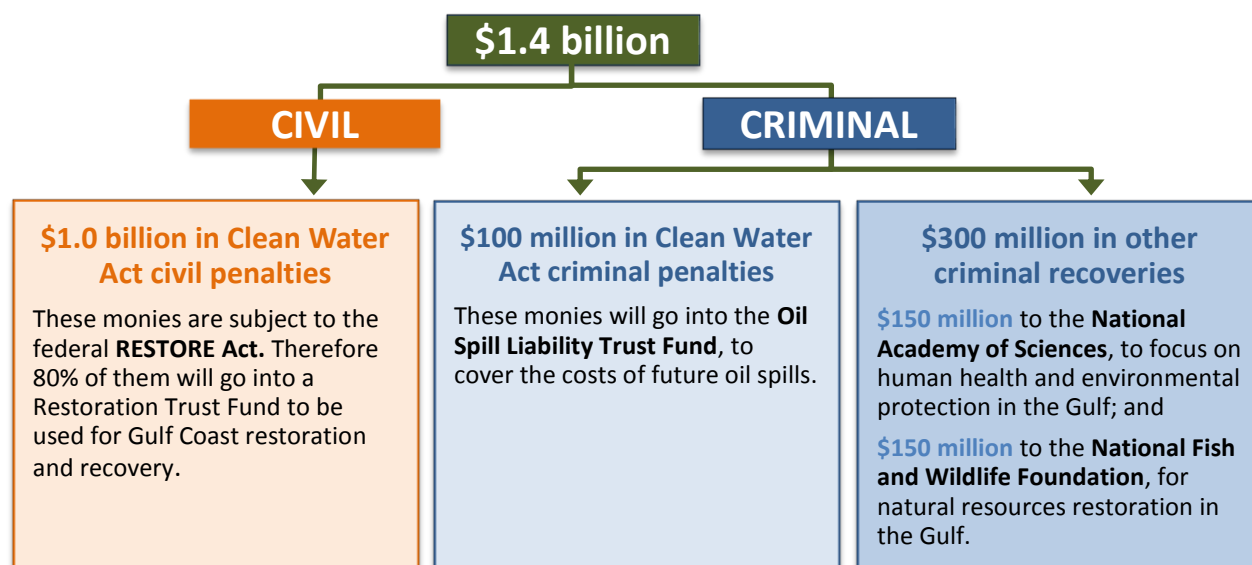


On January 3, 2013, the U.S. Department of Justice (DOJ) announced that it had reached a settlement with Transocean related to its conduct in the *Deepwater Horizon* disaster. This fact sheet sets out the main terms of the settlement. Keep in mind that:

- **This settlement consists of two parts:** a partial consent decree, which covers the civil charges, and a guilty plea agreement, which covers the criminal charges.<sup>1</sup>
- **This settlement does not cover all potential claims against Transocean.** For example, it does not address claims for natural resource damages under the Oil Pollution Act.<sup>2</sup>
- **The settlement has been approved.** The guilty plea agreement was accepted on February 14, 2013 and the partial consent decree was approved on February 19, 2013.<sup>3</sup>

## Overview of the Settlement

In total, Transocean agreed to pay **\$1.4 billion**. This amount includes:



**The civil agreement also requires Transocean to implement measures to improve its performance and prevent a recurrence.** Transocean must produce a performance plan that, among other things, sets interim milestones for the measures, which include:

- Comply with operational oversight provisions;
- Adopt specific oil spill training and exercises;
- Submit an addendum to the Oil Spill Response Plan;
- Adhere to designated best practices (e.g., create an emergency response plan);
- Devote a minimum of \$10 million to drilling technology innovation;
- Adopt transparency measures (e.g., a public website with compliance information);
- Adopt process safety measures (e.g., hire a third-party process safety consultant); and
- Hire a third-party auditor to oversee compliance with these measures.

## Where Will the Money Go?

The settlement monies will go to four different entities:

### RESTORE Act – Restoration Trust Fund

The RESTORE Act created a **Gulf Coast Restoration Trust Fund (RTF)**, which will receive 80% of all Clean Water Act civil and administrative penalties paid by companies responsible for the *Deepwater Horizon* oil spill. This includes Transocean. Funds in the RTF will be distributed in three ways to support ecological and economic restoration and recovery in the Gulf Coast region: the largest portion (35%) will be distributed directly to the Gulf Coast states in equal shares. Just under one-third of the funds (30% plus 50% of the interest earned) will go to a Gulf-wide Restoration Council for projects. Slightly less (30%) will go to the Gulf States based on their oil spill impacts. The remainder of the RTF (5% plus 50% of the interest earned) will fund scientific research and monitoring through Centers of Excellence and a Restoration Science Program.<sup>4</sup>

### Oil Spill Liability Trust Fund

The **Oil Spill Liability Trust Fund (OSLTF)** is an account created by Congress to hold, among other things, certain payments, taxes, and penalties paid by oil and gas companies. These funds are used to cover the costs of future oil spills. The OSLTF consists of: the Emergency Fund, which pays for things like oil spill removal activities, and the Principal Fund, which pays for things like uncompensated oil spill damages (where parties responsible for the spill are unknown or cannot pay) and the administration of the Oil Pollution Act.

### National Academy of Sciences

The **National Academy of Sciences (NAS)** is a private, non-profit institution created by Congress in 1863 “to provide independent advice to the government on matters related to science and technology.” NAS includes the National Research Council (NRC), the National Academy of Engineering, and the Institute of Medicine. NRC carries out most of the science policy and technical work of the institution, and relies on volunteer experts from across the country to complete its work.

### National Fish and Wildlife Foundation

The **National Fish and Wildlife Foundation (NFWF)** is a non-profit organization created by Congress in 1984 “to protect and restore fish and wildlife and their habitats.” The organization funds a wide variety of conservation projects across the country, leveraging public funds with private investment dollars. NFWF is governed by a Board of Directors, which consists of 30 members who are approved by the Secretary of the Interior. The Board includes the leaders of the U.S. Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA).

## Detailed Summary of Transocean’s Civil and Criminal Penalties and Other Recoveries

Recovery	Amount	Use of Funds	Timing of Payments
Clean Water Act civil penalties <sup>5</sup>	\$1.0 billion	These monies are subject to the RESTORE Act, therefore 80% of them will go to the Restoration Trust Fund to be used for Gulf Coast restoration and recovery.	<ul style="list-style-type: none"> <li>• \$400 million (with interest) within 60 days</li> <li>• \$400 million (with interest) within 1 year</li> <li>• \$200 million (with interest) within 2 years</li> </ul>
Clean Water Act criminal penalties <sup>6</sup>	\$100 million	To the Oil Spill Liability Trust Fund, for use in future oil spills.	Within 60 days of sentencing
Conditions of Probation, National Academy of Sciences <sup>7</sup>	\$150 million	To the National Academy of Sciences (NAS) to establish an endowment for “a program focused on human health and environmental protection, including issues relating to offshore oil drilling” in the Gulf. The principal and earnings of the endowment will be expended over 30 years.	<ul style="list-style-type: none"> <li>• \$2 million within 90 days of the date the agreement becomes effective</li> <li>• \$7 million within 1 year</li> <li>• \$21 million within 2 years</li> <li>• \$60 million within 3 years</li> <li>• \$60 million within 4 years</li> </ul>
Conditions of Probation, National Fish and Wildlife Foundation <sup>8</sup>	\$150 million	<p>To the National Fish and Wildlife Foundation (NFWF), as follows:</p> <ul style="list-style-type: none"> <li>• 50% for “payments to conduct or fund projects to 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 Macondo oil spill,” in “approximately” the following proportions: (1) Alabama, 28%, (2) Florida, 28%, (3) Mississippi, 28%, and (4) Texas, 16%.</li> <li>• 50% to target Louisiana impacts, by using the funds “to create or restore barrier islands off the coast of Louisiana and/or to implement river diversion projects on the Mississippi and/or Atchafalaya Rivers for the purpose of creating, preserving and restoring co[a]stal habitat,” in order to remedy natural resource damages caused by the Macondo oil spill.</li> </ul>	<ul style="list-style-type: none"> <li>• \$58 million within 60 days of sentencing</li> <li>• \$53 million within 1 year</li> <li>• \$39 million within 2 years</li> </ul>

## Endnotes

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<sup>1</sup> The Partial Consent Decree, the Cooperation Guilty Plea Agreement, and associated exhibits and information are available online at <http://www.justice.gov/opa/pr/2013/January/13-ag-004.html>.

<sup>2</sup> While the settlement focuses on civil and criminal charges under the Clean Water Act, it also releases Transocean from other liabilities associated with the *Deepwater Horizon* spill. The Cooperation Guilty Plea Agreement releases Transocean from any further criminal prosecution related to *Deepwater Horizon* so long as Transocean adheres to the agreement terms. The Partial Consent Decree, releases Transocean from civil liability under the following statutory provisions (so long as Transocean adheres to the agreement terms): Clean Water Act, 33 USC §§ 1319(d), (g) & 1321(b)(6)–(7); Endangered Species Act, 16 USC § 1540(a)(1); Marine Mammal Protection Act, 16 USC § 1375(a)(1); National Marine Sanctuaries Act, 16 USC § 1437(d); Clean Air Act, 42 USC § 7413(b), (d); Comprehensive Environmental Response, Compensation, & Liability Act, 42 USC § 9609(a)–(c); Emergency Planning & Community Right-to-Know Act, 42 USC § 11045(a), (b)(1)–(3), (c); Outer Continental Shelf Lands Act, 43 USC § 1350(b), including 30 CFR Part 250 Subparts A–E; Oil & Gas Royalty Management Act, 30 USC § 1719(a).

<sup>3</sup> The partial consent decree was approved following a 21-day public comment period, which began the day a notice was published in the Federal Register (January 9, 2013). The consent decree approval can be found at <http://www.laed.uscourts.gov/oilspill/Orders/2192013ConsentDecree.pdf>, and the announcement of the guilty plea agreement approval can be found at <http://www.justice.gov/opa/pr/2013/February/13-ag-199.html>.

<sup>4</sup> For more information on the RESTORE Act and what the funds may be used for, see ELI's overviews and analyses at <http://eli-ocean.org/gulf/clean-water-act-restore/>.

<sup>5</sup> Partial Consent Decree, ¶ 9.

<sup>6</sup> Guilty Plea Agreement, ¶ 4(b).

<sup>7</sup> Guilty Plea Agreement, Exhibit B: Order ¶ 1 & Exhibit B-1.

<sup>8</sup> Guilty Plea Agreement, Exhibit B: Order ¶ 2–4.

For more information on Gulf restoration and recovery, visit our website at  
**[www.eli-ocean.org/gulf](http://www.eli-ocean.org/gulf)**