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Office of the Governor Oil Spill Coordinator's Office

Restoration Planning in Jefferson Parish
Mendicant Island Oil Spill

Purpose

The Louisiana Oil Spill Coordinator's Office (LOSCO) as the Trustee coordinator for the State of Louisiana, in consultation and agreement with the state natural resource trustees, namely the Louisiana Department of Environmental Quality (LDEQ), the Louisiana Department of Natural Resources (LDNR), the Louisiana Department of Wildlife and Fisheries (LDWF); and the federal natural resource trustee, namely the National Oceanic and Atmospheric Administration (NOAA), have determined that the impacts of the December 2, 2003 discharge of crude oil by ExxonMobil Pipeline Company (EMPCo), over which such trustees have jurisdiction, warrant conducting a natural resource damage assessment that will include restoration planning.

Site and Release Information

On December 2, 2003, a pipeline, owned and operated by EMPCo, discharged approximately 400 barrels of crude oil into Barataria Bay and surrounding coastal waters, Jefferson Parish, Louisiana. An undetermined amount of brackish and salt marsh flora and fauna inhabiting this area may have been exposed to crude oil as a result of this discharge. EMPCo, as owner and operator of the source pipeline, is the responsible Party (RP) for this incident as defined by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 *et seq.*, and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. Rev. Stat. 30:2451 *et seq.*

Barataria Bay and the adjacent areas are part of a shallow estuarine bay system characterized by soft organic sediment and tidal range generally less than 3 feet. Barataria Bay is bordered by extensive acreage of brackish and salt marsh, which is critical nursery habitat for numerous species and provides many other ecological services. The Barataria Bay area also includes bayous, channels, and small islands, including Mendicant Island. Aquatic species present include, but are not limited to, estuarine and estuarine-dependent white and brown shrimp, blue crabs, oysters, and finfish. Wildlife species that may be present in the Barataria Bay area include, but are not limited to, resident and migratory birds, furbearers, marine mammals, and sea turtles. Some of the species that may be present have threatened or endangered status.

Authorities

The trustees are designated pursuant to 33 U.S.C. §2706(b), Executive Order 12777, and the National Contingency Plan, 40 C.F.R. §§300.600 and 300.605. Pursuant to La. Rev. Stat. 30:2460, the State of Louisiana Oil

Spill Contingency Plan, September 1995, describes state trust resources, including the following: vegetated wetlands, surface waters, ground waters, air, soil, wildlife, aquatic life, and the appropriate habitats on which they depend. NOAA's trust resources include, but are not limited to, commercial and recreational fish species, anadromous and catadromous fish species, marshes and other coastal habitats, marine mammals, and endangered and threatened marine species.

Trustees' Determinations

Following the notice of the discharge, the natural resource trustees have made the following determinations required by 15 C.F.R. §990.41(a).

- The natural resource trustees have jurisdiction to pursue restoration pursuant to the OPA, 33 U.S.C. §2702 and 2706(c) and the OSPRA, R.S. 30:2451 et seq. The trustees have further determined that the discharge of crude oil into the area of Barataria Bay on December 2, 2003, was an incident, as defined in 15 C.F.R. §990.30 and LAC 43:XXIX.109.
- This discharge was not permitted under state, federal, or local law.
- The discharge was not from a public vessel.
- The discharge was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §1651, et seq.
- Natural resources under the trusteeship of the natural resource trustees listed above may have been injured as a result of the incident. The crude oil discharged contains components that may be harmful to aquatic organisms, birds, wildlife and vegetation. Vegetation, birds, and or aquatic organisms may have been exposed to the oil from this discharge, and injury to some flora and fauna and lost ecological services may have resulted from this incident.

Because the conditions of 15 C.F.R. §990.41(a) were met, as described above, the trustees made the further determination pursuant to 15 C.F.R. §990.41(b) and LAC 43:XXIX.101 to proceed with preassessment. EMPCo, at the invitation of the trustees, pursuant to 15 C.F.R. §990.14(c) and LAC 43:XXIX.115, agreed to participate in the preassessment.

Determination to Conduct Restoration Activities

For the reasons discussed below, the natural resource trustees have made the determinations required by the 15 C.F.R. §990.42(a) and are providing notice, pursuant to 15 C.F.R. §990.44 and LAC 43:XXIX.123, that they intend to conduct restoration planning in order to develop restoration alternatives that will restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of this incident.

Injuries have resulted from this incident, the extent of which has not been fully determined at this time. The trustees base this determination upon data, which is collected and analyzed pursuant to 15 C.F.R. §990.43 and LAC 43:XXIX.119, which demonstrate that resources and services have been injured from this incident. Natural resources injured as a result of the discharge and the response may include, but are not limited to, benthic communities, wetlands, birds, wildlife species, shorelines, and recreational use opportunity.

Although response actions were pursued, the nature of the discharge and the sensitivity of the environment precluded

prevention of some injuries to some natural resources. The trustees believe that injured natural resources could return to baseline through natural or enhanced recovery, but interim losses have occurred and will continue to occur until a return to baseline is achieved.

Feasible compensatory restoration actions exist to address injuries from this incident. Restoration actions that could be considered include, but are not limited to: replanting native wetland vegetation in appropriate areas, creation, enhancement or protection of marsh or other habitat with similar service flows, protection of endangered species, creation of oyster reef habitat, creation of submerged aquatic vegetation habitat, and creation of bird colony areas.

Assessment procedures are available to evaluate the injuries and define the appropriate type and scale of restoration for the injured natural resources and services. Among these procedures are bird and marsh habitat injury assessment studies to be used in conjunction with the Resource Equivalency Analysis (REA) and Habitat Equivalency Analysis (HEA), respectively, to determine compensation for injuries to birds and marsh habitats. Models, comparisons to observations of injury resulting from similar releases, or other methodologies are available for evaluating injuries to the ecosystem.

Public Involvement

Pursuant to 15 C.F.R. §990.44(c) and LAC 43:XXIX.35, the trustees seek public involvement in restoration planning for this discharge, through public review of and comments on the documents contained in the administrative record, which is maintained in the Louisiana Oil Spill Coordinator's Office, as well as on the Draft Damage Assessment and Restoration Plan when completed.

For more information, please contact the Louisiana Oil Spill Coordinator's Office, State Office Building, 150 3rd Street, Suite 405, Baton Rouge, LA, 70801; phone (225) 219-5800 (Attn: Oil Spill/Gina Muhs Saizan).

The Louisiana Oil Spill Coordinator, as the Lead Administrative Trustee, and on behalf of the natural resource trustees of the State of Louisiana and NOAA, pursuant to the determinations made above and in accordance with 15 C.F.R. §990.44(d) and LAC 43:XXIX.135, hereby provides ExxonMobil Pipeline Company, this notice to conduct restoration planning and invites its participation in conducting the restoration planning for this incident.

Roland J. Guidry
Louisiana Oil Spill Coordinator