

# Participating in Natural Resource Damage Assessment and Restoration

As Gulf Coast residents have witnessed, the BP oil spill has harmed the Gulf's air, water, sediment, wildlife, and habitats. Restoration of these natural resources is important to Gulf families, the region's economy, and the environment. It is also a legal requirement under the Oil Pollution Act of 1990 (OPA) and other laws.

The government is using a process called **Natural Resource Damage Assessment (NRDA)** to ascertain the injuries caused to natural resources, determine how to restore them, and then implement a restoration plan. While NRDA is a legal process, and therefore some of its stages are not open to the public, there are certain points at which the public has the right to participate. In addition, the unprecedented size and complexity of the Gulf spill may create new opportunities for citizens to get involved. **This fact sheet provides an overview of the NRDA process and highlights some of the opportunities to participate.**

## What is NRDA?

An oil spill NRDA is the process that federal, state, and tribal governments use to determine the injury that a spill has caused to natural resources, and to plan and implement an approach for restoring those resources. The goal is to return natural resources to the condition they would have been in if the spill had not occurred (called "**baseline**"). The costs of restoration are paid by the parties responsible for the spill.

## "Natural resource damages" include several types of damages

The term "natural resource damages" covers several types of damages. These include damages for injuries to natural resources, the lost use of those resources, and the costs of assessing damages. Many of these damages are difficult to estimate, either because it is hard to determine the exact value of something like lost use or

because the extent of injury is not fully known. A NRDA strives to ensure that the estimates are fair and accurate.

The compensation received for natural resource damages can only be used for two purposes: (1) to cover the costs of the assessment; and (2) to recover the natural resources that were harmed by the spill. The compensation cannot be used to recover natural resources from harm caused by something other than the spill. The responsible parties are only required to fix what was injured by the spill, no more.



## Who is involved in NRDA on the Gulf Coast?

NRDA is a legal process and primarily involves government representatives and the parties responsible for the oil spill. However, nongovernmental organizations, citizens, and other stakeholders can also contribute at certain points in the process.

### Federal and state agencies are acting as “trustees” for the public and guiding the NRDA

Federal and state agencies across the Gulf are leading the NRDA process in their role as “trustees.” Trustees determine pre-spill conditions, evaluate the injuries caused by the spill, and develop a plan for restoration. These activities support the trustees’ legal case to obtain compensation from BP and other responsible parties for the harm caused to natural resources. The trustees for the Gulf NRDA process are listed in the table below.

To assess the spill’s impacts, the trustees have formed **Technical Working Groups** (often referred to as TWGs, pronounced “twigs”), including groups studying birds, marine mammals, corals, and human uses of impacted natural resources. Each TWG is composed primarily of scientists and other subject matter experts who are working to assess the injuries suffered and lost use. The TWGs have developed study plans for the assessment process.

### The responsible parties pay for natural resource damages and participate in the assessment process

The trustees are required to invite the responsible parties to participate in the NRDA. Here, BP has accepted that invitation and has been participating in the assessment.

## NRDA Trustees for the BP *Deepwater Horizon* Oil Spill

	Lead Trustee Agency	Additional Trustee Agencies
US Dept. of the Interior	US Fish and Wildlife Service	National Park Service; Bureau of Land Management
US Dept. of Commerce	National Oceanic and Atmospheric Administration	
US Dept. of Defense*		
US Environmental Protection Agency**		
US Dept. of Agriculture**		
State of Louisiana	Coastal Protection and Restoration Authority	Oil Spill Coordinator’s Office; Dept. of Environmental Quality; Dept. of Wildlife and Fisheries; Dept. of Natural Resources
State of Mississippi	Dept. of Environmental Quality	
State of Alabama	Dept. of Conservation and Natural Resources	Geological Survey of Alabama
State of Florida	Dept. of Environmental Protection	Fish and Wildlife Conservation Commission
State of Texas	Parks and Wildlife Dept.	General Land Office; Commission on Environmental Quality

\* Not currently on the Trustee Council.

\*\* Designated as trustees on September 10, 2012 by Executive Order 13,626.

## Where are they now in the NRDA process, and how can I participate?

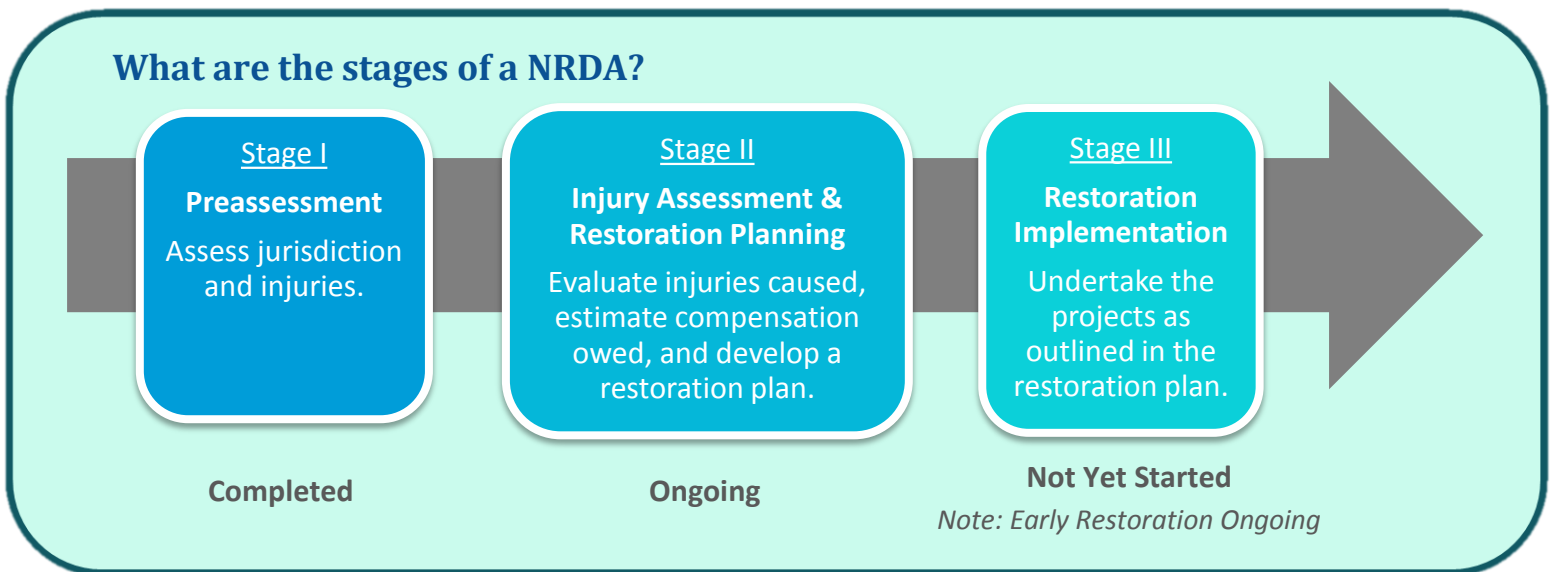
Public participation in the NRDA process can help improve the restoration plan, from individual projects to the overall approach, to make sure that the process truly restores the natural resources harmed by the oil spill. It also helps ensure the process is transparent and accountable.

The NRDA process is divided into three stages: (1) **Preassessment**; (2) **Injury Assessment and Restoration Planning**; and (3) **Restoration Implementation** (see figure below).

## 2. The Injury Assessment and Restoration Planning Stage (ONGOING)

The trustees are currently evaluating the injuries, estimating the compensation owed as a result of these injuries, and planning for restoration.

**Injury Assessment and Quantification:** To assess the extent of the injury, the trustees use data collected from the affected sites to establish pre-spill baseline conditions and injury. Once injury is determined, the trustees calculate the compensation owed, either in terms of money or in terms of resources and/or services that the resource provides.



## 1. The Preassessment Stage (COMPLETED)

This stage involves the determination that the trustees have jurisdiction to conduct a NRDA and it is appropriate for them to do so (e.g. there are injuries). Limited data are also collected during this stage. The preassessment stage was completed in this case in 2010.

**Restoration Planning and Environmental Impact Assessment:** After assembling a range of restoration project options, the trustees will evaluate the alternatives, select one as a preferred alternative, and prepare a restoration plan (or plans). An Environmental Impact Statement (EIS) may also be prepared. Drafts of both the restoration plan and any EIS must be circulated for public comment.

As a member of the public, you may be able to submit your observations of spill impacts to NRDA scientists, although this is not a legal requirement of the NRDA process. Through more formal channels, you can:

- **Suggest and submit ideas** for restoration projects (the web portal for restoration project submission is at [www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas](http://www.gulfspillrestoration.noaa.gov/restoration/give-us-your-ideas))
- **Comment** on draft environmental impact assessments and restoration plans, including early restoration plans (which must be opened for public comment)
- **Provide feedback and suggestions** at meetings hosted by the trustees (check for meeting dates at [www.gulfspillrestoration.noaa.gov/what-you-can-do/public-meetings](http://www.gulfspillrestoration.noaa.gov/what-you-can-do/public-meetings))
- **Participate** in any public technical panels or advisory bodies that are formed to guide restoration planning (while not a legal requirement, such entities have been formed in other cases)

It is important to note that, although injury assessment and restoration planning are not yet complete, some restoration projects are being started early (see box above). This means that we are in Stage II and Stage III (for early restoration only) of the NRDA process at the same time.

### 3. The Restoration Implementation Stage (NOT YET STARTED – but Early Restoration Ongoing)

After the restoration plan is finalized, it will be

#### Early Restoration

In April 2011, the trustees announced that BP had agreed to provide up to \$1 billion to start some restoration projects early. Because NRDA's can take years to complete, this **early restoration agreement** allows the trustees to get started on mutually agreed-upon restoration projects before the assessment process is complete. Many early restoration projects have already begun to be implemented.

presented to the responsible parties. If the responsible parties agree to the plan, they may implement the plan or fund the trustees' costs of implementing the plan. Implementation occurs over many years.

As a member of the public, you can:

- **Participate** in any technical panels or advisory bodies that are formed to support restoration implementation (while these are not required, they have been created in other cases)
- **Help implement** the restoration projects
- **Help monitor** the effectiveness of the restoration projects, to make sure they are achieving the desired results over the long term

You can find more information on efforts to restore the natural resources harmed by the BP oil spill by visiting each trustee's website, including the NOAA website ([www.gulfspillrestoration.noaa.gov](http://www.gulfspillrestoration.noaa.gov)).

#### What's Going on Now?

**Early Restoration:** the trustees have finalized three rounds of early restoration projects, worth about \$700 million. In April 2015, the trustees announced an "agreement in principle" for a fourth round of early restoration projects, which includes 10 projects worth approximately \$134 million.

**Injury Assessment and Restoration Planning:** as part of this stage, the trustees are preparing a draft programmatic EIS for the full restoration effort. When complete, it will be made available to the public for comment.