “Trustees,” 33 U.S.C. § 2706(a), who are charged to assess natural resource damages (“NRD”) resulting from the *Deepwater Horizon* oil spill (“Oil Spill”) and to prepare a plan for restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources. *See* 33 U.S.C. § 2706(c); 33 U.S.C. § 2706(d). OPA and the OPA regulations, 15 C.F.R. Part 990, require that restoration plans be adopted only after adequate public notice and opportunity for comment. 33 U.S.C. § 2706(c)(5). The Trustees and the responsible parties may enter into a settlement at any time, during or after the NRDA. 15 C.F.R § 990.25.

In the case of the Oil Spill, designated officials of the five Gulf Coast states, the National Oceanic and Atmospheric Administration, and the United States Department of the Interior are the relevant State and federal Trustees. The administrative NRD Assessment is proceeding apace, but the Trustees have not completed the Assessment and are not yet ready to calculate or quantify all damages for injuries to natural resources resulting from the Oil Spill.

Meanwhile, the Trustees and BP sought to expedite efforts to restore natural resources and services known to have been injured as a result of the Oil Spill based on preliminary information developed in the NRD Assessment process. The Trustees and BP entered into the Framework Agreement, which called for the Trustees to select “early” restoration projects under OPA, and called for BP to fund such projects out of \$1 billion that BP set aside in trust for this purpose.



## II. The Projects and Stipulations.

The Trustees have published a “Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment” (“Plan”), available at [www.doi.gov/deepwaterhorizon](http://www.doi.gov/deepwaterhorizon). The Plan calls for eight separate early restoration projects in Louisiana, Mississippi, Alabama and Florida, including the planting of oyster cultch in Mississippi and Louisiana, creation of artificial reefs in Mississippi, marsh restoration in Alabama and Louisiana, dune revegetation in Florida and Alabama, and construction or refurbishment of four boat ramps in Florida.

As contemplated in the Framework Agreement, this Plan will be implemented in part through the Stipulations. ¶12. Thus, BP will fund these Trustee-selected restoration projects in exchange for the Trustees’ agreement on the types and amounts of “NRD Offsets” attributable to the projects. *See* Framework Agreement ¶¶ 8 – 11. The agreed upon Offsets will be used to determine the credit that will be applied for these projects against the Trustees’ ultimate assessment of natural resource injury. *Id.* The Parties have agreed to the eight Stipulations, which must be filed with the Court for informational purposes. Framework Agreement ¶13.

## III. How the Framework Agreement and Stipulations Relate to the Claims in the MDL.

The complaint in *United States v. BP Exploration and Production, Inc., et al.*, No. 2:10-cv-04536 (E.D. La., Dec. 15, 2010), sought declaratory judgment of liability under OPA for NRD; no claim for a specific amount of NRD was made and the United States asserted a reservation of rights to return later to seek an actual award of damages under OPA.<sup>2</sup>

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<sup>2</sup> BP raised certain affirmative defenses to the United States’ OPA claims, including BP’s First Affirmative Defense regarding claim splitting. The Court’s February 22, 2012, “Order and Reasons [As to the United States’, Transocean’s, and Anadarko’s Cross-Motions for Partial Summary Judgment Regarding Liability under the CWA and OPA]” [Doc. 5809] addresses this

Alabama and Louisiana have both filed complaints alleging claims for NRD. *State of Louisiana v. BP, et al.*, 11-516; *State of Louisiana v. Triton Asset Leasing, et al.*, 10-03059; *State of Alabama v. Transocean, et al.*, 10-4183; and *State of Alabama v. BP P.L.C., et al.*, 10-4182.

The States of Mississippi, Florida, and Texas have not filed any civil actions relating to the Oil Spill to date but are participating Trustees in the Framework Agreement.

At this time, neither the Stipulations nor this Notice requires any action by the Court. However, if the parties are unable to amicably resolve all NRD matters the Stipulations will be relevant to the amount of uncompensated NRD for which BP may be held liable (in this or some subsequent civil action).

#### **V. Conclusion**

The United States, the States of Alabama and Louisiana, and BP jointly provide this Notice solely for informational purposes. When the Trustees and BP file any further stipulations under ¶ 13 of the Framework Agreement, the parties will make further informational or other filings with the Court, as appropriate.

Respectfully submitted,

For the United States of America:

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issue. Nothing in the Framework Agreement or this filing is intended to waive or contradict in any manner any of the parties' respective positions as set forth in their pleadings or otherwise on the appropriate procedure for the adjudication of any NRD claims.

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**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing document has been served on All Counsel by electronically uploading the same to Lexis Nexis File & Serve in accordance with Pretrial Order No. 12, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2179, on this date: June 6, 2012.

Date: June 6, 2012

/s/ Steven O'Rourke

**Stipulation Regarding Early Restoration Project--  
Alabama Dune Restoration Cooperative Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill--Alabama Dune Restoration Cooperative 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): the United States Fish and Wildlife Service on behalf of the United States Department of the Interior (“implementing Trustee(s)”).



- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 1,300,000 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the



Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 this Early Restoration Project with the use of contractor(s) and/or co-operator(s). Unless other payment arrangements are specified in Appendix A, BPXP shall transfer 25% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$180,000 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$180,000 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.

the implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.



- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.

- 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 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 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.

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 Alabama Dune Restoration Cooperative 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:

6/4/12  
Date

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IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

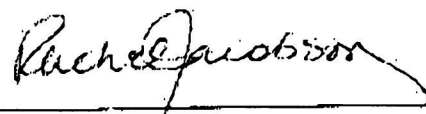
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FOR THE UNITED STATES:

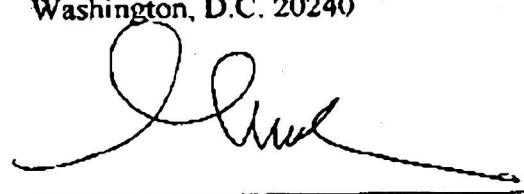
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\_\_\_\_\_  
5/22/12  
Date

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5/23/12  
Date

\_\_\_\_\_  
  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Alabama Dune Restoration Cooperative 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date


A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130


THE UNDERSIGNED PARTY enters into this Project Stipulation for the Alabama Dune Restoration Cooperative 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 FLORIDA:

May 22, 2012  
Date

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

May 23, 2012  
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 Alabama Dune Restoration Cooperative 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:


\_\_\_\_\_  
5/23/12  
Date

  
\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
Louisiana Department of Natural Resources  
Secretary  
P.O. Box 94396  
Baton Rouge, Louisiana 70804-9396

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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES

Louisiana Coastal Protection and  
Restoration Authority

Chair

P.O. Box 94004,

Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

5/23/12

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Louisiana Oil Spill Coordinator's Office

Oil Spill Coordinator

P.O. Box 66614

Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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FOR THE STATE OF LOUISIANA:

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Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

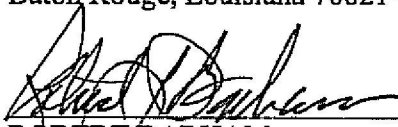
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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

\_\_\_\_\_  
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Quality  
Secretary  
P.O. Box 4301  
Baton Rouge, Louisiana 70821-4301

\_\_\_\_\_  
Date

5-23-2012

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

\_\_\_\_\_  
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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
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Baton Rouge, Louisiana 70804-9004

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Date

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Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

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Date

\_\_\_\_\_  
PEGGY HATCH  
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Quality  
Secretary  
P.O. Box 4301  
Baton Rouge, Louisiana 70821-4301

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Louisiana Department of Wildlife and  
Fisheries  
Secretary  
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Baton Rouge, Louisiana 70898

05/23/12  
\_\_\_\_\_  
Date

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



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FOR THE STATE OF MISSISSIPPI:

\_\_\_\_\_  
Date 5/23/12




\_\_\_\_\_  
TRUDY D. FISHER  
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 Alabama Dune Restoration Cooperative 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:

\_\_\_\_\_  
5/24/12  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Alabama Dune Restoration Cooperative 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

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

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FOR THE STATE OF TEXAS:

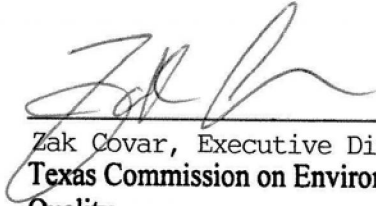
\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Alabama Dune Restoration Cooperative 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.:

5-17-12  
Date

Laurel H. Hix

Approved.  
J.M.

5-17-12  
Date

John F. Bullard

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## APPENDIX A

### EARLY RESTORATION PROJECT

## Appendix A: Alabama Dune Restoration Cooperative Project

### 1.0 INTRODUCTION

This document describes the Alabama Dune Restoration Cooperative Project (the “Early Restoration Project”) to be implemented with funding provided by BPXP, resulting in the NRD Offset identified in Appendix C. This document is part of a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

### 2.0 PROJECT DESCRIPTION

The Alabama Dune Restoration Cooperative Project would result in the formation of a partnership, the Coastal Alabama Dune Restoration Cooperative (CADRC), to restore dune habitat injured by the Deepwater Horizon oil spill and response efforts. The CADRC would restore approximately 55 acres of primary dune habitat in Alabama by planting native dune vegetation and installing sand fencing.

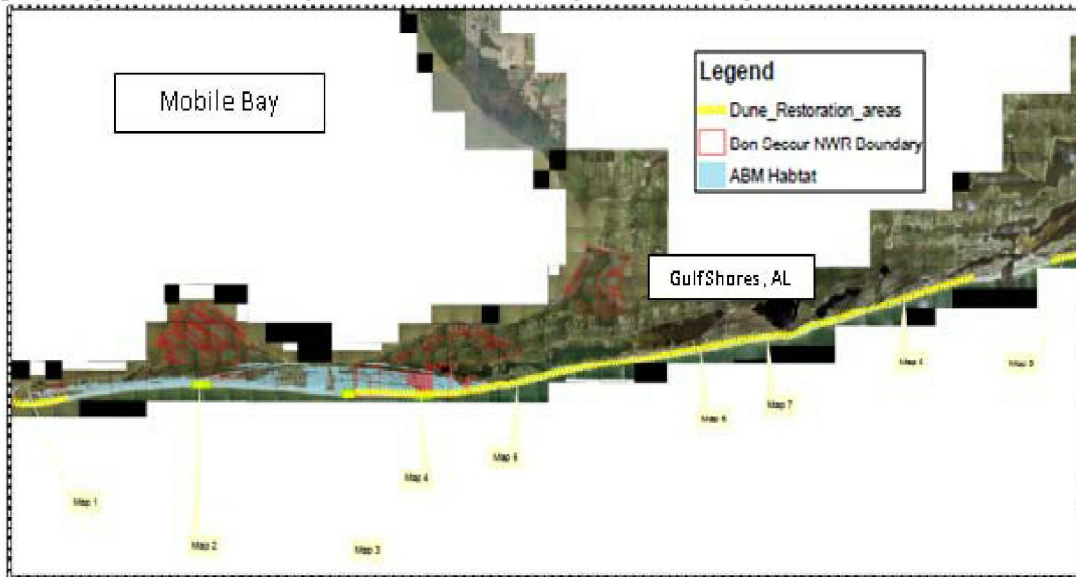


Figure 1. Alabama Dune Restoration Cooperative Project planting/fencing areas.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Consistent with section 3.2.5.4 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”), the CADRC will monitor plant and fence installations to evaluate project success. The plantings will be monitored for

90-days to assess plant survival. CADRC members will monitor the effectiveness of the plantings and sand fence installation by tracking changes in dune expansion or establishment, consistent with said section.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.5.4 of the Plan have been met.

### **3.2 Estimated Budget – Alabama Dune Restoration Cooperative Project**

Cost Category	Cost
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.5.4 of the Plan)	\$1,300,000
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$180,000
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$1,480,000</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.



## **APPENDIX C**

### **NRD OFFSETS**

NRD Offsets are 240 discounted service acre years (“DSAYs”) of Primary Vegetated Dune Habitat in Alabama, which includes 132 DSAYs of Primary Vegetated Dune Habitat “A” in Alabama and 108 DSAYs of Primary Vegetated Dune Habitat “B” in Alabama. These Offsets are applicable to Primary Vegetated Dune Habitat injuries in Alabama, as determined by the Trustees’ total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for Primary Vegetated Dune Habitat in Alabama is characterized in the natural resource damages assessment using a metric other than DSAYs of Primary Vegetated Dune Habitat in Alabama, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A. of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are the Alabama Department of Conservation and Natural Resources, the Geological Survey of Alabama, NOAA and DOI.

## 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.

#### Dune Project Definition

**Primary Vegetated Dune Habitat** is located along seaward, frontal dunes. This habitat is characterized by a mixture of open sandy areas, grasses, and forbs. The vegetative community typically is dominated by plants such as sea oats, panicgrass, beach morning-glory, and seashore elder.

- ▶ **Primary Vegetated Dune Habitat “A”** is utilized by the Alabama Beach Mouse, a federally listed endangered species.
- ▶ **Primary Vegetated Dune Habitat “B”** is not utilized by the Alabama Beach Mouse.
- ▶ **Discounted Service Acre Years** are expressed in present value 2011 service acre years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**

**Stipulation Regarding Early Restoration Project  
for the Deepwater Horizon Oil Spill --  
Marsh Island (Portersville Bay) Restoration Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill-- Marsh Island (Portersville Bay) Restoration 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): the Alabama Department of Conservation and Natural Resources (“implementing Trustee(s)”).

- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 9,400,000 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the



Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 this Early Restoration Project with the use of contractor(s) and/or co-operator(s). Unless other payment arrangements are specified in Appendix A, BPXP shall transfer 25% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$1,880,000 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$1,880,000 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.

the implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.



- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.


- 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 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 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.

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 Marsh Island (Portersville Bay) Restoration 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:

6/4/12  
Date

  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

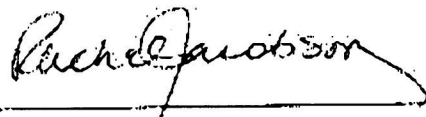
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FOR THE UNITED STATES:

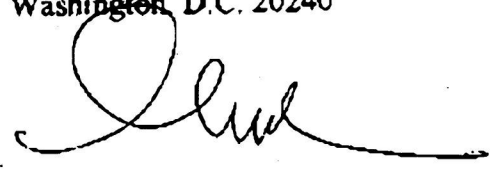
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Date

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
5/22/12  
Date

\_\_\_\_\_  
  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

\_\_\_\_\_  
5/23/12  
Date

\_\_\_\_\_  
  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Marsh Island (Portersville Bay) Restoration 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date


A handwritten signature in black ink, appearing to read 'R. Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130


THE UNDERSIGNED PARTY enters into this Project Stipulation for the Marsh Island (Portersville Bay) Restoration 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 FLORIDA:

May 22, 2012  
Date

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


May 23, 2012  
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 Marsh Island (Portersville Bay) Restoration 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:


\_\_\_\_\_  
5/23/12  
Date

  
\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Marsh Island (Portersville Bay) Restoration 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:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

5/23/12  
Date

  
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Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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Louisiana Department of Natural Resources  
Secretary  
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Baton Rouge, Louisiana 70804-9396



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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date


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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

5-23-2012

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

05-23-12

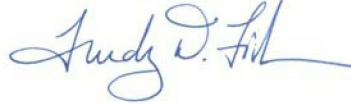
\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Marsh Island (Portersville Bay) Restoration 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:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Marsh Island (Portersville Bay) Restoration 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 5/24/12



\_\_\_\_\_  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Marsh Island (Portersville Bay) Restoration 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

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

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FOR THE STATE OF TEXAS:

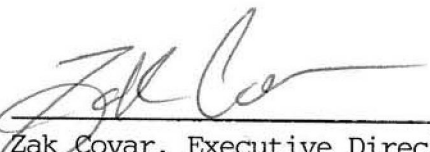
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Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/29/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Marsh Island (Portersville Bay) Restoration 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.:

5.17.12  
Date

Lance M. Dohse

approved.  
J.M.

5-17-12  
Date

Robert J. Fullard

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## APPENDIX A

### EARLY RESTORATION PROJECT

## Appendix A: Marsh Island (Portersville Bay) Restoration Project

### 1.0 INTRODUCTION

This document describes the Marsh Island (Portersville Bay) Restoration Project (the “Early Restoration Project”) to be implemented with funding provided by BPXP, resulting in the NRD Offset identified in Appendix C. This document is part of a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

### 2.0 PROJECT DESCRIPTION

The Marsh Island (Portersville Bay) Restoration Project involves the creation of salt marsh along Marsh Island, a state-owned island in the Portersville Bay portion of Mississippi Sound, Alabama. This project would add 50 acres of salt marsh to the existing 24 acres of Marsh Island through the construction of a permeable segmented breakwater, the placement of sediments and the planting of native marsh vegetation. Additionally, this project would protect the existing salt marshes of Marsh Island, which have been experiencing significant losses due to chronic erosion.

The primary goals of the Marsh Island (Portersville Bay) Restoration Project are (1) to protect the southern shoreline of the island to reduce and/or prevent further erosion of the existing salt marsh and (2) to re-create salt marsh in the open water areas north of the remainder of the island.



Figure 1. Marsh Island erosion, 1958-present.

To implement these goals, the project would: (1) install approximately 5,700 linear feet of permeable segmented breakwater; (2) place approximately 245,000 cubic yards of dredged materials to create 50 acres of marsh by filling open-water areas with dredged



material; and (3) plant approximately 312,500 native vegetation plugs. Additionally, through the natural dewatering and compaction of dredged sediments and the use of a marsh buggy, approximately 5,000 linear feet of tidal creeks would be created, connecting existing tidal creeks to the newly created marsh and to Mississippi Sound.

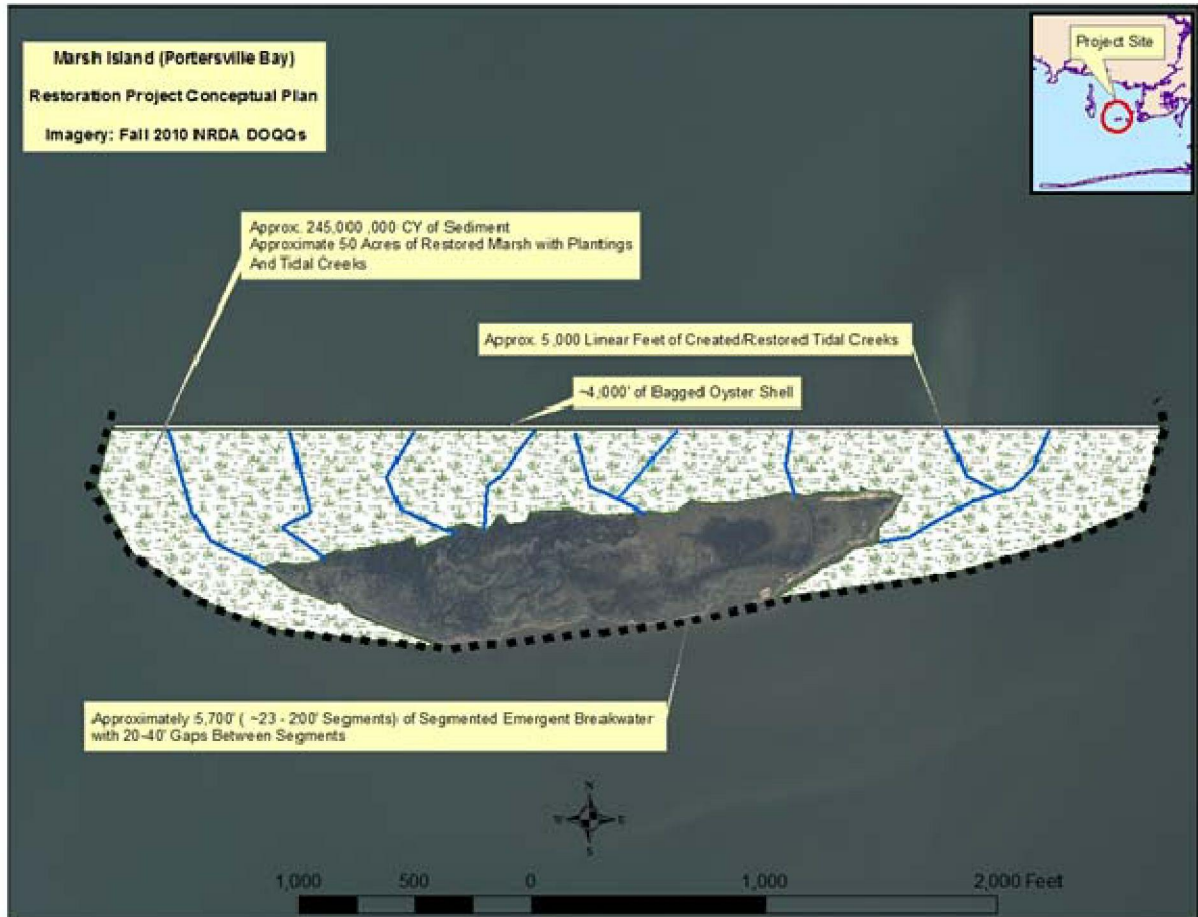


Figure 2. Marsh Island (Portersville Bay) Restoration Project conceptual design.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Project performance will be assessed as defined in section 3.2.4.4 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Plan").

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. The project is complete when performance criteria consistent with section 3.2.4.4 of the Plan have been met.

**3.2 Estimated Budget – Marsh Island (Portersville Bay) Restoration Project**

Cost Category	Cost
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.4.4 of the Plan)	\$9,400,000
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$1,880,000
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$11,280,000</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.

## **APPENDIX C**

### **NRD OFFSETS**

NRD Offsets are 540 discounted service acre years (“DSAYs”) of Salt Marsh Habitat in Alabama, applicable to Salt Marsh Habitat injuries in Alabama as determined by the Trustees’ total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for Salt Marsh Habitat in Alabama is characterized in the natural resource damages assessment using a metric other than DSAYs of Salt Marsh Habitat in Alabama, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A. of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are the Alabama Department of Conservation and Natural Resources, the Geological Survey of Alabama, NOAA and DOI.



## 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.

**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*, *Distichlis spicata*, and *Avicennia germinans*.

**Discounted Service Acre Years** is expressed in present value 2011 service acre years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**

**Stipulation Regarding Early Restoration Project for the Deepwater Horizon Oil Spill -  
Florida (Pensacola Beach) Dune Restoration Project**

This Stipulation Regarding Early Restoration Project for the Deepwater Horizon Oil Spill -- Florida (Pensacola Beach) Dune Restoration 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): Florida Department of Environmental Protection (“implementing Trustee(s)”).
- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation



during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of the filing of this Project Stipulation. Once the Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 585,898 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the

Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 this Early Restoration Project with the use of contractor(s). Unless other payment arrangements are specified in Appendix A, BPXP shall transfer 25% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$58,589 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$58,589 within 30 days of receipt of the statement.
- F. 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 and no funding

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<sup>1</sup> 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.



pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.

- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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

#### 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 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 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.H.

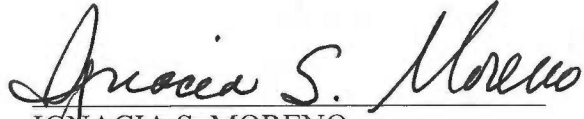
- C. Except for the stipulated NRD Offsets and as set forth herein in Paragraph IV.E., this Project Stipulation does not operate to release BPXP from any potential natural resource damage or other liability, and the Trustees reserve all other claims against BPXP and/or other parties related to natural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

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 Florida (Pensacola Beach) Dune Restoration 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:

6/4/12  
Date

  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

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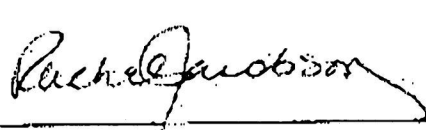
FOR THE UNITED STATES:

\_\_\_\_\_  
Date

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

5/22/12

  
\_\_\_\_\_  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

\_\_\_\_\_  
Date

5/23/12

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida (Pensacola Beach) Dune Restoration 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date

A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.


R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida (Pensacola Beach) Dune Restoration 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 FLORIDA:

May 22, 2012  
Date

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


May 23, 2012  
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 Florida (Pensacola Beach) Dune Restoration 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:

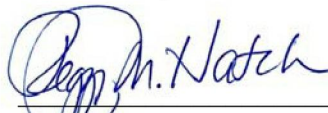
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5/23/12  
Date

  
\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
Louisiana Department of Natural Resources  
Secretary  
P.O. Box 94396  
Baton Rouge, Louisiana 70804-9396

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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

5/23/12  
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Baton Rouge, Louisiana 70896

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FOR THE STATE OF LOUISIANA:

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GARRET GRAVES  
Louisiana Coastal Protection and  
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Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004


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Date

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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

5-23-2012  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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



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FOR THE STATE OF LOUISIANA:

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GARRET GRAVES  
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Restoration Authority  
Chair  
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Baton Rouge, Louisiana 70804-9004

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Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

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Date

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\_\_\_\_\_  
Date

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Fisheries  
Secretary  
P.O. Box 98000  
Baton Rouge, Louisiana 70898

05/23/12  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
Louisiana Department of Natural Resources  
Secretary  
P.O. Box 94396  
Baton Rouge, Louisiana 70804-9396

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FOR THE STATE OF MISSISSIPPI:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Florida (Pensacola Beach) Dune Restoration 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 5/24/12



\_\_\_\_\_  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida (Pensacola Beach) Dune Restoration 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

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality



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FOR THE STATE OF TEXAS:

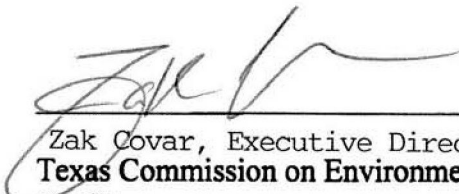
\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality

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FOR BP EXPLORATION & PRODUCTION INC.:

5.17.12  
Date

Laura N. Ashe

Approved.  
J.M.

5-17-12  
Date

Robert J. Fullbrook

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## **APPENDIX A**

### **EARLY RESTORATION PROJECT**

## **Appendix A: Florida (Pensacola Beach) Dune Restoration Project**

### **1.0 INTRODUCTION**

This document describes the Florida (Pensacola Beach) Dune Restoration 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 a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

### **2.0 PROJECT DESCRIPTION**

The Florida (Pensacola Beach) Dune Restoration Project entails planting approximately 394,240 native plants roughly 40 feet seaward of the existing primary dunes within designated project areas (Figure 1). Proportions of plants will include approximately 70% sea oats grasses, 20% panic and smooth cord grasses, and 10% ground cover plants (sea purslane, beach elder, white morning glories and railroad vine) to maximize sand stabilization and limit wind erosion. All plants will be grown from seeds or cuttings from the Alabama or North Florida coast to ensure appropriate genetic stocks are used in the project. Plants will be installed at 18-inch centers and 6 inches deep to ensure that sufficient moisture is available to roots, and properly covered with sand to stabilize and protect the plants. Planting will be targeted for the March – August time frame. Slow release fertilizer will be added during plant installation and plants would be periodically watered, as needed, to facilitate establishment.



Figure 1. Florida Dune Restoration Project planting areas.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

The State or County will monitor plant installations to evaluate project success and recommend maintenance activities for 3-5 years from initial project implementation, consistent with section 3.2.6.2.3 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Plan"). County officials will visit project locations on a weekly basis to document survivorship of installed dune plants. Plants that do not survive within the first 90 days after planting will be replaced.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.6.2.3 of the Plan have been met.



**3.2 Estimated Budget – Florida (Pensacola Beach) Dune Restoration Project**

Cost Category	Cost
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.6.2.3 of the Plan)	\$585,898
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$58,589
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$644,487</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.

## **APPENDIX C**

### **NRD OFFSETS**

The NRD Offsets are 105 discounted service acre years (“DSAYs”) of Primary Vegetated Dune Habitat B in Florida, applicable to Primary Vegetated Dune Habitat B injuries in Florida, as determined by the Trustees’ total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for Primary Vegetated Dune Habitat B in Florida is characterized in the natural resource damages assessment using a metric other than DSAYs of Primary Vegetated Dune Habitat B in Florida, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A. of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, NOAA and DOI.

## 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.

#### Dune Project Definition

**Primary Vegetated Dune Habitat** is located along seaward, frontal dunes. This habitat is characterized by a mixture of open sandy areas, grasses, and forbs. The vegetative community typically is dominated by plants such as sea oats, panic grass, beach morning-glory, and seashore elder.

- ▶ **Primary Vegetated Dune Habitat “A”** is utilized by the Alabama Beach Mouse, a federally listed endangered species.
- ▶ **Primary Vegetated Dune Habitat “B”** is not utilized by the Alabama Beach Mouse.

**Discounted Service Acre Years** is expressed in present value 2011 service acre years.



**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**

**Stipulation Regarding Early Restoration Project for the Deepwater Horizon Oil Spill -  
Florida Boat Ramp Enhancement and Construction Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill -- Florida Boat Ramp Enhancement and Construction 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): Florida Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission (“implementing Trustee(s)”).



- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of the filing of this Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 4,406,309 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the



Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 this Early Restoration Project with the use of contractor(s). Unless other payment arrangements are specified in Appendix A, BPXP shall transfer 25% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$660,946 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the Implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$660,946 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.

complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.



- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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

#### 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 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 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.H.

- 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 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 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.

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 Florida Boat Ramp Enhancement and Construction 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:

6/4/12  
Date

Ignacia S. Moreno  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

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CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

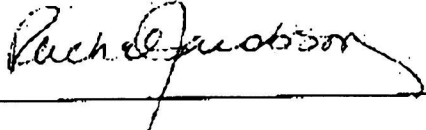
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FOR THE UNITED STATES:

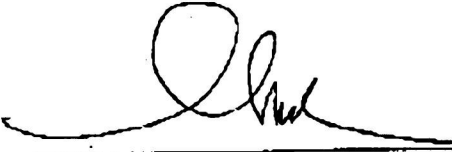
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Date

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IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
5/22/12  
Date

  
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RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

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FOR THE STATE OF ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date

A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida Boat Ramp Enhancement and Construction 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.

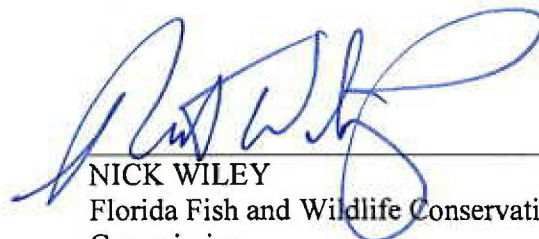
FOR THE STATE OF FLORIDA:

May 22, 2012  
Date

  
LARRY MORGAN

Florida Department of Environmental  
Protection  
Chief Deputy General Counsel  
3900 Commonwealth Blvd, MS 35  
Tallahassee, Florida 32399-3000

May 23, 2012  
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 Florida Boat Ramp Enhancement and Construction 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:

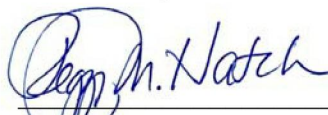
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5/23/12  
Date

  
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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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


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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

5/23/12  
Date

  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

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Date

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

\_\_\_\_\_  
Date

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SCOTT ANGELLE  
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P.O. Box 94396  
Baton Rouge, Louisiana 70804-9396

FOR THE STATE OF LOUISIANA:

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GARRET GRAVES  
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Chair  
P.O. Box 94004,  
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Date


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ROLAND GUIDRY  
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Oil Spill Coordinator  
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Baton Rouge, Louisiana 70896

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Quality  
Secretary  
P.O. Box 4301  
Baton Rouge, Louisiana 70821-4301

5-23-2012

\_\_\_\_\_  
Date

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

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FOR THE STATE OF LOUISIANA:

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GARRET GRAVES  
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Restoration Authority  
Chair  
P.O. Box 94004,  
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ROLAND GUIDRY  
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Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

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Date

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Quality  
Secretary  
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P.O. Box 98000  
Baton Rouge, Louisiana 70898

05/23/12  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Florida Boat Ramp Enhancement and Construction 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:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Florida Boat Ramp Enhancement and Construction 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:

\_\_\_\_\_  
5/24/12  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida Boat Ramp Enhancement and Construction 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

6/24/12  
Date

\_\_\_\_\_  


LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

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FOR THE STATE OF TEXAS:


\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Florida Boat Ramp Enhancement and Construction 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.:

5.17.12  
Date



5-17-12  
Date



Approved  
J.M.

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## APPENDIX A

### EARLY RESTORATION PROJECT

## Appendix A: Florida Boat Ramp Enhancement and Construction Project

### 1.0 INTRODUCTION

This document describes the Florida Boat Ramp Enhancement and Construction 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 a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

### 2.0 PROJECT DESCRIPTION

The Florida Public Boat Ramp Enhancement and Construction Project entails repairing an existing boat ramp in Pensacola Bay (Navy Point Park Public Boat Ramp N30-22.8'/W087-16.9') and constructing a new boat ramp facility in Pensacola Bay (Mahogany Mill Public Boat Ramp N30-23.9'/W087-14.9') (Figure 1). The project also includes repairing and modifying an existing boat ramp in Perdido Bay (Galvez Landing Public Boat Ramp N30-18.8'/W087-26.5') and constructing a new boat ramp facility in Perdido Bay (Perdido Public Boat Ramp N30-31.4'/W087-26.7') (Figure 2). Finally, visitor information kiosks will be installed to provide environmental education to boaters regarding water quality and sustainable practices for utilization of marine/estuarine/coastal resources in Florida.



Figure 1. Mahogany Mill public boat ramp design.



Figure 2. Florida Public Boat Ramp Enhancement and Construction Project locations, Escambia County, FL.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Performance criteria will be based on the boat ramps being certified upon completion that the ramps are built in general accordance with the plans, specifications and all specific permit conditions, consistent with section 3.2.6.1.3 and page 142 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”). Maintenance of boat ramps involves keeping the area clean of debris, emptying trash, repair of onsite facilities, and similar tasks. The first fifteen years of Operation and Maintenance costs will be provided by BPXP and are included in the total cost of the project, after which Operation and Maintenance costs will be provided by Escambia County.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.6.1.3 and page 142 of the Plan have been met.

**3.2 Estimated Budget – Florida Boat Ramp Enhancement and Construction Project**

Cost Category	Cost
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.6.1.3 of the Plan)	\$4,406,309
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$660,946
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$5,067,255</i></b>



## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.

## **APPENDIX C**

### **NRD OFFSETS**

NRD Offsets are \$10,153,642 expressed in present value 2011 dollars to be applied against the monetized value of lost human uses provided by natural resources injured in Florida, as determined by the Trustees' total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for lost human uses in Florida is characterized in the natural resource damages assessment using a metric other than present value 2011 dollars, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A. of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, NOAA and DOI.

**APPENDIX D**

**GLOSSARY OF TERMS**

There are no additional defined terms for this Project.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**



**Stipulation Regarding Early Restoration Project  
for the Deepwater Horizon Oil Spill--  
Lake Hermitage Marsh Creation – NRDA Early Restoration Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill--Lake Hermitage Marsh Creation – NRDA Early Restoration 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration (“NOAA”) (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Phase I Early Restoration Plan”), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): Louisiana Coastal Protection and Restoration Authority and Louisiana Oil Spill Coordinator's Office ("implementing Trustee(s)").
- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of the filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 13,200,000 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.
- 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 amount specified in Paragraph II.A. from the Early Restoration Subaccount to the account or accounts designated by the implementing Trustee(s) within sixty (60) days of the filing of this Project Stipulation; such notice shall include written payment instructions. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount to the account or accounts designated in the payment instructions within seventy-five (75) days of the filing of this Project Stipulation.
- E. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$1,200,000 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$1,200,000 within 30 days of receipt of the statement.
- F. 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 implementing 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 and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be

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<sup>1</sup> 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.



entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.

- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.

- 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 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 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.

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 Lake Hermitage Marsh Creation – NRDA Early Restoration 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:

6/4/12  
Date

Ignacia S. Moreno  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration



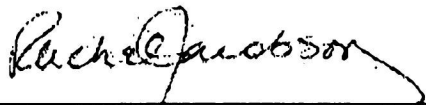
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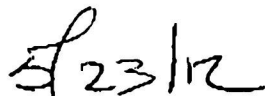
FOR THE UNITED STATES:

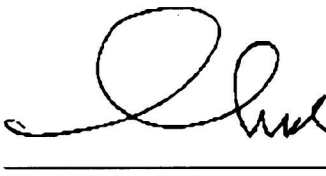
\_\_\_\_\_  
Date

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
5/22/12  
Date

  
\_\_\_\_\_  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Lake Hermitage Marsh Creation – NRDA Early Restoration 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date

A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130


THE UNDERSIGNED PARTY enters into this Project Stipulation for the Lake Hermitage Marsh Creation – NRDA Early Restoration 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 FLORIDA:

5/22/12  
Date

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


5/23/12  
Date

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

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FOR THE STATE OF LOUISIANA:

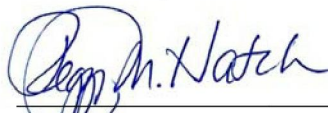
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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

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Date

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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

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5/23/12  
Date

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

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Date

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

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



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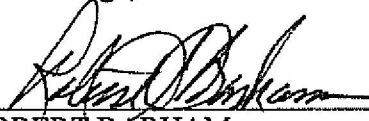
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Date

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5-23-2012  
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Date

  
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Baton Rouge, Louisiana 70898

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FOR THE STATE OF MISSISSIPPI:

\_\_\_\_\_  
Date 5/23/12



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TRUDY D. FISHER  
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 Lake Hermitage Marsh Creation – NRDA Early Restoration 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 5/24/12



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

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Date

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LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

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Texas Commission on Environmental  
Quality

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FOR THE STATE OF TEXAS:

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Date

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Executive Director  
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Austin, Texas 78744

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FOR THE STATE OF TEXAS:

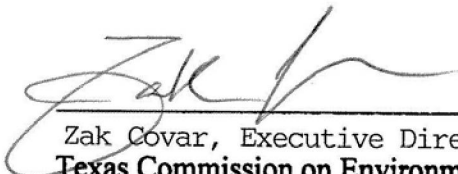
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5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality

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FOR BP EXPLORATION & PRODUCTION, INC.:

5.17.12 Laura R. Jobe  
Date

5-17-12 John F. Fulk  
Date

Approved.  
J.M.

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901



## APPENDIX A

EARLY RESTORATION PROJECT**Appendix A: Lake Hermitage Marsh Creation – NRDA Early Restoration Project****1.0 INTRODUCTION**

This document describes the Lake Hermitage Marsh Creation – NRDA Early Restoration 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 a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

**2.0 PROJECT DESCRIPTION**

The Early Restoration Project involves the creation of marsh within a project footprint known as the “Lake Hermitage Marsh Creation Project” (Figure 1) developed for and funded through the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Program. The Early Restoration Project substitutes approximately 104 acres of created brackish marsh for approximately 5-6 acres of earthen terraces that would otherwise have been constructed within the CWPPRA project boundary (Figure 2).

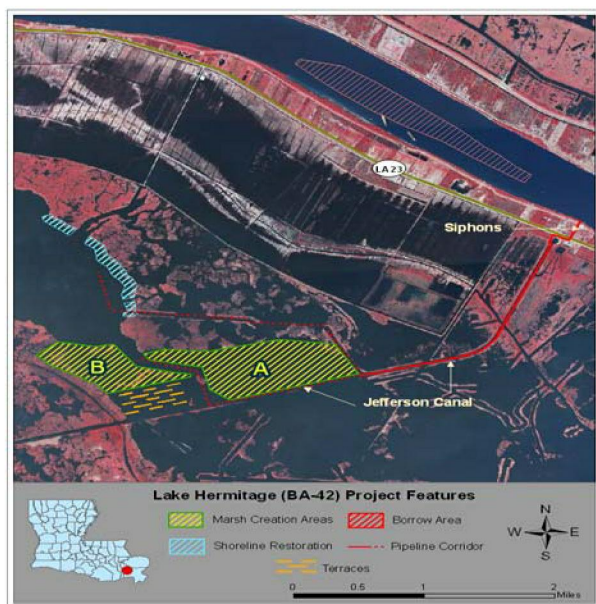


Figure 1. Lake Hermitage Marsh Creation CWPPRA Project.

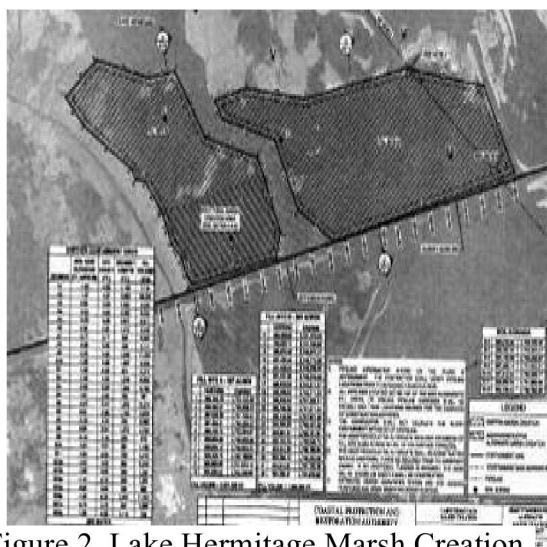


Figure 2. Lake Hermitage Marsh Creation – NRDA Early Restoration Increment.

The Early Restoration Project will be implemented within the Barataria Hydrologic Basin in Plaquemines Parish, Louisiana, to the west of the community of Pointe à la Hache, and northwest of the community of Magnolia. The general location of the Project Site is depicted in Figure 3.



Figure 3. Lake Hermitage Marsh Creation – NRDA Early Restoration Project location within the Barataria Basin.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Consistent with section 3.2.2.1.3 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”), project performance will be assessed by comparing quantitative monitoring results to predetermined performance standards that define the minimum physical or structural conditions deemed to represent normal and acceptable growth and development. The Trustees expect to conduct quantitative vegetation monitoring using ground surveys and also periodically conduct remote sensing of vegetation to obtain aerial coverage. The Trustees will also conduct annual inspections of the project to identify issues that may need correction. The monitoring program for this project will use quantitative standards for parameters such as percent live desirable vegetation to determine whether the project goals and objectives have been achieved, or whether corrective actions are required to meet the goals and



objectives. Further details concerning the performance measures and monitoring will be developed prior to implementation of the project.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.2.1.3 of the Plan have been met.

**3.2 Estimated Budget – Lake Hermitage Marsh Creation – NRDA Early Restoration Project**

<b>Cost Category</b>	<b>Cost</b>
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.2.1.3 of the Plan)	\$13,200,000
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$1,200,000
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$14,400,000</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.



## **APPENDIX C**

### **NRD OFFSETS**

NRD Offsets are 518 discounted service acre years (“DSAYs”) of Brackish Marsh in Louisiana. These Offsets are applicable to Brackish Marsh injuries in Louisiana, 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:

- (1) In the event that the injury determination for Brackish Marsh in Louisiana is characterized in the natural resource damages assessment using a metric other than DSAYs of Brackish Marsh in Louisiana, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are 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, the Louisiana Department of Natural Resources, NOAA and DOI.

## 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.

#### Marsh Habitats

**Brackish Marsh** refers to transitional marsh areas between land and water that occur in coastal areas at intermediate salinities between freshwater and ocean water. Typical vegetation in brackish marsh includes species such as *Spartina patens*, *Spartina cynosuroides*, *Spartina spartinae*, and *Schoenoplectus robustus*.

**Discounted Service Acre Years** is expressed in present value 2011 service acre years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**

**Stipulation Regarding Early Restoration Project  
for the Deepwater Horizon Oil Spill--  
Louisiana Oyster Cultch Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill--Louisiana Oyster Cultch 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): Louisiana Coastal Protection and Restoration Authority, Louisiana Department of Wildlife & Fisheries, and Louisiana Oil Spill Coordinator's Office ("implementing Trustee(s)").

- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of the filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 14,874,300 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the



Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$708,300 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$708,300 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.

the implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.



- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.

- 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 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 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. BPXP reserves its ability to assert that successful implementation of the Early Restoration Project results in a reduction of private claims for loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources that have been or may be brought by any other person or claimant under the Oil Pollution Act, 33 U.S.C. § 2702 (b)(2)(C) and (E), or any other federal, state or local laws. The Trustees, individually and collectively, hereby agree that they will not oppose BPXP's effort to receive such a reduction; provided however that nothing herein shall require any Trustee to support BPXP's effort to receive such a reduction.
- H. 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.

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 Louisiana Oyster Cultch 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:

6/4/12  
Date

Ignacia S. Moreno  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

5/22/12

  
\_\_\_\_\_  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

\_\_\_\_\_  
Date

5/23/12

  
\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date


A handwritten signature in black ink, appearing to read 'R. Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130


THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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 FLORIDA:

May 22, 2012  
Date

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


May 23, 2012  
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 Louisiana Oyster Cultch 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:

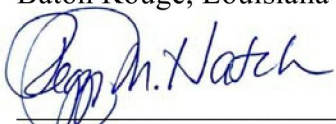
\_\_\_\_\_  
5/23/12  
Date

  
\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Louisiana Oyster Cultch 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:

\_\_\_\_\_  
Date

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GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
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P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

5/23/12  
Date

  
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Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

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Date

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FOR THE STATE OF LOUISIANA:

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Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004


\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

5-23-2012  
\_\_\_\_\_  
Date

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

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

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FOR THE STATE OF LOUISIANA:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

05/23/12  
\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Louisiana Oyster Cultch 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:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Louisiana Oyster Cultch 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 5/24/12



\_\_\_\_\_  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Louisiana Oyster Cultch 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.:

5-17-12  
Date

Lamar H. Jobe

5-17-12  
Date

[Signature]

Approved  
J.M.

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901



## APPENDIX A

### EARLY RESTORATION PROJECT

## Appendix A: Louisiana Oyster Cultch Project

### 1.0 INTRODUCTION

This document describes the Louisiana Oyster Cultch 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 a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

### 2.0 PROJECT DESCRIPTION

The Louisiana Oyster Cultch Project involves: (1) the placement of oyster cultch onto approximately 850 acres of public oyster seed grounds throughout coastal Louisiana, including 3-Mile Bay, Drum Bay, Lake Fortuna, South Black Bay, Hackberry Bay and Sister Lake (Figure 1), and (2) construction of an oyster hatchery facility in Grand Isle, Louisiana that would produce supplemental larvae and seed.



Figure 1. Louisiana oyster cultch planting locations.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Consistent with section 3.2.2.2.3 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”), project performance will be assessed through physical and biological monitoring of oyster cultch plants. The monitoring program will determine whether the project goals and objectives have been

achieved, or whether corrective actions are required to meet the goals and objectives. Biological monitoring parameters will consist of oyster metrics including density, size, and spat settlement in cultch plants. This monitoring will be consistent with the oyster monitoring protocols used by the Louisiana Department of Wildlife and Fisheries in their annual oyster stock assessment activities. Oyster cultch plant maintenance will consist of periodic evaluation of cultch coverage within the placement boundaries and could include cultch replenishment, if feasible.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.2.2.3 of the Plan have been met.

### 3.2 Estimated Budget – Louisiana Oyster Cultch Project

<b>Cost Category</b>	<b>Cost</b>
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.2.2.3 of the Plan)	\$14,874,300
Potential Contingency Amount, consistent with the provisions of Paragraph II.E.	Up to \$708,300
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$15,582,600</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.

## APPENDIX C

### NRD OFFSETS

NRD Offsets are 4,000,000 discounted kilogram years (Dkg-Ys) of oyster Secondary Production (based on ash-free dry weight of oyster tissue) in Louisiana, applicable first to any oyster injuries in Louisiana, and if any surplus remains, to nearshore benthic invertebrate injuries in Louisiana, 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:

- (1) In the event that the injury determination for oysters in Louisiana is characterized in the natural resource damages assessment using a metric other than Dkg-Ys of oyster Secondary Production (based on ash-free dry weight of oyster tissue) in Louisiana, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

For the purposes of Paragraph III.A. of this Project Stipulation, the Trustees whose resources are addressed by this Early Restoration Project are 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, the Louisiana Department of Natural Resources, NOAA and DOI.



## 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.

#### Oyster Cultch Definitions

**Secondary Productivity:** The strict definition of secondary productivity is the rate of production of consumers (heterotrophs) in an ecosystem (Edmondson & Winberg, 1971). Oyster production is a portion of secondary productivity, and for oyster cultch projects is defined as the secondary production attributed to oysters only.

**Oyster cultch:** The term oyster cultch refers to clean oyster shell or other clean hard substrate (limestone, crushed concrete,) placed in areas of soft sediments which provides the required surfaces for the settlement of oyster larvae (spat) from the water column.

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

**Discounted Kilogram Years** is expressed as the present value of 2012 kilogram years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**

**Stipulation Regarding Early Restoration Project  
for the Deepwater Horizon Oil Spill--  
Mississippi Artificial Reef Habitat Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill--Mississippi Artificial Reef Habitat 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): the Mississippi Department of Environmental Quality (“implementing Trustee(s)”).



- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 2,350,000 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the

Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$250,000 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$250,000 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.



the implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.

- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.

- 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 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 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.

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 Mississippi Artificial Reef Habitat 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:

6/4/12  
Date

Ignacia S. Moreno  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Department of the Interior

\_\_\_\_\_  
Date

\_\_\_\_\_  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

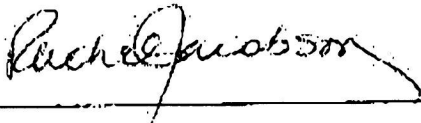
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FOR THE UNITED STATES:


\_\_\_\_\_  
Date

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
5/22/12  
Date

\_\_\_\_\_  
  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

\_\_\_\_\_  
5/22/12  
Date

\_\_\_\_\_  
  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Artificial Reef Habitat 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date

A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Artificial Reef Habitat 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.

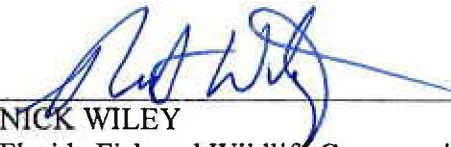
FOR THE STATE OF FLORIDA:

May 22, 2012  
Date



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

4-23-12  
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 Mississippi Artificial Reef Habitat 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:

\_\_\_\_\_  
5/23/12  
Date




\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date



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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Mississippi Artificial Reef Habitat 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:

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Date

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GARRET GRAVES

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Baton Rouge, Louisiana 70804-9004

5/23/12  
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ROLAND GUIDRY

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

\_\_\_\_\_  
Date

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PEGGY HATCH

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

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ROBERT BARHAM

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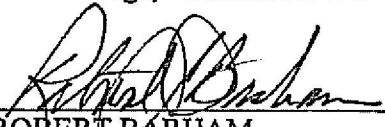
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5-23-2012  
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ROBERT BARHAM  
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P.O. Box 98000  
Baton Rouge, Louisiana 70898

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Louisiana Department of Natural Resources  
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FOR THE STATE OF LOUISIANA:

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GARRET GRAVES  
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Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

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P.O. Box 66614  
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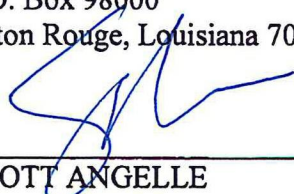
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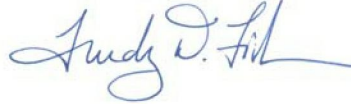
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Date

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

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FOR THE STATE OF MISSISSIPPI:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Mississippi Artificial Reef Habitat 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 5/24/12



\_\_\_\_\_  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Artificial Reef Habitat 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

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_

LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality



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FOR THE STATE OF TEXAS:

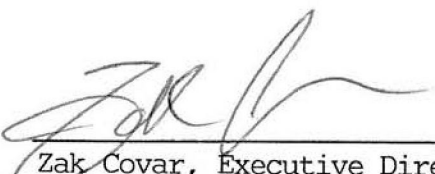
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Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality

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FOR BP EXPLORATION & PRODUCTION, INC.:

5.17.12  
Date



Approved  
J.M.

5-17-12  
Date



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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## APPENDIX A

EARLY RESTORATION PROJECT**Appendix A: Mississippi Artificial Reef Habitat Project****1.0 INTRODUCTION**

This document describes the Mississippi Artificial Reef Habitat 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 a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

**2.0 PROJECT DESCRIPTION**

The Mississippi Artificial Reef Habitat project will deploy nearshore artificial reefs in the marine waters of Mississippi. Currently there are 67 existing reefs areas that are each approximately 3 acres in size. At present, approximately half of the existing reef areas have a low profile and consist of crushed concrete or limestone. The locations of Mississippi’s existing nearshore artificial reefs are shown in Figure 1. With the proposed project, approximately 100 acres of crushed limestone will be added to the 201-acre footprint of the existing reef areas.

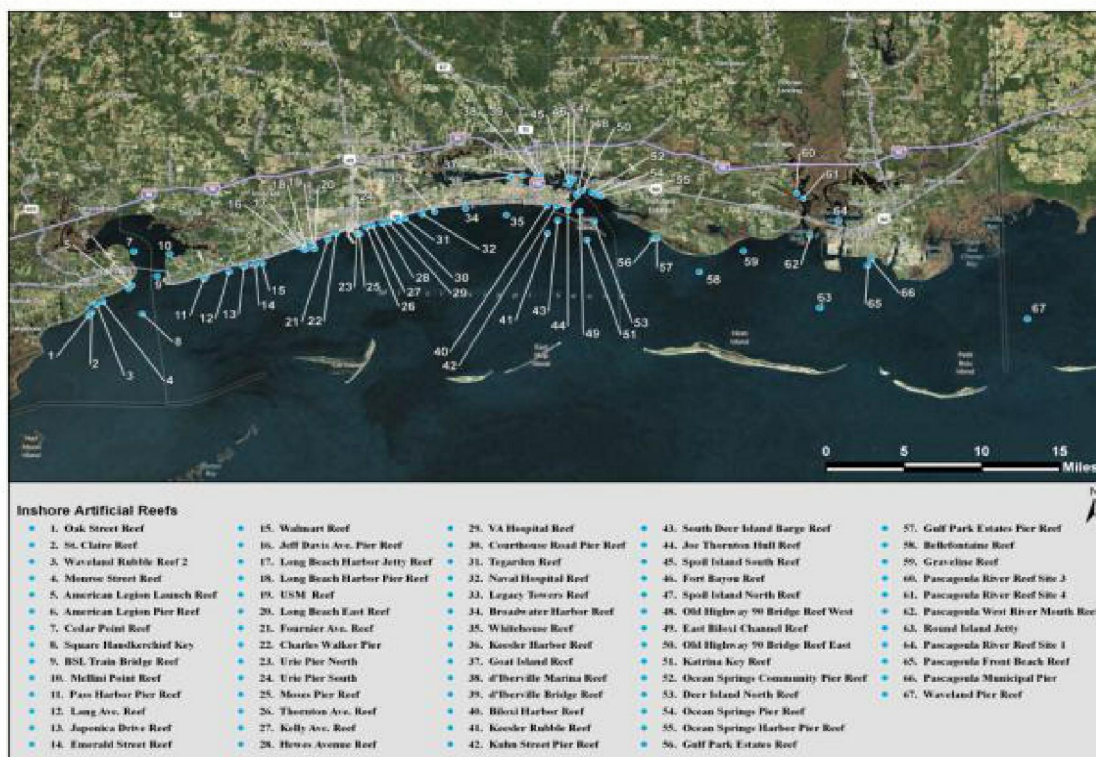


Figure 1: Mississippi’s existing nearshore artificial reefs.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Project performance will be assessed through physical and biological monitoring, consistent with section 3.2.3.2.3 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”). The monitoring program will determine whether the project goals and objectives have been achieved, or whether corrective actions are required to meet the goals and objectives.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.3.2.3 of the Plan have been met.

#### 3.2 Estimated Budget – Mississippi Oyster Cultch Project

<b>Cost Category</b>	<b>Cost</b>
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.3.2.3 of the Plan)	\$2,350,000
Potential Contingency Amount, consistent with the provisions of Paragraph II.E	Up to \$250,000
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$2,600,000</i></b>



## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.

## **APPENDIX C**

### **NRD OFFSETS**

The NRD Offsets are 763,609 discounted kilogram years (Dkg-Ys) of Secondary Production of invertebrate infauna and epifaunal biomass (ash-free dry weight) at nearshore artificial reefs in Mississippi, applicable to Secondary Productivity injuries in Mississippi, as determined by the Trustees' total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for Secondary Productivity injuries in Mississippi is characterized in the Natural Resource Damages Assessment using a metric other than Dkg-Ys of Secondary Production of invertebrate infaunal and epifaunal biomass (ash-free dry weight) in Mississippi, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

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

## 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.

#### Artificial Reef Definitions

**Low-Profile Artificial Reefs:** Manmade hard bottom structures constructed in the nearshore areas by the placement of shell or limestone materials on soft substrate to an average height of 4" above the mud substrate (no more than 6 inches) upon which the production of sessile and mobile invertebrate fauna will be enhanced.

**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 nearshore artificial reefs, 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 in the estuarine environment.

*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 as the present value of 2011 kilogram years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**



**Stipulation Regarding Early Restoration Project  
for the Deepwater Horizon Oil Spill--  
Mississippi Oyster Cultch Restoration Project**

This Stipulation Regarding an Early Restoration Project for the Deepwater Horizon Oil Spill--Mississippi Oyster Cultch Restoration 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. 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, and the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") (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. To date, BPXP has been participating cooperatively in the NRDA as provided under applicable laws and regulations; and

WHEREAS, while the NRDA is continuing, the Trustees have approved the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment ("Phase I Early Restoration Plan"), dated April 17, 2012, 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 accordance with the Framework Agreement and 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 budget, location, and anticipated schedule), attached hereto and incorporated by reference, as an appropriate restoration project to address natural resource injuries resulting from the Oil Spill. On December 15, 2011, the Trustees published for public notice and comment a draft Phase I Early Restoration Plan that included the Early Restoration Project. On April 17, 2012, after considering all public comments received on the draft plan, the Trustees adopted a final Phase I Early Restoration Plan that included the Early Restoration Project. The final Phase I Early Restoration 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): the Mississippi Department of Environmental Quality (“implementing Trustee(s)”).



- D. The implementing Trustee(s) shall provide quarterly status reports on the Early Restoration Project to all Parties describing the progress on project implementation during each period (including a summary of costs expended during that quarter), until 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. The first status report shall be due within ninety (90) days of filing of this Project Stipulation. Once the implementing Trustee(s) completes construction of the Early Restoration Project, the implementing Trustee(s) shall provide annual status reports on the Early Restoration Project to all Parties describing the status of and any changes to the Early Restoration Project during each period. 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, and the Oil Pollution Act Regulations (Natural Resource Damage Assessments), 15 C.F.R. §§ 990 et seq.
- F. Prior to signing this Project Stipulation, the implementing Trustee(s) coordinated with the Federal On-Scene Coordinator (FOSC) to ensure that the Early Restoration Project will not obstruct, duplicate or conflict with any ongoing response actions, and ongoing response actions, if any, will not obstruct, duplicate or conflict with the Early Restoration Project.

## II. FUNDING FOR PROJECTS IMPLEMENTED BY ONE OR MORE TRUSTEES

- A. BPXP shall provide funding in the amount of \$ 10,100,000 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.
- B. The Trustees shall use the funds paid under this Stipulation only for implementation of the Early Restoration Project, including oversight, monitoring, corrective actions, and any agreed upon contingencies, except as provided in Paragraphs II.F. and II.G. An estimated budget for 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. from the

Early Restoration Subaccount<sup>1</sup> to the account or accounts and in the manner designated in the payment instructions.

- 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 amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. BPXP shall transfer the remaining 50% of the amount specified in Paragraph II.A. from the Early Restoration Subaccount 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. In addition to the amount specified in Paragraph A of this section, BPXP shall make available contingency funding from the Early Restoration Subaccount of up to \$900,000 for the Early Restoration Project, as provided herein (“Contingency Funding”). Contingency Funding shall only be used for the Early Restoration Project and shall only be used to pay for actual cost overruns, performance monitoring, adaptive management, corrective actions and other implementation costs that are within the scope of the Early Restoration Project. If the implementing Trustee(s) believes that Contingency Funding will be required, such Trustee shall provide to BPXP a statement, together with supporting materials, demonstrating that the funds received pursuant to Paragraph A of this section have been expended for the Early Restoration Project. Such a statement shall also include an explanation of the need, the amount of funds requested from the Contingency Funding, and a detailed description of the proposed work activities. BPXP shall pay the implementing Trustee(s) for such Contingency Funding, up to a maximum amount of \$900,000 within 30 days of receipt of the statement.
- F. 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 implementing 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

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<sup>1</sup> 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.



the implementing Trustee(s) has confirmed in writing that the Early Restoration Project is complete and no funding pursuant to Paragraph II.E. will be required. BPXP shall not be entitled to any additional NRD Offsets or other credits related to any additional restoration work performed with such retained funds.

- G. 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.
- H. 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 plus the Contingency Funding, 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.

### 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. To the extent the Parties anticipate that one or more NRD Offsets are likely to need to be scaled against injuries to one or more natural resources and/or services that are not of the same type or quality, and scaling factors have been agreed upon, Appendix C also includes those scaling factors. 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. The Trustees, collectively and individually, shall credit all NRD Offsets against their assessment of total injury resulting from the Oil Spill as provided in the Framework Agreement.
- D. Upon full payment of the amount specified in Paragraph II.A., BPXP shall be entitled to the NRD Offsets set forth in Appendix C as provided in the Framework Agreement.
- E. The Trustees agree that the NRD Offsets set forth in Appendix C shall apply to the NRDA even if the Early Restoration Project does not achieve the anticipated results.

- F. BPXP waives the right to claim that the Early Restoration Project 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.
- G. 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.
- H. 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. To the extent NRD Offsets have been applied as provided in the Framework Agreement by the Trustees in the assessment of total injury, then BPXP is not entitled to any further application of the NRD Offsets in litigation or 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 Natural Resource Damage Assessment.
- 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 in the form of Appendix E (Notice of Project Stipulation), attached hereto and incorporated by reference.
- 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.

#### 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 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 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.H.

- 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 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 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. BPXP reserves its ability to assert that successful implementation of the Early Restoration Project results in a reduction of private claims for loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property, or natural resources that have been or may be brought by any other person or claimant under the Oil Pollution Act, 33 U.S.C. § 2702 (b)(2)(C) and (E), or any other federal, state or local laws. The Trustees, individually and collectively, hereby agree that they will not oppose BPXP's effort to receive such a reduction; provided however that nothing herein shall require any Trustee to support BPXP's effort to receive such a reduction.
- H. 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.

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 Mississippi Oyster Cultch Restoration 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

6/4/12



IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

Date

U.S. Department of the Interior

Date

CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration

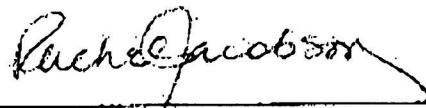
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FOR THE UNITED STATES:

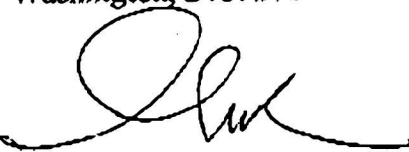
\_\_\_\_\_  
Date

\_\_\_\_\_  
IGNACIA S. MORENO  
U.S. Department of Justice  
Assistant Attorney General  
601 D Street, NW  
Washington, D.C. 20004

\_\_\_\_\_  
Date 5/22/12

\_\_\_\_\_  
  
RACHEL JACOBSON  
U.S. Department of the Interior  
Acting Assistant Secretary for Fish and  
Wildlife and Parks  
1849 C Street NW  
Washington, D.C. 20240

\_\_\_\_\_  
Date 5/23/12

\_\_\_\_\_  
  
CRAIG R. O'CONNOR  
National Oceanic and Atmospheric  
Administration  
Special Counsel  
7600 Sand Point Way NE  
Seattle, Washington 98115

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Oyster Cultch Restoration 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 ALABAMA:

\_\_\_\_ 5/22/12 \_\_\_\_\_  
Date


A handwritten signature in black ink, appearing to read 'R. Cooper Shattuck', written over a horizontal line.

R. COOPER SHATTUCK  
Chief Legal Advisor for Governor Robert  
Bentley and Principal Representative for  
Alabama Trustees  
State Capitol, 600 Dexter Avenue,  
Room N-103  
Montgomery, Alabama 36130

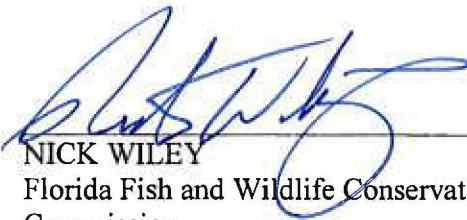
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FOR THE STATE OF FLORIDA:

May 22, 2012  
Date

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

May 23, 2012  
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 Mississippi Oyster Cultch Restoration 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:

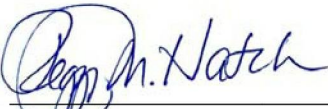
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5/23/12  
Date

  
\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
5/23/12  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Mississippi Oyster Cultch Restoration 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:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

5/23/12

\_\_\_\_\_  
GARRET GRAVES

Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
ROLAND GUIDRY

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
PEGGY HATCH

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROBERT BARHAM

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE

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 Mississippi Oyster Cultch Restoration 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:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004


\_\_\_\_\_  
Date

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ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

5-23-2012  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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SCOTT ANGELLE  
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 Mississippi Oyster Cultch Restoration 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:

\_\_\_\_\_  
Date

\_\_\_\_\_  
GARRET GRAVES  
Louisiana Coastal Protection and  
Restoration Authority  
Chair  
P.O. Box 94004,  
Baton Rouge, Louisiana 70804-9004

\_\_\_\_\_  
Date

\_\_\_\_\_  
ROLAND GUIDRY  
Louisiana Oil Spill Coordinator's Office  
Oil Spill Coordinator  
P.O. Box 66614  
Baton Rouge, Louisiana 70896

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

05/23/12  
\_\_\_\_\_  
Date

\_\_\_\_\_  
SCOTT ANGELLE  
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 Mississippi Oyster Cultch Restoration 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:

\_\_\_\_\_  
Date 5/23/12



\_\_\_\_\_  
TRUDY D. FISHER  
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 Mississippi Oyster Cultch Restoration 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:

\_\_\_\_\_  
5/24/12  
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 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Oyster Cultch Restoration 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

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
LARRY L. LAINE  
Texas General Land Office  
Deputy Land Commissioner and Chief Clerk  
P. O. Box 12873  
Austin, Texas 78711-2873

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Commission on Environmental  
Quality

THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Oyster Cultch Restoration 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:

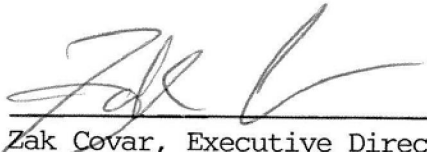
\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas Parks and Wildlife Department

\_\_\_\_\_  
Date

\_\_\_\_\_  
Texas General Land Office

5/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zak Covar, Executive Director  
Texas Commission on Environmental  
Quality



THE UNDERSIGNED PARTY enters into this Project Stipulation for the Mississippi Oyster Cultch Restoration 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.:

5-17-12  
Date

Laura R. Jobs

Approved.  
J.M.

5-17-12  
Date

Robert J. Fullard

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  
Address: BP Legal Department  
501 Westlake Park, Blvd., 16<sup>th</sup>  
Houston, Texas 77079  
Telephone Number: 281-366-6060  
Facsimile Number: 281-366-5901

## APPENDIX A

EARLY RESTORATION PROJECT**Appendix A: Mississippi Oyster Cultch Restoration Project****1.0 INTRODUCTION**

This document describes the Mississippi Oyster Cultch Restoration Project (the “Early Restoration Project”) to be implemented with funding provided by BPXP, and resulting in the NRD Offsets identified in Appendix C. This document is part of a Project Stipulation executed by BPXP, the Trustees, and the United States Department of Justice.

**2.0 PROJECT DESCRIPTION**

The goal of this project is to restore and enhance oyster cultch areas in the marine waters of Mississippi in Hancock and Harrison counties (Figure 1). This project will restore and enhance approximately 1,430 acres of the oyster cultch areas within Mississippi. Cultch material (oyster shell, limestone or crushed concrete, or some combination thereof) will be deployed at a rate of 100 cubic yards per acre with adjustments for site conditions as needed.



Figure 1. Mississippi oyster growing areas in Hancock and Harrison counties.

### 3.0 PROJECT IMPLEMENTATION

#### 3.1 Performance Criteria, Monitoring and Maintenance

Project performance will be assessed through physical and biological monitoring of oyster cultch plants, consistent with section 3.2.3.1.3 of the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (“Plan”). The monitoring program will determine whether the project goals and objectives have been achieved, or whether corrective actions are required to meet the goals and objectives.

Project implementation will commence upon filing of the Notice of Project Stipulation with the MDL Court. Project implementation will be complete when the performance criteria consistent with section 3.2.3.1.3 of the Plan have been met.

#### 3.2 Estimated Budget – Mississippi Oyster Cultch Project

<b>Cost Category</b>	<b>Cost</b>
Project Implementation Base Cost (includes, without limitation, project planning, permitting, engineering design, construction, oversight, inspection, monitoring, and adaptive management, consistent with section 3.2.3.1.3 of the Plan)	\$10,100,000
Potential Contingency Amount, consistent with the provisions of Paragraph II.E	Up to \$900,000
<b><i>Total Potential Project Costs</i></b>	<b><i>Up to \$11,000,000</i></b>

## **APPENDIX B**

### **EARLY RESTORATION PLAN**

The Early Restoration Project is included in the Deepwater Horizon Oil Spill Phase I Early Restoration Plan and Environmental Assessment (the “Plan”), available at [www.doi.gov/deepwaterhorizon](http://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 NRDAR Administrative Record for the Plan, which can be found at the same web address.



## **APPENDIX C**

### **NRD OFFSETS**

The NRD Offsets are 2,000,000 discounted kilogram years (Dkg-Ys) of oyster Secondary Production (based on ash-free dry weight of oyster tissue) in Mississippi applicable first to any oyster injuries in Mississippi, and if any surplus remains, to nearshore benthic invertebrate injuries in Mississippi as determined by the Trustees' total assessment of injury for the Oil Spill.

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

- (1) In the event that the injury determination for oysters in Mississippi is characterized in the Natural Resource Damages Assessment using a metric other than Dkg-Ys of oyster Secondary Production (based on ash-free dry weight of oyster tissue) in Mississippi, the Trustees agree to translate the agreed upon NRD Offsets into a currency consistent with the metric used to characterize the injury. Any necessary translation of the offsets will rely on the data and methods developed for the assessment and authorized in 15 C.F.R. Sections 990, *et seq.*
- (2) The Trustees agree that the comparison of injury to NRD Offsets must account for the baseline condition of the injured resource.

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

## 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.

#### Oyster Cultch Definitions

**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 nearshore artificial reefs, 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 in the estuarine environment. Oyster production is a portion of secondary productivity, and for oyster cultch projects is defined as the secondary production attributed to oysters only.

**Oyster cultch:** The term oyster cultch refers to clean oyster shell or other clean hard substrate (limestone, crushed concrete,) placed in areas of soft sediments which provides the required surfaces for the settlement of oyster larvae (spat) from the water column. In Mississippi, the height of the substrate above the soft bottom is designed to be approximately 2 cm.

*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 as the present value of 2011 kilogram years.

**APPENDIX E**

**NOTICE OF PROJECT STIPULATION**