Summary of Comments/Questions Received During the Public Meetings on the Louisiana Regional Restoration Planning Program (RRP Program)/Draft Programmatic Environmental Impact Statement (DPEIS)

Meeting: 2:00 PM CDT, June 23, 2003
Department of Natural Resources
LaSalle Building
617 N. 3rd Street
Baton Rouge, LA 70802

Comments, Questions, and Responses during the Meeting

- **Will restoration take place in the region where the spill occurred? In what circumstances would restoration take place outside the region?**
  Response: Restoration project selection will be based on criteria that are described in the RRP Program. One of the mandated criteria is that a nexus (or linkage) exists between the injured resource(s) and the restoration project. The proposed regions are ecosystem based, and the trustees anticipate that restoration projects will be constructed in the region where the resources were injured. If a suitable restoration project is not available within the region where the injury occurred, then a project(s) may be done outside the region where the oil spill occurred, if appropriate. All restoration determinations, including a decision to carry out a restoration project outside of the region where the injury occurred, will be presented for public review and comment in a restoration plan as required by the Oil Pollution Act of 1990 (OPA).

- **Will projects be prioritized?**
  Response: Restoration projects will not be prioritized in the Regional Restoration Plans (RRPs) because the appropriateness of any specific project to meet the restoration requirements of any particular spill cannot be determined until the facts of the spill are known. However, after the damage assessment and restoration planning process has been completed, it is common for the trustees to indicate their preferred restoration projects in the Damage Assessment and Restoration Plan that is provided to the public for review and comment.

- **One meeting participant applauded the plan and noted his appreciation that previous comments have been incorporated into the DPEIS.**
  Response: No response necessary.

- **What mechanisms are in place to expedite Natural Resource Damage Assessments (NRDAs) under the RRP Program?**
  Response: Mechanisms to expedite NRDAs include, but are not limited to, establishing a clear management structure, identification of potential restoration projects in the RRPs, and determination of unit restoration costs for the principle types of restoration that will be conducted in each region.

- **Who determines the unit restoration costs?**
  Response: The natural resource trustees will determine the costs based on past experience and any other considerations or analyses that may be helpful. Unit costs will be included in draft RRPs that are presented for public review and comment. Final unit costs will be updated from time to time, as needed.

- **One meeting participant commented that he found the RRP Program website quite helpful.**
  Response: No response necessary.

- **Will the RRP Program increase the number of NRDA cases?**
  Response: Over the last year, the trustees have increased the number of cases that they are working on and expect to continue to do more cases even without the RRP Program. At the same time, one of the major goals of the RRP program is to make the NRDA process more efficient and thereby lower the costs and decrease the time needed to complete the NRDA process for both the trustees and the Responsible Parties (RPs).

- **How does the RRP Program balance public trust and Responsible Party (RP) interests? When a clear injury to a resource is identified, but there are other resources that are much more limited and could benefit more from restoration, can these limited resources be restored instead of the resources that were injured?**
  Response: The concept of linkages between resources and services lost and the resources and services restored is a major cornerstone of OPA. Therefore, a nexus between the resources injured and resources restored must be established. As part of the RRP Program development, the trustees conducted a nexus analysis to identify one or more appropriate restoration types for each of the potentially injured resources/services. Restoration of an alternate resource may be appropriate if a logical and compelling argument can be made that similar services are provided and that the alternate restoration project is more cost-effective.

- **Can new technology be tested for restoration projects?**
  Response: Under OPA, restoration projects that involve unproven technology must have a reasonable expectation of success. Although basic monitoring of each restoration project is conducted to determine the success of the project and the need to make mid-course corrections, intensive and costly experimental procedures are generally not conducted for natural resource restoration purposes. Nevertheless, the trustees recognize the opportunities afforded by oil spill restoration projects to

learn more about new types of restoration. Trustee agencies will therefore continue to look for opportunities to apply outside sources of funding to study selected projects and approaches.

- **What recourse does a landowner have in the event of an oil spill on his/her land?**
  Response: Natural resource trustees only assess and restore public resources that have been injured by an oil spill. A private landowner may have private recourse under OPA by filing a third party claim against the RP.

- **Is the Louisiana RRP Program a template program or the first program of its kind?**
  Response: The RRP Program is the first of its kind in the nation. Other states are interested in this program, but each state will have to tailor this type of program to the particular circumstances in that state.

- **What is the next step in the RRP Program process? Do all agencies have to provide concurrence?**
  Response: The DPEIS will be finalized in the next few months. The draft RRP for Region 2 will be available for public review and comment in the next few months as well. All trustee agencies involved in the development the RRP Program and RRPs will have to concur before the DPEIS and RRPs are made final.

- **Can the RRP Program partner with other restoration programs?**
  Response: Yes, the trustees are very open to joint efforts that would maximize the effectiveness of oil spill restoration projects.

- **How will restoration projects be pooled under the pooled settlement alternatives of the RRP Program?**
  Response: In general, projects will be combined by restoration type within each of the regions.

- **Can restoration projects be implemented on private land? Where do the restoration projects come from?**
  Response: Anyone, including private landowners, can submit a restoration project(s) for inclusion in a RRP. Trustees then apply the project selection criteria to the proposed restoration projects, and consider them for inclusion in the plans. As part of the NRDA process for any given case, the trustees will evaluate the appropriate restoration projects based on selection criteria identified in the RRP Program. The public will then have the opportunity to review and comment on restoration project(s) selection.

- **What is considered "ecologically significant"?**
  Response: The DPEIS discusses the possibility of pooling small settlements to fund larger more "ecologically significant" projects. Ecological significance is not specifically defined in the DPEIS, and the trustees did not intend to imply that bigger

projects are always better projects. Use of the term ecological significance is simply a reference to the notion that a larger project may be more valuable as wildlife habitat, or in the provision of other services such as flood control, than a series of smaller individual projects comprising the same area. Under the RRP Program, the trustees will have the flexibility to consider larger projects.

- **What is the RRP Program's budget? How are vendors chosen?**
  Response: Generally, the identified RP must pay the injury assessment, restoration, and administrative costs of NRDA activities related to a given spill event. Expediting the NRDA process will likely minimize these costs. Often, RPs hire specialized contractors to represent them during the damage assessment and restoration phases. Trustees may also, in some cases, hire contractors to implement specific restoration projects.

- **To what extent will the RRP Program minimize the role of the RP's consultant?**
  Response: The RP determines the role of their consultant(s), if any. To the extent that the RRP Program streamlines the damage assessment and restoration planning process, the level of effort would be reduced for participants on all sides. On the other hand, the level of effort needed to implement the restoration project will not likely be affected to any significant degree.

- **Is an RP restricted to restoration projects selected by the natural resource trustees?**
  Response: No. The RRP Program will not change the level of input by the RP and public in the restoration planning process. The regional project lists are in place to help expedite that process.

- **For pooled settlements, will damages increase as a result of the time lapse between settlement and implementation?**
  Response: No. When a RP opts to provide a non-project specific cash settlement, a reasonable time period between injury and restoration implementation is incorporated into the determination of damages for that settlement. The natural resource trustees assume the risks related to any delays in implementing a project while additional funds accumulate and a project is selected.

- **What is the timeframe for implementation of the individual RRPs?**
  Response: The order of development has been based in part on the frequency of spills within each region. The plan for Region 2 is under development at this time as this region has had the highest frequency of spills in the past. In the near future, the trustees expect to begin development of the Region 6 RRP, as Region 6 has had the highest incident of spills of all of the inland regions in the past.

Meeting: 6:30 PM CDT, June 23, 2003
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- **Does the RRP Program only apply to oil spills?**
  Response: Yes.

- **How is injury quantified?**
  Response: The natural resource trustees quantify injured resources based on the extent, severity, and duration of the injury. These parameters are then translated into restoration needs.

- **How detailed are the RRPs?**
  Response: They list the local resources at risk, the restoration projects available in the region, and provide the unit cost of restoration for the principle restoration types in that region.

- **Will the RRP Program use volunteers for the implementation of restoration projects?**
  Response: Yes, when practicable.

- **Why isn't the U.S. Environmental Protection Agency (USEPA) listed as a natural resource trustee?**
  Response: The President has not designated the USEPA as a natural resource trustee under the National Contingency Plan (NCP).