

Summary of Comments/Questions Received During the Public Meetings as Part of the Formal Scoping for the Louisiana Proposed Statewide Regional Restoration Planning (RRP) Program for Oil Spills

Meeting: July 17, 2001
State Office Building
1525 Fairfield Avenue, Room 205
Shreveport, Louisiana

Comments, Questions and Responses during the Meeting:

- ◆ **Does the proposed RRP Program apply to anything other than oil spills?**
Response: No
- ◆ **How were the inland boundaries developed?**
Response: Inland RRP boundaries are based on watershed boundaries.
- ◆ **Does restoration have to be in the region where the incident occurs?**
Response: Project selection will be based on criteria that are being developed as part of the RRP Program. One of the mandated criteria is that a nexus has to exist between the injured resources and the restoration project. The proposed Regions are ecosystem based, and we anticipate that for the most part restoration projects would occur in the region where resources were injured.
- **Will the RRP Program cover abandoned facilities?**
Response: Yes.
- ◆ **With regard to abandoned facilities, how will the proposed RRP Program follow up after the response (clean-up) occurs?**
Response: The first step would be for the response (clean-up) agency representatives to notify the natural resource trustees that a clean-up is occurring. The natural resource trustees would then determine whether or not to initiate the natural resource damage assessment (NRDA) process.
- ◆ **It is not necessarily apparent to responders whether natural resource injuries exist at abandoned facilities.**
Response: The natural resource trustees do not expect responders to determine the injuries to the natural resources.
- ◆ **Would the trustees be willing to do “advanced consolidated mitigation” as part of the proposed RRP Program? It is not the same as mitigation banking.**
Response: We can consider the option.

- ♦ **How will the program deal with restoration on private property?**
Response: Restoration projects to compensate for injuries to natural resources may be done on private property. Trustees' NRDA claims only address restoration of public trust resources; thus, only restoration projects which restore natural resource services of public resources may be done on private property.

 - ♦ **Several meeting participants specifically applauded and supported the trustees' efforts regarding the development of this program.**
Response: No response necessary.
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Meeting: July 18, 2001
Monroe City Hall, Council Chamber
400 Lea Joyner Expressway
Monroe, Louisiana

Zero attendance.

Meeting: July 19, 2001
Louisiana Convention Centre
2225 N. MacArthur Drive
Alexandria, Louisiana

Comments, Questions and Responses during the Meeting:

- ♦ **What is an example of a restoration project that would be part of an RRP?**
Response: We have currently proposed a range of restoration types for incorporation into the RRP Program and RRP's. The restoration types that will be included in the RRP Program and RRP's may or may not change from the list currently proposed. However, some example of restoration projects that we anticipate would be suitable for incorporation into the RRP's are: water quality improvement projects, changes or improvements to hydrological systems, changes or improvements to habitats to enhance the habitat for specific species, etc.

 - ♦ **There will be a need to do Endangered Species Act (ESA) consultations on this program with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.**
Response: Yes.

 - ♦ **Several meeting participants specifically applauded and supported the trustees' efforts regarding the development of this program.**
Response: No response necessary.
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Meeting: July 24, 2001
Joseph S. Yenni Bldg.
1221 Elmwood Park Blvd.
Jefferson Parish Council Chamber
Jefferson/New Orleans, Louisiana

Comments, Questions and Responses during the Meeting:

- ◆ **What is the predominate method of settlement currently used in Louisiana and why?**
Response: The only method of settlement that has been used to date for NRDA cases under the Oil Pollution Act of 1990 (OPA) and/or the Oil Spill Prevention Act of 1991 (OSPPRA) is where the responsible party has implemented the restoration necessary to resolve its liability for a given incident. We believe the reason that the responsible parties have elected to implement the restoration projects is because they have much experience implementing restoration-type projects in Louisiana and because they probably believe that they can better control the cost of implementation.

- ◆ **How much money is in the state's newly created Natural Resource Restoration Trust Fund?**
Response: No monies are currently in the fund. The fund was just created during the most recent legislative session. Cash settlements for restoration from NRDA cases will be the only monies that will reside in the fund. Monies in the fund can only be used to implement NRDA restoration.

- ◆ **Who costs out the restoration projects?**
Response: Depending on the settlement alternative selected, the Responsible Party or the natural resource trustees will be responsible for costing out the restoration projects. Actual cost estimates for a project could potentially be done by contractors, other agencies, non-governmental organizations, etc.

- ◆ **Do the trustees contract out the implementation of restoration projects when RPs "cash out"?**
Response: We anticipate that in most cases the trustees would contract out the implementation when the RPs "cash out."

- ◆ **What happens when an RP is not financially viable?**
Response: The trustees may submit a NRDA claim to the Federal Oil Spill Liability Trust Fund managed by the Coast Guard, or potentially the State Oil Spill Contingency Fund.

- ◆ **Will the trustees also go to the new State Natural Resource Restoration Trust Fund to deal with incidents with non-viable RPs?**

Response: No. In case of non-viable RPs, the new fund will receive the cash settlements from specific claims made to the Federal Oil Spill Liability Trust Fund or the State Oil Spill Contingency Fund.

- ◆ **Why are the trustees soliciting restoration projects when other state/federal restoration programs have already solicited, reviewed and prioritize projects, at least in the coastal area?**

Response: The trustees will evaluate the restoration projects submitted by these state/federal restoration programs for potential inclusion in the RRPs. However, the RRP Program is statewide, and the trustees are conducting a statewide solicitation. In addition, even in the coastal area, the trustees anticipate that there are potential projects that have not been submitted or adopted by those other programs because of those programs' specific mandates. The RRP Program has a different mandate and therefore could potentially include projects that cannot be implemented by those other programs.

- ◆ **Why are oyster reefs considered a public resource and therefore a “potentially injured resource,” when most are held under private leases?**

Response: NRDA only addresses restoration of public trust resources; therefore, the public component is only that aspect of the resources that can be restored as part of the trustees' NRDA claim. This principal applies to all of the proposed “potentially injured resources,” including the public ecological service flows provided by oyster reefs.

- ◆ **Are the trustees soliciting public comments on the proposed RRP Program because there are weaknesses in the proposed RRP Program?**

Response: No. However, there is always room for input and innovation in the evolution of any new program. The trustees are committed to an open process, and believe that input from all interested stakeholders can only improve the RRP program. The request for comment is also part of the formal scoping that is being conducted for the development of the Programmatic Environmental Impact Statement.

- ◆ **Several meeting participants specifically applauded and supported the trustees' efforts regarding the development of this program.**

Response: No response necessary.

Meeting: July 25, 2001
Burton Business Center
McNeese State University
350 Lawton Drive
Lake Charles, Louisiana

Comments, Questions and Responses during the Meeting:

- ♦ **What is the purpose of the State Natural Resource Restoration Trust Fund? Where do the monies that are in the Trust Fund come from? When was the Trust Fund established?**

Response: Cash settlements for restoration from NRDA cases will be the only monies that will reside in the fund. Monies in the fund can only be used to implement NRDA restoration. The Natural Resource Restoration Trust Fund was established during the state's last legislative session.

- ♦ **Is there a threshold or basis for a "green light" to begin a NRDA?**

Response: Initiation of a NRDA is based on a number of factors including, volume spilled, resources impacted, areal extent of impact, sensitivity of the resources, potential duration of injury, availability of injury assessment method and/or potential restoration alternatives, etc.

- ♦ **Has there been any thought given to using a ticket system or compensation table to deal with small spills?**

Response: No. NRDA is not a regulatory program; and, therefore, a ticket system is inappropriate under OPA's statutory scheme for natural resource damages. A compensation table is also not being considered because of the need to establish a nexus between the injury and the restoration project.

- ♦ **Is NRDA similar to the remedial process under CERCLA (Superfund)?**

Response: NRDA can be conducted under CERCLA as well as OPA. The response phase under OPA is analogous to the remedial process under CERCLA.

- ♦ **Several meeting participants specifically applauded and supported the trustees' efforts regarding the development of this program.**

Response: No response necessary.

- ♦ **The Louisiana coastal area is an enormous and valuable resource that needs to be protected and restored.**

Response: No response necessary.

Meeting: July 26, 2001
Louisiana Department of Wildlife & Fisheries
2000 Quail Drive, 1st Floor
Louisiana Room
Baton Rouge, Louisiana

Comments, Questions and Responses during the Meeting:

- ♦ **If a private company proposes a restoration project, will the company be precluded from implementing the project with other funds should they become available?**
Response: No.

 - ♦ **How would a large project be implemented, piecemeal or only after a large incident?**
Response: Implementation of large restoration projects would not be contingent on the occurrence of an incident resulting in a large NRDA claim. One of the specific objectives of the RRP Program is to enable the pooling of funds from multiple NRDA settlements to do larger, more cost-effective and ecologically significant restoration projects. The proposed settlement alternatives are specifically aimed at meeting that objective.

 - ♦ **There are not many opportunities to restore at a small scale, and it is also too costly.**
Response: No response necessary.

 - ♦ **One meeting participants specifically applauded and supported the trustees' efforts regarding the development of this program.**
Response: No response necessary.
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