

**WRITTEN TESTIMONY OF
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ENVIRONMENTAL PROTECTION AND
FLORIDA GOVERNOR RICK SCOTT'S DESIGNEE TO THE
GULF COAST ECOSYSTEM RESTORATION COUNCIL**

**OVERSIGHT HEARING ON
"REVISITING THE RESTORE ACT: PROGRESS AND CHALLENGES IN GULF
RESTORATION POST-DEEPWATER HORIZON"
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
U.S. SENATE**

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Introduction

Good morning Chairman Nelson, Ranking Member Rubio, and Members of the Committee. My name is Mimi Drew, and I represent Governor Rick Scott on the Gulf Coast Ecosystem Restoration Council (Council). I am pleased to be here today, representing the State of Florida. As a Florida native, I have invested 30 + years working to protect and restore natural resources in Florida for the use of our citizens and many visitors who come to the state every year. During my career, I held several positions within state government related to environmental protection. I was serving as Deputy Secretary of the Florida Department of Environmental Protection (FDEP) when the *Deepwater Horizon* Oil Spill (the Spill) occurred. During the Spill, I was promoted to the position of Secretary of FDEP, and remained with the department until my retirement from the state in 2011. Following that, I was asked to stay on as a Special Advisor to the state to ensure continuity with all the *Deepwater Horizon* activities that continue to this day. I am currently representing Florida's interests in the multiple environmental restoration efforts that have developed since the Spill. In addition to serving on the Council, I am also Florida Department of Environmental Protection Secretary Herschel T. Vinyard Jr.'s representative on the *Deepwater Horizon* Trustee Council, and I work closely with the National Fish and Wildlife Foundation

(NFWF) to ensure Florida's interests and priorities are well represented. Prior to that, I sat on the Gulf Coast Ecosystem Restoration Task Force, predecessor to the Council.

As you can imagine, coming from my long term service and love for the State of Florida, it was with dismay that I watched the Spill. I worked in several command centers across the Gulf during the Spill, as well as Florida's Emergency Operations Center, and held my breath along with everyone else as we watched the oil spread slowly toward Florida's beaches and marshlands. It is gratifying after living through those long months to see that several restoration efforts are now beginning to take shape.

You invited us here today to discuss the successes and challenges to date in implementing the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). I am not going to repeat what you will have already heard from Justin Ehrenwerth, Executive Director of the Council. He speaks for all of us on the Council with his summary of activities and status report.

What I would like to do is to report more specifically on issues around the RESTORE Act that affect Florida, and how we have worked to address them. I would also like to briefly mention the other restoration funding streams and let you know how we are coordinating within the state to ensure that Florida ends up with the most efficient and effective projects with those funds.

Challenges

Those of us who live and work around the Gulf of Mexico are aware of its unique ecosystems and natural resources. Each of the five Gulf States, ranging from Florida to Texas, relies on the Gulf for recreation, business, and simple aesthetic appreciation. Florida has been nicknamed the "Fishing Capital of the World." Recent data indicates that Florida Gulf recreational fishing generated more than \$13.1

billion in sales and created just over 109,000 jobs while commercial fishing generated \$16.6 billion in sales and created more than 82,000 jobs.¹ Nearly 95 million people visit Florida each year, drawn to our sugar sand beaches along the Gulf; providing a huge economic boom to businesses that support those visits. People who are fortunate enough to live close to the Gulf enjoy simple and inexpensive opportunities to fish, swim, kayak, bird watch, or just soak up the sun and views. All of these activities that we take for granted were threatened on April 20, 2010, with the explosion of the Deepwater Horizon. First, the loss of eleven lives from the explosion saddened everyone. Then, the constant broadcasting on television stations around the world of the oil spewing from the bottom of the Gulf kept everyone worried for 87 long days before the final cap was placed on July 15, 2010.

The result in Florida was that many people who normally would have vacationed during that summer changed their plans. I won't spend much more time on this, because the history is available in the multiple reports that have been issued. However, it is important to understand how Florida was uniquely damaged by the Spill. In Florida, a clean environment is crucial to a healthy economy. When that is threatened, the economy and the families who live here all suffer.

Part of our challenge in recovering from the Spill is being able to leverage available funding streams that will address restoration. The initial funding stream, called "Early Restoration", grew out of a partial interim settlement that the *Deepwater Horizon* Natural Resource Trustees reached with BP three years ago which basically provides a down payment against BP's ultimate liability, which will be determined by the Natural Resource Damage Assessment (NRDA) under the Oil Pollution Act of 1990. That agreement is for \$1 billion to be made available to affected State and Federal Trustees to restore proven injury, and

¹ National Marine Fisheries Service. 2014. Fisheries Economics of the United States, 2012. U.S. Department Commerce NOAA Tech. Memo NMFS-F/SPO-137.

Florida's allocation is \$100 million plus some portion of \$300 million to be shared among the states at the direction of the Federal Trustees. Because this is a partial interim settlement and the first of its kind, the process has taken a good deal of time to implement as all the Early Restoration projects require full Trustee approval as well as agreement with BP that the project offsets a known injury. We are now close to being able to have committed \$100 million for projects in Florida, and the result will be the implementation of many good projects to deal with some of the injured natural resources, as well as the loss of recreational use, which occurred as a result of the Spill.

The focus of the NRDA projects has been to offset currently known injury. The beauty of the RESTORE funding is that it is broader in nature and can be used to improve the health of the Gulf in general. Therefore, we see this as an opportunity to expand and enhance the type of projects that we haven't been able to fund through NRDA.

One of our largest, and I would say, overarching challenges across all programs has been the amount of time between the Spill and achieving meaningful restoration. Although everyone involved has worked diligently to implement the various programs and funding streams, it has seemed to the watching public that we haven't been expeditious. In response to this criticism, it's important to note that this was the largest environmental disaster ever to occur in the United States. It involves five states, and at least four federal agencies. By its nature, it is complicated and the rules are difficult to understand. Managing expectations has been very difficult, as the general public as well as people outside the immediate circle of the councils and committees become more frustrated with the pace of restoration.

I don't have a solution for this. Working on the inside of this issue, I can tell you it is not from lack of trying that our groups aren't able to move more nimbly. It is however a challenge and perhaps history

will suggest that there could be changes in laws or rules that might permit a more rapid approach to restoration. One thing I will note here: had we not reached an early partial settlement with BP on the NRDA side, we would have no restoration projects at all as the litigation continues to work its way through court.

Direct Funding Component

Under the RESTORE Act, the flow of funding is structured differently for Florida when compared to the other Gulf Coast states. For the Direct Funding Component, or Bucket 1 as it is commonly called, funding in Florida flows directly to the individual 23 Gulf Coast Counties (Counties). The RESTORE Act directs that 75 percent of the available funds will be distributed among the eight most western Gulf Coast counties (Escambia through Wakulla) with the remaining 25 percent being distributed among the remaining fifteen Gulf Coast counties (Jefferson through Monroe). Once the Department of Treasury (Treasury) Regulations are finalized, the individual Counties can access these funds directly from the Treasury. The funds will be released once the Counties have met the conditions outlined in the RESTORE Act, which include submitting a multiyear implementation plan to the Treasury. Once Transocean makes its final payment, there will be \$56,000,000 available for distribution among the Counties.

The challenge here is to make sure by working with the Counties that projects within Bucket 1 are coordinated with other funding streams, and if possible, achieve some measure of leveraging to get the best possible projects across the Gulf. And of course, as I'm sure you will hear from the County representative later, part of their challenge has been to start planning for these projects without funding, which will not be available until the Treasury Regulations are finalized.

Comprehensive Plan Component

Florida has unique ecosystems, and has a long history of environmental protection measures to ensure they flourish. Florida's Gulf of Mexico coastline includes 23 counties, and ranges from Escambia County to Monroe County. Each of the counties has a different set of restoration priorities. In the Panhandle, which includes eight counties from Escambia to Wakulla, population is fairly low, and intense development is limited to several large cities. There still remains a great deal of natural landscape along the Gulf in these counties. Further south, toward Hillsborough County, the population increases and the urban impacts on the Gulf also increase. Of course, Monroe County which includes the Florida Keys, is the only tropical coral reef in the United States, and has its own set of challenges.

Because there was no available funding to the Council to develop the Initial Comprehensive Plan (Plan), all the members were challenged to be able to provide staff and funding to develop and publish the Plan. This is not news to this Committee, as the issue of funding availability is one that runs through all portions of the RESTORE Act implementation. Aside from the funding challenge, one of the biggest challenges to us in developing projects for the Funded Priority List (FPL), which is part of the Plan, is to reflect the different ecosystems as well as socioeconomic situations which range along the Gulf. The one unifying factor for us is that the Council just recently reached agreement on two goals to focus on in the initial FPL, which are identified in the testimony from Justin Ehrenwerth. These stated goals of water quality restoration and protection, and habitat conservation and protection are two that rise to the top of Florida's priorities. For years, Florida has been a leader in both of these areas through our continued programs for water quality protection. Most recently, we became one of the few states to adopt numeric water quality standards, which will go a long way toward enhanced water quality protection. Florida Department of Environmental Protection Secretary, Herschel T. Vinyard Jr., has repeatedly taken

the position that water quality protection is his highest priority, and therefore the decision by the Council to emphasize this goal is welcome to Florida.

In terms of habitat restoration, Florida has a long history of successful habitat restoration across the state. Land acquisition has been a large part of that, and over the years, Florida has acquired more land than any other state or federal entity. But that's not the whole picture. Within Florida State Parks, for example, there is a very active program for habitat restoration and conservation. The Florida Fish and Wildlife Commission also has an active habitat restoration and management program on lands that they oversee and manage; and the state agencies work closely with interested local governments to extend that ethic. Additionally, the state works closely with interested private landowners to protect and restore habitat on private lands. We look forward to translating these focus areas into meaningful projects for Florida's portion of the projects and programs funded under the Comprehensive Plan.

Spill Impact Component

Again, the RESTORE Act sets out a different process in Florida for developing projects under this component, or Bucket 3 as it is often called. The Florida Gulf Consortium (Consortium) is identified as being responsible for developing the State Expenditure Plan, which is then to be approved by the Governor and submitted to the Council for approval. The Consortium has been hampered in this effort by lack of funds, and you will hear later on your agenda today what they have done so far to begin implementation of this component.

I'd like to focus today on specific challenges that have come up to ensure that there is active collaboration and cooperation among the state and local entities responsible for this funding stream. Recognizing that it is imperative that all the processes necessary to develop, finalize and receive approval of the State Expenditure Plan are streamlined and efficient, the Governor's office developed a

Memorandum of Understanding with the Consortium, which was signed on June 12, 2013. We have been working actively with the Consortium since passage of the RESTORE Act to ensure that we have a transparent and collaborative process for approval of the State Expenditure Plan. As Florida's representative on the Council, I have consistently encouraged the Council to provide a funding mechanism for the Consortium (as well as other states) to receive a planning grant for this component. I am now pleased to say that once the Treasury Regulations are finalized, the Council is poised to issue an Interim Final Regulation which will allow the Consortium to apply for up to 5% of the funds that will ultimately be available in this component such that they can be used for development of the State Expenditure Plan. Therefore, the Consortium will be able to begin the planning effort even while the Council continues to develop the final rule for the Spill Impact Component.

Success to Date

Although it has been somewhat of a long road to get RESTORE activities off the ground and running, I am optimistic that we have tackled and solved some of our larger administrative issues, and are making good progress on some of the thornier technical issues. The Council's recent agreement to use the existing funds in the trust fund for the Comprehensive Plan Component to focus efforts across the Gulf on water quality and habitat restoration gives us a good map to begin proposing projects and programs to fit that model. In Florida, we will be using our watershed protection approach to think about ways to enhance whole ecosystems when we propose ideas for this component. We believe that water quality improvement and protection is vital to enhancing and restoring habitat, so these focus areas go hand in hand. The water quality needs in Florida are huge. EPA's report to Congress in 2008, called the Clean Watersheds Needs Survey, suggests that Florida's stormwater needs are \$2.5 billion. This was six years ago, so I imagine that number has increased substantially. Nonpoint sources and stormwater are the biggest threats to water quality in Florida, so being able to develop projects which address these needs is very important to us.

Another success relates to our ability to identify a way to get planning funds to the Consortium shortly after the Treasury Regulations are finalized. As mentioned above, this will be a major part in our ability to create a thoughtful, long term State Expenditure Plan.

And finally, although more difficult to quantify, we have been successful in knitting together a diverse group of agencies, personalities and agendas in the RESTORE Council itself. Those of you who work in Congress are no strangers to the skills needed to bring together a diverse group and reach an outcome that is satisfactory to all. We are facing the same type of challenges, and have come a long way toward identifying unifying goals. Each of the members brings a different set of interests and priorities to the table. Luckily for some of us, membership is the same for most of the committees and councils that are addressing Gulf restoration, so there are familiar faces. Some of us have worked together since we rolled up our sleeves during the Spill and walked the beaches looking for oil. This has helped us come together as a Council and we are making good progress in that area. For us to succeed, we have to share some common characteristics: Patience, as the wheels of bureaucracy move slowly; collaboration, as it takes all of us to reach agreement on a path forward; dedication, because this is hard work; listening skills, because everyone has a slightly different story to tell; and recognition of the value of science, because we all want these projects and programs to be a sustainable success.

Conclusion

In ending my testimony, I would like to thank you all for taking the time out of your schedules to ask these very important questions. As Florida moves ahead to knit together restoration plans, programs and projects, we will be working with a large audience of interested parties, including local governments, nonprofit organizations, and of course just regular citizens. We have a robust outreach program, an active website which we keep updated (www.deepwaterhorizonflorida.com) and a long

history of providing information to the public in meetings or by other mechanisms. We are working closely with our other Gulf State and Federal partners on the NRDA funding. We have established a good relationship with the NFWF on a series of great restoration projects for fisheries enhancement, water quality, and wildlife habitat and restoration which will be funded out of the criminal settlements. We expect to keep working with the NFWF in the coming months, and they have assured us that it is their intent to reflect the states' interests in restoration and help us to leverage all available funding streams for restoration. It is our sincere intent to continue to engage fully in all Gulf restoration efforts with the goal in mind of making the best use of available funds to harmonize the various funding streams and make good decisions about how best to apply available funds.

I look forward to keeping you apprised as we continue to work through our challenges, and hope to be able to report on many successes in the future.

Mimi A. Drew

Florida Governor Rick Scott's Designee to the Council

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