

NOTICES – GREEN CANYON 248 OIL SPILL

ACTION: Notice of Intent to Conduct Restoration Planning and Notice of Availability of a Consent Decree for Natural Resource Damages – LOSCO NRDA case file #LA2016_0512_0630 [Green Canyon 248]. The Consent Decree for Natural Resource Damages is available for public review and comment for 30 days.

AGENCIES: Louisiana Oil Spill Coordinator’s Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); United States Department of Commerce’s National Oceanic and Atmospheric Administration (NOAA); and the United States Department of the Interior (DOI) through the United States Fish and Wildlife Service (FWS).

AUTHORITIES: 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.*, are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from an oil spill. The natural resource trustees for this incident include NOAA, DOI, FWS, LOSCO, LDNR, LDEQ, LDWF, and CPRA (collectively, the “Trustees”). NOAA, DOI and FWS are designated as Trustees pursuant to Section 1006(b)(2) of OPA, 33 U.S.C. § 2706(b)(2), Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) (40 C.F.R. §§ 300.600, *et seq.*) and Executive Order 12580 (3 C.F.R., 1987 Comp. p. 193, 52 Fed. Reg. 2923 (January 23, 1987) as amended by Executive Order 12777 (56 Fed. Reg. 54757 (October 19, 1991))). LOSCO, LDNR, LDEQ, LDWF, and CPRA are designated as Trustees by the Governor of Louisiana pursuant to Section 1006(b)(3) of OPA, 33 U.S.C. § 3706(b)(3), and subpart G of the NCP. These same agencies serve as State Trustees under OSPRA according to La. R.S. 30:2451, *et seq.* and LA. ADMIN. CODE tit. 43, pt. XXIX, *et seq.* Shell Offshore Inc., as the owner and operator of the pipeline that discharged oil, is the identified Responsible Party and is therefore liable according to 33 U.S.C. § 2702 and La. Rev. Stat. 30:2480 for natural resource damages resulting from the Incident.

SUMMARY OF INCIDENT: On or about May 11, 2016, oil was discharged from Shell’s Green Canyon Block 248 subsea oil production system in the Gulf of Mexico, located approximately 97 miles off the coast of Louisiana. The oil leaked from a piping system that is used to transport oil from a production well on the sea floor. Shell reported to DOI’s Bureau of Safety and Environmental Enforcement that the incident resulted in an estimated discharge of 1,926 barrels of oil, or 80,892 gallons, into the waters of the Gulf of Mexico. Overflights revealed oil and oil sheen on the water surface. The surface oil generally traveled west-northwest sweeping through an area of over 1,270 square miles over 5 days. Shell, the State, and the United States Coast Guard responded to the spill, including use of mechanical recovery vessels and other assets. Response efforts concluded on May 16, 2016. All of the foregoing events are referred to as the “Incident.” Natural resources within the area that provide services to the public were adversely impacted by the discharged oil and response actions, including, but not limited to, the water column around the spill site, as well as aquatic and avian resources.

Following the Incident, the Trustees and Shell executed a Cooperative Pre-Assessment Agreement to determine if the Trustees had jurisdiction to pursue restoration under OPA and OSPRA, and, if so, whether it was appropriate to do so. The Trustees and Shell worked collaboratively for over 1.5 years to, among other things, collect and analyze (1) data reasonably expected to be necessary to make a determination of jurisdiction and/or a determination to conduct restoration planning, (2) ephemeral data,

and (3) information needed to design or implement anticipated assessment activities as part of restoration planning. Activities included, among other things, identifying the data and modeling procedures that were most applicable to this Incident, evaluating the potential impacts to natural resources, and identifying actions to restore affected natural resources. As a result of that process, the Trustees have made several determinations.

DETERMINATIONS:

Determination of Jurisdiction: The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41 and LA. ADMIN. CODE tit. 43, pt. XXIX, § 101:

1. The Incident resulted in the discharge of oil into or upon navigable waters of the United States. Such occurrence constitutes an “incident” within the meaning of 15 C.F.R. § 930.30.
2. The Incident was not authorized under a permit issued pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. § 1651, *et seq.*
3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under OPA and OSPRA.

Determination to Conduct Restoration Planning: The Trustees have determined, pursuant to 15 C.F.R. § 990.42(a), that:

1. Data collected pursuant to 15 C.F.R. § 990.43 demonstrate that injuries to natural resources have resulted from the Incident, as described above.
2. The response actions did not adequately address the injuries resulting from the Incident.
3. Feasible primary and/or compensatory restoration actions exist to address injuries from the Incident.

Based upon the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

PURPOSE: The Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (NOI) if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met. This NOI announces that the Trustees have made the determination to proceed with restoration planning and will develop plans for restoring, rehabilitating, replacing, and/or acquiring the equivalent of natural resources and services injured, lost, or destroyed as a result of the Incident. The United States and the State of Louisiana are coordinating restoration efforts. The Trustees will be opening an Administrative Record (AR) that will be available to the public and will document the basis for the Trustees’ decisions pertaining to injury and selection of restoration alternatives.

Furthermore, pursuant to LA. ADMIN. CODE tit. 43, pt. XXIX, *et seq.*, notice is also hereby given that a document entitled, “Consent Decree for Natural Resource Damages” (CD) is available for public review and comment. In lieu of conducting further assessment activities, Shell and the Trustees propose a cash settlement amount to expedite restoration for this Incident and to resolve Shell’s liability for natural resource damages under Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702(a) and (b), and Section 2480

of OSPRA, La. R.S. 30:2480. The mutual objectives of Shell and the Trustees in entering into the proposed Consent Decree are: (i) to provide funding by Shell to the Trustees to restore, replace, or acquire the equivalent of the natural resources injured, destroyed, or lost as a result of the Incident; (ii) to provide payment by Shell to the Trustees to reimburse the remaining unpaid natural resource damage assessment costs incurred by the Trustees; and (iii) to resolve the Trustees' claims against Shell for natural resource damages under OPA and OSPRA as provided herein.

The CD is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review the CD and submit comments to the address listed below. The Trustees will consider comments received during the public comment period on the CD before finalizing the document. Once the CD is approved and payment has been received from Shell, the Trustees will identify and evaluate potential restoration projects that will appropriately address injuries to natural resources resulting from the Incident.

PUBLIC PARTICIPATION: Interested members of the public are invited to view the CD via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Shell Green Canyon 248 NRDA Consent Decree Available) or by requesting a copy of the document from Gina Muhs Saizan at the address provided below:

Gina Muhs Saizan
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
Gina.Saizan@la.gov

The Trustees also hereby invite the public to participate in restoration planning for this Incident. Public participation is encouraged. Opportunities to participate in the process include public availability of AR documents as well as an opportunity for the public to review and comment on draft restoration planning documents that will identify the Trustees' preferred restoration project(s) for this Incident. A restoration plan(s) will be finalized and released to the public identifying the selected compensatory restoration project(s) to be implemented by the Trustees. Public participation is consistent with all state and federal laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. Rev. Stat. 30:2480; and the OSPRA regulations, LA. ADMIN. CODE tit. 43, pt. XXIX, *et. seq.*

COMMENT SUBMITTALS: Comments to the CD must be submitted in writing or digitally to Gina Muhs Saizan on or before the end of the 30-day comment period.

FOR FURTHER INFORMATION: Contact Gina Muhs Saizan at (225) 925-6606 or by email at Gina.Saizan@la.gov.

Marty J. Chabert
Oil Spill Coordinator