

Louisiana Deepwater Horizon Natural Resource Damage Assessment



What is NRDA?

Natural Resource Damage Assessment (NRDA) is a legal process under the Oil Pollution Act of 1990 (OPA) and the Louisiana Oil Spill Prevention and Response Act of 1991 (LOSPRA) whereby trustees represent the public interest to ensure that natural resources injured in an oil spill are restored.

Who are the Natural Resource Trustees for the Deepwater Horizon Oil Spill?

Federal Trustees	State Trustees
<p>The Department of Commerce</p> <ul style="list-style-type: none"> • National Oceanic and Atmospheric Administration <p>The Department of the Interior</p> <ul style="list-style-type: none"> • Fish and Wildlife Service • National Park Service • Bureau of Land Management • Bureau of Indian Affairs <p>The Department of Defense</p> <ul style="list-style-type: none"> • Navy 	<p>Louisiana</p> <ul style="list-style-type: none"> • Coastal Protection and Restoration Authority, lead trustee • Oil Spill Coordinator's Office, lead administrative trustee • Department of Environmental Quality • Department of Wildlife and Fisheries • Department of Natural Resources <p>Alabama</p> <p>Florida</p> <p>Mississippi</p> <p>Texas</p>

What is the Role of the Trustees?

Trustees are charged with making the environment and public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of a discharge of oil. Making the environment and public whole includes both restoring injured resources to the condition they would have been in but for the discharge as well as compensating for the temporal loss of natural resources, and the ecosystem services they provide, from the time of injury until the time they are fully restored.

What is the Governance Structure for the Deepwater Horizon NRDA?

The trustees govern themselves via a Trustee Council that meets regularly throughout the Gulf Coast. The Council primarily handles issues that arise in the course of the case and provides strategic direction to the assessment teams. The Council has formed various smaller sub-groups to coordinate on assessment, restoration, communications, and legal matters.

How Does the Cooperative Process Work?

NRDA is a cooperative process between the trustees and the Responsible Parties (RPs) to assess injuries resulting from an oil spill. The RPs typically fund the assessment process and trustees and RPs share data. In the event that the RPs refuse to fund a particular study, the trustees can tap into the Oil Spill Liability Trust Fund to fund independent work. There are advantages to working within the cooperative process. First, the cooperative process provides a funding stream (from the RPs) to pay the costs of assessing injury and planning and implementing restoration projects. In addition, trustee decisions that come out of the cooperative process are presumed to be valid; the burden is on the challenging party to rebut that presumption by showing that the decision was inconsistent with the law or unsupported by the science.

For additional information please visit: <http://losco-dwh.com>

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What are the Stages of Natural Resource Damage Assessment?



What are the Natural Resources Being Assessed for the Deepwater Horizon Oil Spill?

Natural Resource Groups	Examples of Resources Included
Habitat	Shoreline, submerged aquatic vegetation, nearshore (intertidal) sediment & water sampling, oyster, benthic habitat (bottom dwelling), sargassum (seaweed mats)
Aquatic	Water column, fish (shrimp & crabs), marine mammals and turtles
Wildlife	Birds, terrestrial and aquatic organisms
Human Use	Recreational losses
Cultural	Impacts to archaeological, cultural and historical sites



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What is NRDA Restoration?

NRDA restoration means any action, or combination of actions, to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and services.

Primary Restoration: Primary restoration includes actions conducted by trustees to return injured natural resources to the condition that would have existed if the incident had not occurred. Some natural resources might recover very slowly, or not even recover at all, from injuries due to an oil spill. Trustees are authorized to conduct primary restoration to speed the recovery of the injured resources, such as reconstructing physical habitat or taking measures to protect or increase the population of an affected endangered species.

Compensatory Restoration: Compensatory restoration includes actions conducted by the trustees to address the natural resource injuries and services lost that accrue from the date of injury until recovery to the condition the resource would have been in but for the spill. While the resource is impaired, it is unable to provide services on which other parts of the ecosystem and the public rely. Trustees are authorized to ensure that compensatory restoration projects are implemented to compensate the public for these interim losses.

What is Emergency Restoration?

Emergency restoration includes actions that are taken by the trustees prior to the completion of the damage assessment and restoration planning process to prevent or reduce continuing natural resource injuries and/or avoid a potential irreversible loss of natural resources.

What is Early Restoration?

Early restoration can be implemented prior to the completion of the NRDA process, when opportunities arise, to achieve restoration faster. If the projects are successful and meet certain criteria, the responsible parties could receive restoration credits for the projects, which would be applied against their total natural resource damage liability.



Example: marsh creation



Example: marsh vegetation planting



Example: barrier island re-nourishment



Example: land conservation

Examples of Restoration Types:

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What is the Process for Developing a Restoration Plan?

Once injuries are assessed and the scope and scale is determined, the trustees will develop a restoration plan or series of plans to compensate for those injuries. BP and the other responsible parties can either execute this plan or provide the trustees with funding to implement the plan. Plans for early restoration projects may be developed prior to assessing injuries.

How is the Public Involved in the NRDA Process?

Throughout the Natural Resource Damage Assessment process, the trustees will engage with the public to explain the NRDA process and provide an opportunity for the public to give comments or input regarding restoration planning. In the Fall of 2010, we hosted a series of public meetings to provide our citizens with an overview of the NRDA process. In addition, Louisiana is currently participating in public restoration scoping meetings, the focus of which is to solicit ideas from the public on the types of restoration that would be appropriate for restoring resources lost or injured as a result of the Deepwater Horizon incident. Louisiana is dedicated to keeping our stakeholders informed and engaged, and we intend to hold additional public meetings as the NRDA process progresses.



Photos from the public restoration scoping meetings in Louisiana

Other Types of Claims that May Be Available under OPA and LOSPRA Include:

Response and removal costs

Damages to:

- Real or personal property
- Subsistence use
- Revenues
- Profits and earning capacity
- Public services



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