

# Building Bridges

*Connecting the Overlapping Goals,  
Resources, and Institutions of  
Gulf of Mexico Restoration and Conservation*

## State Plans and Programs

Environmental Law Institute

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## I. Introduction

On April 20, 2010, a blowout occurred on the *Deepwater Horizon* drilling rig located off of the coast of Louisiana, triggering one of the worst oil spills in the nation's history. Before the well was capped 87 days later, millions of barrels of oil would flow into the Gulf of Mexico.<sup>1</sup> Nearly six years later, the economic and environmental impacts of the spill are still being determined. Several restoration and recovery processes have been initiated in order to address these impacts. Billions of dollars have already been obligated to these processes, and billions more are expected.<sup>2</sup>

These spill-related processes are not taking place in a vacuum, but within an existing framework. This framework includes a degrading ecosystem that is facing multiple threats – from coastal land loss to an extensive dead zone to habitat loss and destruction.<sup>3</sup> It also includes a set of laws, plans, and programs in place at the federal, state, and local levels. Many of these were developed long before the *Deepwater Horizon* oil spill and were intended to address the multiple threats facing the Gulf ecosystem. Many of them therefore have goals and objectives that overlap with the restoration and recovery processes initiated in response to the oil spill.

In an effort to link the spill-related processes with the existing framework, we released a report in April 2014 entitled “Building Bridges: Connecting the Overlapping Goals, Resources, and Institutions of Gulf of Mexico Restoration and Conservation (Federal Programs).”<sup>4</sup> That report addressed opportunities to link existing federal programs with the processes initiated in response to the spill, identifying dozens of existing federal programs with goals and objectives that overlap with the oil spill restoration processes. These included programs for Gulf states and their local political subdivisions, as well as programs involving public-private partnerships.<sup>5</sup>

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<sup>1</sup> Findings of Fact and Conclusions of Law: Phase I Trial, In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, ¶ 2,6,7 (E.D. La. 2014), <http://www.epa.gov/sites/production/files/2014-10/documents/phaseonetrial.pdf>.

<sup>2</sup> On October 5, 2015, the proposed consent decree among the United States, five Gulf states, and BP was released. The proposed decree covers, among other things, natural resource damages and Clean Water Act civil penalties (see below for more details). If the proposed decree is finalized, billions more dollars will flow through the restoration and recovery processes. Press Release, Department of Justice, U.S. and Five Gulf States Reach Historic Settlement with BP to Resolve Civil Lawsuit Over *Deepwater Horizon* Oil Spill (Oct. 5, 2015), <http://www.justice.gov/opa/pr/us-and-five-gulf-states-reach-historic-settlement-bp-resolve-civil-lawsuit-over-deepwater>. See also BP Proposed Consent Decree Released, ELI (Oct. 13, 2015), <http://eli-ocean.org/gulf/consent-decree/> (overview of proposed consent decree).

<sup>3</sup> See Campbell Robinson, *Gulf of Mexico Has Long Been Dumping Site*, N.Y. TIMES (June 29, 2010), [http://www.nytimes.com/2010/07/30/us/30gulf.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/07/30/us/30gulf.html?pagewanted=all&_r=0).

<sup>4</sup> ENVIRONMENTAL LAW INSTITUTE, BUILDING BRIDGES: CONNECTING THE OVERLAPPING GOALS, RESOURCES, AND INSTITUTIONS OF GULF OF MEXICO RESTORATION AND CONSERVATION (FEDERAL PROGRAMS) (Apr. 2014), <http://eli-ocean.org/gulf/building-bridges/> [hereinafter “Building Bridges: Federal Programs”].

<sup>5</sup> The Building Bridges: Federal Programs report did not review regional plans. We therefore review them in this report.

In this companion report, we focus on Gulf of Mexico state plans (including regional plans) and state programs. As oil spill restoration efforts move forward, these plans and programs may be important to consider for a number of reasons. These include:

- **Coordination:** many plans and programs have goals and objectives that overlap with those of the oil spill restoration and recovery processes. It is therefore essential that these efforts are coordinated – not only to avoid duplication, but also to maximize the impact of these efforts. If properly coordinated, funds from the oil spill restoration and recovery processes may also be used to fill gaps in funding that have been created by any misalignment between state and federal program funding cycles.
- **Informing Processes:** numerous plans and programs have been developed over the years. These efforts could provide an important foundation for the development of oil spill plans, programs, and projects. For certain oil spill processes, projects that are contained in existing plans may also be given priority for funding.

This report starts with an overview of the main regional restoration and recovery processes that are ongoing in the wake of the *Deepwater Horizon* oil spill. It then explains our methodology, and ends with a review of state plans (including regional plans) and state programs. This report is accompanied by an online tool – the Gulf State Plans and Programs Search Tool<sup>6</sup> – which provides links to the plans and programs highlighted in this report, along with numerous other ones that may be important for Gulf restoration and recovery.

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<sup>6</sup> Gulf State Plans and Programs Search Tool, ELI, [eli-ocean.org/gulf/tool](http://eli-ocean.org/gulf/tool).

## II. Overview of the Gulf Oil Spill Restoration and Recovery Processes

There are three main processes in place to help restore and recover the Gulf after the *Deepwater Horizon* oil spill: (1) the Natural Resource Damage Assessment (NRDA); (2) the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act); and (3) the National Fish and Wildlife Foundation (NFWF) settlement funding. We provide a brief overview of each in Table 1 below.

**Table 1.** Three Main Processes

Overview	
<b>NRDA (Oil Pollution Act)</b>	<p>Mandated by the Oil Pollution Act, a natural resource damage assessment is the process used to determine the injuries to natural resources caused by an oil spill, and then to plan and implement an approach for restoring those resources.<sup>7</sup> A NRDA compensates the public for (1) injuries to natural resources; (2) the loss of use of those resources while they are injured; and (3) the costs of the assessment.<sup>8</sup></p> <p>In October 2015, a proposed consent decree among the United States, five Gulf states, and BP was released.<sup>9</sup> If the proposed decree is finalized, BP will pay up to \$8.8 billion in natural resource damages. This includes the \$1 billion that BP had already agreed to pay to start some projects early, as well as up to \$700 million for unknown injuries and adaptive management.<sup>10</sup> To date, four rounds of early restoration projects have been finalized, costing approximately \$830 million.<sup>11</sup></p>
<b>RESTORE Act (Clean Water Act fines)</b>	<p>Funded with 80% of any Clean Water Act civil and administrative penalties from the <i>Deepwater Horizon</i> oil spill, the RESTORE Act creates five separate processes that have varying scopes and purposes. Roughly 95% of its funds are designated for activities that restore the Gulf environment and economy.</p>

<sup>7</sup> See 15 C.F.R. § 990 (NRDA regulations promulgated by NOAA).

<sup>8</sup> Oil Pollution Act, 33 U.S.C. § 2702(b)(2)(A).

<sup>9</sup> Consent Decree Among Defendant BP Exploration & Production Inc. (“BPXP”), The United States of America, and the States of Alabama, Florida, Louisiana, Mississippi, and Texas, In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, ¶¶ 15,21 (Oct. 5, 2015), <http://www.justice.gov/enrd/file/798366/download>.

<sup>10</sup> On the same day that the proposed consent decree was released, the Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement was also released. Among other things, the document “provides direction and guidance for identifying, evaluating, and selecting future restoration projects” under the NRDA process. Deepwater Horizon Trustees, Programmatic Damage Assessment and Restoration Plan (PDARP) and Programmatic Environmental Impact Statement (PEIS) 1-7 (2015), available at <http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan>.

<sup>11</sup> See Latest Round of Early Restoration Projects Approved, NOAA (Sept. 23, 2015), <http://www.gulfspillrestoration.noaa.gov/2015/09/latest-round-of-early-restoration-projects-approved/>. A fifth round of early restoration totaling \$34.4 million was proposed in December 2015. Trustees Propose Fifth Phase of Early Restoration, NOAA, <http://www.gulfspillrestoration.noaa.gov/2015/12/trustees-propose-fifth-phase-of-early-restoration/> (last visited Dec. 15, 2015).

This includes 35% that will go directly to the states in equal shares (in some states, local governments will receive funds directly) (Direct Component or “Pot 1”); 30% plus 50% of the interest earned that will go to the Gulf Coast Ecosystem Restoration Council (Council or “Pot 2”); and 30% that will go to the states in varying shares based on how severely they were impacted by the oil spill (Spill Impact Component or “Pot 3”). The remaining 5%, plus 50% of the interest earned, will fund a program for scientific research, monitoring, and observation (NOAA RESTORE Act Science Program or “Pot 4”), as well as state Centers of Excellence (Centers of Excellence or “Pot 5”).

If the proposed consent decree is finalized, BP will pay \$5.5 billion in Clean Water Act civil penalties.<sup>12</sup> \$4.4 billion (80%) of that will flow through the RESTORE Act. In addition, in November 2015, the court determined that Anadarko was liable for \$159.5 million in Clean Water Act civil penalties<sup>13</sup> (\$127.6 million of that will flow through the RESTORE Act). Added to the \$800 million already obligated to RESTORE (80% of Transocean’s \$1 billion Clean Water Act civil settlement<sup>14</sup>), a total of more than \$5.3 billion will flow through the RESTORE Act.

Some of the RESTORE Act funds have started to be awarded.<sup>15</sup>

**NFWF  
(settlement  
funds)**

A total of \$2.544 billion of criminal settlement funds will go to the National Fish and Wildlife Foundation,<sup>16</sup> a non-profit organization created by Congress in 1984 “to protect and restore fish and wildlife and their habitats.”<sup>17</sup> Half of this money is to be used for projects in Louisiana, focusing on “creat[ing] or

<sup>12</sup> See Consent Decree, *supra* note 9, at ¶ 10. See also BP Proposed Consent Decree Released, ELI (Oct. 13, 2015), <http://eli-ocean.org/gulf/consent-decree/>.

<sup>13</sup> Final Judgment as to Anadarko Entities, In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, ¶ 135 (Dec. 16, 2015). See also Collin Eaton, Anadarko Ordered to Pay \$159.5M in Deepwater Horizon Fines, FUELFIX (Nov. 30, 2015), <http://fuelfix.com/blog/2015/11/30/anadarko-ordered-to-pay-159-5m-in-deepwater-horizon-fines/>.

<sup>14</sup> Press Release, U.S. Department of Justice, Transocean Agrees to Plead Guilty to Environmental Crime and Enter Civil Settlement to Resolve U.S. Clean Water Act Penalty Claims from Deepwater Horizon Incident (Jan. 3, 2013), <http://www.justice.gov/opa/pr/transocean-agrees-plead-guilty-environmental-crime-and-enter-civil-settlement-resolve-us>.

<sup>15</sup> One example is the U.S. Department of Treasury awarded just over \$4 million to the Texas Commission on Environmental Quality to establish two Centers of Excellence in the state. See Press Release, U.S. Department of Treasury, Treasury Awards First Restore Act Grant for Texas Gulf Restoration Efforts (July 1, 2015), [www.treasury.gov/press-center/press-releases/Pages/jl0101.aspx](http://www.treasury.gov/press-center/press-releases/Pages/jl0101.aspx).

<sup>16</sup> Guilty Plea Agreement, U.S. v. BP Exploration & Production, Inc., Exhibit B, ¶ 35 (E. D. La. Nov. 15, 2012), available at <http://www.justice.gov/iso/opa/resources/43320121115143613990027.pdf> (\$2.394 billion to NFWF); Cooperation Guilty Plea Agreement, U.S. v. Transocean Deepwater, Inc., Exhibit B, ¶ 2 (E.D. La. Jan. 2013), <http://www.nfwf.org/gulf/Documents/transocean-plea-agreement%20p2.pdf> (\$150 million to NFWF).

<sup>17</sup> About National Fish & Wildlife Foundation, NFWF, <http://www.nfwf.org/whoware/Pages/home.aspx#.VmoCftKrTIU> (last visited Dec. 10, 2015).

restor[ing] barrier islands off the coast of Louisiana and/or...implement[ing] river diversion projects on the Mississippi and/or Atchafalaya Rivers...”<sup>18</sup> The remaining funds will be split among the other Gulf States for projects that “remedy harm to resources where there has been injury to, or destruction of, loss of, or loss of use of those resources resulting from the [*Deepwater Horizon*] oil spill.”<sup>19</sup>

To date, NFWF has approved 73 projects, at a cost of over \$480 million.<sup>20</sup>

In addition to these three main processes, there are other spill-related funding sources. This includes the National Academy of Sciences (NAS), which is receiving \$500 million over five years to establish a 30-year research program “focused on human health and environmental protection[,] including issues relating to offshore oil drilling” and to the production and transportation of hydrocarbons in the Gulf and the outer continental shelf.<sup>21</sup> The North American Wetlands Conservation Fund (NAWCF) is also receiving funding – \$100 million over five years for projects to restore and conserve wetlands in the Gulf or that would “otherwise... benefit migratory bird species and other wildlife and habitat affected by the [*Deepwater Horizon*] oil spill.”<sup>22</sup>

Given the focus of each of the spill-related processes, there is the potential for overlap – not only among the various processes, but also with many existing plans and programs.<sup>23</sup> This includes an overlap in purpose, as well as in the entities involved in implementation. This overlap points toward the importance of coordination, from development of plans, programs, and projects through funding and implementation.

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<sup>18</sup> Guilty Plea Agreement, U.S. v. BP Exploration & Production, Inc., Exhibit B, ¶ 37(b).

<sup>19</sup> *Id.* at Exhibit B, ¶ 37(a).

<sup>20</sup> Gulf Environmental Benefit Fund, NFWF, <http://www.nfwf.org/gulf/Pages/home.aspx> (last visited Dec. 10, 2015).

<sup>21</sup> Guilty Plea Agreement, U.S. v. BP Exploration & Production, Inc., Exhibit B-1, ¶ 4.

<sup>22</sup> *Id.* at ¶ 4(b)(i)(C).

<sup>23</sup> The overlap among the various restoration and recovery processes is explored in more detail in ENVIRONMENTAL LAW INSTITUTE, DEEPWATER HORIZON RESTORATION AND RECOVERY FUNDS: HOW MUCH, GOING WHERE, FOR WHAT? (May 2014), <http://eli-ocean.org/gulf/restoration-funding>.



### III. Methodology

This report identifies state plans (including regional plans) and state programs that may be important to the oil spill restoration and recovery processes.

It builds on the federal edition of our “Building Bridges” report, which focused on linking federal programs with the spill-related processes.<sup>24</sup> That report focused in particular on the opportunity created by the RESTORE Act, which allows Direct Component (Pot 1) and Spill Impact Component (Pot 3) funds – roughly 65% of the total funds – to be used as a non-federal match.<sup>25</sup> The report identified federal grant programs that require such a match and have goals and objectives similar to the RESTORE Act. States (and, in some states, local governments) could capitalize on the leveraging opportunity created by the Act to meet the match requirements, possibly allowing larger and/or more projects to be funded. In addition, the report identified a number of other federal programs that do not require a non-federal match, but could support coordination among the various existing and newly created restoration and recovery processes. The report identified 53 federal programs in total.

This report focuses on state plans (including regional plans) and state programs. They are important to consider for a number of reasons. These include:

- **Coordination:** it is essential that the spill-related processes are coordinated with state plans and programs. This will not only avoid duplication, but also maximize the impact of these various efforts. As the GoCoast 2020 Commission (an advisory body established to allocate Mississippi’s RESTORE Act funds) noted in its final report, “[b]y combining funding from different sources, some systems (groups of inter-related projects in a single location) that are too large for a single funding source can be completed.”<sup>26</sup> In addition, if the spill-related processes are coordinated with existing programs, funds from the spill-related processes may be used to fill gaps in funding that have been created by any misalignment in state and federal program funding cycles.
- **Informing Processes:** there are numerous existing state plans and programs. Many were developed after a robust process that included extensive stakeholder input.<sup>27</sup> Oil spill plans, programs, and projects could therefore build on these efforts.<sup>28</sup> In addition,

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<sup>24</sup> See Building Bridges: Federal Programs, *supra* note 4.

<sup>25</sup> See RESTORE Act, §§ 1603(t)(1)(N)(i), 1603(t)(3)(F)(i).

<sup>26</sup> Eco-Restoration, Go Coast 2020 (2013), *available at* [www.gocoast2020.com/eco-restoration](http://www.gocoast2020.com/eco-restoration).

<sup>27</sup> For example, as the NOAA RESTORE Act Science Program noted with respect to science documents in its draft Science Plan, “Numerous documents were developed in recent years that identified science needs for the Gulf of Mexico. Many of these documents were produced with extensive stakeholder input and in consultation with resource managers throughout the Gulf States” NOAA, RESTORE Act Draft Science Plan 8 (2014), *available at* [http://restoreactscienceprogram.noaa.gov/wp-content/uploads/2014/10/Draft\\_NOAARESTOREActSciencePlan\\_PublicReview\\_Final\\_10-20-14b.pdf](http://restoreactscienceprogram.noaa.gov/wp-content/uploads/2014/10/Draft_NOAARESTOREActSciencePlan_PublicReview_Final_10-20-14b.pdf).

<sup>28</sup> For instance, as explained in more detail below, Louisiana has expressed its intention to “implement[] restoration projects that are consistent with [its] Coastal Master Plan to the extent possible.” Oil Spill Restoration, CPRA, [www.coastal.la.gov/oil-spill-content/oil-spill-overview](http://www.coastal.la.gov/oil-spill-content/oil-spill-overview) (last visited Dec. 10, 2015). Indeed, the spill-related processes have already funded projects from the Coastal Master Plan. See, e.g., Mark Schleifstein, *BP Oil Spill*

certain oil spill processes give priority to existing plans and programs. For example, the RESTORE Act indicates that, when determining which projects and programs to include on a priority funding list for Council funds, the Council must “give highest priority to projects that address” at least one of four criteria. One of these criteria is “[p]rojects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources...of the Gulf Coast ecosystem.”<sup>29</sup>

We reviewed strategic and management plans for the Gulf states and the region, as well as funding, regulatory, and other programs for each of the Gulf states. Since there are numerous plans and programs, we used certain criteria to determine which ones to include. For **state plans** (including regional plans), we focused primarily on plans developed by governmental entities. We narrowed down those plans to include those that:

- Are intended to help guide the spill-related processes;
- Have similar goals or objectives as the spill-related processes;
- Focus on similar resources as the spill-related processes;
- Focus on similar geographic areas as the spill-related processes; and/or
- Could be considered “existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources...of the Gulf Coast ecosystem” for purposes of receiving funding priority from the Council (Pot 2).<sup>30</sup>

Since this report is focused on plans that could help guide the spill-related processes, we have not included any plans that are required by the oil spill processes. These include **multi-year implementation plans**, which must be developed before states (and, in some states, local governments) receive Direct Component (or “Pot 1”) funds, as well as **state expenditure plans**, which must be developed before states receive Spill Impact Component (or “Pot 3”) funds.<sup>31</sup> At the same time, we included plans even if they have been shelved since they may still provide guidance to the spill-related processes.

In narrowing down **state programs**, we focused on those that:

- Fund projects similar to those funded by the spill-related processes; and/or
- Provide rules, policies, guidelines, or information that may be important in planning and/or implementing spill-related projects.

Note that federal programs were generally not included.<sup>32</sup>

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*Trustees Approve \$627M for Restoration, including \$340M in Louisiana*, THE TIMES-PICAYUNE (Oct. 3, 2014), [www.nola.com/environment/index.ssf/2014/10/bp\\_deepwater\\_horizon\\_spill\\_tru.html](http://www.nola.com/environment/index.ssf/2014/10/bp_deepwater_horizon_spill_tru.html).

<sup>29</sup> RESTORE Act, § 1603(t)(2)(D)(iii)(III).

<sup>30</sup> *Id.*

<sup>31</sup> See RESTORE Act, §§ 1603(t)(1)(E)(iv), 1603(t)(3)(B)(i). You can track the status of multi-year implementation plans and state expenditure plans using our Public Participation Bulletin Board. Public Participation Bulletin Board, ELI, [eli-ocean.org/gulf/the-bulletin-board](http://eli-ocean.org/gulf/the-bulletin-board).

<sup>32</sup> Federal programs are reviewed in our Building Bridges: Federal Programs report.

While this report focuses on key plans and programs, there are numerous other ones that could be important to the spill-related processes. We have compiled many of these, as well as the ones highlighted in this report, in a new online resource called the “Gulf State Plans and Programs Search Tool.”<sup>33</sup> This tool provides links to more than 120 state plans (including regional plans) and state programs. It is sorted by:

- State (where more than one state is involved, it is grouped under “Regional”); and
- Plan or Program

For purposes of the Search Tool, we divided the plans and programs into different categories. “Plans” are divided into “Management Plans” and “Strategic Plans.” “Management Plans” are those that relate to management of a particular resource or geographic area. “Strategic Plans” are all other plans. When a plan includes specific project ideas, it is marked with an asterisk.

“Programs” are divided into two categories: “Funding Programs” and “Regulatory Programs.” Funding Programs are programs that provide funding for projects. Regulatory Programs are those that provide rules, policies, guidelines, and/or information that may be important for projects.

We intend the Search Tool to act as a living resource that can be modified and expanded as feedback is received and plans and programs develop.

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<sup>33</sup> Gulf State Plans and Programs Search Tool, ELI, <http://eli-ocean.org/gulf/tool/>.

## IV. Gulf State Plans and Programs

This report highlights key state (including regional) plans and state programs that could be linked to the spill-related processes. We have divided our analysis into six sections: the first section addresses regional plans and programs, and the other five sections address plans and programs in each of the Gulf states. In each section, we have included tables that summarize the plans and programs covered in that section.

### A. Regional Plans and Programs

#### i. Plans

Over the years, numerous regional plans have been developed for the Gulf. An overview of some key regional plans is provided in Table 2.<sup>34</sup>

**Table 2.** Regional Plans

Plan	Author	Purpose	Highlights
<b>Gulf of Mexico Regional Ecosystem Restoration Strategy (2011)</b>	Gulf Coast Ecosystem Restoration Task Force	“[T]o drive action and guide the long-term collaboration... necessary to...address... environmental degradation and to ensure a healthy... future for the Gulf” <sup>35</sup>	Strategy included four main goals to restore the Gulf, as well as numerous actions to help achieve those goals. <sup>36</sup>
<b>Gulf of Mexico Research Plan (2009)</b>	Gulf of Mexico Sea Grant College Programs	“[T]o identify priority research needs for the Gulf of Mexico through broad constituent input and to implement strategies to address those needs” <sup>37</sup>	Plan identifies five research themes for the Gulf, along with “17 top-tier...priorities.” <sup>38</sup>
<b>Governors’ Action Plan II (2009)</b>	Gulf of Mexico Alliance	To “set[] a course for actions designed to improve the health of coastal ecosystems and economies of the Gulf...” <sup>39</sup>	Five-year plan sets out six priorities, with focus areas and action steps for each priority.

<sup>34</sup> Note that the Building Bridges: Federal Programs report did not review plans (only federal programs). We therefore review key regional plans here.

<sup>35</sup> Gulf Coast Ecosystem Restoration Task Force, Gulf Coast Ecosystem Restoration Strategy ES-3 (2011), available at [http://archive.epa.gov/gulfcoasttaskforce/web/pdf/gulfcoastreport\\_full\\_12-04\\_508-1.pdf](http://archive.epa.gov/gulfcoasttaskforce/web/pdf/gulfcoastreport_full_12-04_508-1.pdf).

<sup>36</sup> See *id.* at 3-4.

<sup>37</sup> S.H. Sempier et al., Gulf State Sea Grants, Gulf of Mexico Research Plan ES-1 (2009), available at <http://masgc.org/assets/images/GMRP.pdf>.

<sup>38</sup> *Id.* at 1.

<sup>39</sup> Gulf of Mexico Alliance, Governors’ Action Plan II 7 (2009), available at [www.gulfofmexicoalliance.org/pdfs/ap2\\_final2.pdf](http://www.gulfofmexicoalliance.org/pdfs/ap2_final2.pdf).

<b>Vision for a Healthy Gulf of Mexico Watershed</b> (2013)	U.S. Fish & Wildlife Service	“[T]o serve as a catalyst for discussions with partners on how and where to focus [their] collective restoration efforts in the wake of the [ <i>Deepwater Horizon</i> ] oil spill” <sup>40</sup>	Vision sets out eight strategies and 16 geographic areas for conservation, with the goal of “guid[ing] collaborative conservation planning and delivery for large-scale Gulf restoration with the states, local communities, other federal agencies and the entire conservation network...” <sup>41</sup>
<b>Gulf Hypoxia Action Plan 2008</b> (2008)	Mississippi River/Gulf of Mexico Watershed Nutrient Task Force	“[T]o track progress, update the science, and adapt actions to improve the effectiveness of the efforts throughout the [Mississippi River] Basin” so as “to reduce the size and impact of the Gulf hypoxic zone and improve water quality in the Basin” <sup>42</sup>	Plan sets out 11 actions that are divided into two main categories: (1) actions to accelerate the reduction of nitrogen and phosphorus; <sup>43</sup> and (2) actions to advance the science, track progress, and raise awareness. <sup>44</sup>
<b>A Strategy for a Healthy Gulf of Mexico: Resilience through Ecosystem Restoration</b> (2015)	NOAA	To “identif[y] general priorities and actions... to help restore the Gulf ecosystem and economy and extend [NOAA’s] commitment to a Gulf-wide, ecosystem-scale approach to recovery and restoration” <sup>45</sup>	Strategy outlines four objectives to achieve goal of “realiz[ing] a healthy, functional ecosystem that sustains resilient and thriving marine and coastal resources, communities and economies in the Gulf...” NOAA emphasizes that the goal and objectives “cannot be achieved by NOAA alone, but...will require a robust collaborative effort...” <sup>46</sup>
<b>Other Regional Plans in the Search Tool</b>			
<ul style="list-style-type: none"> <li>• A National Strategy to Restore Coastal and Estuarine Habitat</li> <li>• Gulf Ecological Management Site (GEMS) Program</li> <li>• Gulf of Mexico Ecosystem Science Assessment and Needs</li> <li>• Southeast Aquatic Habitat Plan</li> </ul>			

<sup>40</sup> U.S. Fish & Wildlife Service, *Vision for a Healthy Gulf of Mexico Watershed 4* (2013), available at [www.fws.gov/gulfrestoration/pdf/VisionDocument.pdf](http://www.fws.gov/gulfrestoration/pdf/VisionDocument.pdf).

<sup>41</sup> *Id.*

<sup>42</sup> See EPA, *Gulf Hypoxia Action Plan 4* (2008), available at [http://www.epa.gov/sites/production/files/2015-03/documents/2008\\_8\\_28\\_msbasin\\_ghap2008\\_update082608.pdf](http://www.epa.gov/sites/production/files/2015-03/documents/2008_8_28_msbasin_ghap2008_update082608.pdf).

<sup>43</sup> *Id.* at 29-39.

<sup>44</sup> *Id.* at 42-59.

<sup>45</sup> NOAA, *A Strategy for a Healthy Gulf of Mexico: Resilience through Ecosystem Restoration 2* (2015), available at [www.habitat.noaa.gov/pdf/healthy\\_gulf\\_of\\_mexico\\_april2015.pdf](http://www.habitat.noaa.gov/pdf/healthy_gulf_of_mexico_april2015.pdf).

<sup>46</sup> *Id.* at 2-4.

As the spill-related processes move forward, it will be important that region-wide plans are taken into account, particularly for those processes focused on regional recovery. This includes the Council (or “Pot 2”), whose funds are to be used to, among other things, carry out a plan to restore and protect Gulf natural resources.<sup>47</sup> In its Initial Comprehensive Plan, the Council noted that “development and implementation of [the plan] will be an iterative process leading to a comprehensive, region-wide, multi-objective restoration plan based on the best available science.”<sup>48</sup> Pre-existing regional plans could therefore play a role in the allocation of Council funds.<sup>49</sup>

One regional plan that is already playing a role is the **Gulf of Mexico Regional Ecosystem Restoration Strategy** that was developed by the Gulf Coast Ecosystem Restoration Task Force (Task Force). The Task Force, which included federal and state representatives, was established by Executive Order in October 2010,<sup>50</sup> with the purpose of “coordinat[ing] intergovernmental responsibilities, planning, and exchange of information so as to better implement Gulf Coast ecosystem restoration and...facilitate appropriate accountability and support throughout the restoration process.”<sup>51</sup> One of the functions of the Task Force was to develop a strategy that “propose[d] a Gulf Coast ecosystem restoration agenda...”<sup>52</sup> That strategy was released in December 2011. It included four main goals to restore the Gulf (restore and conserve habitat; restore water quality; replenish and protect living coastal and marine resources; and enhance community resilience), as well as numerous actions to help achieve those goals.<sup>53</sup>

The RESTORE Act requires the Council to incorporate the Task Force’s strategy and other recommendations into its own plan. More particularly:

- The Council’s proposed plan must “include and incorporate the findings and information prepared by the [Task Force].”<sup>54</sup>
- The Council’s Initial Comprehensive Plan must include “such provisions as are necessary to fully incorporate...the strategy, projects, and programs recommended by the [Task Force].”<sup>55</sup>

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<sup>47</sup> See RESTORE Act, § 1603(t)(2)(D)(ii)(I).

<sup>48</sup> Gulf Coast Ecosystem Restoration Council, Initial Comprehensive Plan 2-4 (2013), available at [www.restorethegulf.gov/sites/default/files/Initial%20Comprehensive%20Plan%20Aug%202013.pdf](http://www.restorethegulf.gov/sites/default/files/Initial%20Comprehensive%20Plan%20Aug%202013.pdf).

<sup>49</sup> Indeed, in its Initial Comprehensive Plan, the Council noted that it “reviewed numerous existing local, regional, state, and federal plans to inform the development of [the] Plan.” *Id.* at 1.

<sup>50</sup> Executive Order 13554, Establishing the Gulf Coast Ecosystem Restoration Task Force (Oct. 5, 2010), § 1.

<sup>51</sup> Gulf Coast Ecosystem Restoration Strategy, *supra* note 35, at 55.

<sup>52</sup> Executive Order 13554, § 4(a). See also *id.* at § 3(c).

<sup>53</sup> See Gulf Coast Ecosystem Restoration Strategy, *supra* note 35, at 3-4. For example, under the “Restore and Conserve Habitat” goal, major actions include considering social, environmental, and economic outcomes of river management decisions, improving sediment management practices, maximizing beneficial use, restoring and preserving more natural river processes, and expanding the network of state, federal, and private conservation areas, among other things. See *id.* at 22–31.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

Indeed, in its Initial Comprehensive Plan, the Council notes that the plan “incorporates recommendations and findings of the [Task Force’s strategy]...”<sup>56</sup>

Regional plans are also playing a role in other spill-related processes. This includes the NOAA RESTORE Act Science Program. In its Science Plan, the Science Program notes that it drew on, among other things, “prior science and research needs assessments for the Gulf of Mexico ecosystem” in establishing its long-term research priorities.<sup>57</sup> One of the documents referenced is the **Gulf of Mexico Research Plan**, which was developed by the four Gulf Sea Grant programs.<sup>58</sup> That plan identifies five research themes for the Gulf, along with 17 top-tier priorities.<sup>59</sup> The Science Plan cites the research plan extensively in identifying one of its own priorities: “develop[ing], identify[ing], and validat[ing] system-wide indicators of environmental and socioeconomic conditions.”<sup>60</sup>

Other regional plans are also referenced in the Science Plan. One of these is the Gulf of Mexico Alliance’s **Governors’ Action Plan II** – a five-year plan that outlines actions to improve the health of Gulf coast ecosystems and economies.<sup>61</sup> The U.S. Fish and Wildlife Service’s **Vision for a Healthy Gulf of Mexico Watershed** is also cited. That document sets out eight strategies and 16 geographic areas for conservation, with the goal of “guid[ing] collaborative conservation planning and delivery for large-scale Gulf restoration...”<sup>62</sup> This vision – and other region-wide plans – are therefore playing a role in the spill-related processes.

Aside from these, there are numerous other regional plans that have been developed over the years. This includes the **Gulf Hypoxia Action Plan 2008**, drafted by the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, which sets out 11 actions that are intended “to reduce the size and impact of the Gulf hypoxic zone and improve water quality in the [Mississippi River] Basin.”<sup>63</sup> Another regional plan is **A Strategy for a Healthy Gulf of Mexico**, which was drafted by NOAA. Among other things, the Strategy outlines four objectives to achieve the goal of “realiz[ing] a healthy, functional ecosystem that sustains resilient and thriving marine and coastal resources, communities and economies in the Gulf...” NOAA emphasizes that the goal and objectives “cannot be achieved by NOAA alone, but...will require a robust collaborative effort...”<sup>64</sup> This strategy, along with other regional plans, could play a role in coordinating and informing the spill-related processes.

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<sup>56</sup> Initial Comprehensive Plan, *supra* note 48, at 2.

<sup>57</sup> NOAA RESTORE Act Draft Science Plan, *supra* note 27, at 9.

<sup>58</sup> Mississippi and Alabama have a joint program.

<sup>59</sup> The five research themes are: Ecosystem Health Indicators; Freshwater Input and Hydrology; Habitats and Living Resources; Sea Level Change, Subsidence, and Storm Surge; and Water Quality and Nutrients. See Gulf of Mexico Research Plan, *supra* note 37, at 1. Note that an interim report was published in 2013. See Gulf of Mexico Sea Grant Programs, 2013 Gulf of Mexico Research Plan Interim Report (2013), <http://masgc.org/assets/uploads/publications/642/masgp-13-025.pdf>.

<sup>60</sup> NOAA RESTORE Act Draft Science Plan, *supra* note 27, at 27.

<sup>61</sup> Governor’s Action Plan II, *supra* note 39.

<sup>62</sup> Vision for a Healthy Gulf of Mexico Watershed, *supra* note 40, at 4.

<sup>63</sup> Gulf Hypoxia Action Plan, *supra* note 42, at 4. See also *id.* at 29-39, 42-59.

<sup>64</sup> A Strategy for a Healthy Gulf of Mexico, *supra* note 45, at 2.

## ii. Programs

There are numerous regional programs that could play a role in the spill-related processes. These are reviewed in ELI’s “Building Bridges: Federal Programs” report and are not duplicated here.<sup>65</sup> The Executive Summary of that report lists and describes each of the programs, along with any applicable match requirements.<sup>66</sup>

## B. Alabama

Even before the *Deepwater Horizon* oil spill, Alabama’s coast was facing multiple challenges, including threats from development and pollution.<sup>67</sup> The *Deepwater Horizon* oil spill has only added to those challenges. As decisions are made about how spill-related funds should be spent, it will be important that the state’s existing plans and programs be taken into account.

### i. Plans

Over the years, a number of state plans have been drafted. An overview of some of the key plans is provided in Table 3.

**Table 3.** Alabama Plans

Plan	Author	Purpose	Highlights
<b>A Roadmap to Resilience (2010)</b>	Coastal Recovery Commission of Alabama	To “guide Alabama, regional, and national leaders in implementing policies that protect, preserve and enhance the assets that make Alabama’s Gulf Coast so important...” <sup>68</sup>	The Roadmap addresses a number of broad issues, including a healthy environment, healthy society, and healthy economy.
<b>Weeks Bay National Estuarine Research Reserve Management Plan (2007)</b>	Weeks Bay NERR staff and Alabama Department of Conservation and Natural Resources	To “provide[] a framework to guide the activities of the Reserve” <sup>69</sup>	The plan sets out the goals of the Reserve, as well as objectives and actions to achieve those goals. The objectives and actions are grouped under different programs (e.g. research and

<sup>65</sup> See Building Bridges: Federal Programs, *supra* note 4.

<sup>66</sup> Environmental Law Institute, Building Bridges: Federal Programs (Executive Summary) (2014), <http://eli-ocean.org/wp-content/blogs.dir/2/files/Building-Bridges-Federal-Summary.pdf>.

<sup>67</sup> See, e.g., Weeks Bay NERR Staff & Alabama Department of Conservation and Natural Resources, Weeks Bay National Estuarine Research Reserve Management Plan 19 (2007), *available at* <http://www.weeksbay.org/mgmt/WeeksBayNERRManagementPlan.pdf>.

<sup>68</sup> Alabama Coastal Recovery Commission, A Roadmap to Resilience: Towards A Healthier Environment, Society and Economy for Coastal Alabama 1.15 (2010), *available at* <http://crcalabama.org/wp-content/uploads/2011/02/CRC-Report-02-2011.pdf>.

<sup>69</sup> Weeks Bay National Estuarine Research Reserve Management Plan, *supra* note 67, at ii.



			monitoring, public access, education). <sup>70</sup>
<b>Comprehensive Conservation &amp; Management Plan for Alabama's Estuaries &amp; Coast</b> (2013)	Mobile Bay National Estuary Program	To set out five-year strategies related to Alabama's estuaries and coast <sup>71</sup>	The plan sets out strategies in four areas: (1) estuary status and trends; (2) ecosystem restoration and protection; (3) technical assistance and capacity building; and (4) building community stewardship. <sup>72</sup>
<b>Other Alabama Plans in the Search Tool</b>			
<ul style="list-style-type: none"> <li>• Alabama Comprehensive Wildlife Conservation Strategy</li> <li>• Coastal Alabama Regional Strategic Plan (forthcoming)</li> </ul>			

One plan drafted after the oil spill is **A Roadmap to Resilience**. The plan was drafted by the Coastal Recovery Commission of Alabama in order to “guide Alabama, regional, and national leaders in implementing policies that protect, preserve and enhance the assets that make Alabama’s Gulf Coast so important not only to Alabamians, but to the Gulf region and the nation as a whole.”<sup>73</sup> The Roadmap addresses a number of broad issues, including a healthy environment, healthy society, and healthy economy. In regards to a healthy environment, the Roadmap “recommends five major actions to substantially increase the area’s resiliency[,]” from restoring barrier islands and beaches to establishing a coastal advisory council.<sup>74</sup> The Roadmap was released in 2010.

There are also a number of other plans that have been drafted over the years. These include the **Weeks Bay National Estuarine Research Reserve Management Plan** and the Mobile Bay National Estuary Program’s **Comprehensive Conservation & Management Plan for Alabama’s Estuaries & Coast**.<sup>75</sup> These plans could be important in coordination and informing the spill-related processes.

## ii. Programs

While there are a number of programs in Alabama that may be important to consider as the spill-related processes move forward, the key program in the state is the Forever Wild Land Trust. An overview of the program is provided in Table 4.

<sup>70</sup> See *id.* at 7, 21-25.

<sup>71</sup> Mobile Bay National Estuary Program, *Comprehensive Conservation & Management Plan for Alabama’s Estuaries & Coast 2013-2018* (2013), available at [http://www.mobilebaynep.com/what\\_we\\_do/ccmp/](http://www.mobilebaynep.com/what_we_do/ccmp/).

<sup>72</sup> *Id.* at 122-140.

<sup>73</sup> *A Roadmap to Resilience*, *supra* note 68, at 1.15.

<sup>74</sup> *Id.* at 5.11-5.12.

<sup>75</sup> See *Weeks Bay National Estuarine Research Reserve Management Plan*, *supra* note 67; *Comprehensive Conservation & Management Plan for Alabama’s Estuaries & Coast 2013-2018*, *supra* note 71.

**Table 4. Alabama Programs**

Plan	Author	Purpose	Highlights
<b>Forever Wild Land Trust</b>	Alabama Department of Conservation and Natural Resources	To acquire “natural lands and waters that are of environmental or recreational importance.” <sup>76</sup>	“As of 2014, the program ha[d] acquired 111 tracts of wildlands and water areas[,]” totaling more than 240,000 acres. <sup>77</sup>
Other Alabama Programs in the Search Tool			
Funding Programs		Regulatory Programs	
<ul style="list-style-type: none"> <li>• Agricultural &amp; Conservation Development Commission Program</li> <li>• Alabama Water Programs and State Revolving Fund</li> </ul>		<ul style="list-style-type: none"> <li>• Alabama Coastal Area Management Program</li> <li>• Artificial Reef Program</li> <li>• Clean Waters Initiative</li> <li>• Coastal Alabama Beach Monitoring Program</li> <li>• Natural Heritage Program</li> <li>• TREASURE Forest Program</li> </ul>	

The **Forever Wild Land Trust** was established in 1992 in order to acquire “natural lands and waters that are of environmental or recreational importance.”<sup>78</sup> Forever Wild has made numerous acquisitions over the years: “[a]s of 2014, the program ha[d] acquired 111 tracts of wildlands and water areas[,]” totaling more than 240,000 acres.<sup>79</sup> The Alabama Department of Conservation and Natural Resources (ADCNR) administers the program.<sup>80</sup>

Forever Wild receives funding from a variety of sources. The three main sources are: (1) natural gas royalties;<sup>81</sup> (2) Forever Wild license plate purchases;<sup>82</sup> and (3) appropriations. In addition, Forever Wild has secured more than \$41 million in funding from federal grant programs, while providing the matching funds required by these programs.<sup>83</sup> This has “effectively increase[d] the purchasing power of Forever Wild, and ha[s] resulted in the acquisition of an additional 36,414 acres that would otherwise not have been bought.”<sup>84</sup>

<sup>76</sup> Alabama Constitution, Amendment 543, § 1(c); *see also* Forever Wild Land Trust, ENCYCLOPEDIA OF ALABAMA, [www.encyclopediaofalabama.org/article/h-1125](http://www.encyclopediaofalabama.org/article/h-1125) (last visited Dec. 10, 2015).

<sup>77</sup> Forever Wild Land Trust, *supra* note 76.

<sup>78</sup> Alabama Constitution, Amendment 543, § 1(c); *see also* Forever Wild Land Trust, *supra* note 76.

<sup>79</sup> Forever Wild Land Trust, *supra* note 76.

<sup>80</sup> *Id.*

<sup>81</sup> The program receives 10% of distributed interest from the royalties, capped at \$15 million per year. *See* How We Are Funded, FOREVER WILD LAND TRUST, <http://alabamaforeverwild.com/index.php/about-us/how-we-are-funded> (last visited Mar. 26, 2015).

<sup>82</sup> The program receives \$42.50 of every \$50 purchase. *Id.*

<sup>83</sup> As a 2009 report on the program noted: “[...]o other state funding sources exist to replace Alabama’s ability to match these federal dollars. Without Alabama’s Forever Wild funds, we would be unable to apply for and secure federal support under these numerous federal land acquisition programs.” Forever Wild Land Trust, Interim Report to the Citizens of Alabama 1992-2009 21 (2009), *available at* [www.auburn.edu/projects/sustainability/website/pdf/foreverwildreport.pdf](http://www.auburn.edu/projects/sustainability/website/pdf/foreverwildreport.pdf).

<sup>84</sup> *Id.* at 20.

Forever Wild has partnered with state and local government, as well as non-governmental organizations in its work.<sup>85</sup> For example, Forever Wild, Baldwin County, and the state partnered on a project “to create a 621-acre waterfront park with boat launches in Baldwin County,” with Forever Wild contributing \$3 million and the local and state governments contributing \$7 million.<sup>86</sup> This partnership approach, along with the program’s many acquisitions over the years, may be important to consider as the spill-funded processes move forward.

Other state programs may also be important to consider. This includes the **Artificial Reef Program**, which provides rules for constructing artificial reefs.<sup>87</sup> The program will likely be important to any artificial reef project implemented in the state. Other examples include the **Natural Heritage Program**, which “collect[s] and manag[es] data about the status and distribution of species and ecosystems of conservation concern,”<sup>88</sup> and the **Alabama Coastal Area Management Program**, whose “enforceable policies...regulate various activities” in the coastal area.<sup>89</sup> Depending on the spill-related project at issue, it may need to coordinate with one or more of these programs.

## C. Florida

Florida has 770 miles of coastline bordering the Gulf of Mexico.<sup>90</sup> The state “experienced the first [*Deepwater Horizon*] oil spill impacts on June 4, 2010,”<sup>91</sup> when it was confirmed that there were “tar patties and tar balls...in widely scattered areas east of Pensacola.”<sup>92</sup> Since then, hundreds of millions of dollars have been obligated to projects in the state through the spill-related processes.<sup>93</sup> Many more projects are expected.

### i. Plans

A number of state plans have been drafted over the years. Table 5 provides an overview of key plans in the state.

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<sup>85</sup> See *id.* at 23-24; see also Thomas Spencer, *Forever Wild Gives Go-ahead to Projects in Baldwin and Jackson Counties*, AL.COM (June 22, 2012), [http://blog.al.com/spotnews/2012/06/forever\\_wild\\_gives\\_go-ahead\\_to.html](http://blog.al.com/spotnews/2012/06/forever_wild_gives_go-ahead_to.html).

<sup>86</sup> See *Forever Wild Gives Go-ahead to Projects in Baldwin and Jackson Counties*, *supra* note 85.

<sup>87</sup> See Construction Protocol, OUTDOOR ALABAMA, [www.outdooralabama.com/construction-protocol](http://www.outdooralabama.com/construction-protocol) (last visited Dec. 23, 2015).

<sup>88</sup> Alabama Natural Heritage Program, AUBURN UNIVERSITY, <http://www.alnhp.org/about.php> (last visited Jan. 5, 2016).

<sup>89</sup> Alabama Coastal Area Management Program, ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, [www.adem.state.al.us/programs/coastal/default.cnt](http://www.adem.state.al.us/programs/coastal/default.cnt) (last visited Jan. 5, 2016).

<sup>90</sup> Gulf of Mexico Fact Sheet, NOAA, [https://www.st.nmfs.noaa.gov/st5/publication/communities/Gulf\\_Summary\\_Communities.pdf](https://www.st.nmfs.noaa.gov/st5/publication/communities/Gulf_Summary_Communities.pdf) (last visited Dec. 10, 2015).

<sup>91</sup> Deepwater Horizon Response, Background, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, [www.dep.state.fl.us/deepwaterhorizon/about\\_response.htm](http://www.dep.state.fl.us/deepwaterhorizon/about_response.htm) (last visited Jan. 6, 2016).

<sup>92</sup> Press Release, Florida Department of Environmental Protection, Florida Deepwater Horizon Response June 4, 2010 (June 4, 2010), *available at* [www.dep.state.fl.us/deepwaterhorizon/files/response/0610/deepwater\\_response\\_060410.pdf](http://www.dep.state.fl.us/deepwaterhorizon/files/response/0610/deepwater_response_060410.pdf).

<sup>93</sup> See Restoration Projects Database, ELI, [eli-ocean.org/gulf/restoration-projects-database](http://eli-ocean.org/gulf/restoration-projects-database).

**Table 5. Florida Plans**

Plan	Author	Purpose	Highlights
<b>Southwest Florida Regional Ecosystem Restoration Plan</b> (2013)	Joint Florida National Estuary Programs	To set out “a regional vision for restoration needs” in southwest Florida <sup>94</sup>	The plan includes “a 3-year priority plan, a 10-year plan and [a] list of project[s] recommended for other funding sources.” It “was developed to advise the [Council] and the State of Florida...as they make Gulf-wide decisions under the [RESTORE Act].” <sup>95</sup>
<b>Florida Gulf Environmental Benefit Fund Restoration Strategy</b> (forthcoming)	Florida Fish and Wildlife Conservation Commission and others	To develop “an overarching framework for restoring and conserving the natural resources of Florida’s Gulf Coast through the Gulf Environmental Benefit Fund” <sup>96</sup>	The strategy will focus on six watersheds, and will involve technical experts and the public. <sup>97</sup>
<b>Apalachicola National Estuarine Research Reserve Management Plan</b> (2014)	Florida Department of Environmental Protection	To “describe[] natural and cultural resources within the boundaries of ANERR, identif[y] priority issues...to adequately protect these resources, and the goals, objectives and strategies necessary to support ANERR’s mission” <sup>98</sup>	Six priority issues are identified in the plan: public use, habitat change, land use changes in the watershed, loss of cultural resources, impacts of regional and global processes, and community involvement. <sup>99</sup>

<sup>94</sup> Joint Florida National Estuary Programs, Southwest Florida Regional Ecosystem Restoration Plan 1 (2013), available at <http://www.longboatkey.org/docview.aspx?doctype=fd&docid=35329>.

<sup>95</sup> *Id.* at 1.

<sup>96</sup> NFWF, Florida Gulf Environmental Benefit Fund Restoration Strategy (2015), [www.nfwf.org/gulf/Documents/fl-restoration%20planning-15oc.pdf](http://www.nfwf.org/gulf/Documents/fl-restoration%20planning-15oc.pdf).

<sup>97</sup> *Id.*

<sup>98</sup> Florida Department of Environmental Protection, Apalachicola National Estuarine Research Reserve Management Plan, Executive Summary (2014), available at [www.dep.state.fl.us/coastal/sites/apalachicola/pub/ANERR\\_Management\\_Plan.pdf](http://www.dep.state.fl.us/coastal/sites/apalachicola/pub/ANERR_Management_Plan.pdf).

<sup>99</sup> *Id.*

### Other Florida Plans in the Search Tool

- A Comprehensive Conservation and Management Plan for the Greater Charlotte Harbor Watershed from Venice to Bonita Springs to Winter Haven
- Comprehensive Conservation and Management Plan for Sarasota Bay
- Comprehensive Conservation and Management Plan for Tampa Bay
- Rookery Bay National Estuarine Research Reserve Management Plan
- Southwest Florida Coral Reef Initiative Plan

One of the key plans drafted after the spill was the **Southwest Florida Regional Ecosystem Restoration Plan**, which sets out “a regional vision for restoration needs” in southwest Florida.<sup>100</sup> The plan was developed by the Tampa Bay, Sarasota Bay, and Charlotte Harbor National Estuary Programs, and includes “a 3-year priority plan, a 10-year plan and [a] list of project[s] recommended for other funding sources.”<sup>101</sup> The three-year plan alone identifies 128 projects. As noted in the plan, it was intended that the plan “advise” the Council and the state of Florida “as they make Gulf-wide decisions under the [RESTORE Act].”<sup>102</sup> Aside from the RESTORE Act, this plan could also inform the other spill-related processes, particularly in project selection.

Another plan that is designed to inform a spill-related process is the **Florida Gulf Environmental Benefit Fund Restoration Strategy**. This is a “planning effort” that is being funded through NFWF’s Gulf Environmental Benefit Fund (GEBF).<sup>103</sup> It is aimed at developing “an overarching framework for restoring and conserving the natural resources of Florida’s Gulf Coast through the [GEBF][,]” and “will identify and develop priority restoration projects for funding consideration under the GEBF.”<sup>104</sup> The strategy will focus on six watersheds, and will involve technical experts and the public.<sup>105</sup> Since Florida will receive \$356 million through the GEBF, this strategy could have important implications for natural resource restoration in the state. It could also provide important information and guidance to the other spill-related processes.

Other state plans could also be important. This includes the **Apalachicola National Estuarine Research Reserve Management Plan**, which “describes natural and cultural resources within the boundaries of ANERR, identifies priority issues...to adequately protect these resources, and the goals, objectives and strategies necessary to support ANERR’s mission...”<sup>106</sup> Depending on the project at issue, this plan could play an important role in developing and implementing the project.

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<sup>100</sup> Southwest Florida Regional Ecosystem Restoration Plan, *supra* note 94, at 1.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> Press Release, NFWF, NFWF to Support Development of Florida Gulf Environmental Benefit Fund Restoration Strategy (Apr. 27, 2015), [www.nfwf.org/whoweare/mediacenter/pr/Pages/FL-GEBF-Strategy-PR-4-27-15.aspx#.VcUGh\\_m4Jay](http://www.nfwf.org/whoweare/mediacenter/pr/Pages/FL-GEBF-Strategy-PR-4-27-15.aspx#.VcUGh_m4Jay).

<sup>104</sup> Florida Gulf Environmental Benefit Fund Restoration Strategy, *supra* note 96.

<sup>105</sup> *Id.*

<sup>106</sup> Apalachicola National Estuarine Research Reserve Management Plan, *supra* note 98.

## ii. Programs

Florida has numerous programs, many of which could be important to consider as the spill-related processes move forward. Some of the key programs are summarized in Table 6.

**Table 6.** Florida Programs

Program	Lead Entity	Purpose	Highlights
<b>Florida Forever</b>	Florida Department of Environmental Protection	“[T]o conserve the state’s natural and cultural heritage” <sup>107</sup>	Since July 2001, Florida Forever has acquired more than 700,000 acres of land at a cost of nearly \$3 billion. <sup>108</sup>
<b>Florida Communities Trust</b>	Florida Department of Environmental Protection	To “provide[] funding to local governments and non-profit organizations to assist them with their local land conservation efforts” through, among other things, the acquisition of “lands for recreation, open spaces and working waterfronts” <sup>109</sup>	Title to the land is held by the grantee, who is “responsible for land stewardship and implementing a formal management plan [that] must be approved by [the Trust].” The program is funded by Florida Forever. <sup>110</sup>
<b>Local Government Land Acquisition Programs</b>	Various local governments	To acquire land for conservation and other purposes <sup>111</sup>	“Local governments in Florida have raised more than \$2 billion and have been responsible for the purchase of approximately 375,000 acres of conservation and resource-based recreation lands...” <sup>112</sup>
<b>Coastal Partnership Initiative</b>	Florida Department of Environmental Protection	“[T]o promote the protection and effective management of Florida’s coastal resources” <sup>113</sup>	The Initiative focuses on four main priorities: resilient communities, coastal resource stewardship, access to coastal

<sup>107</sup> Florida Forever, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, [www.dep.state.fl.us/lands/fl\\_forever.htm](http://www.dep.state.fl.us/lands/fl_forever.htm) (last visited Aug. 12, 2015).

<sup>108</sup> *Id.*

<sup>109</sup> Florida Department of Environmental Protection, Florida Communities Trust Annual Report, Fiscal Year 2013-2014, 4, 5 (Sept. 30, 2014), *available at* [www.dep.state.fl.us/lands/fl\\_communities\\_trust/parksandopenspace/AnnualReport\\_1314.pdf](http://www.dep.state.fl.us/lands/fl_communities_trust/parksandopenspace/AnnualReport_1314.pdf).

<sup>110</sup> *Id.* at 5.

<sup>111</sup> See J. Farr & O.G. Brock, Florida’s Landmark Programs for Conservation and Recreation Land Acquisition, 15 (2006), [www.dep.state.fl.us/lands/files/Florida\\_LandAcquisition.pdf](http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf) (noting that “[l]ocal governments...have been responsible for the purchase of approximately 375,000 acres of conservation and resource-based recreation lands...”).

<sup>112</sup> *Id.* Note that this quote is taken from a 2006 article and numbers may be out of date.

<sup>113</sup> Coastal Partnership Initiative, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, [www.dep.state.fl.us/cmp/grants/fcpmgrants.htm](http://www.dep.state.fl.us/cmp/grants/fcpmgrants.htm) (last visited Dec. 10, 2015).

Program	Lead Entity	Purpose	Highlights
			resources, and working waterfronts. <sup>114</sup>
<b>Beach Management Funding Assistance Program</b>	Florida Department of Environmental Protection	To work with all levels of government “to achieve the protection, preservation and restoration of the coastal sandy beach resources of the state” <sup>115</sup>	The program funds up to 50% of local governments’ costs for shore protection projects. Since 1998, the state has contributed almost \$627 million to these projects. <sup>116</sup>
Other Florida Programs in the Search Tool			
Funding Programs		Regulatory Programs	
<ul style="list-style-type: none"> <li>• Florida Water Programs and State Revolving Fund</li> <li>• Florida Recreation Development Assistance Program</li> <li>• Landowner Assistance Program</li> <li>• Rural and Family Lands Protection Program</li> <li>• Surface Water Improvement and Management Program (SWIM)</li> <li>• Wildlife Legacy Initiative</li> </ul>		<ul style="list-style-type: none"> <li>• Artificial Reef Program</li> <li>• Bird Conservation Initiative</li> <li>• Coral Reef Conservation Program</li> <li>• Florida Aquatic Preserve Program</li> <li>• Florida Coastal Management Program</li> <li>• Florida Invasive Species Partnership</li> <li>• Forest Stewardship Program</li> <li>• Freshwater Management Programs</li> <li>• Wetlands Mitigation Program</li> </ul>	

**Florida Forever** is the “premier conservation and recreation lands acquisition program” in the state.<sup>117</sup> Since July 2001, Florida Forever has acquired more than 700,000 acres of land at a cost of nearly \$3 billion.<sup>118</sup> When funds are appropriated, the Department of Environmental Protection distributes them to state agencies and programs to make land purchases.<sup>119</sup> Some of the funds are distributed to the **Florida Communities Trust** (another funding program), where 75% of the funds used to acquire land must be matched 1:1 by local governments.<sup>120</sup> Given the important role that Florida Forever plays in acquiring land in the state, it may be important to consider as the spill-related processes move forward.

The same can be said for the numerous land acquisition programs in place at the local level. As a 2006 article noted, 29 Florida counties (out of 67), eight municipalities, and one water authority “ha[d] developed their own local land acquisition programs.”<sup>121</sup> That article went on to note that “[m]uch of the incentive for these programs has come from the ability of local governments to receive matching funds from state programs like [Florida Forever and Florida

<sup>114</sup>

*Id.*

<sup>115</sup>

Beach Management Funding Assistance Program, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, [www.dep.state.fl.us/beaches/programs/becp/](http://www.dep.state.fl.us/beaches/programs/becp/) (last visited Aug. 14, 2015).

<sup>116</sup>

*Id.*

<sup>117</sup>

Florida Forever, *supra* note 107.

<sup>118</sup>

*Id.*

<sup>119</sup>

*Id.*

<sup>120</sup>

Fla. Stat. § 259.105(3)(c).

<sup>121</sup>

Florida’s Landmark Programs for Conservation and Recreation Land Acquisition, *supra* note 111, at 14.

Communities Trust].”<sup>122</sup> As of the writing of the article, local governments had “raised more than \$2 billion and ha[d] been responsible for the purchase of approximately 375,000 acres of conservation and resource-based recreation lands...”<sup>123</sup> Local programs therefore play a significant role in acquiring land in the state.

Another program that may be important to consider as the spill-related processes move forward is the **Coastal Partnership Initiative**.<sup>124</sup> This program is administered through the Florida Coastal Management Program, with funding provided by NOAA. Its purpose is “to promote the protection and effective management of Florida’s coastal resources in four specific priority areas:” resilient communities, coastal resource stewardship, access to coastal resources, and working waterfronts.<sup>125</sup> Eligible entities, which must provide a 1:1 non-federal match, are “Florida’s 35 coastal counties and all municipalities within their boundaries that are required to include a coastal element in their comprehensive plan.”<sup>126</sup> Other entities (e.g. non-profits) are allowed to apply if they partner with an eligible local government. Some of the projects that have been funded under the program, including restoring wetlands and dunes, are similar to those that have been funded by the spill-related processes.

Another program that funds projects similar to those funded by the spill-related processes is the **Beach Management Funding Assistance Program**. The program funds up to 50% of local governments’ costs for “shore protection and preservation activities located on the Gulf of Mexico, Atlantic Ocean, or Straits of Florida.”<sup>127</sup> Projects that are eligible “include beach restoration and nourishment activities, project design and engineering studies, environmental studies and monitoring, inlet management planning, inlet sand transfer, dune restoration and protection activities, and other beach erosion prevention related activities...”<sup>128</sup> Since 1998, the state has contributed almost \$627 million to these projects.<sup>129</sup> Notably, due to cost sharing, federal, state, and local government have each contributed approximately one-third of the program’s total costs.<sup>130</sup>

There are other state programs that may be important to the spill-related processes. Some examples include the **Rural and Family Lands Protection Program** (focused on acquiring conservation easements on agricultural lands),<sup>131</sup> the **Artificial Reef Program** (focused on

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<sup>122</sup>

*Id.*

<sup>123</sup>

*Id.* at 15.

<sup>124</sup>

Coastal Partnership Initiative, *supra* note 113.

<sup>125</sup>

*Id.*

<sup>126</sup>

*Id.*

<sup>127</sup>

Beach Management Funding Assistance Program, *supra* note 115. Eligible entities include “Florida’s county and municipal governments, community development districts, [and] special taxing districts.” *Id.*

<sup>128</sup>

*Id.*

<sup>129</sup>

*Id.*

<sup>130</sup>

*Id.*

<sup>131</sup>

Rural and Family Lands Protection Program, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, [www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program2](http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program2) (last visited Jan. 6, 2016).



providing funding and assistance for the construction and monitoring of artificial reefs),<sup>132</sup> and the **Coral Reef Conservation Program** (focused on research, monitoring, and management of coral reefs).<sup>133</sup> Depending on the spill-related project at issue, it may be important for that project to coordinate with these programs.

## D. Louisiana

Louisiana was the state closest to the epicenter of the *Deepwater Horizon* oil spill.<sup>134</sup> The spill occurred against the backdrop of an ongoing coastal “land loss crisis” in the state, exacerbated by other threats that include sea-level rise, hurricanes, and subsidence.<sup>135</sup> In the face of these threats, Louisiana has developed a Coastal Master Plan to guide “efforts to protect and restore the Louisiana coast...”<sup>136</sup> Given this, any spill-related projects taking place in the state will likely need to coordinate with this plan.

### i. Plans

While the Coastal Master Plan will likely be the principal document guiding the allocation of spill-related funds in the state, other state plans could also play a role. Some of the key state plans are listed in Table 7.

**Table 7.** Louisiana Plans

Plan	Author	Purpose	Highlights
<b>Coastal Master Plan (2012)</b>	State of Louisiana	To “mak[e] realistic, on the ground progress toward restoring coastal habitats and protecting communities” <sup>137</sup>	At an estimated cost of \$50 billion over 50 years, the plan identifies 109 projects intended to “strike a balance between providing immediate relief to hard hit areas and laying the groundwork for the large scale projects that are needed...to protect

<sup>132</sup> Artificial Reefs, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, <http://myfwc.com/conservation/saltwater/artificial-reefs> (last visited Aug. 15, 2015).

<sup>133</sup> Coral Reef Conservation Program, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, [www.dep.state.fl.us/coastal/programs/coral/](http://www.dep.state.fl.us/coastal/programs/coral/) (last visited Dec. 10, 2015).

<sup>134</sup> Chris Barnes, RESTORE Act Overview (Sept. 2014 Public Presentation), at 14, [http://coastal.la.gov/wp-content/uploads/2014/09/RESTORE-Public-Meeting-Presentation-Sept-2014-focus-on-Pot-2-rev-3\\_FINALsept4-2.pdf](http://coastal.la.gov/wp-content/uploads/2014/09/RESTORE-Public-Meeting-Presentation-Sept-2014-focus-on-Pot-2-rev-3_FINALsept4-2.pdf).

<sup>135</sup> Future Without Action, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/whats-at-stake/fwoa/>. See also Coastal Crisis, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/whats-at-stake/coastal-crisis> (last visited Aug. 19, 2015).

<sup>136</sup> Master Plan Overview, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/a-common-vision/master-plan> (last visited Dec. 10, 2015).

<sup>137</sup> State of Louisiana, Louisiana Coastal Master Plan 28 (2012), available at <http://coastal.la.gov/a-common-vision/2012-coastal-master-plan/>.

Plan	Author	Purpose	Highlights
			communities and sustain [the] landscape... <sup>138</sup>
<b>Louisiana Coastal Area Plan (2004)</b>	U.S. Army Corps of Engineers	To “reverse the current trend of degradation of the coastal ecosystem” <sup>139</sup>	The plan identifies specific projects, many of which were authorized by the Water Resources and Development Act of 2007, but which are now suspended. <sup>140</sup>
<b>LA Coastal Protection and Restoration (LACPR): Final Technical Report (2009)</b>	U.S. Army Corps of Engineers	“[T]o develop [a] plan[] for hurricane risk reduction and coastal restoration” in Louisiana <sup>141</sup>	The report identifies a “final array of alternative plans” that could be implemented in five different planning areas in South Louisiana. <sup>142</sup>
<b>Barataria-Terrebonne National Estuary Program Comprehensive Conservation and Management Plan (1996)</b>	Barataria-Terrebonne National Estuary Program	“[T]o serve as guidance for the preservation and restoration efforts throughout the Barataria-Terrebonne estuary over the next 25 years” <sup>143</sup>	The plan “recommends ‘priority corrective actions and compliance schedules’ that address problems identified in the Barataria and Terrebonne basins through numerous scientific and technical studies...” <sup>144</sup> It includes 51 action plans. <sup>145</sup>
<b>Comprehensive Management Plan for the Pontchartrain Basin (1995)</b>	Lake Pontchartrain Basin Foundation	To “develop[] a road map for the restoration of the Lake Pontchartrain Basin” <sup>146</sup>	The plan includes recommendations to “address [three] major environmental challenges in the Basin”: sewage and agricultural runoff, stormwater runoff, and

<sup>138</sup> *Id.* at 178; *see also* 2012 Coastal Master Plan Projects, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/a-common-vision/2012-coastal-master-plan/2012-coastal-master-plan-projects> (last visited Sept. 24, 2015).

<sup>139</sup> U.S. Army Corps of Engineers, Louisiana Coastal Area Ecosystem Restoration Study ii (2004), *available at* [www.lca.gov/Library/ProductList.aspx?ProdType=0&folder=1125](http://www.lca.gov/Library/ProductList.aspx?ProdType=0&folder=1125).

<sup>140</sup> *See, e.g.*, Terrebonne Basin Barrier Shoreline Restoration Project Description, LCA, [www.lca.gov/Projects/3/Default.aspx](http://www.lca.gov/Projects/3/Default.aspx) (last visited Apr. 25, 2015).

<sup>141</sup> U.S. Army Corps of Engineers, Louisiana Coastal Protection and Restoration (LACPR) Final Technical Report 1 (2009), *available at* [biotech.law.lsu.edu/la/coast/lacpr/FinalReport/03%20LACPR%20Final%20Technical%20Report.pdf](http://biotech.law.lsu.edu/la/coast/lacpr/FinalReport/03%20LACPR%20Final%20Technical%20Report.pdf).

<sup>142</sup> *Id.* at 170.

<sup>143</sup> Barataria-Terrebonne National Estuary Program, Comprehensive Conservation and Management Plan – The Executive Summary 8 (1996), *available at* [www.btneep.org/BTNEP/about/theplan.aspx](http://www.btneep.org/BTNEP/about/theplan.aspx).

<sup>144</sup> *Id.*

<sup>145</sup> *See id.* at 13-14.

<sup>146</sup> Lake Pontchartrain Basin Foundation et al., Comprehensive Management Plan for the Pontchartrain Basin, vi (1995), *available at* [www.saveourlake.org/management-plan.php](http://www.saveourlake.org/management-plan.php).

Plan	Author	Purpose	Highlights
			saltwater intrusion/wetland loss. <sup>147</sup>
Other Louisiana Plans in the Search Tool			
			<ul style="list-style-type: none"> <li>• Coastal Wetlands Conservation and Restoration Plan</li> <li>• Louisiana Coastal Wetlands Restoration Plan</li> </ul>

Louisiana’s current **Coastal Master Plan** is focused on “making realistic, on the ground progress toward restoring coastal habitats and protecting communities...”<sup>148</sup> It includes a total of 109 projects, which are estimated to cost \$50 billion over 50 years.<sup>149</sup> The projects were selected from a candidate list that built off numerous pre-existing studies and plans, including most of those identified in Table 7.<sup>150</sup> The Master Plan must be updated every five years.<sup>151</sup> It is expected that the Master Plan will figure heavily in the spill-related processes. As the Coastal Protection and Restoration Authority (CPRA) – the state entity authorized “to develop, implement, and enforce [the Master Plan]”<sup>152</sup> – has noted, “The Master Plan will play a crucial role in the selection and development of projects during oil spill restoration planning.”<sup>153</sup>

This is reflected in the Annual Spending Plan drafted by the CPRA. This plan provides a yearly update on “the progress of projects outlined in [the Master Plan,]”<sup>154</sup> and sets out future plans and projections.<sup>155</sup> In the 2016 Annual Plan, the progress report included four projects funded with spill-related funds, all listed as “Scheduled to be in Construction in FY 2015” (with one that was expected to complete construction in FY 2015).<sup>156</sup> The plan also noted that one of the “new sources of funding” the state was “actively exploring” for the coastal program was “Clean Water Act (CWA) penalties resulting from the *Deepwater Horizon* oil spill,” and that the state was “exploring...the implementation of coastal restoration projects” as part of the NRDA

<sup>147</sup> *Id.* at 1, 3.

<sup>148</sup> Louisiana Coastal Master Plan, *supra* note 137.

<sup>149</sup> Coastal Master Plan Projects, *supra* note 138.

<sup>150</sup> Louisiana Coastal Master Plan, *supra* note 137, at 64-65.

<sup>151</sup> Progress: Coastal Master Plan, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/a-common-vision/master-plan/progress/> (last visited Sept. 23, 2015).

<sup>152</sup> About CPRA, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/about> (last visited Dec. 10, 2015).

<sup>153</sup> Oil Spill Overview, COASTAL PROTECTION AND RESTORATION AUTHORITY, <http://coastal.la.gov/oil-spill-content/oil-spill-overview> (last visited Dec. 10, 2015). In regards to RESTORE Act funding, as noted in Louisiana’s RESTORE Act Multiyear Implementation and Expenditure Plan (LA Plan), “Louisiana’s governor has pledged to use all RESTORE funds toward Master Plan projects, a commitment that was codified in state law...” State of Louisiana, RESTORE Act Multiyear Implementation and Expenditure Plan, 6 (2015), *available at* <http://cims.coastal.louisiana.gov/DocLibrary/FileDownload.aspx?Root=0&id=12111>.

<sup>154</sup> Coastal Protection and Restoration Authority, Fiscal Year 2016 Annual Plan (2015), *available at* <http://coastal.la.gov/fy2016-annual-plan/>.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.* at 24.

process.<sup>157</sup> At the same time, the plan noted that, in regards to its state Center of Excellence (funded with Pot 5 funds from RESTORE), the “emphasis [will be] on advancing Louisiana’s Coastal Master Plan.”<sup>158</sup> It is therefore clear that the Master Plan is already playing, and will continue to play, an integral role in the spill-related processes.

Aside from the Master Plan, a number of other plans have been drafted over the years.<sup>159</sup> Some of these may be important to consider as the spill-related processes move forward. One of these is the **Louisiana Coastal Area (LCA) Plan**. Its goal is to “reverse the current trend of degradation of the coastal ecosystem.”<sup>160</sup> The plan sets out “the most critical human and natural ecological needs of the coastal area,” and then identifies restoration strategies for the near term (including specific projects) as well as a strategy for the long term.<sup>161</sup> Many of the projects identified in the plan were authorized by the Water Resources and Development Act of 2007, but have since been suspended.<sup>162</sup> They could nonetheless still be important for future project planning efforts.

Another of these plans is **Louisiana Coastal Protection and Restoration (LACPR): Final Technical Report**, which was requested by Congress in the wake of Hurricanes Katrina and Rita. Specifically, “Congress directed the Secretary of the Army to develop [a] plan[] for hurricane risk reduction and coastal restoration” in Louisiana.<sup>163</sup> The U.S. Army Corps of Engineers released the final report in 2009. As the report notes, it is intended to “inform [] decision makers, stakeholders, and the public of the tradeoffs that should be considered in future decisions in order to maintain existing risk levels and/or reduce risk along the Louisiana coast.”<sup>164</sup> The report describes the process to “develop[] and analyze[] a full range of alternatives, which [were] based on a number of structural, nonstructural, and coastal restoration measures, to reduce storm surge risk in South Louisiana.”<sup>165</sup> The report identifies a “final array of alternative plans” that could be implemented in five different planning areas.<sup>166</sup>

Other plans may be important for projects taking place in specific geographic areas. These include the **Barataria-Terrebonne National Estuary Program Comprehensive Conservation**

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<sup>157</sup> *Id.* at 2. Note that the 2016 Annual Plan was finalized prior to the release of the proposed consent decree and Draft Programmatic Damage Assessment and Restoration Plan and Draft Programmatic Environmental Impact Statement.

<sup>158</sup> *Id.* at 22.

<sup>159</sup> Some of these plans, including most of the ones addressed in this section, were sources for project ideas for the Master Plan. See Louisiana Coastal Master Plan, *supra* note 137, at 65.

<sup>160</sup> Louisiana Coastal Area Ecosystem Restoration Study, *supra* note 139, at ii.

<sup>161</sup> *Id.* at i.

<sup>162</sup> See, e.g., Terrebonne Basin Barrier Shoreline Restoration Project Description, *supra* note 140.

<sup>163</sup> Louisiana Coastal Protection and Restoration (LACPR) Final Technical Report, *supra* note 141, at 1. The Secretary was also “directed...to develop [a] plan[]” for Mississippi. *Id.* See also *infra* note 204 and accompanying text.

<sup>164</sup> *Id.* at 1.

<sup>165</sup> *Id.* at 249.

<sup>166</sup> *Id.* at 170.

**Management Plan**<sup>167</sup> and the **Comprehensive Management Plan for the Pontchartrain Basin**.<sup>168</sup> These documents could be important in planning and implementing spill-related projects in those areas.

## ii. Programs

Louisiana has numerous programs in place that could be important for projects funded by the spill-related processes. Some of the key programs are listed in Table 8.<sup>169</sup>

**Table 8.** Louisiana Programs

Program	Lead Entity	Purpose	Highlights
<b>Louisiana Coastal Resources Program</b>	Louisiana Department of Natural Resources	To “regulate[] development activities and manage[] the resources” in Louisiana’s coastal zone <sup>170</sup>	Among other things, the program issues coastal use permits, <sup>171</sup> assists parishes with their local coastal programs, <sup>172</sup> and ensures government activities are “consistent with the... program...” <sup>173</sup>
<b>Coastal Protection and Restoration Fund</b>	Coastal Protection and Restoration Authority	“To provide a dedicated, recurring source of revenue for the development and implementation of a program to protect and restore Louisiana’s coastal area” <sup>174</sup>	The Fund “is subject to appropriations by the [state] legislature for the purposes of integrated coastal protection.” Funds can only be used for “projects and programs [that] are consistent with,” among other things, the Master Plan. <sup>175</sup>

<sup>167</sup> Barataria-Terrebonne Comprehensive Conservation Management Plan, *supra* note 143.

<sup>168</sup> Comprehensive Management Plan for the Pontchartrain Basin, *supra* note 146.

<sup>169</sup> Note that a state Executive Order directs state agencies to “administer their regulatory practices, programs, contracts, grants, and all other functions vested in them in a manner consistent with the Master Plan and public interest to the maximum extent possible.” Executive Order No. BJ 2008-7, [http://dnr.louisiana.gov/assets/docs/conservation/groundwater/Appendix\\_B.pdf](http://dnr.louisiana.gov/assets/docs/conservation/groundwater/Appendix_B.pdf).

<sup>170</sup> See About OCM, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=89&pnid=0&nid=39> (last visited Sept. 16, 2015).

<sup>171</sup> See Permits/Mitigation Division, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=90> (last visited Jan. 7, 2016); see also La. Admin. Code tit. 43, § 723.

<sup>172</sup> See Local Coastal Programs, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=111> (last visited Jan. 7, 2016); see also La. Admin. Code tit 43, § 725.

<sup>173</sup> La. Rev. Stat. 49:214.32.B; see also Consistency Section, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=104> (last visited Jan. 7, 2016); La. Admin. Code tit. 43, §§ 723, 724.

<sup>174</sup> La. Rev. Stat. § 49:214.5.4.A.

<sup>175</sup> *Id.* at § 49.214.5.4.G. See also Louisiana RESTORE Act Multiyear Implementation and Expenditure Plan, *supra* note 153, at 2.

<b>Coastal Wetlands Planning, Protection and Restoration Act Program</b>	CWPPRA Task Force	“[T]o identify, prepare, and fund construction of coastal wetlands restoration projects” <sup>176</sup>	A Task Force “evaluates projects proposed for inclusion in the CWPPRA program and prepares a ranked list of candidate projects annually...” It then selects a final set of projects from this list to implement. <sup>177</sup>
<b>Atchafalaya Basin Program</b>	Louisiana Department of Natural Resources	“[T]o implement and manage a comprehensive [s]tate [m]aster [p]lan for the Atchafalaya Basin” <sup>178</sup>	A plan is drafted annually that “identifies all projects or stages of projects...that will be proposed for funding in that fiscal year.” There are three categories of projects: “water quality/water management, access, and other projects consistent with the mission of the [basin master plan].” <sup>179</sup>
<b>Natural Heritage Program</b>	Louisiana Department of Wildlife and Fisheries	To gather, organize, and distribute “standardized, detailed information on the biological diversity in Louisiana” <sup>180</sup>	Information from the program has been “applied to land use decisions, environmental impact assessment, resource management, conservation planning, endangered species review, research, and education.” <sup>181</sup>
Other Louisiana Programs in the Search Tool			
Funding Programs		Regulatory Programs	
<ul style="list-style-type: none"> <li>• Conservation and Restoration Partnership Fund</li> <li>• Local Coastal Programs</li> <li>• Louisiana Water Programs and State Revolving Fund</li> <li>• Scenic Rivers Fund</li> </ul>		<ul style="list-style-type: none"> <li>• Artificial Reef Program</li> <li>• Forestry Program</li> <li>• Oyster Program</li> </ul>	

Certain programs are likely to be important to spill-related projects because they provide the framework in which those projects will be implemented. One of these programs is the **Coastal Resources Program**. This program “regulates development activities and manages the

<sup>176</sup> About CWPPRA, LACOAST.GOV, <http://lacoast.gov/new/About/Default.aspx> (last visited May 20, 2015).

<sup>177</sup> Fiscal Year 2016 Annual Plan, *supra* note 154, at 32-33.

<sup>178</sup> Atchafalaya Basin Program, Atchafalaya Basin Program Draft FY 2016 Annual Plan 14 (2015), *available at* [http://dnr.louisiana.gov/assets/OCM/ABP/ABP\\_2016\\_plan.pdf](http://dnr.louisiana.gov/assets/OCM/ABP/ABP_2016_plan.pdf).

<sup>179</sup> *Id.* at 16.

<sup>180</sup> Natural Heritage Program, LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, [www.wlf.louisiana.gov/wildlife/louisiana-natural-heritage-program](http://www.wlf.louisiana.gov/wildlife/louisiana-natural-heritage-program) (last visited Dec. 10, 2015).

<sup>181</sup> *Id.*

resources” in Louisiana’s coastal zone.<sup>182</sup> The program is administered by the Office of Coastal Management (OCM), which has a mission “to maintain, protect, develop, and restore or enhance the...[state’s] coastal region...”<sup>183</sup> Among other things, the program issues coastal use permits,<sup>184</sup> assists parishes with their local coastal programs,<sup>185</sup> and ensures government activities are “consistent with the... program...”<sup>186</sup> To the extent a spill-related project takes place in or impacts the coastal zone, it would likely need to coordinate with this program.

Other programs may be important because they fund projects similar to those funded by the spill-related processes. For example, the **Coastal Protection and Restoration Fund** is a significant source of funding for coastal restoration and protection in Louisiana.<sup>187</sup> The purpose of the Fund is “[t]o provide a dedicated, recurring source of revenue for the development and implementation of a program to protect and restore Louisiana’s coastal area...”<sup>188</sup> The Fund “is subject to appropriations by the [state] legislature for the purposes of integrated coastal protection.” Funds can only be used for “projects and programs [that] are consistent with,” among other things, the Master Plan.<sup>189</sup> The 2016 Annual Plan lists the Fund as a source of funding for the coast, noting that it “provides funding for the coastal program’s ongoing operating expenses and for continuing state efforts in coastal restoration and protection.”<sup>190</sup>

Another program that funds coastal restoration and protection is the **Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) Program**, which was established through federal legislation. The program focuses on “identify[ing], prepar[ing], and fund[ing] construction of coastal wetlands restoration projects.”<sup>191</sup> It “is managed by a Task Force[,]” which includes representatives from the State of Louisiana (represented by the Governor’s Office of Coastal Activities) and five federal agencies (FWS, EPA, U.S. Department of Agriculture—Natural Resources Conservation Service, NOAA—National Marine Fisheries Service, and Army Corps of Engineers).<sup>192</sup> The Task Force “evaluates projects proposed for inclusion in the CWPPRA program and prepares a ranked list of candidate projects annually...” It

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<sup>182</sup> See About OCM, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=89&pnid=0&nid=39> (last visited Sept. 16, 2015).

<sup>183</sup> *Id.*

<sup>184</sup> See Permits/Mitigation Division, *supra* note 171; see also La. Admin. Code tit. 43, § 723.

<sup>185</sup> See Local Coastal Programs, *supra* note 172; see also La. Admin. Code tit. 43, § 725.

<sup>186</sup> La. Rev. Stat. 49:214.32.B; see also Consistency Section, *supra* note 173; La. Admin. Code tit. 43, §§ 723, 724.

<sup>187</sup> It is important to note that Louisiana intends that “any monies received by the state pursuant to the RESTORE Act[] shall be deposited and credited by the treasurer to the [Fund] for integrated coastal protection efforts...” Louisiana RESTORE Act Multiyear Implementation and Expenditure Plan, *supra* note 153, at 2. See also La. Rev. Stat. § 49:214.5.4.I(1).

<sup>188</sup> La. Rev. Stat. § 49:214.5.4.A.

<sup>189</sup> *Id.* at § 49.214.5.4.G. See also Louisiana RESTORE Act Multiyear Implementation and Expenditure Plan, *supra* note 153, at 2.

<sup>190</sup> Fiscal Year 2016 Annual Plan, *supra* note 154, at 57.

<sup>191</sup> About CWPPRA, LACOAST.GOV, <http://lacoast.gov/new/About/Default.aspx> (last visited May 20, 2015).

<sup>192</sup> Fiscal Year 2016 Annual Plan, *supra* note 154, at 32. See also Task Force Description, LACOAST.GOV, <http://lacoast.gov/new/About/OrgChart.aspx#descriptionTF> (last visited Dec. 10, 2015).

then selects a final set of projects from this list to implement.<sup>193</sup> The federal government covers 85% of CWPPRA project costs, with the state covering the rest.<sup>194</sup>

Certain state programs may be important to projects that take place in particular geographic areas. This includes the **Atchafalaya Basin Program**, which “implement[s] and manage[s] a comprehensive [s]tate [m]aster [p]lan for the [basin].”<sup>195</sup> In 1998, the Louisiana Legislature established the program and, in 1999, approved the basin master plan.<sup>196</sup> Each year, a plan is drafted that “identifies all projects or stages of projects...that will be proposed for funding in that fiscal year.” There are three categories of projects: “water quality/water management, access, and other projects consistent with the mission of the [basin master plan].”<sup>197</sup> To the extent a spill-funded project is located in or may impact the basin, it will be important that it coordinate with this program.

There are also state programs that could be important in designing spill-funded projects. One example is the **Natural Heritage Program**, which “gathers, organizes, and distributes standardized, detailed information on the biological diversity in Louisiana.”<sup>198</sup> This information includes “over 6,000 occurrences of [rare, threatened and endangered] species, unique natural communities and other distinctive elements of natural diversity...” The program has also “identified some 380 ecologically significant sites statewide.” This program may be important to any project. Indeed, as noted on the program website, this information has been “applied to land use decisions, environmental impact assessment, resource management, conservation planning, endangered species review, research and education.”<sup>199</sup>

There are also state programs that could be important for certain types of projects. These include the **Artificial Reef Program**<sup>200</sup> and the **Forestry Program**.<sup>201</sup> Depending on the spill-related project at issue, it may need to coordinate with these programs.

## E. Mississippi

Mississippi has three coastal counties with 44 miles of coastline.<sup>202</sup> The coast was hard-hit by the *Deepwater Horizon* oil spill: the state’s “coastal way of life was negatively affected and

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<sup>193</sup> Fiscal Year 2016 Annual Plan, *supra* note 154, at 32-33. The 2016 Annual Plan includes a number of CWPPRA projects. *See e.g., id.* at 48-49.

<sup>194</sup> *Id.* at 33.

<sup>195</sup> Atchafalaya Basin Program Draft FY 2016 Annual Plan, *supra* note 178.

<sup>196</sup> *Id.* at 14.

<sup>197</sup> *Id.* at 16.

<sup>198</sup> Natural Heritage Program, *supra* note 180.

<sup>199</sup> *Id.*

<sup>200</sup> Artificial Reef Program, LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, [www.wlf.louisiana.gov/fishing/artificial-reef-program](http://www.wlf.louisiana.gov/fishing/artificial-reef-program) (last visited Dec. 10, 2015).

<sup>201</sup> Forestry Program, LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, [www.wlf.louisiana.gov/wildlife/forestry-program](http://www.wlf.louisiana.gov/wildlife/forestry-program) (last visited Dec. 10, 2015).

<sup>202</sup> Coastline and Shoreline in the United States by State, CENSUS.GOV (2012), <https://www.census.gov/compendia/statab/2012/tables/12s0364.pdf>.



many of [its] habitats and resources were injured.”<sup>203</sup> As restoration and recovery efforts move forward, it will be important that the state’s existing plans and programs be considered.

### i. Plans

There are a number of state plans that have been drafted over the years. Some of the key ones are listed in Table 9.

**Table 9.** Mississippi Plans

Plan	Author	Purpose	Highlights
<b>GoCoast 2020</b> (2013)	GoCoast 2020 Commission	“[T]o set a foundation and road map of priorities for Mississippi” in allocating RESTORE Act funds <sup>204</sup>	While the plan does not lay out specific projects, it is intended to provide the “foundation for what will become the Mississippi Plan as envisioned by the RESTORE Act to fund as many Mississippi projects as possible.” <sup>205</sup>
<b>Mississippi Coastal Improvements Program Comprehensive Plan</b> (2009)	U.S. Army Corps of Engineers	“[T]o identify solutions to the hurricane and storm damage, saltwater intrusion, fish and wildlife, erosion, and other related water resource problems of coastal Mississippi” <sup>206</sup>	The plan envisions “a phased approach to occur over the next 30-40 years...” It recommends 12 structural, nonstructural, and environmental restoration projects for “immediate implementation (Phase I).” <sup>207</sup>
<b>Mississippi Gulf Coast Restoration Plan</b> (2015)	Mississippi Department of Environmental Quality	“[T]o provide an overarching strategy for restoration decision-making” <sup>208</sup>	The plan is being funded by the NFWF Gulf Environmental Benefit Fund. <sup>209</sup> It does not identify specific projects, but indicates that NFWF funds will be spent under three

<sup>203</sup> See Mississippi Department of Environmental Quality, Mississippi Gulf Coast Restoration Plan 5 (2015), available at [www.restore.ms/mississippi-gulf-coast-restoration-plan](http://www.restore.ms/mississippi-gulf-coast-restoration-plan).

<sup>204</sup> Go Coast 2020, Go Coast 2020 Final Report 2 (2013), available at [www.gocoast2020.com/wp-content/uploads/finalreport.pdf](http://www.gocoast2020.com/wp-content/uploads/finalreport.pdf).

<sup>205</sup> About, Go Coast 2020, <http://www.gocoast2020.com/about/> (last visited Mar. 25, 2015). Mississippi’s draft RESTORE Act Direct Component Multiyear Implementation Plan notes that project ideas were reviewed “against the priorities and criteria identified by GoCoast 2020” to “develop[] recommendations for projects.” State of Mississippi, Draft RESTORE Act Direct Component Multiyear Implementation Plan 7 (Dec. 2015), available at [www.restore.ms/mississippi-multiyear-implementation-plan-available-for-public-review-and-comment](http://www.restore.ms/mississippi-multiyear-implementation-plan-available-for-public-review-and-comment).

<sup>206</sup> U.S. Army Corps of Engineers, Mississippi Coastal Improvements Program Comprehensive Plan, S-5 (2009), [http://www.sam.usace.army.mil/Portals/46/docs/program\\_management/mscip/docs/MSCIP%20Main%20Report%20062209-Errata.pdf](http://www.sam.usace.army.mil/Portals/46/docs/program_management/mscip/docs/MSCIP%20Main%20Report%20062209-Errata.pdf).

<sup>207</sup> *Id.* at S-6, S-8, cover sheet.

<sup>208</sup> Mississippi Gulf Coast Restoration Plan, *supra* note 203, at 89.

<sup>209</sup> *Id.*

Plan	Author	Purpose	Highlights
			main programs: Land Resources, Coastal and Marine Living Resources, and Water Resources. <sup>210</sup>
<b>Oyster Restoration and Resiliency Report</b> (2015)	Governor’s Oyster Restoration and Resiliency Council	To present “recommendations, projects and programs for the restoration and resiliency of the oyster resource and industry” <sup>211</sup>	The Council’s recommendations were compiled into seven main topics, including improving water quality and quantity, enhancing public reefs, and conducting marketing. <sup>212</sup>
<b>Grand Bay National Estuarine Research Reserve Management Plan</b> (2013)	Grand Bay National Estuarine Research Reserve (NERR)	To “chart the course of action” for the Grand Bay NERR over a five-year period (2013-2018) <sup>213</sup>	“The [plan] describes how the [reserve] will be managed...and presents specific actions relative to priority focus areas and the goals of the national [reserve] system.” <sup>214</sup>

One plan drafted in response to a spill-related process is the **GoCoast 2020** report. The GoCoast 2020 Commission was established by Executive Order in 2012 as an advisory body “to set a foundation and road map of priorities for Mississippi” in allocating RESTORE Act funds.<sup>215</sup> The Commission included more than 100 citizens, elected representatives, and community and business leaders from Mississippi’s three coastal counties. They focused on eight issues: eco-restoration, economic development, seafood, infrastructure, tourism, workforce development, small business, and research and education.<sup>216</sup> For each issue, a committee “was tasked with providing a narrative of priorities, benefits, and [the] potential overall impact” on the region, among other things.<sup>217</sup> While the plan does not lay out specific projects, it is intended to provide the “foundation for what will become the Mississippi Plan as envisioned by the RESTORE Act to fund as many Mississippi projects as possible.”<sup>218</sup>

<sup>210</sup> *Id.* at 2.

<sup>211</sup> The Governor’s Oyster Council Restoration & Resiliency Final Report, Foreword, 7 (2015), *available at* [www.dmr.ms.gov/images/dmr/Oyster\\_Council/Governors%20Oyster%20Council%20Report.pdf](http://www.dmr.ms.gov/images/dmr/Oyster_Council/Governors%20Oyster%20Council%20Report.pdf).

<sup>212</sup> *Id.* at 12-15.

<sup>213</sup> Grand Bay NERR, Grand Bay National Estuarine Research Reserve Management Plan 2013-2018, 1 (2013).

<sup>214</sup> *Id.* at 2.

<sup>215</sup> Go Coast 2020, *supra* note 204, at 2.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.* at 2-3. The committees were also tasked with “review[ing] ways to leverage resources from local, state or federal funding sources...” and “examin[ing] any existing or ongoing programs that are now in place or in the development stages that could help supplement the priorities they identified.” *Id.*

<sup>218</sup> About Go Coast 2020, *supra* note 205.

The GoCoast 2020 report references several plans that are important to consider.<sup>219</sup> These include the Gulf of Mexico Regional Ecosystem Restoration Strategy, Governors’ Action Plan II, and Gulf of Mexico Research Plan (all of these are addressed in more detail above).<sup>220</sup> One state plan referenced is the **Mississippi Coastal Improvements Program Comprehensive Plan**.<sup>221</sup> The purpose of the plan is “to identify solutions to the hurricane and storm damage, saltwater intrusion, fish and wildlife, erosion, and other related water resource problems of coastal Mississippi.”<sup>222</sup> These solutions are intended to not only assist recovery from the 2005 hurricanes, but also “render the region more resilient and less susceptible to...future coastal storm events.”<sup>223</sup> The plan envisions “a phased approach to occur over the next 30-40 years...” It recommends 12 structural, nonstructural, and environmental restoration projects for “immediate implementation (Phase I),” with “two phases of additional studies...”<sup>224</sup>

Another plan drafted in response to a spill-related process is the **Mississippi Gulf Coast Restoration Plan**. Led by the Mississippi Department of Environmental Quality (MDEQ), this plan is being funded by one of the spill-related processes – the NFWF Gulf Environmental Benefit Fund (GEBF).<sup>225</sup> The stated “purpose of the plan is to provide an overarching strategy for restoration decision-making.”<sup>226</sup> The plan sets out the process by which restoration decisions will be made, which will include use of a newly-developed tool called the “Mississippi Comprehensive Ecosystem Restoration Tool” (MCERT).<sup>227</sup> The plan does not identify specific projects, but indicates that NFWF funds will be spent under three main programs: Land Resources, Coastal and Marine Living Resources, and Water Resources. The plan is to be updated annually.<sup>228</sup> It is anticipated that, in addition to informing the selection of NFWF-funded projects, the plan will also inform project selection for other spill-related processes.<sup>229</sup> It could therefore play a key role as the spill-related processes move forward.<sup>230</sup>

Other state plans may also be important to the spill-related processes. This includes the **Oyster Restoration and Resiliency Report**. The purpose of the report was to present

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<sup>219</sup> Go Coast 2020, *supra* note 204, at 7–9.

<sup>220</sup> See notes 37 and 39, along with accompanying text.

<sup>221</sup> MsCIP, *supra* note 206.

<sup>222</sup> *Id.* at S-5.

<sup>223</sup> *Id.* at S-5, cover sheet, S-4.

<sup>224</sup> *Id.* at S-6, S-8, cover sheet.

<sup>225</sup> Mississippi Gulf Coast Restoration Plan, *supra* note 203.

<sup>226</sup> *Id.*

<sup>227</sup> *Id.* at 67-68. MCERT is described in more detail in Chapter 3 of the plan.

<sup>228</sup> *Id.* at 2.

<sup>229</sup> Indeed, the plan notes that “the main goal of this singular planning effort is to: ‘[c]reate a plan that will result in a coordinated, systematic, and transparent process for sustainable ecological restoration in Mississippi, that will direct funds associated with the GEBF, and that will be applicable to informing ecological restoration funding associated with the RESTORE Act.’” *Id.* at 5.

<sup>230</sup> Note that the plan also indicates that “an inventory of strategic plans” has been compiled and is available online. See *id.* at 17. See also Ecological Planning Document Clearinghouse, RESTORE MISSISSIPPI, <http://msrestoreteam.com/planning.aspx> (last visited Jan. 15, 2016). The plan further indicates that “[h]istoric coastal restoration projects and programs database [have been] provided on the Restore Mississippi website...” Mississippi Gulf Coast Restoration Plan, *supra* note 203, at 91.

“recommendations, projects and programs for the restoration and resiliency of the oyster resource and industry.”<sup>231</sup> The report was drafted by the Governor’s Oyster Restoration and Resiliency Council, which was created by Executive Order in February 2015.<sup>232</sup> The Council included three different committees: (1) Oysters in the Economy; (2) Oysters in the Environment; and (3) Aquaculture and Emerging Technologies.<sup>233</sup> The committees’ recommendations were compiled into seven main topics, including improving water quality and quantity, enhancing public reefs, and conducting marketing.<sup>234</sup> These recommendations may be important to take into account as spill-related projects are being planned.

At the same time, certain plans may be important for projects taking place in particular geographic areas. One example is the **Grand Bay National Estuarine Research Reserve Management Plan**. The plan “chart[s] the course of action” for the Grand Bay NERR over a five-year period (2013-2018).<sup>235</sup> It “describes how the [reserve] will be managed...and presents specific actions relative to priority focus areas and the goals of the national [reserve] system.”<sup>236</sup> Specific actions are grouped into several different categories, which include stewardship, land acquisition, resource protection, public use, research and monitoring, and education and outreach.<sup>237</sup> This plan could be important in planning and implementing spill-related projects in the area.

## ii. Programs

There are a number of state programs that may be important to the spill-related processes. Some of the key programs are listed in Table 10.

**Table 10.** Mississippi Programs

Program	Lead Entity	Purpose	Highlights
<b>Mississippi Coastal Improvements Program (MsCIP)</b>	U.S. Army Corps of Engineers	To “conduct an analysis and design for comprehensive improvements...in the coastal area of Mississippi” <sup>238</sup>	The plan for the program, the Mississippi Coastal Improvements Program Comprehensive Plan, is described in more detail above in the “Plans” section. <sup>239</sup>
<b>Tidelands Trust Fund Program</b>	Mississippi Department of Marine Resources	“[T]he conservation, reclamation, and preservation of Mississippi’s tidelands, while also...enhancing its	Funds are to be used “for new and extra programs of tidelands management, such as conservation, reclamation, preservation, acquisition,

<sup>231</sup> The Governor’s Oyster Council Restoration & Resiliency Final Report, *supra* note 211.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.* at 11.

<sup>234</sup> *Id.* at 12-15.

<sup>235</sup> Grand Bay NERR, Grand Bay National Estuarine Research Reserve Management Plan 2013-2018, 1 (2013).

<sup>236</sup> *Id.* at 2.

<sup>237</sup> *Id.*

<sup>238</sup> See MsCIP, *supra* note 206, at S-1 (quoting direction from Congress).

<sup>239</sup> *Id.*

		current public access areas” <sup>240</sup>	education or the enhancement of public access...or public improvement projects...” <sup>241</sup>
<b>Coastal Preserves Program</b>	Mississippi Department of Marine Resources	“[T]o acquire, protect, and manage sensitive coastal wetland habitats along the Mississippi Gulf Coast...” <sup>242</sup>	Under the program, Mississippi “has title to approximately 30,000 acres of the designated 72,000 acres of crucial coastal wetland habitat within [the state’s] 20 coastal preserves sites.” <sup>243</sup>
Other Mississippi Programs in the Search Tool			
Funding Programs		Regulatory Programs	
<ul style="list-style-type: none"> <li>• Black Belt Prairie Restoration Initiative</li> <li>• Forest Resource Development Program</li> <li>• Mississippi Water Programs and Revolving Fund</li> </ul>		<ul style="list-style-type: none"> <li>• Artificial Reef Program</li> <li>• Mississippi Coastal Program</li> <li>• Natural Heritage Program</li> <li>• Oyster Bed Establishment Program</li> <li>• Private Lands Habitat Program</li> </ul>	

One of the tasks of the GoCoast 2020 committees was to “examine[.]...programs that are now in place or in the development stages that could help supplement the priorities they identified.”<sup>244</sup> Among the state programs identified were the **Mississippi Coastal Improvements Program (MsCIP)**, **Tidelands Trust Fund Program**, and **Coastal Preserves Program**.<sup>245</sup> In regards to MsCIP, the purpose of the program is to:

...conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes.<sup>246</sup>

In 2009, \$439 million of federal funding was authorized for the program<sup>247</sup> and, in June 2014, an additional \$693.3 million was authorized under the Water Resources Reform and Development

<sup>240</sup> Tidelands Trust Fund History, MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, [www.dmr.ms.gov/index.php/tidelands-history](http://www.dmr.ms.gov/index.php/tidelands-history) (last visited Nov. 17, 2015).

<sup>241</sup> Miss. Code. Ann. § 29-15-9(2).

<sup>242</sup> Coastal Preserves, MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, [www.dmr.ms.gov/index.php/wildlife-a-plants/coastal-preserves](http://www.dmr.ms.gov/index.php/wildlife-a-plants/coastal-preserves) (last visited Nov. 11, 2015).

<sup>243</sup> *Id.*

<sup>244</sup> GoCoast 2020, *supra* note 204, at 3.

<sup>245</sup> *Id.* at 8, 25-27. Some of these programs were also identified as “funding sources [that could] be utilized along with RESTORE Act funds to further the implementation of many of the projects proposed under Mississippi’s RESTORE Act plan.” *See id.* at 9.

<sup>246</sup> MsCIP Plan, *supra* note 206, at S-1 (quoting direction from Congress).

<sup>247</sup> Supplemental Appropriations Act of 2009, P.L. 111-32 (June 24, 2009).

Act (WRRDA).<sup>248</sup> The plan for the program, the MsCIP Comprehensive Plan, is described in more detail above.

The **Tidelands Trust Fund Program** is focused on “the conservation, reclamation, and preservation of Mississippi’s tidelands, while also...enhancing its current public access areas.”<sup>249</sup> The program, which is administered by the Mississippi Secretary of State’s Office and the Mississippi Department of Marine Resources (DMR), is funded with revenues from non-mineral leases of tidelands and submerged lands.<sup>250</sup> Funds are to be used “for new and extra programs of tidelands management, such as conservation, reclamation, preservation, acquisition, education or the enhancement of public access...or public improvement projects...”<sup>251</sup> Funds may be used to “match or leverage...federal or other funds that are available for the designated tidelands project.”<sup>252</sup> DMR accepts applications for funds annually, but final decisions regarding funding are subject to appropriations.<sup>253</sup>

The **Coastal Preserves Program** is focused on “acquir[ing], protect[ing], and manag[ing] sensitive coastal wetland habitats along the Mississippi Gulf Coast...”<sup>254</sup> The program has eight overarching goals, which range from protecting habitats to controlling invasive species to promoting public access and education.<sup>255</sup> The program has outlined a number of objectives and strategies to achieve these goals.<sup>256</sup> Under the program, Mississippi “has title to approximately 30,000 acres of the designated 72,000 acres of crucial coastal wetland habitat within [the state’s] 20 coastal preserves sites.”<sup>257</sup> Given the focus of this program, as well as MsCIP and the Tidelands Trust Fund Program, they may be important to consider as the spill-related processes move forward.

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<sup>248</sup> Water Resources Development and Reform Act of 2014, H.R. 3080 (June 10, 2014).

<sup>249</sup> Tidelands Trust Fund History, *supra* note 240.

<sup>250</sup> *Id.*; see also Miss. Code. Ann. § 29-15-9(2).

<sup>251</sup> Miss. Code. Ann. § 29-15-9(2).

<sup>252</sup> Miss. Code. Ann. § 29-15-9(3)(b) (“Any funds that are appropriated as separate line items in an appropriation bill for tideland programs or projects authorized under this section for political subdivisions or other agencies shall be disbursed as provided in this subsection...The Department of Marine Resources shall make funds available for the purpose of using such funds as a match or leverage for federal or other funds that are available for the designated tidelands project”).

<sup>253</sup> Tidelands Trust Fund History, *supra* note 240.

<sup>254</sup> Coastal Preserves, *supra* note 242.

<sup>255</sup> Coastal Preserves Mission, Vision, and Goals, MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, [www.dmr.ms.gov/index.php/wildlife-a-plants/coastal-preserves/60-coastal-preserves-mission-vision-and-goals](http://www.dmr.ms.gov/index.php/wildlife-a-plants/coastal-preserves/60-coastal-preserves-mission-vision-and-goals) (last visited Nov. 13, 2015).

<sup>256</sup> *Id.*

<sup>257</sup> Coastal Preserves, *supra* note 242. In 2013, NFWF funded a project to “restore[] and improve[] management of [Mississippi’s coastal preserves]...” Note that NFWF refers to 26 coastal preserve sites (and not 20). See NFWF, Mississippi Coastal Preserves Program (2013), available at [www.nfwf.org/gulf/Documents/ms-coastal-preserves.pdf](http://www.nfwf.org/gulf/Documents/ms-coastal-preserves.pdf).

At the same time, there are other state programs that could be important for certain types of projects. These include the **Artificial Reef Program**<sup>258</sup> and **Private Lands Habitat Program**.<sup>259</sup> Depending on the project at issue, it may need to coordinate with these programs.

## F. Texas

Texas has 367 miles of coastline along the Gulf of Mexico.<sup>260</sup> “Texas suffered from both direct (e.g. direct oiling on beaches and wildlife) and indirect impacts (e.g. decreased recreational use...) as a result of the spill.”<sup>261</sup> Texas’ existing plans and programs provide opportunities for coordination and leveraging with the spill-related processes, which could maximize the environmental benefits in Texas.

### i. Plans

Texas has several plans that may be important to the spill-related processes. Some of the key ones are listed in Table 11.

**Table 11.** Texas Plans

Plan	Author	Purpose	Highlights
<b>Texas Conservation Action Plan</b> (2012)	Texas Parks and Wildlife Department	“[T]o provide a statewide ‘roadmap’ for research, restoration, management, and recovery projects addressing Species of Greatest Conservation Need (SGCN) and natural communities” <sup>262</sup>	The plan includes 11 region-specific handbooks, as well as a statewide (multi-region) handbook. Among other things, the handbooks identify conservation issues and actions. <sup>263</sup>
<b>Mission-Aransas NERR Final Management Plan</b> (2006)	University of Texas at Austin Marine Science Institute	To “describe[] how the Mission-Aransas [NERR] will be managed” <sup>264</sup>	The plan sets out various objectives along with “specific actions or tasks,” which are intended to “lead[] to the

<sup>258</sup> Artificial Reef, MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, [www.dmr.state.ms.us/index.php/marine-fisheries/artificial-reef](http://www.dmr.state.ms.us/index.php/marine-fisheries/artificial-reef) (last visited Dec. 10, 2015).

<sup>259</sup> Private Lands Habitat Program, MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES, AND PARKS, [www.mdwfp.com/wildlife-hunting/private-land-habitat.aspx](http://www.mdwfp.com/wildlife-hunting/private-land-habitat.aspx) (last visited Dec. 10, 2015).

<sup>260</sup> Gulf of Mexico Fact Sheet, NOAA, [https://www.st.nmfs.noaa.gov/st5/publication/communities/Gulf\\_Summary\\_Communities.pdf](https://www.st.nmfs.noaa.gov/st5/publication/communities/Gulf_Summary_Communities.pdf).

<sup>261</sup> Deepwater Horizon Oil Spill Background Information, TEXAS PARKS & WILDLIFE, [https://tpwd.texas.gov/landwater/water/enviroconcerns/damage\\_assessment/dwh\\_spill/background.phtml](https://tpwd.texas.gov/landwater/water/enviroconcerns/damage_assessment/dwh_spill/background.phtml) (last visited Dec. 14, 2015).

<sup>262</sup> Texas Conservation Action Plan (2012-2022): A Roadmap for Conservation, TEXAS PARKS & WILDLIFE DEPARTMENT, [http://tpwd.texas.gov/huntwild/wild/wildlife\\_diversity/nongame/tcap](http://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/tcap) (last visited Nov. 19, 2015).

<sup>263</sup> Texas Parks & Wildlife Department, Texas Conservation Action Plan: Overview 1 (2012), *available at* [http://tpwd.texas.gov/landwater/land/tcap/documents/tcap\\_overview\\_2012.pdf](http://tpwd.texas.gov/landwater/land/tcap/documents/tcap_overview_2012.pdf).

<sup>264</sup> University of Texas at Austin Marine Science Institute, Mission-Aransas NERR Final Management Plan 1 (2006), *available at* [http://missionaransas.org/sites/default/files/manerr/files/management\\_plan\\_reserve\\_2006.pdf](http://missionaransas.org/sites/default/files/manerr/files/management_plan_reserve_2006.pdf).

			accomplishment of the goals” described in the plan. <sup>265</sup>
<b>The Galveston Bay Plan (1994)</b>	Galveston Bay National Estuary Program	“[T]o address threats to the [B]ay resulting from pollution, development, and overuse” <sup>266</sup>	The plan includes “82 management initiatives to address 17 specific priority problems.” <sup>267</sup>
<b>Texas Wetlands Conservation Plan (1997)</b>	Texas Parks & Wildlife	To “guide...wetlands conservation efforts throughout the state” <sup>268</sup>	The plan “focuses on non-regulatory, voluntary approaches to conserving Texas’ wetlands.” <sup>269</sup>
<b>Texas Artificial Reef Plan (1990)</b>	Texas Parks & Wildlife	To guide the artificial reef program <sup>270</sup>	The plan addresses a number of issues, including siting, permitting, and constructing artificial reefs.
<b>Seagrass Conservation Plan for Texas (1999)</b>	Texas Parks & Wildlife, Texas General Land Office, Texas Commission on Environmental Quality	“To identify resource management problems, enumerate planning objectives, and develop long and short range strategies and actions to protect and preserve Texas seagrasses” <sup>271</sup>	The plan focuses on problems in three areas: research, management, and education and outreach. <sup>272</sup>
<b>Other Texas Plans in the Search Tool</b>			
<ul style="list-style-type: none"> <li>• Coastal Bend Bays Plan</li> <li>• Coastal Texas 2020</li> <li>• Galveston Bay Habitat Conservation Blueprint</li> <li>• Mission/Aransas Watershed Wetland Conservation Plan</li> </ul>			

One plan that covers the entire state is the **Texas Conservation Action Plan**.<sup>273</sup> The purpose of the plan “is to provide a statewide ‘roadmap’ for research, restoration, management, and recovery projects addressing Species of Greatest Conservation Need (SGCN) and natural communities.”<sup>274</sup> The plan includes 11 region-specific handbooks (called “Ecoregion

<sup>265</sup> *Id.* at 5.

<sup>266</sup> Galveston Bay National Estuary Program, *The Galveston Bay Plan*, ix (1994), available at <http://repositories.tdl.org/tamug-ir/handle/1969.3/25458>.

<sup>267</sup> About the Galveston Bay Plan, GALVESTON BAY ESTUARY PROGRAM, [www.gbep.state.tx.us/about-the-galveston-bay-plan](http://www.gbep.state.tx.us/about-the-galveston-bay-plan) (last visited Nov. 22, 2015)

<sup>268</sup> Texas Parks & Wildlife Department, *Texas Wetlands Conservation Plan 7 (1997)*, available at [www.tpwd.state.tx.us/publications/pwdpubs/media/pwd\\_pl\\_r2000\\_0005.pdf](http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd_pl_r2000_0005.pdf).

<sup>269</sup> *Id.*

<sup>270</sup> Texas Parks & Wildlife Department, *Texas Artificial Reef Plan, Executive Summary (1990)*, available at [www.tpwd.state.tx.us/publications/pwdpubs/media/pwd\\_pl\\_v3400\\_0332.pdf](http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd_pl_v3400_0332.pdf).

<sup>271</sup> Texas Parks & Wildlife Department, *Seagrass Conservation Plan for Texas 9 (1999)*, available at [www.tpwd.state.tx.us/publications/pwdpubs/media/pwd\\_bk\\_r0400\\_0041.pdf](http://www.tpwd.state.tx.us/publications/pwdpubs/media/pwd_bk_r0400_0041.pdf).

<sup>272</sup> *Id.*

<sup>273</sup> This plan is a state wildlife action plan. See *Texas Conservation Action Plan: Overview*, *supra* note 263 at 1.

<sup>274</sup> *Texas Conservation Action Plan (2012-2022): A Roadmap for Conservation*, *supra* note 262.



handbooks”), as well as a statewide (multi-region) handbook.<sup>275</sup> Among other things, the handbooks identify conservation issues and actions for each ecoregion (for the region-specific handbooks) and for multiple ecoregions (for the statewide handbook).<sup>276</sup> This plan could be useful in informing the spill-related processes, particularly in project planning and selection.

Some plans have a more narrow geographic focus. This includes the **Mission-Aransas NERR Final Management Plan** and **The Galveston Bay Plan**. The Mission-Aransas NERR Final Management Plan “describes how the Mission-Aransas [NERR] will be managed...”<sup>277</sup> It covers a number of topics, including public access, research and monitoring, and stewardship. For each topic, the plan sets out various objectives along with “specific actions or tasks,” which are intended to “lead[] to the accomplishment of the goals” described in the plan.<sup>278</sup>

Similarly, **The Galveston Bay Plan** focuses on a more narrow geographic area. It is the “Comprehensive Conservation [and] Management Plan for Galveston Bay.”<sup>279</sup> As noted in the plan, its purpose “is to address threats to the [B]ay resulting from pollution, development, and overuse.”<sup>280</sup> It includes “82 management initiatives to address 17 specific priority problems.”<sup>281</sup> This plan, along with the **Mission-Aransas NERR Final Management Plan**, may be important to spill-related projects taking place in or impacting these areas.

At the same time, there are state plans that focus on specific natural resources. For example, the **Texas Wetlands Conservation Plan** focuses on wetlands. Its purpose is to “guide...wetlands conservation efforts throughout the state.” The plan “focuses on non-regulatory, voluntary approaches to conserving Texas’ wetlands.”<sup>282</sup> It identifies eight issues related to wetlands conservation in the state, and eight issues in three specific regions of the state (East Texas, Panhandle, and Gulf Coast).<sup>283</sup> These issues include education and outreach, economic incentives, and state and region-specific conservation issues.<sup>284</sup> The plan recommends a number of actions “to address th[e]se issues.”<sup>285</sup>

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<sup>275</sup> The plan also includes an overview. *Id.*

<sup>276</sup> *Id.* at 1, 41, 43.

<sup>277</sup> Mission Aransas NERR Final Management Plan, *supra* note 264, at 1.

<sup>278</sup> *Id.* at 5.

<sup>279</sup> Galveston Bay Estuary Program Homepage, [www.gbep.state.tx.us](http://www.gbep.state.tx.us) (last visited Nov. 22, 2015).

<sup>280</sup> The Galveston Bay Plan, *supra* note 266, at ix.

<sup>281</sup> About the Galveston Bay Plan, *supra* note 267. Around “the midpoint of [The Galveston Bay Plan’s] 20-year timeline,” another plan, Charting the Course to 2015: Galveston Bay Strategic Action Plan, was drafted. Galveston Bay Estuary Program, Charting the Course to 2015: Galveston Bay Strategic Action Plan 3 (2009), available at [https://www.tceq.texas.gov/publications/gi/gi-385.html/at\\_download/file](https://www.tceq.texas.gov/publications/gi/gi-385.html/at_download/file). This plan “was created not to replace *The Galveston Bay Plan*, but to help focus and guide its implementation over the next 10 years, in consideration of increasing human demands affecting the ecosystem and limited financial resources.” *Id.* at 7.

<sup>282</sup> Texas Wetlands Conservation Plan, *supra* note 268, at 7.

<sup>283</sup> *Id.* at 7, 38.

<sup>284</sup> *Id.* at 7, 44.

<sup>285</sup> *Id.* at 7.

There are also other resource-specific plans. These include the **Texas Artificial Reef Plan**. It addresses a number of issues, including siting, permitting, and constructing artificial reefs.<sup>286</sup> There is also the **Seagrass Conservation Plan for Texas**, which “identif[ies] resource management problems, enumerate[s] planning objectives, and develop[s] long and short range strategies and actions to protect and preserve Texas seagrasses.”<sup>287</sup> These plans may be useful to spill-related projects involving these resources.

## ii. Programs

Texas has a number of programs that may be important to the spill-related processes. Table 12 provides an overview of some of the key programs.

**Table 12.** Texas Programs

Program	Lead Entity	Purpose	Highlights
<b>Texas Coastal Management Program</b>	Texas General Land Office	To “help[] ensure the long-term environmental and economic health of the Texas coast” <sup>288</sup>	The program “serves as an umbrella for the management of coastal resources along the Texas coast.” <sup>289</sup>
<b>Coastal Erosion Planning and Response Act (CEPRA) Program</b>	Texas General Land Office	“[T]o implement coastal erosion response projects and related studies to reduce the effects of and to understand the processes of coastal erosion” <sup>290</sup>	“The CEPRA program partners with other state, federal, and local governments, as well as nonprofit organizations to develop and fund coastal erosion projects.” <sup>291</sup>
Other Texas Programs in the Search Tool			
Funding Programs		Regulatory Programs	
<ul style="list-style-type: none"> <li>• East Texas Wetlands Project program</li> <li>• Texas Farm and Ranch Land Acquisition Program</li> </ul>		<ul style="list-style-type: none"> <li>• Artificial Reef Program</li> <li>• Dune Protection Program</li> <li>• Nongame and Rare Species Program</li> <li>• Private Lands and Habitat Program</li> </ul>	

<sup>286</sup> Texas Artificial Reef Plan, *supra* note 270.

<sup>287</sup> Seagrass Conservation Plan for Texas, *supra* note 271, at 9. Note that the plan underwent a review and update in 2012. Texas Parks & Wildlife Department, Seagrass Conservation Plan for Texas: Ten-Year Review and Update (2012), *available at* [https://tpwd.texas.gov/landwater/water/habitats/seagrass/media/SG%20Plan%20Review%20%20Proceedings\\_2012.pdf](https://tpwd.texas.gov/landwater/water/habitats/seagrass/media/SG%20Plan%20Review%20%20Proceedings_2012.pdf).

<sup>288</sup> Coastal Management Program, TEXAS GENERAL LAND OFFICE, [www.glo.texas.gov/coast/grant-projects/cmp/index.html](http://www.glo.texas.gov/coast/grant-projects/cmp/index.html) (last visited Nov. 25, 2015).

<sup>289</sup> Texas General Land Office, Texas Coastal Management Program Biennial Report: 2013-2014, 6 (Dec. 2014), *available at* [www.glo.texas.gov/coast/coastal-management/forms/files/CMP-Biennial-Report-2014.pdf](http://www.glo.texas.gov/coast/coastal-management/forms/files/CMP-Biennial-Report-2014.pdf).

<sup>290</sup> CEPRA, TEXAS GENERAL LAND OFFICE, [www.glo.texas.gov/coast/grant-projects/cepra/index.html](http://www.glo.texas.gov/coast/grant-projects/cepra/index.html) (last visited Nov. 25, 2015).

<sup>291</sup> Texas General Land Office, Coastal Erosion Planning & Response Act: A Report to the 84<sup>th</sup> Texas Legislature, 1 (2015), *available at* [www.glo.texas.gov/coast/coastal-management/forms/files/CEPRA-Report-2015.pdf](http://www.glo.texas.gov/coast/coastal-management/forms/files/CEPRA-Report-2015.pdf).

- Texas Clean Rivers Program
- Texas Coastal Preserve Program
- Wildlife Habitat Assessment Program

There are two main programs that focus on the Texas coast: the **Texas Coastal Management Program (CMP)** and the **Coastal Erosion Planning and Response Act (CEPRA) Program**. The Texas CMP is focused on “help[ing] ensure the long-term environmental and economic health of the Texas coast.”<sup>292</sup> The program “serves as an umbrella for the management of coastal resources along the Texas coast.”<sup>293</sup> It receives roughly \$2.5 million from the federal government annually. This money goes to the coastal resource improvement program and the program enhancement program.<sup>294</sup> The state must match coastal resource improvement funds on a 1:1 basis. No match is required for the program enhancement funds. Of the coastal resource improvement funds, about 90% is “awarded to eligible entities for coastal projects through a competitive grant process.”<sup>295</sup> Aside from awarding grants, the Texas CMP has other responsibilities. This includes “ensur[ing] the actions of state and federal agencies and limited local government actions are consistent with the goals and policies of the CMP.”<sup>296</sup>

The other main coastal program is the **CEPRA Program**. This program is focused on “implement[ing] coastal erosion response projects and related studies to reduce the effects of and to understand the processes of coastal erosion...”<sup>297</sup> The program is administered by the General Land Office, which “partners with other state, federal, and local governments, as well as nonprofit organizations to develop and fund coastal erosion projects.” In general, a portion of the project costs must be covered by matching funds: “beach nourishment projects require at least 25[%] match funding while other coastal erosion response studies or projects require at least 40[%] match funding.”<sup>298</sup> In the most recent CEPRA Program funding cycle, 21 projects were approved.<sup>299</sup>

There are also a number of other state programs that could be important to spill-related projects. These include the **Wildlife Habitat Assessment Program** (reviews projects “for impacts to...wildlife” and provides recommendations to minimize impacts),<sup>300</sup> the **Artificial Reef**

<sup>292</sup> See Coastal Management Program, *supra* note 288.

<sup>293</sup> Texas Coastal Management Program Biennial Report, *supra* note 289.

<sup>294</sup> *Id.* at 10. Note that “federal funding for [the Texas Coastal Nonpoint Source Pollution Control Program] has not been made available.” See *id.* at 16.

<sup>295</sup> *Id.* at 10. This is based on FY 2013 and FY 2014 numbers.

<sup>296</sup> *Id.*

<sup>297</sup> CEPRA, *supra* note 290.

<sup>298</sup> See *id.*; see also 31 Tex. Admin. Code § 15.42(c) (this provision also references exceptions to these general match requirements).

<sup>299</sup> CEPRA Cycle 8 Projects, Texas General Land Office (2014), [www.glo.texas.gov/what-we-do/caring-for-the-coast/\\_documents/grants-funding/cepra/cepra-cycle-8-projects.pdf](http://www.glo.texas.gov/what-we-do/caring-for-the-coast/_documents/grants-funding/cepra/cepra-cycle-8-projects.pdf).

<sup>300</sup> Wildlife Habitat Assessment Program: Project Review Requests, TEXAS PARKS & WILDLIFE DEPARTMENT, [http://tpwd.texas.gov/huntwild/wild/wildlife\\_diversity/habitat\\_assessment/review.phtml](http://tpwd.texas.gov/huntwild/wild/wildlife_diversity/habitat_assessment/review.phtml) (last visited Dec. 5, 2015).

**Program** (the plan for the program is described above),<sup>301</sup> and the **Private Lands and Habitat Program** (focused on “provid[ing] advice and information to private landowners interested in the conservation and development of wildlife habitat on their property”).<sup>302</sup> Depending on the project at issue, it may need to coordinate with one or more of these programs.

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<sup>301</sup> Texas Artificial Reef Program, TEXAS PARKS & WILDLIFE DEPARTMENT,  
[http://tpwd.texas.gov/landwater/water/habitats/artificial\\_reef](http://tpwd.texas.gov/landwater/water/habitats/artificial_reef) (last visited Dec. 10, 2015)

<sup>302</sup> Private Lands and Habitat Program, TEXAS PARKS & WILDLIFE DEPARTMENT,  
<http://tpwd.texas.gov/landwater/land/private> (last visited Dec. 4, 2015).

## V. Conclusion

Recovery from the *Deepwater Horizon* disaster will take decades. When added to the other threats facing the Gulf of Mexico, from coastal erosion to upstream pollution, the time, capacity, and funding required to restore the Gulf becomes even greater. It is unlikely that this task will be accomplished with spill-related funding alone. Rather, funds from RESTORE, the NRDA process, NFWF, and other spill-related processes “must build on past research, work, and existing organizations and programs that can benefit the...Gulf Coast.”<sup>303</sup> By building bridges to connect existing plans and programs with efforts underway for the spill-related processes, we can maximize the chances of achieving a healthy, thriving Gulf.

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<sup>303</sup> See GoCoast 2020, *supra* note 204, at 71 (in the context of Mississippi’s efforts on RESTORE).