

Written Testimony for

June 6, 2013 Hearing:

***Gulf Restoration: A Progress Report Three Years after the Deepwater
Horizon Disaster***

Submitted to:

Honorable John D. Rockefeller IV

Chairman

Senate Committee on Commerce, Science, and Transportation

United States Senate

Presented by:

Mayor George Neugent

Monroe County, Florida

Introduction

Thank you for the opportunity to provide testimony to the Senate Committee on Commerce, Science, and Transportation. We appreciate Chairman Jay Rockefeller calling this hearing and Senator Bill Nelson's continued focus on effective implementation of the Resources and Ecosystems Sustainability, Tourism Opportunities and Revived Economies (RESTORE) Act toward the full and long-term economic and environmental recovery of the Gulf Coast following the Deep Water Horizon oil spill.

My name is George Neugent, and I appear before the committee in my capacity as the Mayor of Monroe County, Florida, and as a member of the Executive Committee of the Gulf Consortium. While I have lived in the Florida Keys for more than 27 years and owned a small business there for many of those years, I was born and raised in Houma, Louisiana, and spent my early professional career in the petroleum industry addressing oil well fires and working on safety issues. My years living in the Florida Keys have been dedicated to the protection of the quality of our waters, serving for 14 years on the Florida Keys National Marine Sanctuary Advisory Council, and for more than a decade on the National Marine Sanctuary's Water Quality Protection Program Steering Committee. During my four-term tenure as County Commissioner, Monroe County has neared the completion of a \$900 million federally and state-mandated wastewater treatment infrastructure project spanning the entire island chain.

As a businessman, I understand the national importance of our oil resources, yet as a man who calls these environmentally-sensitive coral islands home, I am keenly aware of the need to guard against these types of disasters, protect and restore our natural resources and hold the appropriate parties responsible for the future of this country.

As with so many of our fellow coastal communities, the environment and the economy in the Florida Keys are inextricably linked. The unique marine ecosystem of the Florida Keys supports more than 6,000 species of fish, invertebrates and plants, including the largest documented sea grass bed in the world, and the only living coral reef in the continental United States. This unrivaled ecosystem provides the ecological foundation for a fisheries and tourism-based economy that generates more than 70,000 jobs and \$6 billion in economic activity annually.

The Keys' waters provide critical spawning habitats to a multitude of recreational and commercial migratory, endemic, coastal and pelagic finfish and shellfish, and unparalleled support to fisheries and essential habitats throughout the Gulf of Mexico. According to the U.S. Army Corps of Engineers, Monroe County's near shore waters alone provide habitat for 80 percent of the fish species in the United States. Most commercially valuable fish species depend on our near shore waters during their development. Key West, Florida, is the 5th most valuable port in the Gulf of Mexico, and the 20th most valuable commercial fishing port in the entire nation. In addition, the Florida Keys is the global center of recreational and sport fishing, with the highest number of recognized International Game Fish Association all tackle, saltwater line class, and saltwater flyrod "World Record Game Fish" records. Recreational fishing in the Florida Keys generates \$740 million in economic activity.

Protecting and restoring the Gulf of Mexico's resources is important not only for the environment, but also for the local, state and regional economies. Because of the RESTORE Act, we have an unparalleled opportunity to impact the environment and the coastal communities of the entire Gulf region for decades to come.

Deepwater Horizon Oil Spill and Impacts to Florida

On April 20, 2010 the explosion of the Deepwater Horizon Oil Rig resulted in more than 206 million gallons of oil, or 4.9 million barrels, spilling into the Gulf of Mexico for 84 consecutive days.

According to the Congressional Research Service, at the height of operations more than 47,000 personnel responded to the spill, which ultimately resulted in more than 1,100 linear miles of oiling including shoreline along Florida's panhandle. While cleanup efforts were extensive, it is estimated that more than 100 million gallons of oil remain in some form in the Gulf of Mexico. In Monroe County, it may be decades before the effects of the oil spill on the commercial and recreational fisheries of Florida Bay are fully known.

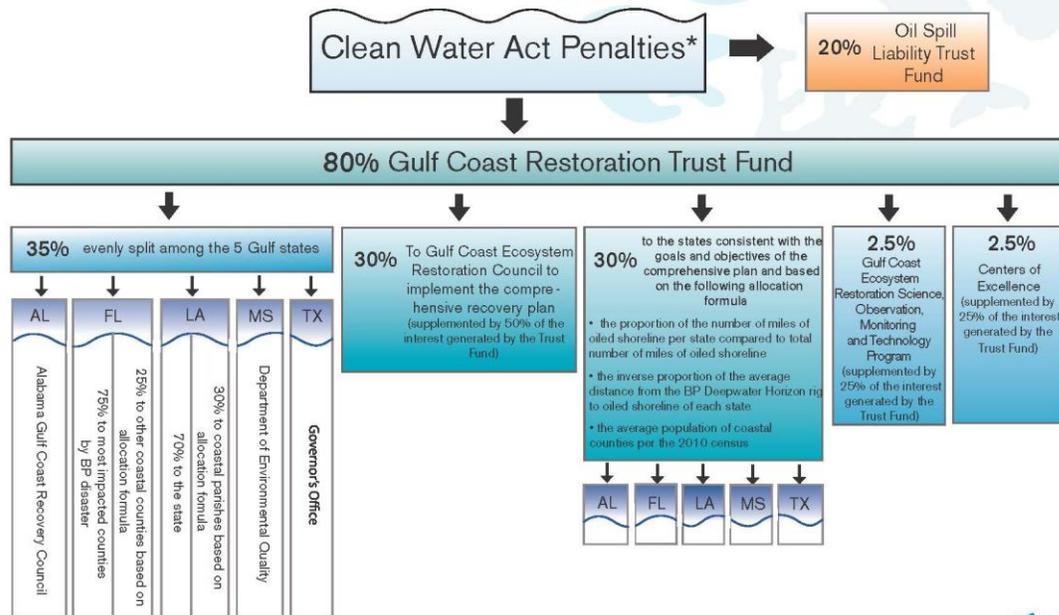
Immediately following the Deepwater Horizon tragedy, Florida's emergency response teams were required to operate under the Oil Pollution Act (OPA) of 1990, rather than the tried and true federal Stafford Act, which is used for the response and recovery of natural disasters.

The emergency management system established by OPA was constrained by a unified command structure that was established outside of Florida entirely. To compound matters, communication from Unified Command was limited and rarely consistent from day to day. This left counties and parishes across five states with inadequate information and concerned that any preparation and response efforts would be too little too late. Because of limited communication from Unified Command, local communities were forced to expend significant financial resources preparing for a potential event that could neither be quantified nor predicted.

However, the good news in all of this tragedy was that it brought community and elected leaders across Florida's counties and the five Gulf states together. This bridging of elected and community leaders across Florida is now serving us well during the implementation of the RESTORE Act.

The RESTORE Act

Distribution of Clean Water Act penalties to Gulf recovery per the RESTORE Act



* Clean Water Act penalties are a per barrel penalty of \$1100 for release of pollution into the environment. If 'gross negligence' is determined in release of the pollution, the penalty per barrel increases to \$4300. In the case of the BP Deepwater Horizon incident the following are estimates:

$\$1100 \times 4.9 \text{ million barrels of oil released into the environment} = \text{approx } \5.39 billion
 $\$4300 \times 4.9 \text{ million barrels of oil released into the environment} = \text{approx } \$21.07 \text{ billion [gross negligence]}$

All amounts are subject to negotiation via a settlement between the government and responsible parties.



During the Deepwater Horizon crisis, counties, parishes and five states joined together to provide an enhanced and cooperative response. Across geographical and political boundaries, our local communities, state agencies and elected leaders have remained in close collaboration to advocate collectively for a full and fair recovery. Because of the leadership in congress and communities across five states, in July 2012, the RESTORE Act was enacted. The Act directs 80 percent of any administrative and civil Clean Water Act penalty revenue into a newly created trust fund to support environmental and economic restoration projects in the Gulf States.

The RESTORE Act establishes several allocations to various levels of government. Fine monies under the RESTORE Act are divided into five allocations. The first allocation provides an even split of 35 percent to each of the five states. Unlike Texas, Alabama, Mississippi and Louisiana where the funds are allocated to the state, in Florida, this allocation is distributed directly to those coastal counties impacted by the Deepwater Horizon disaster. The second allocation of 30 percent of fine monies is directed to the Gulf Coast Ecosystem Restoration Council to implement the comprehensive recovery plan, which is under development. A third 30 percent goes to each state according to a distribution formula. Again, Florida is unique in that this

allocation is directed through the RESTORE Act to a “local consortia of political subdivisions.” The final two allocations direct 2.5 percent to Gulf Coast Ecosystem Restoration Science, Observation, Monitoring and Technology and 2.5 percent to Centers of Excellence.

The RESTORE Act in Florida

Implementation of the RESTORE Act in Florida is unique in two key areas. First, resources from the first allocation (35 percent of the Clean Water Act civil penalties distributed to the Gulf Coast States in equal shares) will flow directly to 23 individual Gulf Coast counties rather than through the state legislature or the governor. This allows Florida’s communities at the local level to determine the investments needed for environmental and economic recovery.

Unlike the other states, the RESTORE Act divides the Florida share of this allocation into two portions:

- 25 percent of Florida’s share directed to 15 non-disproportionately affected counties under a formula based on distance to the Deepwater Horizon event, population and sales tax collections.
- 75 percent of Florida’s share directed to Eight Disproportionately Affected Counties along Florida’s panhandle (Wakulla, Franklin, Gulf, Santa Rosa, Bay, Okaloosa, Walton and Escambia), with no formula specified.

Since a formula for the Eight Disproportionately Affected Counties was not included in the RESTORE Act, these counties joined together as a committee to develop a distribution that treats each county in a fair and proportionate manner. The formula determined by the eight counties distributes 20 percent of the funds equally among the eight counties. The remaining 80 percent is distributed based on oiled shoreline, per capita sales tax collections, population and distance from the Deepwater Horizon oil rig. The formula has been approved by the Boards of County Commissioners of each of the eight counties and now awaits review and endorsement by the U.S. Department of the Treasury.

The RESTORE Act requires public input as Florida’s 23 Gulf Coast counties develop their individual restoration plans under the first allocation. Most of the counties, including Monroe County, have convened local advisory committees to evaluate and recommend projects for funding under the local allocation to the Board of County Commissioners.

The Gulf Consortium

The second unique feature of RESTORE in Florida is the formation of the Gulf Consortium as the “local consortia of political subdivisions” directed under the Act to develop the State Expenditure Plan – a comprehensive economic and environmental restoration plan for Florida’s Gulf Coast. Florida’s 23 gulf coast counties came together to officially form the Gulf Consortium and facilitate the development of a coordinated state plan that would enhance Florida’s recovery through the prudent investment of 30 percent of the funds. This part of the RESTORE

Act gave Florida a distinct opportunity to create a partnership between local governments and the state to oversee the money coming to Florida and ensure it is used to fund the projects that are the most beneficial to our state.

Formed through Inter-local Agreement under Chapter 163, Florida Statutes, the Gulf Consortium is a public entity that operates fully under Florida's extensive sunshine laws. It adheres to Florida's public records and public meeting requirements and recognizes the importance of public participation by ensuring that all meetings are publicly noticed and there is ample time for citizens to address the consortium and provide input and feedback for full consideration. Like a state agency, the Consortium will provide reports to the Florida Auditor General and Florida's Chief Financial Officer. This state oversight is in addition to any rules issued by the U.S. Treasury for federal reporting and auditing requirements.

The Gulf Consortium is comprised of one county commissioner from each of the 23 gulf coast counties. This guarantees each county, from Escambia in the panhandle to the Florida Keys, a role and a voice in the state's recovery efforts. The formal collaboration of 23 separate government entities – more than 115 elected officials representing 6 million people – recognizes that Florida and the Gulf Coast should not just survive this tragedy, but maximize resources and apply lessons learned to best benefit the state's environment and economy.

The Gulf Consortium is also working with Florida's Governor, state agencies and other restoration partners to advance common goals, reduce duplication, and maximize benefits to the Gulf Coast region. To this end, the Consortium and the State developed a Memorandum of Understanding to further our collective objectives of maximizing efficiencies and revenue opportunities under the RESTORE Act. This Memorandum, now approved by the Gulf Consortium and awaiting the Governor's signature, provides the Governor with six ex-officio, non-voting appointees to the Consortium representing diverse interests to provide input and guidance to the Consortium on policies and criteria used to determine projects, activities and programs for inclusion in the State Expenditure Plan.

Our collaboration with the state of Florida also provides for a Technical Working Group comprised of appropriate state agencies to review and provide input on projects considered for the State Expenditure Plan during its development. The Consortium, in conjunction with the Technical Working Group, will develop criteria for the submission and selection of projects. At a minimum, the selection of projects will include:

- A review for consistency with the applicable laws and rules;
- Prioritization based on criteria established by the Consortium;
- Consideration of public comments;
- Approval by an affirmative vote of at least a majority of the Consortium Directors present at a duly noticed public meeting of the Consortium; and
- State agency involvement, input and review in the development of a comprehensive restoration plan.

Involvement of Florida's Governor in the development and approval of the State Expenditure Plan meets the spirit and intent of the RESTORE Act and underscores the commitment by the state, its local governments and its citizens to work together, not as silos, but as partners for the full benefit of the entire coastline.

Such collaboration takes time. Bringing 23 counties and the state of Florida together so that political and practical considerations are addressed is not easy. But building the right foundation – which we have now done – will allow us to better serve our citizens and, most importantly, invest these critical dollars in a collaborative, transparent and quality way.

Opportunities and Challenges for the Gulf Consortium

The Gulf Consortium was formed to promote a recovery effort that is economically efficient and devoid of bureaucracy. Local input is imperative to this process. As a county commissioner, it is my duty to advocate for the issues that are most important to my community, and my constituents will hold me accountable for my decisions.

Since the establishment of the Gulf Consortium, we have hosted monthly public meetings, receiving public input from non-governmental organizations and citizens and sharing science and data on the full ranging impacts of the oil disaster, along with project and programmatic approaches to recovering our environment and economy.

Over the coming months, the Consortium will develop procurement rules and decision making protocols to develop the State Expenditure Plan, and while many challenges exist with so many interests, regions and entities, we are coalesced around the common goal of full environmental and economic restoration for the state of Florida.

To enhance the integration of plans created under the different RESTORE allocations, the Consortium is also coordinating its efforts with those of the individual local governments and the Gulf Coast Ecosystem Restoration Council. Advisory committees are being created in most Gulf Coast counties. Local projects and priorities are being presented to the members of the Gulf Consortium for consideration as the Consortium develops the State Expenditure Plan. In addition, the Consortium is fully participating in the public process associated with the Council's Comprehensive Plan, a draft of which was recently published.

By taking a coordinated and collaborative approach, we can prevent the duplication of effort and eliminate waste. With all of the right partners at the table, we can maximize our investments so that as projects are determined for the federal Council allocation, Natural Resource Damage Assessment (NRDA) process, State Expenditure Plan and individual counties, we can leverage available resources so that more projects are completed and recovery becomes a coordinated and thoughtful investment that will pay dividends well into the future.

Support from Federal Government

While much has been accomplished administratively, there remains a lot more work ahead. The Consortium is awaiting formal guidance from the U.S. Department of the Treasury, which is critical in our ability to move forward with development of the State Expenditure Plan. The Consortium has made specific requests regarding Treasury rules, including:

- Acknowledging the Gulf Consortium as the “consortia of local political subdivisions” as specified in the RESTORE Act;
- Allowing for funds expended in the establishment of the Gulf Consortium and development of the State Expenditure Plan to be reimbursed;
- Ensuring new rules solidify what is already in the RESTORE Act that state allocations and expenditures be distributed directly to the appropriate county; and
- Accepting the formulas and methodologies adopted by the eight disproportionately affected counties regarding those funds appropriated directly to our local communities.

Finally, the projects undertaken will require local and state permitting, and some will also be required to meet federal regulations. We ask for your support in eliminating bureaucratic barriers and streamlining these federal requirements so that projects can advance quickly and recovery can be completed in a timely manner.

Conclusion

National tragedies create unity. It is what makes America great – we put aside political and cultural differences and join around one common good.

In Florida, we are all too familiar with response and recovery. Hurricanes are common; we are prepared and respond and recover quickly and effectively. The Deepwater Horizon Oil disaster was different. Response and recovery was in the hands of others. Preparations were not as extensive and were instead replaced with fear – fear of the sheer magnitude of the disaster and fear of the unknown. What are the long-term environmental and economic implications of spilling 206 million gallons of oil in such a valuable ecosystem?

Unlike our seamless response to hurricanes, the response to Deepwater Horizon was bumpy and disorganized. Yet now three years later, response is history and recovery remains. In the last three years, tourism has returned and our communities are rebounding. Yet questions still linger, tar balls continue to wash ashore and restitution is ongoing.

It is because of this that the RESTORE Act is so critically important to the Gulf Coast states and Florida. I would be remiss if I let another moment go by without giving our sincere appreciation to congress for passing the RESTORE Act and ensuring that those communities directly impacted by the oil tragedy are able to use these resources to ensure a full environmental and economic recovery. Thank you.

The RESTORE Act brings tremendous opportunity to Florida, and with that opportunity there is great responsibility. It is rare that local elected officials are able to make large investments in their communities; rare that we are able to take resources and consider state, regional and local projects to recover from tragedy while investing in the future.

It is because of the opportunity created by the RESTORE Act that Florida has taken the unique approach of forming the Gulf Consortium. Instead of 23 separate decision makers or 1 executive direction, we have developed a team. This team represents 6 million diverse Floridians. Politics remain sidelined.

The foundation we have built did not come easily. It required sacrifice and trust. But now the Gulf Consortium is ready to move forward and use the resources made available through the RESTORE Act to rebuild the Gulf Coast for the future of our families that depend on a healthy environment and economy.

Close

Senator Nelson and committee members, Monroe County and the Gulf Consortium would like to thank you for convening this hearing and for stimulating thoughtful dialogue that can lead to cooperative and productive implementation of the federal RESTORE Act. We appreciate the invitation extended to Florida's coastal counties to provide our perspective on this important issue, and we look forward to our continued collaboration.