

Addendum to Alabama Trustee Implementation Group Final Restoration Plan III and Environmental Assessment

INTRODUCTION

The “Alabama Trustee Implementation Group (AL TIG) Final Restoration Plan III and Environmental Assessment: Provide and Enhance Recreational Opportunities; and Birds” (RPIII/EA)¹ was finalized on December 20, 2019, pursuant to the Oil Pollution Act (OPA) and its related natural resource damages assessment (NRDA) regulations, as well as to the National Environmental Policy Act of 1969 (NEPA). The AL TIG’s RPIII/EA also tiered from and is consistent with the *Deepwater Horizon* (DWH) Trustees’ findings in the *Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement* (PDARP/PEIS)². Both documents are hereby incorporated by reference in this document, the AL TIG’s Addendum to RPIII/EA (Addendum).

In accordance with the OPA regulations (15 C.F.R. § 990.53), the AL TIG previously established a screening process to develop a reasonable range of restoration alternatives, presented and evaluated in the AL TIG’s RPIII/EA. This Addendum describes the process through which: a) the AL TIG will allocate interest funds to the “Provide and Enhance Recreational Opportunities” (Recreational Use) Restoration Type by applying earned interest toward that Restoration Type, and b) the TIG will fund the two projects conditionally approved in the RPIII/EA.

BACKGROUND AND RELATIONSHIP OF THIS ADDENDUM TO RPIII/EA

The AL TIG RPIII/EA approved a suite of projects under the Recreational Use Restoration Type that included the “Perdido Beach Public Access Coastal Protection” and “Bon Secour National Wildlife Refuge Recreation Enhancement-Mobile St. Boardwalk” projects, for which implementation was conditioned on available funding as denoted with an asterisk in the RPIII/EA. Specifically, Table 1-2 in the RPIII/EA notes:

“The Trustees are not proposing to exceed the allocation for Provide and Enhance Recreational Opportunities in this RPIII/EA. Implementation of the preferred alternatives noted with an asterisk is therefore pending fund availability. Additional funds could become available to the Provide and Enhance Recreational Opportunities restoration type for various reasons (e.g., project cancellation or modification, projects under budget), at which time the AL TIG could allocate those recreational use funds to the preferred alternatives, consistent with this RP III/EA, through TIG resolution.”

Based on the NEPA analysis conducted for the RPIII/EA, a finding of no significant impact was prepared, and applies to all approved and conditionally-approved projects evaluated therein. The full project descriptions for the two projects selected for funding in this Addendum can be found in the RPIII/EA. This Addendum incorporates by reference all project information and analyses in the RPIII/EA.

The DWH Consent Decree (CD)³ established the base allocations for each Restoration Type within a Restoration Area (CD Appendix 2, Table 1) for the natural resource damage monies paid pursuant to the CD.

¹ The RPIII/EA can be found at <https://www.gulfspillrestoration.noaa.gov/2019/12/alabama-releases-final-plan-seven-projects-recreation-and-birds>

² The PDARP/PEIS and Record of Decision can be found at <https://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>.

³The DWH Consent Decree can be found at <https://www.justice.gov/enrd/deepwater-horizon>.

Natural resource damage monies are to be paid to the DWH Trustees, by Restoration Area, over 15 years under the CD. Over that period, as interest is accrued, those funds will result in additional monies, beyond the base allocations outlined in the CD, being spent on DWH restoration. In the future, decisions to exceed base allocations through the expenditure of interest are anticipated to be outlined in an AL TIG restoration plan. In the current case, however, use of interest to fund the two Recreational Use projects conditionally-approved in the RPIII/EA, and therefore exceed the base allocation for Recreational Use in the CD, was not evaluated in that document. Instead, the RPIII/EA stated that exceeding the base allocation for Recreational Use was not being proposed. Therefore, this Addendum revises that statement regarding the Recreational Use allocation to reflect that the AL TIG will exceed the base allocation for the Recreational Use Restoration Type outlined in the CD for the AL Restoration Area, by applying a portion of the AL TIG’s earned interest.

The AL TIG will increase the funds available to restore Recreational Use by \$1,600,000. The addition of these funds will ensure funds are available for each of the projects approved in RP III/EA, including the two conditionally-approved projects described above. The programmatic and Restoration Type goals for Recreational Use, as described in the RPIII/EA, would continue to be met by funding these projects.

DESCRIPTION OF CHANGE

Use of Earned Interest

The AL TIG will allocate \$1.6 million of available interest to the Recreational Use Restoration Type. The table below reflects the change to the Recreational Use Restoration Type and the amount of interest in the AL TIG’s accounts.

Consent Decree Recreational Use Funds	Interest Currently Available to TIG	Interest Allocated for Recreational Use in this Addendum	Remaining Interest Currently Available to TIG	New Recreational Use Amount
\$110,505,305	\$6,681,726	\$1,600,000	\$5,081,726	\$112,105,305

As stated in section 6.6.2 of the DWH Trustee Council Standard Operating Procedures (SOPs)⁴, earned interest may be used at the discretion of the TIGs for restoration within the jurisdiction of each TIG, including for planning, administration, or any other TIG responsibilities. The AL TIG intends to utilize interest to implement the two conditionally-approved projects at this time. These projects were identified in the RPIII/EA³ as contributing to the goals and objectives of the RPIII/EA. The AL TIG concludes that increasing the base allocation to fund these previously analyzed and selected projects would provide the public additional Recreational Use restoration benefits.

Supplementing the Provide and Enhance Recreational Opportunities Restoration Type Allocation

The CD identified base allocations for each Restoration Type within each Restoration Area. Earned interest, however, provides additional monies which a TIG may apply toward DWH natural resource damage restoration. As base allocations are reached, the use of earned interest provides a TIG with an avenue to fund restoration above those levels, at the discretion of the TIG, and without reducing any other Restoration Type base allocation. The AL TIG’s decision to utilize interest in this case will allow all projects approved

⁴The DWH Trustee Council Standard Operating Procedures can be found at <https://www.gulfspillrestoration.noaa.gov/sites/default/files/wp-content/uploads/DWH-SOPs.pdf>

through the RPIII/EA to continue to be implemented, while providing the additional benefit of the two conditionally-approved projects to the public. Though this Addendum concerns the Recreational Use Restoration Type funding only, the AL TIG's future use of earned interest will result in the base allocations of other AL TIG Restoration Types to be exceeded as well. Those proposals are expected to be made in future AL TIG restoration plans.

As described above, the application of interest will be in addition to the base allocation for the Recreational Use Restoration Type provided for the AL Restoration Area in the CD. As such, the AL TIG revises the RPIII/EA statement, "The Trustees are not proposing to exceed the allocation for Provide and Enhance Recreational Opportunities in this RP III/EA" to reflect that the AL TIG will increase the CD base allocation for the Recreational Use Restoration Type through the use of earned interest and to fund the two projects described herein.

Public Involvement

The AL TIG sought public comment on this Addendum to supplement the Recreational Use allocation by using earned interest as described herein. This Addendum was made available for public review and comment for fifteen (15) days.

The AL TIG received one comment in support of the Addendum during the concurrent AL TIG Annual Meeting. No comments in opposition were received.

CONCLUSION

In summary, the AL TIG will use a portion of its available interest to supplement the base allocation for the Recreational Use Restoration Type. This will enable the AL TIG to fund the two projects conditionally-approved in the RPIII/EA.