



## FACT SHEET

# PROPOSED CONSENT DECREE WITH BP FOR THE DEEPWATER HORIZON/MACONDO WELL OIL SPILL

### Background

On December 15, 2010 the United States sued BP Exploration and Production Inc. ("BP"), as well as other defendants, for civil penalties under the Clean Water Act and sought a declaration that BP was liable for natural resource damages and response costs under the Oil Pollution Act for this tragic oil spill.

Since 2010, the United States has litigated against BP, among other defendants. So far there have been three phases of trial. The Court has ruled on phases I and II, and we are currently awaiting a ruling on phase III, which would determine a penalty amount for BP.

BP, the United States, and the five Gulf states have agreed to a settlement resolving claims for federal civil penalties and natural resource damages related to the *Deepwater Horizon* BP Spill. This settlement is set forth in the proposed Consent Decree. The Department of Justice is seeking public comment on the proposed settlement.

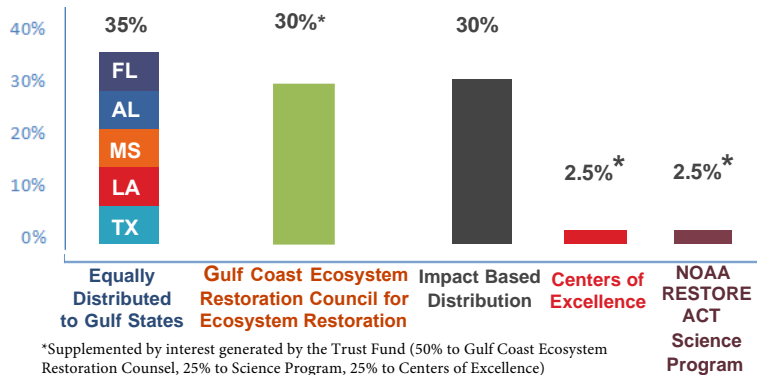
### Terms of Proposed Consent Decree

#### Penalty Amounts

BP must pay \$5.5 billion, plus interest, as a civil penalty under the Clean Water Act. (CD Paragraphs 10-14).

Under the RESTORE Act, which Congress enacted in 2012 in response to the spill, 80 percent of the penalty is allocated for environmental restoration, economic recovery projects, and tourism and seafood promotion in the five Gulf states (Alabama, Florida, Louisiana, Mississippi, and Texas).

### Allocation of the Gulf Coast Restoration Trust Fund



In accordance with the Oil Pollution Act, the remaining civil penalties will be paid to the Oil Spill Liability Trust Fund, which is used to support responses to oil spills.

#### Damages

BP must pay \$8.1 billion in natural resource damages, including \$1 billion BP previously committed to pay for early restoration projects. (CD Paragraphs 15-17 and 19).

The designated federal and state trustee agencies will use these funds to restore Gulf of Mexico natural resources injured in the spill.

The federal and state trustees have agreed in the Consent Decree to an allocation of the \$8.1 billion among five different restoration goals and 13 restoration categories designed to meet these goals. These are outlined in Table 1 below. Most of the \$8.1 billion is also allocated geographically across the five Gulf states.

In addition, BP will pay up to \$700 million to address natural resource conditions that are presently unknown but may come to light in the future and to monitor, adapt, supplement or replace earlier restoration projects as needed. This is comprised of \$232 million combined with the accrued interest on the \$8.1 billion. (CD Paragraph 21).

# PROPOSED CONSENT DECREE

## Additional Payments

BP must pay \$250 million to reimburse the U.S. for costs responding to the spill, lost royalties, and to resolve a False Claims Act investigation. (CD Paragraphs 22-24).

BP must also pay \$350 million to the governments for natural resource damage assessment costs.

BP's payments are scheduled over 16 years. (See Sections IV-VI of the Decree).

## Injunctive Relief

The criminal guilty plea that BP entered into regarding the *Deepwater Horizon* incident imposed a comprehensive set of measures to improve the company's drilling procedures, safety protocols, and corporate ethics. Additional measures were imposed in an Administrative Agreement with EPA to resolve potential suspension and debarment claims. As part of the Decree, BP acknowledges that it is in compliance with these requirements. BP will post reports documenting its progress on a publicly available website, to increase transparency so that the public can better understand its performance. (CD Paragraphs 34-38).

## Compliance Assurance

The Consent Decree contains a number of terms to assure payment.

*Guarantees.* Although the Consent Decree is with BP Exploration & Production, Inc., the company that owned the Macondo Well, BP's American and British parent companies—BP Corporation North America Inc. and BP p.l.c.—are guaranteeing that all payments will be made. (CD Paragraph 32 and Appendices 8 and 9).

*Acceleration.* Should BP p.l.c. file bankruptcy, become insolvent, or change ownership, the governments can require BP to make all payments immediately. (CD Paragraphs 9, 30 and 31).

*Stipulated Penalties.* If BP fails to meet the deadline for any payment or fails to comply with injunctive relief, the governments may seek additional stipulated penalties as a sanction. (CD Paragraphs 44-45).

## 6WgUfla` e

In compliance with federal tax law, BP may not take a tax deduction for any portion of the civil penalty. (CD Paragraph 14).

## SUMMARY OF PAYMENTS

CWA Civil Penalty	\$5.5 billion
Natural Resource Damages	\$7.1 billion
Early Restoration BP previously committed (partially paid).	\$1 billion
NRD Assessment Costs (States and U.S.)	\$350 million
Unknown Injury and Adaptive Management	Up to \$700 million
False Claims Act; Royalties on oil; Response and other costs	\$250 million
State and Local Economic Claims (Separate Agreement)	Up to \$5.9 billion
<b>TOTAL</b>	<b>\$20.8 billion</b>

## Related, -Parallel State Agreement

In connection with the settlement described in the Consent Decree, BP also has reached a separate agreement with the Gulf states resolving economic damages claims of state and local governments.

Under this agreement, BP will pay \$4.9 billion, in total, to the five Gulf states, and up to \$1 billion to local governments that presented such claims.

The U.S. is not a party to these economic damages agreements. Therefore, the U.S. is not taking comment on these agreements. However, this Consent Decree is conditioned on the agreement with the Gulf states also becoming final. (CD Paragraph 75).

## Public Comment

The Consent Decree was lodged with the Court on October 5, 2015. The governments encourage — and will accept — comments on the Decree on or before December 4, 2015.

After considering the comments, the governments will determine whether to seek Court approval of the Consent Decree.

# PROPOSED CONSENT DECREE

## RESTORATION GOALS AND CATEGORIES

Restoration Goals and Restoration Types	Unknown Conditions	Region-wide	Open Ocean	Restoration in Alabama	Restoration in Florida	Restoration in Louisiana	Restoration in Mississippi	Restoration in Texas	Total Allocation
<b>1. Restore and Conserve Habitat</b>									
Wetlands, Coastal and Nearshore Habitats				65,000,000	5,000,000	4,009,062,700	55,500,000	100,000,000	4,234,562,700
Habitat projects on Federally Managed Lands				3,000,000	17,500,000	50,000,000	5,000,000		75,500,000
Early Restoration (thru phase IV)				28,110,000	15,629,367	259,625,700	80,000,000		383,365,067
<b>2. Restore Water Quality</b>									
Nutrient reduction (nonpoint source)				5,000,000	35,000,000	20,000,000	27,500,000	22,500,000	110,000,000
Water Quality (e.g. stormwater treatments, hydrologic restoration, reduction of sedimentation, etc.)					300,000,000				300,000,000
<b>3. Replenish and Protect Living Coastal and Marine Resources</b>									
Fish and Water Column Invertebrates			380,000,000						380,000,000
Early Restoration Fish			20,000,000						20,000,000
Sturgeon			15,000,000						15,000,000
Sea Turtles		60,000,000	55,000,000	5,500,000	20,000,000	10,000,000	5,000,000	7,500,000	163,000,000
Early Restoration Turtles		29,256,165						19,965,000	49,221,165
SAV						22,000,000			22,000,000
Marine Mammals		19,000,000	55,000,000	5,000,000	5,000,000	50,000,000	10,000,000		144,000,000
Birds		70,400,000	70,000,000	30,000,000	40,000,000	148,500,000	25,000,000	20,000,000	403,900,000
Early Restoration Birds		1,823,100		145,000	2,835,000	71,937,300		20,603,770	97,344,170
Mesophotic Reefs & Deep Benthic Habitats			273,300,000						273,300,000
Oysters		64,372,413		10,000,000	20,000,000	26,000,000	20,000,000	22,500,000	162,872,413
Early Restoration Oyster				3,329,000	5,370,596	14,874,300	13,600,000		37,173,896
<b>4. Provide and Enhance Recreational Opportunities</b>									
Early Restoration of Recreational Loss				25,000,000	63,274,513	38,000,000	5,000,000		131,274,513.00
			22,397,916	85,505,305	120,543,167	22,000,000	18,957,000	18,582,688	287,986,076
<b>5. Monitoring, Adaptive Management, Administrative Oversight</b>									
Monitoring and Adaptive Management		65,000,000	200,000,000	10,000,000	10,000,000	225,000,000	7,500,000	2,500,000	520,000,000
Administrative Oversight and Comprehensive Planning		40,000,000	150,000,000	20,000,000	20,000,000	33,000,000	22,500,000	4,000,000	289,500,000
Adaptive Management NRD Payment for Unknown Conditions	700,000,000								700,000,000
<b>TOTAL NRD FUNDING</b>	<b>\$700,000,000</b>	<b>\$349,851,678</b>	<b>\$1,240,697,916</b>	<b>\$295,589,305</b>	<b>\$680,152,643</b>	<b>\$5,000,000,000</b>	<b>\$295,557,000</b>	<b>\$238,151,458</b>	<b>8,800,000,000</b>