

RECORD OF DECISION FOR LOUISIANA REGIONAL RESTORATION PLANNING PROGRAM

I. Introduction

The National Oceanic and Atmospheric Administration, an agency of the U.S. Department of Commerce, has prepared this Record of Decision (ROD) regarding the January 5, 2007, final Programmatic Environmental Impact Statement (PEIS) for the Louisiana Regional Restoration Planning Program (RRP Program). This ROD has been written pursuant to §102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), regulations promulgated by the Council on Environmental Quality (40 CFR Part 1505.2), and the NOAA Administrative Order on implementing environmental review procedures (NAO 216-6). This ROD is a concise statement of the management planning and environmental impact analysis process completed, the alternatives considered, and the basis for the selection of a preferred alternative.

II. Background

To expedite the natural resource damage assessment (NRDA) process and make it more cost-effective, the RRP Program intends to shorten the Restoration Planning Phase of the NRDA process through the development of individual Regional Restoration Plans (RRPs), which will identify appropriate restoration projects - subjected to public review - prior to the occurrence of oil spill incidents. In addition, the RRP Program helps to inform the selection of restoration projects by identifying in advance the types of restoration that may be suitable to restore those trust resources and services likely to be or anticipated to be injured by incidents in Louisiana. Further, through the development of a PEIS for the RRP Program and tiering the RRPs and case-specific Damage Assessment and Restoration Plans (DARPs) from the information and analysis provided in the PEIS, the NEPA process for the NRDA cases will be streamlined significantly. It is also anticipated that model documents (including DARPs, consent decrees, and Notices of Intent) will be developed under the RRP Program to provide more efficiencies and lower the costs of conducting NRDA's. Although the RRP Program requires upfront costs to identify restoration projects and develop planning documents in advance, economies of scale will reduce overall implementation costs.

The PEIS systematically evaluates the short- and long-term environmental and socioeconomic effects related to the implementation of the RRP Program. The RRP Program will assist the natural resource trustees in carrying out their responsibilities for discharges or substantial threats of discharges of oil. The RRP Program will be further defined in individual RRPs that will be prepared for each of nine regions in the State of Louisiana. Because the PEIS focuses on describing the RRP Program and future regional restoration activities, the discussion of potential positive and negative impacts on the biological, social, and economic environments is not site or case specific; instead, it is intended to be general in scope. The purpose of the PEIS is to expedite and potentially reduce the cost of the NRDA process; provide for consistency and predictability by detailing the NRDA process, thereby minimizing uncertainty to the public and industry; and increase restoration of lost natural resources and services.

III. Public Involvement

The management planning and environmental impact analysis process provided for significant public involvement. Between October 2000 and June 2001, more than 15 informal scoping meetings and presentations were made to regulatory agencies, environmental and conservation groups, parishes, landowners, industry, and the public. Formal scoping for the RRP Program and formal solicitation for appropriate restoration projects for potential inclusion in the RRP began on June 19, 2001. This date marked the publication of the Notice of Intent to develop a PEIS. The close of the public comment period was July 2, 2001. As part of the formal scoping process, over 1,000 copies of the public review draft were distributed to the public and affected parties on or before July 2, 2001. Six public meetings were held throughout the state during July 17-26, 2001. All comments provided at the public meetings, or submitted separately, are summarized in the Administrative Record.

The notice of availability for the draft PEIS was published in the Federal Register on May 9, 2003, with close of the public comment period on July 9, 2003. In addition, two public meetings were held on June 23, 2003, to receive comments on the draft PEIS. Copies of the draft PEIS were sent to those individuals who provided a written comment during the scoping period or expressed a significant interest in the RRP Program. All public comments provided at the public meeting and responses given are summarized and can be found in Appendix G, *Public Comments and Responses*, in the Final Programmatic Environmental Impact Statement for the Louisiana Regional Restoration Planning Program.

Copies of the final PEIS were sent to those individuals who provided a written comment during the development of the RRP Program or expressed a significant interest in the RRP Program. The notice of availability for the final PEIS was published in the Federal Register on January 5, 2007, with the close of the mandatory waiting period on February 20, 2007. No comments were received on the final PEIS.

IV. Alternatives Considered

The PEIS evaluates two programmatic alternatives. A third programmatic alternative, to create RRP-specific restoration project databases, was considered prior to formal scoping but was not carried forward because it was determined that it did not meet the objectives of providing greater consistency and predictability of the NRDA process and it did not meet the Louisiana legislative mandate to establish a program. The programmatic alternatives considered in the FPEIS are:

1. No Action: The no action alternative is defined as continuing to implement the NRDA process without the institution of the RRP Program. The no action alternative was used as a basis for comparison with the RRP Program.
2. RRP Program Alternative: The RRP Program alternative defines, expands, and/or refines several important components beyond the existing NRDA process. These components are: potentially injured trust resources and

services; restoration types; settlement alternatives; screening criteria; and regional boundaries of the RRP.

V. Environmental Consequences

The net environmental effects of the RRP Program alternative are expected to be more beneficial than under the no action alternative because restoration would be accomplished more quickly, especially in regions where oil is discharged often. The number of incidents and speed of their resolution through implementation of restoration will determine the actual beneficial effect of the RRP Program alternative. Under implementation of either alternative, mitigation measures are available to avoid or reduce any potentially significant adverse impacts to a less than significant level as individual restoration projects are reviewed and implemented. The restoration projects will be scaled in such a way that the net benefits of the projects compensate for injuries resulting from the incidents and collateral injuries (if any) from the implementation of the compensation projects. Under either alternative, the selection of restoration projects to be implemented as part of a specific incident is subject to NEPA and all other relevant laws and regulations. Incident-by-incident determinations of regional and local environmental consequences will be made to ensure continued protection of environmental concerns.

VI. Decision

It is the decision of the National Oceanic and Atmospheric Administration along with the Department of the Interior and the State of Louisiana to implement the Louisiana Regional Restoration Planning Program using the methods evaluated in the PEIS. The RRP Program alternative is considered the environmentally preferred alternative. Because the analysis is programmatic in nature, site and injury-specific features will dictate which restoration alternatives are most appropriate for individual injuries. All practicable means to avoid or minimize environmental harm from the RRP Program alternative selected have been adopted.

VII. Rationale for the Selection of Preferred Alternative

Consistent application of the RRP Program will enhance the predictability, consistency, and accountability of the NRDA process. The flexibility of the NRDA process will be increased through the introduction of additional settlement alternatives.

It is anticipated that describing the NRDA process in greater detail will enable the public and affected entities to participate more fully in restoration planning for incidents. First, the RRP Program identifies trust resources and services that are likely to be or are anticipated to be injured from an incident and what restoration type is appropriate to restore the trust resources and services that were injured or lost. It also provides the rationale for how those decisions were made. Prior to an incident occurring, the public and affected parties will have an opportunity to review the restoration alternatives that have been identified to date for implementation, by restoration type, in a specific region to restore trust resources and services injured in that region. By describing in detail each step and the criteria used in the NRDA process, the public and affected parties will understand the trustees' roles and rationale for their decisions, thereby improving the ability of interested parties to participate in the process.

Finally, by streamlining the NRDA process and making it more efficient: 1) the costs to both the trustees and Responsible Party(s) (RP) will be lowered; 2) restoration of injured trust resources and services will be increased; and, most importantly, 3) the public will be compensated more quickly.

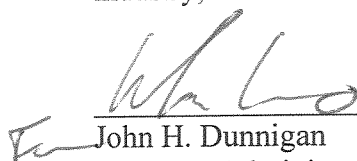
The RRP Program, including the RRP, is intended to benefit the public, industry, and natural resource trustees by:

- ◆ Providing greater opportunities to restore injuries to trust resources and services;
- ◆ Expediting restoration of injured trust resources and services from incidents;
- ◆ Reducing the cost of restoration planning and implementation;
- ◆ Pooling of individual case recoveries to maximize opportunities for implementation of larger, more ecologically significant restoration projects;
- ◆ Providing for more consistency and predictability by describing in detail the NRDA process, thereby increasing the understanding of that process by the public and industry;
- ◆ Improving coordination between restoration activities under the NRDA mandates and other restoration efforts in the state;
- ◆ Enhancing the capability for trustees to restore trust resources and services injured by incidents for which there is no viable RP;
- ◆ Maximizing opportunities for partnering among RPs, trustees, and other public and private restoration efforts; and
- ◆ Increasing opportunity for public participation in the NRDA process through pre-incident planning.

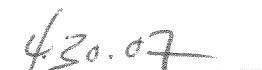
The no action alternative relies on the implementation of the NRDA process without the institution of the RRP Program. Both state and federal NRDA regulations provide for a step-by-step process for trustees to determine injuries, assess damages, and develop and implement restoration projects that compensate the public for injuries to trust resources and services impacted by an incident.

VIII. Conclusion

The PEIS evaluates two programmatic alternatives, a no action alternative and the RRP Program alternative. After comprehensive evaluation of the proposed impacts and review of all comments, NOAA has concluded that the environmentally preferred alternative, the RRP Program alternative, provides for protection of the environment, benefits the public, industry, and natural resources, and can be implemented at a reasonable cost.



John H. Dunnigan
Assistant Administrator
Ocean Services and Coastal Zone Management
National Oceanic and Atmospheric Administration



Date