

# Public Workshop

An informational session on the RESTORE ACT and  
RESTORE Advisory Committee



**Tuesday, July 8, 2014 – 6:00 pm to 7:00 pm**  
**Sanders Beach Community Center**

**PRESENTED BY:**

**Colleen Castille**

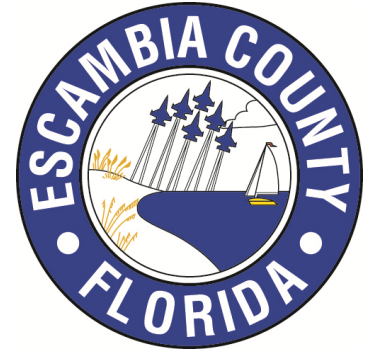
***City Administrator, City of Pensacola***

**Bentina Terry, Chairperson, City of Pensacola**

***RESTORE Advisory Committee, Escambia County***

# 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	
<b>Escambia County- 25.334%</b> <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 RESTORE Advisory Committee Meetings

All regularly scheduled meetings will be held from 4:00 to 6:00 pm on the first Monday of each month at the Ernie Lee Magaha Government Building in the BCC Chambers located at 221 Palafox Place, Pensacola, FL 32502.

## Upcoming Meeting Dates:

- August 4, 2014
- September 8, 2014
- October 6, 2014

Refer to [www.myescambia.com/restore/meetings](http://www.myescambia.com/restore/meetings) for updates on upcoming RESTORE Advisory Committee meetings.



# RESTORE Advisory Committee Next Steps

- 1. Consultant Selection**
- 2. Development of Multiyear Implementation Plan (MYIP)  
- Project Selection Criteria**
- 3. 1<sup>st</sup> 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 following the development of the multiyear plan, including project selection criteria, project selection, and subsequent amendments*

# 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
<b>Economic Development/ Job Creation</b>	<b>N/A</b>	<b>Restore and Revitalize the Gulf Economy</b>	<b>Workforce and Job Creation</b>
<b>Infrastructure</b>	<b>Community Resilience/ Living Shorelines</b>	<b>Restore and Revitalize the Gulf Economy</b>	<b>Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon Oil Spill</b>
<b>Infrastructure</b>	<b>Storm Water/ Wastewater Infrastructure</b>	<b>Restore &amp; Revitalize the Gulf Economy</b>	<b>Infrastructure projects benefiting the economy or ecological resources including port infrastructure</b>
<b>Infrastructure</b>	<b>Community Resilience/ Living Shorelines</b>	<b>Enhance Community Resilience</b>	<b>Coastal flood protection and related infrastructure</b>