

Public Workshop

An informational session on the RESTORE ACT and RESTORE Advisory Committee



Monday, May 19, 2014 – 6:00 pm to 7:00 pm
Global Learning Academy

PRESENTED BY:

Commissioner Lumon J. May, District 3
Escambia County

Bentina Terry, Chairperson, City of Pensacola
Escambia County RESTORE Advisory Committee

Al Coby, District 3 Commissioner-Appointed Committee Member
Escambia County RESTORE Advisory Committee

Agenda

1. Introductions
2. The RESTORE Act: Structure and Process
3. Status of Current Litigation
4. Next Steps
5. Public Comment



Introductions

The RESTORE Act: Structure and Process

“Running a Red Light While Drunk” Analysis

1. Civil Fines & Penalties

- a. Compensatory Fines – Natural Resource Damage Assessment (NRDA)
- b. Punitive Fines – 80 % = RESTORE Act Gulf Coast Restoration Trust Fund
 - Federal, State, Local, NOAA & US Fish & Wildlife Service, and Centers of Excellence Components

2. Criminal Fines & Penalties - National Fish and Wildlife Foundation (NFWF)

2. Civil Lawsuits - Private Claims



Gulf Coast Restoration Trust Fund

80% of Clean Water Act Civil and Administrative Penalties

35%

Local

Equal State
Allocation
(RESTORE Act)

Direct Component
(Treasury)

RESTORE Advisory
Committee
(Escambia County)

30%

State

Oil Spill Restoration
Impact Allocation
(RESTORE Act)

Spill Impact
Component
(Treasury)

Gulf Consortium
(Florida)

30%

Federal

Gulf Coast
Restoration Council
Allocation
(RESTORE Act)

Comprehensive Plan
Component
(Treasury)

Gulf Council

5%

Research &
Monitoring

NOAA

US Fish & Wildlife
Service

Centers of Excellence

“Local Component”

- Administered by the United States Department of Treasury
- Allowable Uses = Ecosystem Restoration, Economic Development and Tourism
- 35 % equally divided amongst the five (5) impacted Gulf Coast States
 - Florida = 7 % of Trust Fund \$
 - Disproportionately Impacted Counties = 75% of Florida Allocation

Florida Counties Distribution of Funds

DISPROPORTIONATELY IMPACTED COUNTIES

75% OF FLORIDA ALLOCATION	
Based on degree of impact	
Escambia County- 25.334% <i>\$1B = \$10.6M (estimate) for Escambia County</i>	
Santa Rosa- 10.497%	
Okaloosa- 15.226%	
Walton- 13.712%	
Bay-15.101%	
Gulf- 6.743%	
Franklin- 8.441%	
Wakulla- 4.943%	

NON-DISPROPORTIONATELY AFFECTED COUNTIES

25% OF FLORIDA ALLOCATION	
Based on weighted formula	
Average Population	34 %
Average Tax Collection per Capita	33%
Distance from Deepwater Horizon	33%

Figures provided by Ocean Conservancy, 2012.

Eligible Activities and Projects

Infrastructure

- Infrastructure projects benefitting economy or ecological resources, including ports
- Coastal flood protection and related infrastructure

Ecological Restoration

- Restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region
- Mitigation of damage to fish, wildlife, and natural resources
- Implementation of a federally approved marine, coastal or comprehensive conservation management plan, including fisheries monitoring

Eligible Activities and Projects

Tourism

- Promotion of tourism, including recreational fishing
- Promotion of consumption of seafood harvested from the Gulf Coast region

Workforce Development and Job Creation

Coastal Resiliency Projects

- Improvements to state parks in coastal areas affected by Deepwater Horizon spill
- Coastal flood protection and related infrastructure

Planning and Administrative Costs

- Administration fees- 3%
- Planning assistance

Treasury Regulations

- Proposed U.S. Treasury Regulation for the Gulf Coast Restoration Trust Fund released **September 5, 2013** (31 CFR Part 34)
- Comment period was open for 60 days following the release of the proposed rule
- Comments were submitted by Escambia County and the Florida Association of Counties (FAC)

The proposed rule established that:

- **RESTORE Act funds will be administered as a Grant Program** including compliance monitoring following award of funding
- **Grant recipients (Escambia County) must submit a Multi-Year Implementation Plan in order to receive funding**
- **Treasury WILL NOT evaluate whether the project is the best use of funds**
 - Treasury will review applications to determine whether the proposal meets statutory requirements and contains information and certifications required by the rule

Treasury Regulations

- **RESTORE Act project planning must include costs of compliance with federal law**
 - Projects will likely require costly NEPA analyses, and need to comply with federal disability laws such as Americans with Disabilities Act and Davis Bacon Act
 - Treasury regulations require specific certifications and conditions in grant agreements to ensure accountability of the recipient
 - Multi-year implementation plan authorizes Treasury to require additional audit requirements
- **Final Treasury Regulation has NOT yet been released, but is expected to address topics which were unclear in the proposed rule**
 - The final rule will likely play a key role in the development of project selection criteria and implementation of the Multi-Year Implementation Plan

Local Component Allocation (Pot 1)

Projects to restore natural resources or economy

Project selection requires meaningful public input

Multiyear plan for use of the funds

Consistent with standard procurement rules

Conditions:

- (1) Agree to Secretary of Treasury (SOT) requirements (includes audit)**
 - (2) Certify to SOT projects/programs:**
 - (a) Meets criteria (approved usage)
 - (b) Was selected based on meaningful input from public (including individuals, businesses, and NPOs)
 - (c) For natural resource protection or restoration projects, based on the best available science.
 - (3) Certify the projects/programs/contract award are consistent with standard procurement rules and audit requirements**
 - (4) Develop and submit a multi-year implementation plan for the use of funds**
- *Funds allocated to a coastal political subdivision (in FL, a county) shall remain in the Trust Fund until plans submitted and approved**



RESTORE Advisory Committee's Role

- Hold advertised public meetings
- Provide regular status reports to the Board of County Commissioners (BCC)
- Establish an application and application process
 - Accept applications for projects that comply with RESTORE Act eligibility
- Review, score and rank proposed projects
- Recommend ranked project list to the BCC
- Develop and submit a multi-year implementation plan to BCC

Status of Current Litigation

Civil Penalties – RESTORE Act

- **BP Trials** – in hiatus until January 2015 - est. \$10-\$15B
- **Transocean** = \$1.4B settlement (includes criminal & civil)
 - \$800M to Gulf Coast Restoration Trust Fund (RESTORE ACT)
 - Additional civil fines still pending
- **MOEX** = \$70M settlement (includes criminal & civil)
 - \$25M to Gulf States- \$5M to Florida

Criminal Penalties

- **BP** – \$4B Plea (Jan. 29, 2013)
 - National Fish and Wildlife Foundation - \$2.4B
 - National Academy of Science - \$350M
 - Coast Guard's Oil Spill Liability Trust Fund - \$1B+
- **Transocean**- \$400M Settlement
 - DOI Bureau of Ocean Energy Mgmt & Bureau of Safety & Environ. Enforcement- \$100M for improvements to offshore drilling safety
 - National Fish and Wildlife Foundation- \$150M for coastal restoration
 - National Academy of Science - \$150M for 30 year Gulf of Mexico Environmental Protection Program
- **MOEX** - \$70M Settlement
 - NRDA- Oil Spill Liability Trust Fund – \$45M

Other Litigation

- **Individual Claims - Ongoing**
 - Economic and Property Damage Settlements – for individuals who worked, lived, owned, and/or leased property or conducted business in the Gulf
 - Medical Benefits Settlements- for clean-up workers and certain coastal residents
- **Securities Claims Settlement - \$525M**
 - Charges against BP for misleading investigators regarding oil flow after explosion
- **BP agreed to fund up to \$1B to Natural Resource Damage Assessment (NRDA)**
 - Not a settlement

Oil Spill Related Litigation in the State of Florida

- **State of Florida v BP and Halliburton**
 - Suit filed by Attorney General for **economic losses** Florida suffered as a result of the oil spill
 - 75% of funds recovered from lawsuit anticipated to be deposited in the **Triumph Gulf Coast, Inc., Recovery Fund** to benefit the disproportionately affected Counties (Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton & Wakulla)
- **Florida Dept of Environ. Protection (FDEP) and FL Fish & Wildlife Commission (FFWC) v BP, Anadarko, Transocean and Triton Asset Leasing**
 - Suit filed by FDEP and FFWC for **environmental harm** caused by the oil spill
 - Seeks liability for past and/or future removal costs and natural resource damages including recreational.

Upcoming Public Workshops on the RESTORE Act

Commissioner Wilson B. Robertson, District 1- Tuesday, May 27, 2014
Charity Chapel, 5820 Montgomery Avenue

Commissioner Lumon J. May, District 3 – Monday, May 19, 2014
Global Learning Academy, 100 North P Street

City of Pensacola – To Be Determined (Anticipated June 2014)

Commissioner Steven L. Barry, District 5 – To Be Determined (Anticipated July 2014)
Anticipated to be held at a facility located within Cantonment or Molino

All meetings are currently scheduled to be held from 6:00 to 7:00 pm.



RESTORE Advisory Committee Next Steps

1. **Consultant Selection**
2. **Development of Multiyear Implementation Plan (MYIP)
- Project Selection Criteria**
3. **1st Round of Project Reviews**
4. **Submission of MYIP to Treasury**
5. **Subsequent Rounds of Project Review**
6. **Submission of Amendments to MYIP**

**Timelines are dependent on Treasury Regulations and the outcome of Trust Fund litigation*

***RESTORE Committee will make recommendations to the Board of County Commissioners (BCC) for their decision at each step*

Public Comment

Backup Slides

RESTORE Act Categorical Comparison Chart

County	Florida	Task Force Strategic Plan	RESTORE Act
Environment	Implementation of Agriculture Best Management Practices	Restore and Conserve Habitat	Restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches and coastal wetlands
Environment	Water Quality projects including military base buffer land preservation	Restore Water Quality	Mitigation of damage to fish, wildlife and natural resources
Environment	Fish and Wildlife Habitat and Management	Replenish and Protect Living Coastal and Marine Resources	Implementation of federally approved marine coastal or comprehensive conservation management plan, including fisheries monitoring

RESTORE Act Categorical Comparison Chart

County	Florida	Task Force Strategic Plan	RESTORE Act
Economic Development/ Job Creation	N/A	Restore and Revitalize the Gulf Economy	Workforce and Job Creation
Infrastructure	Community Resilience/ Living Shorelines	Restore and Revitalize the Gulf Economy	Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon Oil Spill
Infrastructure	Storm Water/ Wastewater Infrastructure	Restore & Revitalize the Gulf Economy	Infrastructure projects benefiting the economy or ecological resources including port infrastructure
Infrastructure	Community Resilience/ Living Shorelines	Enhance Community Resilience	Coastal flood protection and related infrastructure