

# Correspondence: 1

## Author Information

Keep Private: No  
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Organization:  
Organization Type: I - Unaffiliated Individual  
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## Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: 09/30/2015 Date Received: 09/30/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: Web Form  
Notes:

## Correspondence Text

To Whom it may concern:

All five of the Panhandle Estuaries should be funded to create Estuary Programs in the first round of the National Funded Priority List. Please consider expanding funding to ensure the future of these unique and critically important estuaries. To fund only one means a 20% wn and 80% lss to the Florida Panhandle Bay-Estuary Systems. Creating Estuary Programs in each of the Panhandles estuaries will help save all of these bay/estuary systems for our future.

We (I) strongly support the creation of Estuary Programs for all Florida Panhandle Bay systems. EPA's National Estuary Program (NEP) model has demonstrated amazing success in organizing governments, industry and other stakeholders and facilitating the science-based identification and implementation of key estuary restoration activities. Recently the Tampa Bay NEP announced meeting their seagrass restoration goals five years ahead of schedule. This is an amazing success story and underscores the value of the NEP model. With billions of dollars coming to Florida from the Deepwater Horizon settlement, creating Estuary Programs in the Panhandle will be a critical foundational step to ensure the wise investment of those funds.

We are very grateful that EPA's proposal to create Estuary Programs was funded and that the pilot estuary will be in Florida. That said, we encourage the Gulf Coast Ecosystem Restoration Council to increase the funding so each of the five Panhandle estuaries can implement an Estuary Program as soon as possible. Doing so will help ensure that science-based priority projects are identified and used to guide the investment of both Deepwater Horizon related and other funding.

Sincerely,  
Penny Easton

## Correspondence: 2

### Author Information

Keep Private: No  
Name: Garvin O'Neil  
Organization: The Moody Gardens Hotel  
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### Correspondence Information

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Number of Signatures: 1 Form Letter: No  
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### Correspondence Text

The RESTORE Council  
Gulf Coast Ecosystem Restoration Council  
Sent via electronic mail

#### TO WHOM IT MAY CONCERN:

I appreciate the opportunity to petition on behalf of Galveston Island and the tourism industry that we serve here at Moody Gardens with our team of over 300 full time employees who make their living and home here on the Texas Gulf Coast.

The first round of awards in Texas places more emphasis on inland projects (such as the Bayou Greenway in Houston) than on the very pressing needs of Galveston and small coastal communities. It is disappointing that a project was selected in Houston before any funds were allocated to Galveston as Galveston is was more at risk than Houston and had oil on its shores. With 6 million visitors and 50,000 residents, it is very challenging for Galveston to develop projects that make people and our natural resources resilient. The RESTORE Act is able to create change here. There have been projects on the NOAA site for over 6 years that are vetted by our community and these were not considered.

Galveston is completely dependent on the health of our natural resources for our economy (tourism, fisheries, shipping, and eco-tourism). It is vitally important that the RESTORE Council, State leadership, and state agencies look first for projects on barrier islands. These communities need help planning and responding to the RESTORE Act opportunities. The RESTORE ACT was designed to help these places first. Assistance is needed for island-wide planning on Galveston and other barrier islands. Many communities which face directly on the Gulf are still recovering from hurricanes (IKE), recent spills (Galveston Bay Kirby Spill), and working on FEMA projects.

We urge you in future rounds to focus on the barrier islands and their communities. The most help is needed in these places and the most impact for the RESTORE dollars will be felt in these places. These funds can be utilized to acquire lands for: 1) increased beach and bay access for millions of people, 2) to

develop better and improved public access amenities on the beach and bays, and 3) to develop the capacity of residents to deliver interpretive and guided programs.

In Galveston, the Park Board of Trustees East End Lagoon Master Plan and the Artist Boat's Coastal Heritage Preserve & Gulf Coast Environmental Education Center are just two examples of projects that are ready for funding. . There are many more projects on Galveston Island that will make our island a better destination with improved public access amenities, a more resilient community through restoration of beaches and marshes, and a more economically viable place to live through job creation.

Respectfully submitted,

Garvin O'Neil

General Manager

The Moody Gardens Hotel,

Spa and Convention Center

## Correspondence: 3

### Author Information

Keep Private: No  
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### Correspondence Information

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### Correspondence Text

To whom it may concern:

As a resident of Galveston I felt it reasonable to voice a few concerns. Galveston is a barrier island. It lives and dies by the very coastal conditions it endures. Tourists and travelers alike enjoy the island by the millions each year. The media made a mockery of the island during the oil spill. They made it seem that one tar ball or small sheen of oil would be the end of things for Galveston. It was pure public perception or I should say deception. But the damage was done.

Funding projects with RESTORE ACT dollars in Houston before anything in this small coastal community does not make sense. It looks like another opportunity to waste FEDERAL money. That money does not grow on trees. It came from the people. Many of those people live and work in Galveston. I would ask that there would be some wisdom involved in the next round of funding and that Galveston would be remembered for the value it creates for the entire State of Texas.

Kindest regards,

Mark and Terri Wilmoth  
Galveston, Texas

# Correspondence: 4

## Author Information

Keep Private: No  
Name: La Donna Lee  
Organization: The Moody Gardens Hotel  Official Rep.  
Organization Type: B - Business  
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## Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/08/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

## Correspondence Text

TO WHOM IT MAY CONCERN:

The RESTORE Act is intended to restore coastal communities impacted by the BP Oil Spill. The first round of awards in Texas places more emphasis on inland projects (such as the Bayou Greenway in Houston) than on the very pressing needs of Galveston and small coastal communities. It is disappointing that a project was selected in Houston before any funds were allocated to Galveston as Galveston is was more at risk than Houston and had oil on its shores. With 6 million visitors and 50,000 residents, it is very challenging for Galveston to develop projects that make people and our natural resources resilient. The RESTORE Act is able to create change here. There have been projects on the NOAA site for over 6 years that are vetted by our community and these were not considered.

Galveston is a barrier island and faces more imminent threats from oil spills, hurricanes, and economic downturns than Houston. Galveston is completely dependent on the health of our natural resources for our economy (tourism, fisheries, shipping, and eco-tourism). It is vitally important that the RESTORE Council, State leadership, and state agencies look first for projects on barrier islands. These communities need help planning and responding to the RESTORE Act opportunities. The RESTORE ACT was designed to help these places first. However, these small communities on the front line of the Gulf spills and hurricanes have the least capacity to respond to the RESTORE ACT. Assistance is needed for island-wide planning on Galveston and other barrier islands. If the RESTORE ACT funds "big city " projects instead, or projects that can improve the visitor experience of 6 million people and the residents resiliency on places like Galveston, then this will be a big failure of the Federal and State Governments. Many communities which face directly on the Gulf are still recovering from hurricanes (IKE), recent spills (Galveston Bay Kirby Spill), and working on FEMA projects.

We urge you in future rounds to focus on the barrier islands and their communities. The most help is needed in these places and the most impact for the RESTORE dollars will be felt in these places. These funds can be utilized to acquire lands for: 1) increased beach and bay access for millions of people, 2) to develop better and improved public access amenities on the

beach and bays, and 3) to develop the capacity of residents to deliver interpretive and guided programs. Additionally, these funds are not intended for the inland communities that never faced any threat of oiled and soiled shorelines that would bring their economies to a halt.

In Galveston, the Park Board of Trustees East End Lagoon Master Plan and the Artist Boat's Coastal Heritage Preserve & Gulf Coast Environmental Education Center are just two examples of projects that are ready for funding. These projects would improve access and amenities, create jobs, and increase visitor experiences with Gulf Resources. There are many more projects on Galveston Island that will make our island a better destination with improved public access amenities, a more resilient community through restoration of beaches and marshes, and a more economically viable place to live through job creation.

Respectfully submitted,

## Correspondence: 5

### Author Information

Keep Private: No  
Name: Diane Olsen  
Organization: The Moody Gardens Hotel  
Organization Type: I - Unaffiliated Individual  
Address: Seven Hope Blvd  
Galveston, TX 77554  
USA

E-mail:

### Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/08/2015  
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### Correspondence Text

Dear Trustees,

Thank you for your work on our behalf. I recognize the time and effort that you are putting in to make the best decisions as to the use of the Restore funds. While you are making the decisions on how to best score the Restore applications it is my hope that you will give greater consideration to those communities that lie directly in the path of such disasters - the coastal communities. Along the coasts, and especially those of us that live on barrier islands, face imminent threats from spills such as the Deepwater Horizon spill. It is only fair and appropriate that these communities' projects be weighted heavier than those of inland communities that are not and will not be directly affected.

Communities along the coasts and on barrier islands are often small in population but serve large numbers of visitors. For example Galveston has a population of less than 50,000 but can serve over 6 million visitors a year. Galveston, like all coastal communities, is completely dependent on the health of our natural resources for our economy (tourism, fisheries, shipping, and eco-tourism). Access to the water is the largest draw and any incident that restricts that access, or even the perception of restricted access, can cause dire economic effects that can be long lasting. Projects that improve and increase access to the water, develop amenities that make those areas more desirable as well as environmentally friendly, protect and preserve land to increase resiliency, and developing educational and interpretive opportunities that will increase visitor and resident awareness and enjoyment should be of higher priority. Small coastal communities are challenged to provide the services needed for such large visitation and I believe that it is the spirit of the Restore Fund to assist them not only with recovery but in increasing opportunities for growth. Inland communities do not face the same challenges that coastal communities do.

My understanding is that the main objective of the Restore funding as well as all of the penalties that companies pay when damaging our natural resources is to try and bring back what was lost and when not possible to improve upon what is currently existing. The Gulf will never be the same as before the Deepwater Horizon spill and neither will the communities

that were directly affected. Prioritizing the projects from those communities and those that stand the greatest risk of any future disasters is the only fair thing to do.

Thank you again for your work and attention.

Sincerely,  
Diane Olsen  
3220 Dominique Dr.  
Galveston, TX 77551

# Correspondence: 6

## Author Information

Keep Private: No  
Name: Paula Kolvig  
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E-mail:

## Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/07/2015  
Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

## Correspondence Text

TO WHOM IT MAY CONCERN:

The RESTORE Act is intended to restore coastal communities impacted by the BP Oil Spill. The first round of awards in Texas places more emphasis on inland projects (such as the Bayou Greenway in Houston) than on the very pressing needs of Galveston and small coastal communities. It is disappointing that a project was selected in Houston before any funds were allocated to Galveston as Galveston is was more at risk than Houston and had oil on its shores. With 6 million visitors and 50,000 residents, it is very challenging for Galveston to develop projects that make people and our natural resources resilient. The RESTORE Act is able to create change here. There have been projects on the NOAA site for over 6 years that are vetted by our community and these were not considered.

Galveston is a barrier island and faces more imminent threats from oil spills, hurricanes, and economic downturns than Houston. Galveston is completely dependent on the health of our natural resources for our economy (tourism, fisheries, shipping, and eco-tourism). It is vitally important that the RESTORE Council, State leadership, and state agencies look first for projects on barrier islands. These communities need help planning and responding to the RESTORE Act opportunities. The RESTORE ACT was designed to help these places first. However, these small communities on the front line of the Gulf spills and hurricanes have the least capacity to respond to the RESTORE ACT. Assistance is needed for island-wide planning on Galveston and other barrier islands. If the RESTORE ACT funds "big city " projects instead, or projects that can improve the visitor experience of 6 million people and the residents resiliency on places like Galveston, then this will be a big failure of the Federal and State Governments. Many communities which face directly on the Gulf are still recovering from hurricanes (IKE), recent spills (Galveston Bay Kirby Spill), and working on FEMA projects.

We urge you in future rounds to focus on the barrier islands and their communities. The most help is needed in these places and the most impact for the RESTORE dollars will be felt in these places. These

funds can be utilized to acquire lands for: 1) increased beach and bay access for millions of people, 2) to develop better and improved public access amenities on the beach and bays, and 3) to develop the capacity of residents to deliver interpretive and guided programs. Additionally, these funds are not intended for the inland communities that never faced any threat of oiled and soiled shorelines that would bring their economies to a halt.

In Galveston, the Park Board of Trustees East End Lagoon Master Plan and the Artist Boat's Coastal Heritage Preserve & Gulf Coast Environmental Education Center are just two examples of projects that are ready for funding. These projects would improve access and amenities, create jobs, and increase visitor experiences with Gulf Resources. There are many more projects on Galveston Island that will make our island a better destination with improved public access amenities, a more resilient community through restoration of beaches and marshes, and a more economically viable place to live through job creation.

Respectfully submitted,  
Paula Kolvig M.A.  
pdkolvig@comcast.net

# Correspondence: 7

## Author Information

Keep Private: No  
Name: Lisa Bennett  
Organization: The Moody Gardens Hotel  
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USA  
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## Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/09/2015  
Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

## Correspondence Text

TO WHOM IT MAY CONCERN:

The RESTORE Act was intended to restore coastal communities impacted by the BP Oil Spill. The first round of awards in Texas placed more emphasis on inland projects (such as the Bayou Greenway in Houston) than on the very pressing needs of Galveston and small coastal communities. It is disappointing that a project was selected in Houston before any funds were allocated to Galveston, as Galveston is more at risk than Houston and actually had oil on its shores from the BP 20 I 0 Deepwater Horizon Oil Spill. With over 6 million visitors and 50,000 residents, it is very challenging for Galveston to develop projects that make people and our natural resources resilient. The RESTORE Act would be able to create change in Galveston. There have been projects on the NOAA site for over 6 years that are vetted by our community and these were not even considered.

As a barrier island, Galveston is more threatened by oil spills, hurricanes, and economic downturns than is Houston. Galveston is completely dependent on the health of its natural resources for its economy (tourism, fisheries, shipping, and eco-tourism). It is vitally important that the RESTORE Council, State leadership, and state agencies look first for projects on barrier islands. These communities need assistance in planning and responding to the opportunities provided by the RESTORE Act. The RESTORE ACT was designed to help these places first. However, these small communities on the front line of the oil spills and hurricanes in the Gulf of Mexico have the least capacity to respond to the RESTORE ACT. Assistance is necessary for island-wide planning on Galveston and other barrier islands. If the RESTORE ACT funds "big city" projects instead of projects that can improve the visitor experience of millions of people and the residents' resiliency in places like Galveston, then this will be a failure of the Federal and State Governments, and anyone associated with the RESTORE Council. Many communities which face directly on the Gulf are still recovering from hurricanes (IKE), recent spills (Galveston Bay Kirby Spill), and working on FEMA projects.

We urge you in future rounds to focus on the barrier islands and their communities. These areas are more at risk than any other areas in the state of Texas from hurricanes and oil spills. Help is needed in these

places. There would be more impact from the RESTORE dollars in these places than anywhere else in Texas. These funds can be utilized to acquire lands to: 1) increase beach and bay access for millions of people, 2) develop better and improved public access amenities on the beaches and bays, and 3) develop the capacity of residents to deliver interpretive and guided programs. Additionally, these funds were not intended for the inland communities that never faced any threat of oiled and soiled shorelines that would bring their economies to a halt.

In Galveston, the Park Board of Trustees East End Lagoon Master Plan and the Artist Boat's Coastal Heritage Preserve & Gulf Coast Environmental Education Center are just two examples of projects that are ready for funding. These projects would create jobs, improve public access and amenities, and intensify visitor experiences with resources in the Gulf. There are many more projects on Galveston Island that will make our island a better destination for visitors from around the state, the country, and the world. Galveston would become a more resilient community through restoration of its beaches and marshes, and a more economically viable place to live through job creation

Respectfully submitted,

Lisa Bennaty

## Correspondence: 8

### Author Information

Keep Private: No  
Name: Jonah Grail  
Organization:  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Not Provided, Not Provided N/P  
USA  
E-mail:

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 09/29/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

### Correspondence Text

TEST

## Correspondence: 9

### Author Information

Keep Private: No  
Name: Bailey Pearson  
Organization:  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Not Provided, Not Provided N/P  
USA

E-mail:

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/19/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

### Correspondence Text

This comment is in regards to the proposed formula for allocating funds from the Gulf Coast Restoration Trust Fund. The proposed formula will base 20% of the funds received on the average population of coastal counties bordering the Gulf. Currently, Harris county, which contains the city of Houston, is not considered coastal because it does not actually touch the gulf. However, Harris County lies directly on Trinity Bay, which connects to Galveston Bay and the Gulf. In the article "A Tale of Two Recent Spills-Comparison of 2014 Galveston Bay and 2010 Deepwater Horizon Oil Spill Residues", research has shown that residues from the Deepwater Horizon spill are present in this bay system (Yin et al, 2015). Although Harris County does not touch the Gulf directly, it is still impacted by the spill due to the connections of its bays to the Gulf.

The bay systems connected to Harris County also serve as important habitat for many marine fish and invertebrates, many of which move between the gulf and bays at various points in their life cycles. For these species, the effects of the spill in the gulf may also effect their role in the bay ecosystems. If the health and population size of these species is compromised by the effects of the spill while they are in the gulf, then these effects will certainly impact these species in the bays as well. This is particularly concerning for the people of Harris County who depend on these species for their livelihood. The migratory life cycles of many bay species makes it necessary to include counties bordering bays that connect to the gulf when determining what constitutes a "coastal" county.

For these reasons, Harris County should be considered coastal, and its population included, when determining the amount of funds the state of Texas will receive from the Gulf Coast Restoration Trust Fund.

Sincerely,  
Bailey Pearson

## Correspondence: 10

### Author Information

Keep Private: No  
Name: Daleen Ross  
Organization:  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Not Provided, Not Provided N/P  
USA

E-mail:

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/17/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

### Correspondence Text

I'd like info on how we get a grant to open a weekly vacation rental business or how we go about getting a grant to become a rental property investor in or near the Gulf Coast regions of Galveston?  
Thanks

# Correspondence: 11

## Author Information

Keep Private: No  
Name: Josiah Neeley  
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Organization Type: I - Unaffiliated Individual  
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E-mail:

## Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/02/2015  
Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

## Correspondence Text

The R Street Institute is a nonprofit, nonpartisan research organization dedicated to pursuing practical steps toward liberty and free markets. R Street has written extensively on the RESTORE Act and the need for states to prioritize projects in focused and transparent ways. Texas is to be applauded for the openness with which it is seeking public comment on its priority list and other guidance documents.

The draft "Priorities for RESTORE Funded Projects" contains many positive elements. However, a few additional points of emphasis and revision are warranted.

First, while the RESTORE Act aims to target funds to the communities affected by the Deepwater Horizon spill, it is not the appropriate mechanism to directly compensate individuals and firms who suffered losses. RESTORE Act funds should be used to provide public goods: products and services like infrastructure that are used by most or all people and that are unlikely to be provided by the private sector. Priority should not be given to activities (like marketing Gulf seafood) that can and are already funded by private organizations and companies.

Second, priority should be given to projects that confer economic benefit by reducing the likely future costs of natural or man-made environmental disasters. Because of the potentially significant funds, officials will be pressured to make "economic development" investments with little direct nexus to harms caused by the spill. RESTORE Act funds provide a tremendous opportunity to fund projects that prepare coastal regions for costly events such as hurricanes and floods, which carry significant economic consequences.

Finally, no project should receive funding if it would create ongoing funding requirements once RESTORE Act funds are exhausted. Priority should be given to projects that can be completed or sustained entirely using RESTORE Act funds. The RESTORE Act's objective is to repair economic and environmental harm caused by the spill; it should not create ongoing financial burdens for state and local governments or develop projects that include uncertain future costs currently unanticipated by states in the Gulf Coast region.

## Correspondence: 12

### Author Information

Keep Private: No  
Name: Jim Patton  
Organization:  
Organization Type: I - Unaffiliated Individual  
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USA

E-mail:

### Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/05/2015  
Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

### Correspondence Text

I suggest that 80% of funds be directed to replacing or enhancing essential services & 20% be directed to community projects that are non-essential services such as parks, beautification, & community pools.

## Correspondence: 13

### Author Information

Keep Private: No  
Name: Andrea Hance  
Organization: Texas Shrimp Association  
Organization Type: I - Unaffiliated Individual  
Address: 1000 Everglades Road  
Brownsville , TX 78521  
USA

E-mail:

### Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
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Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

### Correspondence Text

Bucket 2 Comment - Not Applicable

PDF Attached



October 9, 2015

Restore Council  
500 Poydras Street  
Suite 1117  
New Orleans, LA 70130

[RestoreCouncil@restorethegulf.gov](mailto:RestoreCouncil@restorethegulf.gov)

On behalf of the Texas Shrimp Association, we appreciate the opportunity to apply for funding to market and promote our product under the Restore Act.

As mentioned during the public testimony, our industry may possibly be the only industry in Texas that has directly suffered a monetarily loss due to the Deep Water Horizon Oil Spill without compensation.

Over the past 20+ years, the Texas Shrimp Industry has played a vital roll in all aspects of coastal conservation and sustainability; this industry is faced with more complexities and regulations than any other coastal industry. Even more amazing, we've not only met the thresholds bestowed upon us, we have successfully earned the reputation as one of the most sustainable fisheries in the world, all without any financial assistance from the Government, NGO's, or the people who push so hard to close our industry. .

We simply ask for the opportunity to educate consumers and promote our product. After all, Texas Gulf Shrimp is considered to be amongst the best in the World

Sincerely,

A handwritten signature in blue ink that reads "Andrea Hance". The signature is written in a cursive, flowing style.

Andrea Hance  
Executive Director,  
Texas Shrimp Association

# Correspondence: 14

## Author Information

Keep Private: No  
Name: Randy McCarver  
Organization: Kern County Fire Dept.  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Not Providedn, Not Provided N/P  
USA

E-mail:

## Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/25/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

## Correspondence Text

To whom it may concern,

I am not sure if the window for suggestions is still open. I recently moved to Mississippi a few months ago and noticed some news stories regarding the settlement funds from the BP oil spill and a quest to receive public input on how to best use these funds. From my research it looks like the funds have been allocated already.

I will submit a suggestion that may not presently be on budgeted agendas but may be added at any time with allocated BP funds.

My background is 34 years in the fire service from the state of California, where we used many different types of resources to mitigate hazards and suppress wildfires. One resource that worked exclusively for multiple missions tasked was a Type II Helicopter with a hoist.

I have noticed around the area that I live in Diamondhead MS and most of the Gulf Coast in general has many areas that are inaccessible to ground resources due to water ways and rivers, adding to the response times for the closest ground units. And some designated rescue boats can be limited by low tides and can take excessive time to deploy.

I had the opportunity to briefly talk to a member of the US Coast Guard who works in their dispatch center in LA, and a Deputy Fire Chief from Biloxi MS about the possibility of a Type II Hoist Helicopter in service for the entire coast of MS. The Coast Guard rep informed me that the closest hoist helicopter for this area was based in New Orleans LA and that the average number of calls for service was approximately 4 per day with a response time of about 30 mins to mid MS (this includes dispatch time and all pre-flight checks) . He also added that there was a base in Mobile AL that sometimes has an airship available but only if it is assigned to a training detail in Mobile.

The Deputy Fire Chief admitted that a helicopter with hoist capabilities would be a huge asset for fire departments along the coast and inland. Such an aircraft would provide SAR (Search and rescue) missions as well as Medivac (medical evacuation) in any given location including major highway corridors (I-10) where road and traffic conditions can limit ground resource response times and access. With the proper equipment and training the aircraft would be able to support firefighting

operations with aerial water drops and coordination of ground resources from the air. Also law enforcement agencies could benefit from the use of a helicopter with the ability to execute pursuits from a distance, cordon off perimeters for search operations, utilize equipped lighting for night operations increasing officer safety, and for insert onto structures for SWAT OPs.

The money: The Dep. Fire Chief said that it would be great to have a Type II Hoist Heli added to the inventory of resources along the coast, but admitted that the financial burden of such a program would have to be shared by multiple agencies around the MS Gulf Coast, and that could be a problem as to who would endorse and support such a program if they are charged for use. With the multiple uses for such an aircraft by multiple agencies the administrative and financial component would have to be at a state level designation.

A Gulfport/Biloxi base location would probably serve best for flight times (estimate of 10 mins. vs the present of 30 mins.) to all coastal and inland areas as well as the balance of populace within the state. Just my observation. Not an expert on this states demographics/geographic's at all.

Not sure who see's this or where it goes from here. I would appreciate any feedback or updates that materialize from this suggestion. I am somewhat familiar with air ops but (again) not an expert. I am also available for contact through this email or my cell phone 661 331 3788.

Thank You,  
Randy McCarver  
Fire Captain (Retired)  
Kern County Fire Dept.

## Correspondence: 15

### Author Information

Keep Private: No  
Name: James R (Bill) Fisher  
Organization: Sonoma Housing Advisors, LLC  
Organization Type: B - Business  
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Dallas, TX 75248  
USA  
E-mail: Bill.Fisher@sonomaadvisors.com

### Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/24/2015  
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Contains Request(s): No              Type: E-mail  
Notes:

### Correspondence Text

In compliance with the priorities proposed by the State, the rule should make clear that some portion % of the funds go to safe, decent and affordable housing. This an economic development issue with the damage caused by the spill. In addition, this damage to our coast and the local economy has put pressure on working families and Cameron county. We should be clear some of this grant money is being deployed in this manner. Your consideration of this Texan's comments is appreciated.

Bill

## Correspondence: 16

### Author Information

Keep Private: No  
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### Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/24/2015  
Number of Signatures: 1              Form Letter: No  
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### Correspondence Text

In compliance with the priorities proposed by the State, the rule should make clear that some portion % of the funds go to safe, decent and affordable housing. This an economic development issue with the damage caused by the spill. In addition, this damage to our coast and the local economy has put pressure on working families and Cameron county. We should be clear some of this grant money is being deployed in this manner. Your consideration of this Texan's comments is appreciated.

Bill

# Correspondence: 17

## Author Information

Keep Private: No  
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## Correspondence Information

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Date Sent: Date Received: 10/28/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

## Correspondence Text

Re: Docket No. GCERC-2015-0011-0001, Restore Act Spill Impact Component Allocation

We are law students at Mercer University School of Law in Macon, GA and are currently taking Administrative Law. We are also concerned with gulf coast ecosystem restoration, because we have family from several gulf coast states and we travel to the Gulf annually for vacation. We are concerned that the proposed rule fails to adequately provide funds where they are most needed by following the 40/40/20 distribution plan established in the proposed regulation.

In 2010 the Deepwater Horizon oil spill caused extensive damages to the Gulf Coast. The spill devastated the economies and natural resources of Florida, Alabama, Mississippi, Louisiana and Texas.[1] The Gulf Coast is a substantial part of our national economy and wellbeing by providing valuable resources, abundance in food, and a rich cultural heritage.[2] In response to the devastation, Congress passed the RESTORE Act which created the Gulf Coast Restoration Trust Fund.[3] These funds are made available through 5 components.[4] The particular component at issue here is the Spill Impact Component which thirty percent of the funds from the Trust Fund will be dispersed to the States based on allocation criteria set for in the RESTORE Act.[5]

Under the proposed regulation, Alabama would receive 20.40% of the total funds and Mississippi would receive 10.07%, whereas Florida and Louisiana would only receive 18.36% and 34.59% respectively. 40 CFR 1800.500. These proportions are considerably disproportionate taking into account the miles of shoreline in each state that experienced oiling. The proposed statute gives too much consideration (20%) to the population of the coastal counties in each state under 1800.401. This section of funding is based on the average population in the 2010 Decennial Census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State. Specifically, we ask the agency to reduce the funds that are allocated under 1800.400 from twenty percent to ten percent. We contend that the distribution would be better allocated at a 50/40/10 distribution with fifty percent being allocated to the number of miles that experienced oiling, forty percent allocated to the distance from offshore drilling unit Deepwater Horizon, and only ten percent based on population.

The ten percent decrease in 1800.400 would better serve the purpose of the 33 U.S.C. 1321(t) if it were to shift into 1800.201. The purpose this section of the Recovery Act is to (1) restore and protect the natural resources, ecosystems, beaches, and wildlife habitats; (2) mitigate damages to the wildlife and natural resources; (3) implement a federal conservation management plan; and (4) promote tourism, recreational fishing, and the consumption of seafood harvested in the Gulf. 33 U.S.C. 1231(t)(3)(B)(i)(I)-(III) and 33 U.S.C. 1231(t)(3)(B)(ii).

To begin, 1800.201 determines the percentage of the funding that should come from the miles of shoreline from each state that experienced the oiling. If this section was given a ten percent increase, it would adequately address the concerns for restoring and protecting the natural resources, ecosystems, beaches and wildlife habitats. According to the study, the shorelines of Louisiana and Florida had the most oiling compared to the overall miles of shorelines affected by the oiling. From the total number of affected miles, Louisiana consisted of 58.92% of those miles and Florida was 15.63%. C.F.R. 1800.202. In other words, the states that had the most shorelines affected should receive more funding. These states have more beaches and natural habitats that need to be restored.

In addition, the tourism affected by the oiling is significantly higher in Florida and Louisiana. The Deepwater Horizon (DWH) disaster has heightened the concerns regarding the impacts of oil spills on tourism activity and has shown that a large spill can impact recreation and tourism through mechanisms other than those related to its impacts to the physical environment.[6] Tourism has the added benefit of injecting money into local economies through visitor spending on locally produced services. New Orleans' tourism industry welcomed 9.28 million visitors in 2013, an increase of three percent, or about 272,000 people, from 2012 (9.01 million). The 9.28 million visitors spent \$6.47 billion.[7] The Gulf Coast of Alabama only generated \$4,628, 501,570.[8] This figure includes both counties for Alabama that are determined to be coastal counties. The above referenced figure for Louisiana does not include the other 10 counties determined to be coastal counties that will be affected by this proposed rule. By increasing the distribution to land that received the oiling, New Orleans would receive more funding and we feel this is appropriate due to the amount of revenue that Louisiana as a whole generates. Counties in Louisiana and Florida have more revenue generated through tourism and this would better stimulate the economy if these lands received an increased amount of money to help stimulate clean up.

In conclusion, by moving some of the funding from 1800.400 and distributing it to 1800.201, the funds will better meet the needs of the States that were most affected. This will allow states like Florida and Louisiana, whose coastlines were most affected, to put the funds to better use. Instead of allocating the 20.40% of the funding to Alabama where only 8.04% of its coastline was affected.

Sincerely,

\_\_\_\_Trevor Vanzant\_\_\_\_\_

tvanzant17@lawmail.mercer.edu

\_\_\_\_Matthew Pollard\_\_\_\_\_

Mpollard17@lawmail.mercer.edu

[1] RESTORE Act Spill Impact Component Allocation, 80 FR 58417-01

[2] Id.

[3] Id.

[4] Id.

[5] Id.

[6] Mark Jensen, Examination of the Relationship between Tourism and Offshore Oil and Gas Activities in the Gulf of Mexico, BOEM ENVIRONMENTAL STUDIES PROGRAM: ONGOING STUDIES, (December, 2014, 12:45 P.M.), <http://www.boem.gov/GM-11-06/>.

[7] New Orleans Achieves 9.28 Million Visitors in 2013, (June 20, 2014, 6:52 P.M.), <http://www.nola.gov/mayor/press-releases/2014/20140422-tourism-numbers/>.

[8] Economic Impact, Alabama Travel Industry 2014, [http://tourism.alabama.gov/content/uploads/2014\\_Alabama\\_Tourism\\_Economic\\_Report.pdf](http://tourism.alabama.gov/content/uploads/2014_Alabama_Tourism_Economic_Report.pdf).

## Correspondence: 18

### Author Information

Keep Private: No  
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Organization: National Wildlife Federation  
Organization Type: I - Unaffiliated Individual  
Address: New Orleans, LA 70130  
USA

E-mail:

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: 10/29/2015 Date Received: 10/29/2015  
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Contains Request(s): No Type: Web Form  
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### Correspondence Text

(Properly formatted comments also submitted via email. We prefer you reference that version for review.)

October 29, 2015

Justin Ehrenwerth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

Re: Proposed Regulation to Implement the Spill Impact Component of the RESTORE Act

Dear Mr. Ehrenwerth:

The National Wildlife Federation and our affiliates Florida Wildlife Federation, Mississippi Wildlife Federation, Louisiana Wildlife Federation, and the Texas Conservation Alliance thank you for the opportunity to comment on the Gulf Coast Ecosystem Restoration Council's (Council) Proposed Regulation to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).

Though more than five years have passed since the Deepwater Horizon oil rig exploded, the repercussions of the disaster continue to be felt around the Gulf. The Spill Impact Component of the RESTORE Act funding presents an important opportunity to further heal and strengthen the communities and natural resources that suffered from the spill.

In addition to determining the allocation formula set forth in this Proposed Regulation, the Council is also tasked with approving or disapproving State Expenditure Plans (SEPs) in accordance with the criteria set forth in the RESTORE Act. Given this responsibility, in its Interim Final Rule the Department of the Treasury affords the Council discretion to issue guidance or regulations that elaborate on the statutory eligibility criteria.

The Council, in its December 2014 State Expenditure Plan Guidelines, provided additional clarifying details regarding the development and approval of SEPs. We feel that these guidelines will be a valuable aid to the states as they construct their SEPs, resulting in stronger, more consistent SEPs across the Gulf. To reinforce the significance of these guidelines, we strongly encourage the Council to incorporate them by reference into the RESTORE Act Spill Impact Component Allocation Final Regulation.

Finally, as the Gulf States contemplate development of their SEPs, we encourage them to recall the critical linkage between a healthy environment and resilient communities and economies. In charting their course for the Spill Impact Component funds, we urge States to collaborate regionally, look for leveraging opportunities, and commit firmly to the "do no harm" principle, avoiding activities that could result in or exacerbate damages to natural resources in the Gulf.

We appreciate your continued efforts to restore the communities and ecosystems of the Gulf of Mexico, and thank you again for the opportunity to comment.

Sincerely,

David Muth  
Director, Gulf Restoration Program  
National Wildlife Federation  
3801 Canal Street, Suite 325  
New Orleans, LA 70119

Manley K. Fuller  
President  
Florida Wildlife Federation

Brad Young  
Executive Director  
Mississippi Wildlife Federation

Rebecca Triche  
Executive Director  
Louisiana Wildlife Federation

Janice Bezanson  
Executive Director  
Texas Conservation Alliance



October 29, 2015

Justin Ehrenwerth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

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<sup>1</sup> [https://restorethegulf.gov/sites/default/files/FRID%202015-24816\\_RESTORE%20Act%20Spill%20Impact%20Component%2C%2020150929.pdf](https://restorethegulf.gov/sites/default/files/FRID%202015-24816_RESTORE%20Act%20Spill%20Impact%20Component%2C%2020150929.pdf)

<sup>2</sup> Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), Pub. L. No. 112-141, 126 Stat. 405.

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We appreciate your continued efforts to restore the communities and ecosystems of the Gulf of Mexico, and thank you again for the opportunity to comment.

Sincerely,

David Muth  
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Janice Bezanson  
Executive Director  
Texas Conservation Alliance

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<sup>3</sup> <http://www.treasury.gov/services/restore-act/Documents/RESTORE%20Act%20Interim%20Final%20Rule.Federal%20Register2014-19324.pdf>

<sup>4</sup> <https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final.pdf>

## Correspondence: 19

### Author Information

Keep Private: No  
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### Correspondence Information

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Contains Request(s): No Type: E-mail  
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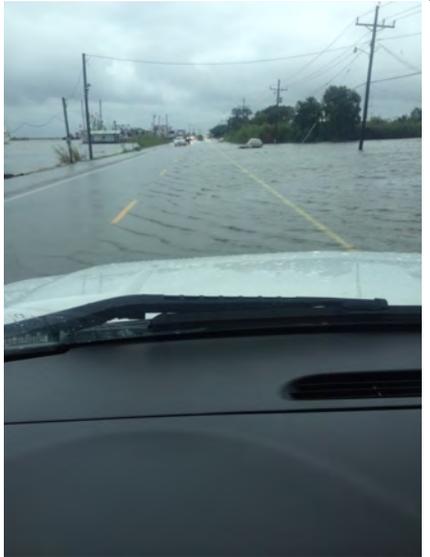
### Correspondence Text

Present conditions of south Lafourche Parish and Louisiana LA-1, the only access and evacuation route to Grand Isle and Port Fourchon.

Sunday also saw the flooding out and forced closure of LA-1 to Grand Isle and Fourchon from the passage of the front moving through the Gulf.

The Parish and Port Fourchon Harbor Police are trying to hold the road open as long as possible to get the Port emptied out for the evening and traffic to and from Grand Isle.

This flooding (from a weather front) of the coastal area by the Gulf is part of the long term trend seeing this entire coastal area moving down in elevation with RSLR.



## Correspondence: 20

### Author Information

Keep Private: No  
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Organization Type: I - Unaffiliated Individual  
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E-mail: rguillory@oceanconservancy.org

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/29/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
Notes:

### Correspondence Text

Dear Mr. Ehrenwerth:

The undersigned organizations appreciate the opportunity to comment on the Gulf Coast Ecosystem Restoration Councils (Council) Proposed Regulation<sup>1</sup> to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act)<sup>2</sup> from the Gulf Coast Restoration Trust Fund to the Gulf Coast states of Alabama, Florida, Louisiana, Mississippi and Texas. This Council has an important responsibility not only to administer grants but also to adhere to the guidelines within the RESTORE Act. As the Gulf Coast receives restoration funding through the RESTORE Act and other recovery monies, the states can maximize this once-in-a-lifetime opportunity to support projects that will safeguard natural resources, strengthen industries and protect communities from future disasters. Our goal is to ensure that the projects selected through the Spill Impact Component represent the diverse issues and priority concerns of Gulf residents and to provide a transparent, science-based process that utilizes local expertise for every project, regardless of focus. Our hope is that the Council will similarly adopt the triple bottom line approach of balancing the environment, economy and community. According to the Department of the Treasury's Interim Final Rule<sup>3</sup> administering the Spill Impact Component. Among other things, the Council determines each state's share,

<sup>1</sup> [https://restorethegulf.gov/sites/default/files/FRID\\_2015-](https://restorethegulf.gov/sites/default/files/FRID_2015-24816_RESTORE_Act_Spill_Impact_Component_20150929.pdf)

[24816\\_RESTORE Act Spill Impact Component, 20150929.pdf](https://restorethegulf.gov/sites/default/files/FRID_2015-24816_RESTORE_Act_Spill_Impact_Component_20150929.pdf) <sup>2</sup> Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), Pub. L. No. 112-141, 126 Stat. 405. <sup>3</sup> [http://www.treasury.gov/services/restore-act/Documents/RESTORE Act Interim Final Rule.Federal Register2014-19324.pdf](http://www.treasury.gov/services/restore-act/Documents/RESTORE_Act_Interim_Final_Rule.Federal_Register2014-19324.pdf)

. These regulations establish the formula used to allocate funds via the RESTORE Act, the Act gives the Council responsibility for based on criteria in the Act, and disburses funds for eligible activities. The Council chair also must approve State Expenditure Plans (SEPs). Given these important roles, the Council is an appropriate body to determine whether and how to elaborate on the statutory eligibility criteria. Accordingly, the Interim Final Rule preserves the Council's discretion to

issue guidance or regulations on this subject that are consistent with the Act. The proposed regulation states the Council has limited authority to conduct thorough environmental review of SEPs or the projects proposed within. The Councils Executive Director has stated many times that the Council as a body holds to the principal that restoring the Gulf of Mexico environment restores the economy of the region. We would encourage the Council and Council staff to remember this principal when reviewing projects, programs and activities within SEPs. The Councils SEP Guidelines 4 lay out clear and consistent procedures for how the SEPs should be developed.

However, we believe many of these guidelines should also be included in the Councils final regulation for the Spill Impact Component as set forth below. This would help to ensure compliance and demonstrate to the states the significance of the SEP guidelines. Second, we highlight that the RESTORE Act directs the Council to evaluate the SEP based on four criteria including that the SEP takes the Councils Comprehensive Plan into consideration and is consistent with the goals and objectives of the Comprehensive Plan. We believe that evaluation includes identifying any conflicts or harm likely to be caused by projects in a SEP and projects selected by the Council through adoption of its initial and future priority lists. Further, the Council should strengthen the Comprehensive Plan to include objectives directed at avoiding conflict and ensuring consistency between Council projects and those proposed through a State Expenditure Plan.

I. SEP Guideline Language to specifically be included in the final SEP regulation

#### Section 5.2.2 State Certification of RESTORE Act Compliance

Each State Expenditure Plan must include a certification from the State Council member that all projects, programs, and activities included in the State Expenditure Plan meet the requirements listed in Sections 4.1 and 4.2.2. The certification should describe the process used to verify that the projects, programs, and activities meet these requirements. A statement should be included in the certification that issues crossing Gulf State boundaries have been evaluated to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by the State Expenditure Plan. See 31 CFR 34.503(b)(5).

This certification and statement from the state Council member should be referenced with appropriate documentation that verifies the states claims. Section 5.2.3 Public Participation Statement

A State Expenditure Plan must include a statement describing the process the State used to ensure appropriate public and tribal participation and transparency in the project, program, and activity selection process. Under the Treasury regulations, the State Expenditure Plan must be made available for public review and comment in accordance with 31 CFR 34.503(g). Each project included in the State

4 <https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final.pdf>  
Expenditure Plan may be included only after consideration of all meaningful input from the public. 31 CFR 34.503(b)(4) and (g).

Sustained, meaningful public participation in all restoration processes are critical to restoring the Gulf and its communities. It is our position that meaningful public participation includes: meetings open to the public, advance public notice of meetings, opportunities for public comment at meetings, and opportunities for comment on draft strategies, plans and projects. It is our position that adequate notice should be defined as a minimum of 15 business days in advance of meeting dates and that locations should be provided to ensure meaningful public participation and input. The states should ensure a transparent process when compiling projects, programs and activities for the SEPs. Further, projects that do not have community support should not be included in the SEP. Section 5.2.5 Proposed Project Lists Criteria the State will use to evaluate the success of each project, program, or activity in helping to restore and protect the Gulf Coast Region impacted by the Deepwater Horizon oil spill. Requiring states to provide the criteria they will be using to evaluate the success of each project, program or activity is an integral part of ensuring that these options work together to achieve the intended goal of comprehensive, collaborative ecological and economic recovery of the Gulf ecosystem. Programs, projects and activities should have clear, measurable and achievable end points. A description of the mechanisms that will be used to monitor and evaluate the outcomes of the project, program, or activity. Monitoring and evaluation are vital to any project, as they provide the valuable information needed to make a transparent and objective assessment of whether the project has been successful in meeting its targeted goals and objectives. Project-level monitoring protocols should be incorporated into all projects within the SEPs. A description of the best available science, as applicable, that informed the States selection of the project, program, or activity. Science and adaptive management are the core foundation of a successful restoration program, and we applaud the Council for requiring the states to provide a description of the best available science that informs the

states selection of the projects, programs and activities within the SEP. However, we would caution the Council to require an equally rigorous assessment for non-environmental restoration projects. For example, technical and environmental review should be provided to the Council for proposed infrastructure projects.

To the extent known, a description of any additional resources that will be leveraged to meet the goals of the State Expenditure Plan, including those related to specific projects, programs, or activities.

The Council should encourage states to submit projects, programs and activities that leverage funds from other resources, including monies available outside the Deepwater Horizon recovery effort. There is a finite amount of resources available for restoring the Gulf, and leveraging funds will not only avoid duplication of effort but will encourage projects to have a broader scope to achieve a more holistic approach to restoration. For example, many of the projects and programs within the Councils Draft Initial Funded Priorities List<sup>5</sup> are planning

5 [https://restorethegulf.gov/sites/default/files/Draft\\_Initial\\_FPL\\_0.pdf#overlay-context=our-work/draft-initial-funded-priorities-list-draft-fpl](https://restorethegulf.gov/sites/default/files/Draft_Initial_FPL_0.pdf#overlay-context=our-work/draft-initial-funded-priorities-list-draft-fpl)

initiatives that will lead to implementation of specific projects, programs and activities, which could be partially funded through the Spill Impact Component. Additionally, projects within the National Fish and Wildlife Foundation Gulf Environmental Benefit Fund should be considered to leverage with funds from the Spill Impact Component of the RESTORE Act. II. Section 6.1 State Expenditure Plan Review

In order for funds to be dispersed to a state, the RESTORE Act requires each state to develop an SEP and submit it to the Council for approval. The RESTORE Act states the SEP must meet four criteria:

Criterion 1: All projects, programs and activities (activities) included in the SEP are eligible activities under the RESTORE Act.

Criterion 2: All activities included in the SEP contribute to the overall economic and ecological recovery of the Gulf Coast.

Criterion 3: The SEP takes the Councils Comprehensive Plan into consideration and is consistent with the goals and objectives of the Comprehensive Plan.

Criterion 4: No more than 25 percent of the allotted funds are used for infrastructure projects unless the SEP contains certain certifications.

Criteria 2 and 3 allow the Council some discretion in determining if in fact an SEP does contribute to the overall economic and ecological recovery of the Gulf Coast and if it is deemed to be consistent with the goals and objectives in the Councils Comprehensive Plan. Within section 6.1, the Council guidelines provide concrete procedures for the Council staff to follow when determining if an SEP will be approved. We strongly believe this language in its entirety should be included in the final regulation for the Spill Impact Component.

Criterion 2: Contributes to the overall economic and ecological recovery of the Gulf Coast:

In determining whether the State Expenditure Plan contributes to the overall economic and ecological recovery of the Gulf Coast, the Council staff will consider two things. First, whether the projects are carried out in the Gulf Coast Region based on the standard established in the Act and the Treasury regulations. This determination is made when, in the reasonable judgment of the Council staff, each severable part of the activity is primarily designed to restore or protect that geographic area. Second, the Council staff will consider the compatibility of each State Expenditure Plan with other States State Expenditure Plans. This determination involves evaluating issues that cross Gulf State boundaries to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by each State Expenditure Plan. It is presumed that a planning State Expenditure Plan will meet this criterion if it describes activities related to drafting a full State Expenditure Plan.

Criterion 3: Takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Comprehensive Plan:

The Council staff will determine whether the State Expenditure Plan is consistent with the goals and objectives of the Comprehensive Plan. The Council staff will evaluate whether each project contained in the State Expenditure Plan will further one or more of the five goals discussed at Section 4.1.2 and will look to see if the projects will be implemented in a manner that does not have a negative impact, direct or indirect, on the Gulf Coast ecosystem restoration projects and programs selected for implementation by the Council under the Comprehensive Plan. It is presumed that a planning State Expenditure Plan will

meet this criterion if it describes activities related to drafting a full State Expenditure Plan.

State Expenditure Plans should include goals and objectives that are consistent with the Comprehensive Plans five goals. We encourage the Council to use the below definition of the term consistent, when reviewing SEPs:

" Agreeing or accordant; compatible; not self-contradictory

" Constantly adhering to the same principles, course, form, etc.

The Council should consider evaluating not only the negative impacts on SEP projects and programs selected for implementation but also the potential negative impacts to natural resource restoration efforts that have been identified and prioritized in the Comprehensive Plans goals. These include, but are not limited to, impacts to coastal and marine habitats, water quality, living resources and the resilience of coastal communities.

The Council should not approve SEPs that include activities or projects, even if eligible under the RESTORE Act, that may result in or exacerbate environmental harm and damages that the Council is working to address through the restoration goals and objectives included in the Comprehensive Plan. Projects and activities that would negatively impact or jeopardize the restoration success of these resources cannot and should not be considered consistent with the Comprehensive Plan.

Finally, in addition to incorporation of the recommendations outlined above, we suggest that the Councils next revision to the Comprehensive Plan specify that projects and programs included in the SEPs should not conflict with the restoration objectives and outcomes of the Comprehensive Plan, the Natural Resource Damage Assessment and Restoration Plan, or the National Fish and Wildlife Foundation Gulf Environmental Benefit Fund.

#### Conclusion

We understand and appreciate that the Council takes the responsibility of reviewing and approving SEPs very seriously. The RESTORE Act presents a once in a generation opportunity to restore the Gulf of Mexico to a better functioning ecosystem and all funding sources must work together to this end. Thank you again for the opportunity to provide comments. We applaud the Council for setting a good example and high standard for states to follow regarding public participation.

Sincerely,

Ocea

Ocean Conservancy

The Nature Conservancy

The Corps Network

Gulf Restoration Network

Ducks Unlimited

Wildlife Mississippi

Conservation Alabama Foundation

Mobile Baykeeper

Houston Wilderness

Alabama Coastal Foundation



October 29, 2015

Justin Ehrenwerth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

Re: Proposed Regulation to implement the Spill Impact Component of the RESTORE Act

Dear Mr. Ehrenwerth:

The undersigned organizations appreciate the opportunity to comment on the Gulf Coast Ecosystem Restoration Council's (Council) Proposed Regulation<sup>1</sup> to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act)<sup>2</sup>. These regulations establish the formula used to allocate funds via the RESTORE Act from the Gulf Coast Restoration Trust Fund to the Gulf Coast states of Alabama, Florida, Louisiana, Mississippi and Texas. This Council has an important responsibility not only to administer grants but also to adhere to the guidelines within the RESTORE Act.

As the Gulf Coast receives restoration funding through the RESTORE Act and other recovery monies, the states can maximize this once-in-a-lifetime opportunity to support projects that will safeguard natural resources, strengthen industries and protect communities from future disasters. Our goal is to ensure that the projects selected through the Spill Impact Component represent the diverse issues and priority concerns of Gulf residents and to provide a transparent, science-based process that utilizes local expertise for every project, regardless of focus. Our hope is that the Council will similarly adopt the "triple bottom line" approach of balancing the environment, economy and community.

According to the Department of the Treasury's Interim Final Rule<sup>3</sup>, the Act gives the Council responsibility for administering the Spill Impact Component. Among other things, the Council determines each state's share,

<sup>1</sup> [https://restorethegulf.gov/sites/default/files/FRID%202015-24816\\_RESTORE%20Act%20Spill%20Impact%20Component%2C%2020150929.pdf](https://restorethegulf.gov/sites/default/files/FRID%202015-24816_RESTORE%20Act%20Spill%20Impact%20Component%2C%2020150929.pdf)

<sup>2</sup> Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), Pub. L. No. 112-141, 126 Stat. 405.

<sup>3</sup> <http://www.treasury.gov/services/restore-act/Documents/RESTORE%20Act%20Interim%20Final%20Rule.Federal%20Register2014-19324.pdf>

based on criteria in the Act, and disburses funds for eligible activities. The Council chair also must approve State Expenditure Plans (SEPs). Given these important roles, the Council is an appropriate body to determine whether and how to elaborate on the statutory eligibility criteria. Accordingly, the Interim Final Rule preserves the Council's discretion to issue guidance or regulations on this subject that are consistent with the Act.

The proposed regulation states the Council has limited authority to conduct thorough environmental review of SEPs or the projects proposed within. The Council's Executive Director has stated many times that the Council as a body holds to the principal that restoring the Gulf of Mexico environment restores the economy of the region. We would encourage the Council and Council staff to remember this principal when reviewing projects, programs and activities within SEPs.

The Council's SEP Guidelines<sup>4</sup> lay out clear and consistent procedures for how the SEPs should be developed. However, we believe many of these guidelines should also be included in the Council's final regulation for the Spill Impact Component as set forth below. This would help to ensure compliance and demonstrate to the states the significance of the SEP guidelines.

Second, we highlight that the RESTORE Act directs the Council to evaluate the SEP based on four criteria including that the SEP takes the Council's Comprehensive Plan into consideration and is consistent with the goals and objectives of the Comprehensive Plan. We believe that evaluation includes identifying any conflicts or harm likely to be caused by projects in a SEP and projects selected by the Council through adoption of its initial and future priority lists. Further, the Council should strengthen the Comprehensive Plan to include objectives directed at avoiding conflict and ensuring consistency between Council projects and those proposed through a State Expenditure Plan.

#### **I. SEP Guideline Language to specifically be included in the final SEP regulation**

##### **Section 5.2.2 State Certification of RESTORE Act Compliance**

*Each State Expenditure Plan must include a certification from the State Council member that all projects, programs, and activities included in the State Expenditure Plan meet the requirements listed in Sections 4.1 and 4.2.2. The certification should describe the process used to verify that the projects, programs, and activities meet these requirements. A statement should be included in the certification that issues crossing Gulf State boundaries have been evaluated to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by the State Expenditure Plan. See 31 CFR § 34.503(b)(5).*

This certification and statement from the state Council member should be referenced with appropriate documentation that verifies the state's claims.

##### **Section 5.2.3 Public Participation Statement**

*A State Expenditure Plan must include a statement describing the process the State used to ensure appropriate public and tribal participation and transparency in the project, program, and activity selection process. Under the Treasury regulations, the State Expenditure Plan must be made available for public review and comment in accordance with 31 CFR § 34.503(g). Each project included in the State*

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<sup>4</sup> <https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final.pdf>

*Expenditure Plan may be included only after consideration of all meaningful input from the public. 31 CFR § 34.503(b)(4) and (g).*

Sustained, meaningful public participation in all restoration processes are critical to restoring the Gulf and its communities. It is our position that meaningful public participation includes: meetings open to the public, advance public notice of meetings, opportunities for public comment at meetings, and opportunities for comment on draft strategies, plans and projects. It is our position that adequate notice should be defined as a minimum of 15 business days in advance of meeting dates and that locations should be provided to ensure meaningful public participation and input. The states should ensure a transparent process when compiling projects, programs and activities for the SEPs. Further, projects that do not have community support should not be included in the SEP.

### **Section 5.2.5 Proposed Project Lists**

*Criteria the State will use to evaluate the success of each project, program, or activity in helping to restore and protect the Gulf Coast Region impacted by the Deepwater Horizon oil spill.*

Requiring states to provide the criteria they will be using to evaluate the success of each project, program or activity is an integral part of ensuring that these options work together to achieve the intended goal of comprehensive, collaborative ecological and economic recovery of the Gulf ecosystem. Programs, projects and activities should have clear, measurable and achievable end points.

*A description of the mechanisms that will be used to monitor and evaluate the outcomes of the project, program, or activity.*

Monitoring and evaluation are vital to any project, as they provide the valuable information needed to make a transparent and objective assessment of whether the project has been successful in meeting its targeted goals and objectives. Project-level monitoring protocols should be incorporated into all projects within the SEPs.

*A description of the best available science, as applicable, that informed the State's selection of the project, program, or activity.*

Science and adaptive management are the core foundation of a successful restoration program, and we applaud the Council for requiring the states to provide a description of the best available science that informs the state's selection of the projects, programs and activities within the SEP. However, we would caution the Council to require an equally rigorous assessment for non-environmental restoration projects. For example, technical and environmental review should be provided to the Council for proposed infrastructure projects.

*To the extent known, a description of any additional resources that will be leveraged to meet the goals of the State Expenditure Plan, including those related to specific projects, programs, or activities.*

The Council should encourage states to submit projects, programs and activities that leverage funds from other resources, including monies available outside the *Deepwater Horizon* recovery effort. There is a finite amount of resources available for restoring the Gulf, and leveraging funds will not only avoid duplication of effort but will encourage projects to have a broader scope to achieve a more holistic approach to restoration. For example, many of the projects and programs within the Council's Draft Initial Funded Priorities List<sup>5</sup> are planning

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<sup>5</sup> [https://restorethegulf.gov/sites/default/files/Draft\\_Initial\\_FPL\\_0.pdf#overlay-context=our-work/draft-initial-funded-priorities-list-draft-fpl](https://restorethegulf.gov/sites/default/files/Draft_Initial_FPL_0.pdf#overlay-context=our-work/draft-initial-funded-priorities-list-draft-fpl)

initiatives that will lead to implementation of specific projects, programs and activities, which could be partially funded through the Spill Impact Component. Additionally, projects within the National Fish and Wildlife Foundation Gulf Environmental Benefit Fund should be considered to leverage with funds from the Spill Impact Component of the RESTORE Act.

## **II. Section 6.1 State Expenditure Plan Review**

In order for funds to be dispersed to a state, the RESTORE Act requires each state to develop an SEP and submit it to the Council for approval. The RESTORE Act states the SEP must meet four criteria:

***Criterion 1: All projects, programs and activities (activities) included in the SEP are eligible activities under the RESTORE Act.***

***Criterion 2: All activities included in the SEP contribute to the overall economic and ecological recovery of the Gulf Coast.***

***Criterion 3: The SEP takes the Council's Comprehensive Plan into consideration and is consistent with the goals and objectives of the Comprehensive Plan.***

***Criterion 4: No more than 25 percent of the allotted funds are used for infrastructure projects unless the SEP contains certain certifications.***

Criteria 2 and 3 allow the Council some discretion in determining if in fact an SEP does contribute to the overall economic and ecological recovery of the Gulf Coast and if it is deemed to be consistent with the goals and objectives in the Council's Comprehensive Plan. Within section 6.1, the Council guidelines provide concrete procedures for the Council staff to follow when determining if an SEP will be approved. We strongly believe this language in its entirety should be included in the final regulation for the Spill Impact Component.

### ***Criterion 2: Contributes to the overall economic and ecological recovery of the Gulf Coast:***

*In determining whether the State Expenditure Plan contributes to the overall economic and ecological recovery of the Gulf Coast, the Council staff will consider two things. First, whether the projects are carried out in the Gulf Coast Region based on the standard established in the Act and the Treasury regulations. This determination is made when, in the reasonable judgment of the Council staff, each severable part of the activity is primarily designed to restore or protect that geographic area. Second, the Council staff will consider the compatibility of each State Expenditure Plan with other States' State Expenditure Plans. This determination involves evaluating issues that cross Gulf State boundaries to ensure that a comprehensive, collaborative ecological and economic recovery is furthered by each State Expenditure Plan. It is presumed that a planning State Expenditure Plan will meet this criterion if it describes activities related to drafting a full State Expenditure Plan.*

### ***Criterion 3: Takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Comprehensive Plan:***

*The Council staff will determine whether the State Expenditure Plan is consistent with the goals and objectives of the Comprehensive Plan. The Council staff will evaluate whether each project contained in the State Expenditure Plan will further one or more of the five goals discussed at Section 4.1.2 and will look to see if the projects will be implemented in a manner that does not have a negative impact, direct*

*or indirect, on the Gulf Coast ecosystem restoration projects and programs selected for implementation by the Council under the Comprehensive Plan. It is presumed that a planning State Expenditure Plan will meet this criterion if it describes activities related to drafting a full State Expenditure Plan.*

State Expenditure Plans should include goals and objectives that are consistent with the Comprehensive Plan's five goals. We encourage the Council to use the below definition of the term "consistent," when reviewing SEPs:

- Agreeing or accordant; compatible; not self-contradictory
- Constantly adhering to the same principles, course, form, etc.

The Council should consider evaluating not only the negative impacts on SEP projects and programs selected for implementation but also the potential negative impacts to natural resource restoration efforts that have been identified and prioritized in the Comprehensive Plan's goals. These include, but are not limited to, impacts to coastal and marine habitats, water quality, living resources and the resilience of coastal communities.

The Council should not approve SEPs that include activities or projects, even if eligible under the RESTORE Act, that may result in or exacerbate environmental harm and damages that the Council is working to address through the restoration goals and objectives included in the Comprehensive Plan. Projects and activities that would negatively impact or jeopardize the restoration success of these resources cannot and should not be considered consistent with the Comprehensive Plan.

Finally, in addition to incorporation of the recommendations outlined above, we suggest that the Council's next revision to the Comprehensive Plan specify that projects and programs included in the SEPs should not conflict with the restoration objectives and outcomes of the Comprehensive Plan, the Natural Resource Damage Assessment and Restoration Plan, or the National Fish and Wildlife Foundation Gulf Environmental Benefit Fund.

## **Conclusion**

We understand and appreciate that the Council takes the responsibility of reviewing and approving SEPs very seriously. The RESTORE Act presents a once in a generation opportunity to restore the Gulf of Mexico to a better functioning ecosystem and all funding sources must work together to this end. Thank you again for the opportunity to provide comments. We applaud the Council for setting a good example and high standard for states to follow regarding public participation.

Sincerely,

Ocean Conservancy  
The Nature Conservancy  
The Corps Network  
Gulf Restoration Network  
Ducks Unlimited  
Wildlife Mississippi  
Conservation Alabama Foundation  
Mobile Baykeeper  
Houston Wilderness  
Alabama Coastal Foundation

# Correspondence: 21

## Author Information

Keep Private: No  
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## Correspondence Information

Status: Reviewed Park Correspondence Log:  
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Notes:

## Correspondence Text

Dear Mr. Ehrenwerth:

The National Wildlife Federation and our affiliates Florida Wildlife Federation, Mississippi Wildlife Federation, Louisiana Wildlife Federation, and the Texas Conservation Alliance thank you for the opportunity to comment on the Gulf Coast Ecosystem Restoration Council's (Council) Proposed Regulation<sup>1</sup> to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act)<sup>2</sup>. Though more than five years have passed since the Deepwater Horizon oil rig exploded, the repercussions of the disaster continue to be felt around the Gulf. The Spill Impact Component of the RESTORE Act funding presents an important opportunity to further heal and strengthen the communities and natural resources that suffered from the spill. In addition to determining the allocation formula set forth in this Proposed Regulation, the Council is also tasked with approving or disapproving State Expenditure Plans (SEPs) in accordance with the criteria set forth in the RESTORE Act. Given this responsibility, in its Interim Final Rule the Department of the Treasury affords the Council discretion to issue guidance or regulations that elaborate on the statutory eligibility criteria.<sup>3</sup> The Council, in its December 2014 State Expenditure Plan Guidelines, provided additional clarifying details regarding the development and approval of SEPs.<sup>4</sup> We feel that these guidelines will be a valuable aid to the states as they construct their SEPs, resulting in stronger, more consistent SEPs across the Gulf. To reinforce the significance of these guidelines, we strongly encourage the Council to incorporate them by reference into the RESTORE Act Spill Impact Component Allocation Final Regulation.

Finally, as the Gulf States contemplate development of their SEPs, we encourage them to recall the critical linkage between a healthy environment and resilient communities and economies. In charting their course for the Spill Impact Component funds, we urge States to collaborate regionally, look for leveraging opportunities, and commit firmly to the "do no harm" principle, avoiding activities that could result in or exacerbate damages to natural resources in the Gulf. We appreciate your continued efforts to restore the communities and ecosystems of the Gulf of Mexico, and thank you again for the opportunity

to comment.

Sincerely,  
David Muth  
Director, Gulf Restoration Program  
National Wildlife Federation  
3801 Canal Street, Suite 325  
New Orleans, LA 70119

Manley K. Fuller  
President  
Florida Wildlife Federation  
Brad Young  
Executive Director  
Mississippi Wildlife Federation  
Rebecca Triche  
Executive Director  
Louisiana Wildlife Federation  
Janice Bezanson  
Executive Director  
Texas Conservation Alliance

# Correspondence: 22

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## Correspondence Information

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Contains Request(s): No              Type: E-mail  
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## Correspondence Text

To the Gulf Coast Ecosystem Restoration Council:

Thank you for the opportunity to review and comment on the proposed regulation to implement the Spill Impact Component of the Restore Act (also known as "Bucket Three" of the RESTORE Act). The RESTORE Act mandates that Bucket Three funds be allocated to each State based on the weighted average of three criteria. Of import to our comments is the third criterion, which states that twenty (20) percent is to be based on the average population of coastal counties bordering the Gulf of Mexico within each State. 33 U.S.C. 1321 (t)(3)(A)(ii). The proposed regulation determines what "coastal counties bordering the Gulf of Mexico within each State" are to be included for purposes of the formula. Harris County is missing from the list of coastal counties for the State of Texas.

The City of Houston and Harris County, jointly ask that you reject the current form of the proposed rulemaking establishing the formula for Bucket Three RESTORE Act funds and amend it to add Harris County to the list of Bucket Three counties. Among all the counties with borders touching the Gulf of Mexico in the five affected states, Harris County is the only county that is excluded from the formula. Harris County is the largest county in the State of Texas and home to over 4 million residents. Harris County includes the City of Houston, the fourth, and soon to be third, largest city in the United States. Excluding over 4 million people from the formula seems a serious oversight and contrary to the intent of the population based formula. Thus the exclusion of Harris County from the formula for Bucket Three RESTORE Act funds unfairly shifts a significant portion of the funds that would go to help affected Texas residents to other coastal states.

Additionally, the City of Houston, Harris County, and the Houston Metro Area were among the local entities that filed claims seeking to be compensated for economic losses suffered as a result of the Deepwater Horizon oil spill. There is no justification for the Restore Council to exclude Texas' most populous county, which was determined in federal court to be damaged by the spill, from the formula for Bucket Three. Thus, we urge the amendment of the proposed rulemaking to include Harris County in the list of Coastal Counties for the purposes of determining the funding from Bucket Three of the

RESTORE Act.

If you have any questions, please contact Aaron Wieczorek, representing the City of Houston at 832-393-6291 or Sarah Utley, representing Harris County, at 713-274-5124.

By:

Aaron Wieczorek  
Assistant City Attorney  
City of Houston

VINCE RYAN  
Harris County Attorney

Sarah Jane Utley  
Deputy Managing Attorney Environment and Infrastructure Group



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October 28, 2015

**Via Email and First Class Mail**

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Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

Re: Docket No. 109002015-1111-08; Comments on RESTORE Act Spill Impact  
Component Allocation

To the Gulf Coast Ecosystem Restoration Council:

Thank you for the opportunity to review and comment on the proposed regulation to implement the Spill Impact Component of the Restore Act (also known as "Bucket Three" of the RESTORE Act). The RESTORE Act mandates that Bucket Three funds be allocated to each State based on the weighted average of three criteria. Of import to our comments is the third criterion, which states that twenty (20) percent is to be based on the average population of coastal counties bordering the Gulf of Mexico within each State. 33 U.S.C. 1321(t)(3)(A)(ii). The proposed regulation determines what "coastal counties bordering the Gulf of Mexico within each State" are to be included for purposes of the formula. Harris County is missing from the list of coastal counties for the State of Texas.

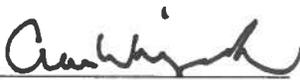
The City of Houston and Harris County, jointly ask that you reject the current form of the proposed rulemaking establishing the formula for Bucket Three RESTORE Act funds and amend it to add Harris County to the list of Bucket Three counties.

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Additionally, the City of Houston, Harris County, and the Houston Metro Area were among the local entities that filed claims seeking to be compensated for economic losses suffered as a result of the Deepwater Horizon oil spill. There is no justification for the Restore Council to exclude Texas' most populous county, which was determined in federal court to be damaged by the spill, from the formula for Bucket Three. Thus, we urge the amendment of the proposed rulemaking to include Harris County in the list of Coastal Counties for the purposes of determining the funding from Bucket Three of the RESTORE Act.

If you have any questions, please contact Aaron Wieczorek, representing the City of Houston at 832-393-6291 or Sarah Utley, representing Harris County, at 713-274-5124.

Sincerely,

By:   
Aaron Wieczorek  
Assistant City Attorney  
City of Houston

VINCE RYAN  
Harris County Attorney

By:   
Sarah Jane Utley  
Deputy Managing Attorney  
Environment and Infrastructure Group

## Correspondence: 23

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Contains Request(s): No Type: E-mail  
Notes:

### Correspondence Text

Re: Docket No. 109002015-1111-08: RESTORE Act Spill Impact Component Allocation

I write today to provide the following comments on a recent rule<sup>[1]</sup> proposed by the RESTORE Council to allocate a portion of funds paid by BP and Transocean for their role in the Deepwater Horizon oil disaster. As drafted, the allocation rule represents an arbitrary and capricious interpretation of the RESTORE Act,<sup>[2]</sup> the law that resulted from an amendment that I introduced in 2012 with the support of several colleagues. The proposed rule would inappropriately benefit Texas at the expense of Florida, Alabama, Mississippi, and Louisiana-the states that bore the brunt of the oil impacts.

Once the Deepwater Horizon oil spill was capped, many experts recommended that a portion of the resulting civil fines should be directed to the Gulf Coast region to make its environment and economy more resilient. Several Gulf Coast senators came together with the leadership of Senator Barbara Boxer-the then-chair of the Senate Environment and Public Works Committee-to negotiate a bill to do just that. As testimony at Senate Commerce Committee oversight hearings has made abundantly clear, the RESTORE Act was carefully crafted. In fact, it took us almost a full year of intensive discussion to come to an agreed-upon compromise. Congress intended that the council maintain that negotiated balance in implementing the Act.

In the recent proposed rule, the council seeks to allocate the Spill Impact Component-or Bucket 3 of the RESTORE Trust Fund.<sup>[3]</sup> The language of the Act requires that 30 percent of the trust fund be disbursed to the Gulf Coast states pursuant to a formula comprised of three variables-two of which require data on the location and extent of oiling in each Gulf state.

The U.S. Coast Guard Incident Management Handbook serves as the definitive guide for using the Incident Command System to respond to marine oil spills. This handbook and the Shoreline Assessment Manual explicitly describe the Shoreline Cleanup Assessment Technique (SCAT) procedures to be used by the federal government to assess and characterize shoreline oiling.<sup>[4]</sup> Because these procedures are standardized, SCAT data is calibrated, systematic, and robust. Responders also

sometimes complete a rapid assessment (RAT) of oiling that is preliminary in nature and not guided by the prescribed and systematic SCAT method. The RAT method is not mentioned in either handbook or the manual.

The draft rule, however, seeks to elevate SCAT and RAT data to the same level of equivalence without any factual or legal support for the proposition. Without explanation, the preamble to the draft rule incorrectly states that SCAT and RAT represent the U.S. Government's official dataset for tracking and responding to oil spills (emphasis added). Despite all of the varied conditions, appendices, and forms included in the Shoreline Assessment Manual and the Incident Management Handbook, neither text contains a single reference to the phrase Rapid Assessment Technique or RAT as cited in the draft rule's preamble.[5]

In fact, there are no manuals, systematic procedures, or policies that describe what is required in collection of RAT data. This distinction is meaningful because the SCAT procedures require the shoreline to be segmented, systematically surveyed, and documented in detail on specific forms by teams with training and expertise. Because there are not defined standard procedures for the Rapid Assessment Technique, it is impossible to even compare the resulting data to SCAT data.

For example, SCAT teams are required to include a representative of the responsible party, but RAT teams are not. The responsible party has a vested interest in ensuring that the

SCAT team records the lowest oiling observed. But because RAT teams may not include the responsible party, there is not the same built-in scrutiny of the data.

The only reasonable interpretation of legislative language in the RESTORE Act relating to shoreline oiling data is that it requires the use of SCAT data—because it is the only data produced using the procedures prescribed in the definitive documents guiding federal response to marine oil spills.[6]

The Federal On-Scene Coordinator (FOSC) in Texas worked outside the official SCAT process and it appears that total oiled shoreline mileage was not actively tracked as a response metric.[7] As such, there is no SCAT data for Texas. The Texas shoreline was never segmented for response management purposes because so little oil reached Texas shorelines as compared to the other Gulf states.[8]

Data collected outside of the SCAT process is not comparable to SCAT data. In fact, because the processes and analyses are quite distinct not only from normal response protocols but from each other, even the FOSC elected not to incorporate data collected outside of the SCAT process into the Incident Management Teams master database.[9]

By using standardized, reliable SCAT data for Florida, Alabama, Mississippi, and Louisiana—and non-standardized RAT data for Texas—the proposed rule represents an unreasonable, arbitrary, and capricious interpretation of the law. The council has provided no reason or system by which it has determined that RAT and SCAT data are comparable—in all likelihood because they cannot. And the conclusory statement in the preamble that suggests the two represent the official dataset of the U.S. government appears to have been used to justify the allocations in the proposed rule itself.[10] This misinterpretation of the RESTORE Act inappropriately benefits Texas at the expense of the states that were most impacted by oil.

Importantly, because it was carefully negotiated, the RESTORE Act already contains a built-in mechanism to address the equation for receipt of funds from Bucket 3. The Act requires a minimum allocation of 5 percent from Bucket 3 to each Gulf Coast state that functionally provides a buffer that accounts for the lack of SCAT data in Texas. By promulgating a rule that uses only the standardized, reliable SCAT data to determine miles of shoreline oiled in each Gulf Coast state, the council would implement the RESTORE Act in a reasonable manner, consistent with congressional intent.[11]

As such, I strongly urge the council to promulgate a final Spill Impact Component rule that reasonably, rationally, and consistently interprets the RESTORE Act by using SCAT data to determine shoreline oiling and using the statutory minimum allocation as required.[12]

Thank you in advance for your consideration of these comments.

Sincerely,

Bill Nelson  
Ranking Member

CC: The Honorable John Thune, Chairman

[1] Proposed RESTORE Act Spill Impact Component Allocation Rule. 80 Fed. Reg. 188 (Sept. 29, 2015)(to be codified at 40 C.F.R. pt. 1800).

[2] 33 U.S.C. 1321(t).

[3] 33 U.S.C. 1321(t)(3).

[4] The Third Edition of the Shoreline Assessment Manual was used during the majority of the response to Deepwater Horizon before the release of the Fourth Edition in 2013. The Third Edition notes that, This manual outlines methods for conducting shoreline assessments and incorporating the results into the decision-making process for shoreline cleanup at oil spills.

[5] The Third Edition of the Shoreline Assessment Manual does refer to the Field Observer position, which is usually two-person teams (sometimes called Rapid Assessment Teams)&that quickly deploy to problem sites to determine what is happening. However, the references to the Field Observer position do not provide specific systematic procedures for those individuals to gather, calibrate, and record RAT data. The Third Edition, which was in place through the vast majority of the federal Deepwater Horizon response, does not contain a Field Observer Form to be completed. Notably, the 2013 revision to the Shoreline Assessment Manual does include a Field Observer Form for Quick Shoreline Assessment-and the text of that form requires the approximate length and width of impact. This is significantly different than other SCAT forms which require precise latitudinal and longitudinal Global Positioning System coordinates of observed shoreline oiling.

[6] The Spill Impact Component rule is intended to address impact as between the five Gulf Coast states. While evidence of liability against responsible parties under other legal authority can take many forms, the relevant question for purposes of the RESTORE Act is the allocation between the states. Even the Council appears to acknowledge this distinction. The preamble to the proposed rule notes This rule, and the application of any determinations made hereunder, is limited to the Spill Impact Component and is promulgated solely for the purpose of establishing such allocation. The Council takes no position of what data or determinations may be appropriate for other uses, including for any other Component of the RESTORE Act or in connection with natural resource damage assessments, ongoing litigation, any other law or regulation or any rights or obligations therewith. Because determinations made under this rule apply only to that purpose, using standardized, reliable SCAT data as the measure of shoreline oiling for each Gulf state would not impact any other law, regulation, rights, or obligations related to the oil spill. Therefore, to reasonably allocate between the Gulf states, the Council must compare equivalent measures of impact, and specifically, of shoreline oiling.

[7] Memorandum from Captain Thomas Sparks, federal on-scene coordinator for the Gulf Coast Incident Management Team, to Captain Claudia Gelzer, Chief of Marine Environmental Response Policy (Feb. 21, 2014).

[8] Id.

[9] See Memorandum from Captain Thomas Sparks, federal on-scene coordinator for the Gulf Coast Incident Management Team, to Captain Claudia Gelzer, Chief of Marine Environmental Response Policy (May 2, 2014).

[10] See Proposed Spill Impact Rule, supra note 1, at pt. 1800.200 et seq.

[11] As drafted, the proposed rule would arbitrarily and capriciously allocate bucket 3 as follows: 7.58%-T34.59%-L19.07%-M20.4%-A18.36%-FThe final rule should allocate bucket 3 consistently with the law as follows: 5%-T35.37%-L19.81%-M21.03%-A18.79%-F

[12] Notably, the Council's interpretation of coastal counties bordering the Gulf of Mexico within each Gulf Coast State in the proposed rule is reasonable and appropriate. As noted in the preamble, Treasury regulations implementing the RESTORE Act have already defined the coastal counties in Florida-and indeed, each of these counties directly touches the Gulf of Mexico. The Council was reasonable in looking to a generally accessible geographic map of the states to determine which counties meet that definition. Furthermore, to confirm that determination, the Council was reasonable to consider the Texas Railroad Commissions list of coastal counties because of the TRCs role in pollution prevention.

# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

October 29, 2015

Mr. Justin R. Ehrenwerth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

Re: Docket No. 109002015-1111-08: RESTORE Act Spill Impact Component Allocation

Dear Mr. Ehrenwerth:

I write today to provide the following comments on a recent rule<sup>1</sup> proposed by the RESTORE Council to allocate a portion of funds paid by BP and Transocean for their role in the Deepwater Horizon oil disaster. As drafted, the allocation rule represents an arbitrary and capricious interpretation of the RESTORE Act,<sup>2</sup> the law that resulted from an amendment that I introduced in 2012 with the support of several colleagues. The proposed rule would inappropriately benefit Texas at the expense of Florida, Alabama, Mississippi, and Louisiana—the states that bore the brunt of the oil impacts.

Once the Deepwater Horizon oil spill was capped, many experts recommended that a portion of the resulting civil fines should be directed to the Gulf Coast region to make its environment and economy more resilient. Several Gulf Coast senators came together with the leadership of Senator Barbara Boxer—the then-chair of the Senate Environment and Public Works Committee—to negotiate a bill to do just that. As testimony at Senate Commerce Committee oversight hearings has made abundantly clear, the RESTORE Act was carefully crafted. In fact, it took us almost a full year of intensive discussion to come to an agreed-upon compromise. Congress intended that the council maintain that negotiated balance in implementing the Act.

<sup>1</sup> Proposed RESTORE Act Spill Impact Component Allocation Rule. 80 Fed. Reg. 188 (Sept. 29, 2015)(to be codified at 40 C.F.R. pt. 1800).

<sup>2</sup> 33 U.S.C. §1321(t).

In the recent proposed rule, the council seeks to allocate the Spill Impact Component—or “Bucket 3” of the RESTORE Trust Fund.<sup>3</sup> The language of the Act requires that 30 percent of the trust fund be disbursed to the Gulf Coast states pursuant to a formula comprised of three variables—two of which require data on the location and extent of oiling in each Gulf state.

The U.S. Coast Guard Incident Management Handbook serves as the definitive guide for using the Incident Command System to respond to marine oil spills. This handbook and the Shoreline Assessment Manual explicitly describe the Shoreline Cleanup Assessment Technique (SCAT) procedures to be used by the federal government to assess and characterize shoreline oiling.<sup>4</sup> Because these procedures are standardized, SCAT data is calibrated, systematic, and robust. Responders also sometimes complete a rapid assessment (RAT) of oiling that is preliminary in nature and not guided by the prescribed and systematic SCAT method. The RAT method is not mentioned in either handbook or the manual.

The draft rule, however, seeks to elevate SCAT and RAT data to the same level of equivalence without any factual or legal support for the proposition. Without explanation, the preamble to the draft rule incorrectly states that “SCAT *and* RAT represent the U.S. Government’s official dataset for tracking and responding to oil spills...” (emphasis added). Despite all of the varied conditions, appendices, and forms included in the Shoreline Assessment Manual and the Incident Management Handbook, neither text contains a single reference to the phrase “Rapid Assessment Technique” or “RAT” as cited in the draft rule’s preamble.<sup>5</sup>

In fact, there are *no* manuals, systematic procedures, or policies that describe what is required in collection of RAT data. This distinction is meaningful because the SCAT procedures require the shoreline to be segmented, systematically surveyed, and documented in detail on specific forms by teams with training and expertise. Because there aren’t defined standard procedures for the Rapid Assessment Technique, it is impossible to even compare the resulting data to SCAT data.

For example, SCAT teams are required to include a representative of the responsible party, but RAT teams are not. The responsible party has a vested interest in ensuring that the

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<sup>3</sup> 33 U.S.C. §1321(t)(3).

<sup>4</sup> The Third Edition of the Shoreline Assessment Manual was used during the majority of the response to Deepwater Horizon before the release of the Fourth Edition in 2013. The Third Edition notes that, “This manual outlines methods for conducting shoreline assessments and incorporating the results into the decision-making process for shoreline cleanup at oil spills.”

<sup>5</sup> The Third Edition of the Shoreline Assessment Manual does refer to the “Field Observer” position, which is “usually two-person teams (sometimes called Rapid Assessment Teams)...that quickly deploy to problem sites to determine what is happening.” However, the references to the Field Observer position *do not* provide specific systematic procedures for those individuals to gather, calibrate, and record “RAT” data. The Third Edition, which was in place through the vast majority of the federal Deepwater Horizon response, does not contain a Field Observer Form to be completed. Notably, the 2013 revision to the Shoreline Assessment Manual does include a “Field Observer Form for Quick Shoreline Assessment”—and the text of that form requires the *approximate* length and width of impact. This is significantly different than other SCAT forms which require precise latitudinal and longitudinal Global Positioning System coordinates of observed shoreline oiling.

SCAT team records the lowest oiling observed. But because RAT teams may not include the responsible party, there is not the same built-in scrutiny of the data.

The *only* reasonable interpretation of legislative language in the RESTORE Act relating to shoreline oiling data is that it requires the use of SCAT data—because it is the only data produced using the procedures prescribed in the definitive documents guiding federal response to marine oil spills.<sup>6</sup>

The Federal On-Scene Coordinator (FOSC) in Texas “worked outside the official SCAT process and it appears that total oiled shoreline mileage was not actively tracked as a response metric.”<sup>7</sup> As such, there is no SCAT data for Texas. The Texas shoreline was “never segmented for response management purposes” because “so little oil reached Texas shorelines as compared to the other Gulf states.”<sup>8</sup>

Data collected outside of the SCAT process is not comparable to SCAT data. In fact, because the “processes and analyses...are quite distinct not only from...normal response protocols but from each other,” even the FOSC elected not to incorporate data collected outside of the SCAT process into the Incident Management Team’s master database.<sup>9</sup>

By using standardized, reliable SCAT data for Florida, Alabama, Mississippi, and Louisiana—and non-standardized RAT data for Texas—the proposed rule represents an unreasonable, arbitrary, and capricious interpretation of the law. The council has provided no reason or system by which it has determined that RAT and SCAT data are comparable—in all likelihood because they cannot. And the conclusory statement in the preamble that suggests the two represent the “official dataset” of the U.S. government appears to have been used to justify the allocations in the proposed rule itself.<sup>10</sup> This misinterpretation of the RESTORE Act inappropriately benefits Texas at the expense of the states that were most impacted by oil.

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<sup>6</sup> The Spill Impact Component rule is intended to address impact as between the five Gulf Coast states. While evidence of liability against responsible parties under other legal authority can take many forms, the relevant question for purposes of the RESTORE Act is the allocation between the states. Even the Council appears to acknowledge this distinction. The preamble to the proposed rule notes “This rule, and the application of any determinations made hereunder, is limited to the Spill Impact Component and is promulgated solely for the purpose of establishing such allocation. The Council takes no position of what data or determinations may be appropriate for other uses, including for any other Component of the RESTORE Act or in connection with natural resource damage assessments, ongoing litigation, any other law or regulation or any rights or obligations therewith.” Because determinations made under this rule apply only to that purpose, using standardized, reliable SCAT data as the measure of shoreline oiling for each Gulf state would not impact any other law, regulation, rights, or obligations related to the oil spill. Therefore, to reasonably allocate between the Gulf states, the Council must compare equivalent measures of impact, and specifically, of shoreline oiling.

<sup>7</sup> Memorandum from Captain Thomas Sparks, federal on-scene coordinator for the Gulf Coast Incident Management Team, to Captain Claudia Gelzer, Chief of Marine Environmental Response Policy (Feb. 21, 2014).

<sup>8</sup> *Id.*

<sup>9</sup> See Memorandum from Captain Thomas Sparks, federal on-scene coordinator for the Gulf Coast Incident Management Team, to Captain Claudia Gelzer, Chief of Marine Environmental Response Policy (May 2, 2014).

<sup>10</sup> See Proposed Spill Impact Rule, *supra* note 1, at pt. 1800.200 et seq.

Mr. Justin Ehrenwerth

October 29, 2015

Page 4

Importantly, because it was carefully negotiated, the RESTORE Act *already* contains a built-in mechanism to address the equation for receipt of funds from Bucket 3. The Act requires a minimum allocation of 5 percent from Bucket 3 to each Gulf Coast state that functionally provides a buffer that accounts for the lack of SCAT data in Texas. By promulgating a rule that uses only the standardized, reliable SCAT data to determine miles of shoreline oiled in each Gulf Coast state, the council would implement the RESTORE Act in a reasonable manner, consistent with congressional intent.<sup>11</sup>

As such, I strongly urge the council to promulgate a final Spill Impact Component rule that reasonably, rationally, and consistently interprets the RESTORE Act by using SCAT data to determine shoreline oiling and using the statutory minimum allocation as required.<sup>12</sup>

Thank you in advance for your consideration of these comments.

Sincerely,



Bill Nelson  
Ranking Member

CC: The Honorable John Thune, Chairman

---

<sup>11</sup> As drafted, the proposed rule would arbitrarily and capriciously allocate bucket 3 as follows: 7.58%-TX, 34.59%-LA, 19.07%-MS, 20.4%-AL, 18.36%-FL. The final rule should allocate bucket 3 consistently with the law as follows: 5%-TX, 35.37%-LA, 19.81%-MS, 21.03%-AL, 18.79%-FL.

<sup>12</sup> Notably, the Council's interpretation of "coastal counties bordering the Gulf of Mexico within each Gulf Coast State" in the proposed rule is reasonable and appropriate. As noted in the preamble, Treasury regulations implementing the RESTORE Act have already defined the coastal counties in Florida—and indeed, each of these counties directly touches the Gulf of Mexico. The Council was reasonable in looking to a "generally accessible geographic map of the states" to determine which counties meet that definition. Furthermore, to confirm that determination, the Council was reasonable to consider the Texas Railroad Commission's list of coastal counties because of the TRC's role in pollution prevention.

## Correspondence: 24

### Author Information

Keep Private: No  
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Organization: NGO Group  
Organization Type: I - Unaffiliated Individual  
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Not Provided, Not Provided N/P  
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E-mail:

### Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/29/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: E-mail  
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### Correspondence Text

Dear Mr. Ehrenwerth:

Thank you for the opportunity to comment on the Gulf Coast Ecosystem Restoration Council's (Council) Proposed Regulation to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). As the proposed regulations establish the formula for funds allocated from the Gulf Coast Restoration Trust Fund from the RESTORE Act, we encourage the Council to urge each state to capitalize on this unique opportunity to support projects that will safeguard our ecosystem, strengthen the economy and protect communities from future disasters. State Expenditure Plan: Guidelines, Compliance and Consistency We appreciate the Council's clear outline of process and procedures governing the State Expenditure Plan (SEP) Guidelines. include these guidelines in the Proposed Rule for the Spill Impact Component. Incorporating these guidelines would help to ensure compliance and demonstrate to the States the significance of the SEP guidelines. Chosen projects should represent the diversity of the Gulf Coast, prioritizing concerns of coastal communities, and ensure that best-available science and transparent mechanisms are applied to each project. The onus is on the Council to ensure that each state adheres to the guidelines set by the RESTORE Act as the grants under the State Expenditure Plans are administered. Furthermore, the Council should not approve SEPs that include activities that may result in environmental harm, regardless of eligibility under the RESTORE Act. This should be an essential feature, as the Council should not sanction projects that jeopardize the success of comprehensive restoration and are not consistent with the goals and objectives included in the Comprehensive Plan. 1 However, for consistency, we encourage the Council to 1 U.S. Gulf Coast Ecosystem Restoration Council. "Oil Spill Impact Component: State Expenditure Plan Guidelines".

1 Dec 2014. [https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final\\_0.pdf](https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final_0.pdf) Oil Spill Component:

Population Formula Within the proposed rule, the Council developed a formula for allocating the funds available among the five Gulf States. In the "population" component of the formula, 20 percent of the allocation is based on the average population of the 2010 Decennial Census of the coastal counties bordering the Gulf of Mexico in Texas, Louisiana,

Mississippi, Alabama, and Florida. As the RESTORE Act does not define the term "coastal counties" for states other than Florida, the Council had the discretion of determining which counties would be considered "coastal" for the purpose of the funding allocation.<sup>2</sup> From Texas to Alabama, the Council chose to define coastal counties/parishes as those that "physically touched the Gulf of Mexico." application that the Council chose to employ in determining what "physically touches" the Gulf of Mexico is not consistent across the Gulf States. In Texas, instead of choosing all counties that "touch" the Gulf, the Council used the coastal county listing applied by the Texas Railroad Commission, which identifies only Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties as coastal counties. result, Harris County, which is hydrologically linked to the Gulf of Mexico through Galveston Bay, is notably excluded from the counties chosen by the Council. Both in practice and application, we disagree with the Council's decision to use an approach that excludes Harris County in Texas. In its relation to the Gulf of Mexico, Harris County is as connected to the Gulf as Orleans and St. Tammany Parishes in Louisiana. Orleans and St. Tammany Parishes do not physically touch the Gulf of Mexico, but are hydrologically connected to the Gulf by way of a large embayment, Lake Pontchartrain. Harris County is similarly connected by Galveston Bay in Texas. By excluding Harris County as a coastal county, the Council sets a bad precedent in how criteria is interpreted and applied. As RESTORE is a new and precedent-setting process, consistency in its application of criteria is critical to the integrity of the overall process. To provide greater consistency across the Gulf, we recommend that the Council use the counties and parishes identified by the Coastal Zone Management Programs in Texas, Louisiana, Mississippi, and Alabama, which implements the Federal Coastal Zone Management Act (CZMA). The purpose of the CZMA is "to preserve, protect, develop, and where possible, to restore or enhance the resources of the nation's coastal zone."<sup>5</sup> This defined purpose is closely aligned with that of the RESTORE Act and the duties of the Council, we believe that the definition of coastal counties should match those of the federal CZMA.<sup>6</sup> <sup>3</sup> While we do not disagree with this interpretation, the 2 RESTORE Act Spill Impact Component Allocation. Notice of Proposed Rulemaking. 80 FR 58418. 29 Sept 2015. <sup>3</sup> Ibid. 80 FR 58419. <sup>4</sup> Ibid. 80 FR 58419. <sup>5</sup> 16 U.S.C. § 1452(1) <sup>6</sup> U.S. NOAA. "State Coastal Zone Boundaries". 9 Feb 2012. <http://coast.noaa.gov/czm/media/StateCZBoundaries.pdf>

Conclusion We recognize the Council has invested significant time and limited resources into the development of this rulemaking and are grateful for that effort. We applaud the Council for setting high standards for public participation, and we thank you for providing the opportunity to comment.

Sincerely, Coastal Bend Bays & Estuaries Program  
Galveston Bay Foundation  
Galveston Baykeeper  
Gulf Restoration Network  
Houston Audubon  
Houston Wilderness  
Student Conservation Association  
Texas Ducks Unlimited  
Turtle Island Restoration Network

October 29, 2015

Justin Ehrenwerth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

Re: Proposed Regulation to Implement the Spill Impact Component of the RESTORE Act

Dear Mr. Ehrenwerth:

Thank you for the opportunity to comment on the Gulf Coast Ecosystem Restoration Council's (Council) Proposed Regulation to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). As the proposed regulations establish the formula for funds allocated from the Gulf Coast Restoration Trust Fund from the RESTORE Act, we encourage the Council to urge each state to capitalize on this unique opportunity to support projects that will safeguard our ecosystem, strengthen the economy and protect communities from future disasters.

#### **State Expenditure Plan: Guidelines, Compliance and Consistency**

We appreciate the Council's clear outline of process and procedures governing the State Expenditure Plan (SEP) Guidelines.<sup>1</sup> However, for consistency, we encourage the Council to include these guidelines in the Proposed Rule for the Spill Impact Component. Incorporating these guidelines would help to ensure compliance and demonstrate to the States the significance of the SEP guidelines. Chosen projects should represent the diversity of the Gulf Coast, prioritizing concerns of coastal communities, and ensure that best-available science and transparent mechanisms are applied to each project. The onus is on the Council to ensure that each state adheres to the guidelines set by the RESTORE Act as the grants under the State Expenditure Plans are administered.

Furthermore, the Council should not approve SEPs that include activities that may result in environmental harm, regardless of eligibility under the RESTORE Act. This should be an essential feature, as the Council should not sanction projects that jeopardize the success of comprehensive restoration and are not consistent with the goals and objectives included in the Comprehensive Plan.

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<sup>1</sup> U.S. Gulf Coast Ecosystem Restoration Council. "Oil Spill Impact Component: State Expenditure Plan Guidelines". 1 Dec 2014. [https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final\\_0.pdf](https://www.restorethegulf.gov/sites/default/files/SEP-Guidelines-final_0.pdf)

## Oil Spill Component: Population Formula

Within the proposed rule, the Council developed a formula for allocating the funds available among the five Gulf States. In the “population” component of the formula, 20 percent of the allocation is based on the average population of the 2010 Decennial Census of the coastal counties bordering the Gulf of Mexico in Texas, Louisiana, Mississippi, Alabama, and Florida. As the RESTORE Act does not define the term “coastal counties” for states other than Florida, the Council had the discretion of determining which counties would be considered “coastal” for the purpose of the funding allocation.<sup>2</sup>

From Texas to Alabama, the Council chose to define coastal counties/parishes as those that “physically touched the Gulf of Mexico.”<sup>3</sup> While we do not disagree with this interpretation, the application that the Council chose to employ in determining what “physically touches” the Gulf of Mexico is not consistent across the Gulf States. In Texas, instead of choosing all counties that “touch” the Gulf, the Council used the coastal county listing applied by the Texas Railroad Commission, which identifies only Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, and Willacy Counties as coastal counties.<sup>4</sup> As a result, Harris County, which is hydrologically linked to the Gulf of Mexico through Galveston Bay, is notably excluded from the counties chosen by the Council.

Both in practice and application, we disagree with the Council’s decision to use an approach that excludes Harris County in Texas. In its relation to the Gulf of Mexico, Harris County is as connected to the Gulf as Orleans and St. Tammany Parishes in Louisiana. Orleans and St. Tammany Parishes do not physically touch the Gulf of Mexico, but are hydrologically connected to the Gulf by way of a large embayment, Lake Pontchartrain. Harris County is similarly connected by Galveston Bay in Texas. By excluding Harris County as a coastal county, the Council sets a bad precedent in how criteria is interpreted and applied. As RESTORE is a new and precedent-setting process, consistency in its application of criteria is critical to the integrity of the overall process.

To provide greater consistency across the Gulf, we recommend that the Council use the counties and parishes identified by the Coastal Zone Management Programs in Texas, Louisiana, Mississippi, and Alabama, which implements the Federal Coastal Zone Management Act (CZMA). The purpose of the CZMA is “to preserve, protect, develop, and where possible, to restore or enhance the resources of the nation’s coastal zone.”<sup>5</sup> This defined purpose is closely aligned with that of the RESTORE Act and the duties of the Council, we believe that the definition of coastal counties should match those of the federal CZMA.<sup>6</sup>

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<sup>2</sup> RESTORE Act Spill Impact Component Allocation. Notice of Proposed Rulemaking. 80 FR 58418. 29 Sept 2015.

<sup>3</sup> *Ibid.* 80 FR 58419.

<sup>4</sup> *Ibid.* 80 FR 58419.

<sup>5</sup> 16 U.S.C. § 1452(1)

<sup>6</sup> U.S. NOAA. “State Coastal Zone Boundaries”. 9 Feb 2012. <http://coast.noaa.gov/czm/media/StateCZBoundaries.pdf>

## **Conclusion**

We recognize the Council has invested significant time and limited resources into the development of this rulemaking and are grateful for that effort. We applaud the Council for setting high standards for public participation, and we thank you for providing the opportunity to comment.

Sincerely,

Coastal Bend Bays & Estuaries Program  
Galveston Bay Foundation  
Galveston Baykeeper  
Gulf Restoration Network  
Houston Audubon  
Houston Wilderness  
Student Conservation Association  
Texas Ducks Unlimited  
Turtle Island Restoration Network

CC: Commissioner Toby Baker, TCEQ  
Stephen L. Tatum, Jr., TCEQ

# Correspondence: 25

## Author Information

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## Correspondence Information

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## Correspondence Text

Dear Council Members,

We would like to take this opportunity to respond to the published Federal Register 40 CFR Part 1800 [Docket Number: 109002015-1111-08] RESTORE Act Spill Impact Component Allocation. Specifically, we address the restriction of the proposed rule to coastal communities, which is short sighted in excluding Harris County, Texas. As seen from the attached map, Harris County is in close proximity to the Gulf of Mexico. Through use of the Houston Ship Channel, Houston is the second highest shipping port in the Gulf region, resulting in constant and interactive contact with the Gulf. Moreover, Harris County has the highest number of housing units of any County in the Gulf Coast region, many of which are located close to the Gulf of Mexico or Houston Ship Channel. Approximately 10% of the total economic impact as a result of tourism in the Gulf Coast occurs in Harris County. In addition, approximately 10% of employment in Harris County is in the tourism and recreation sector, a percentage comparable to other Gulf Coast counties.

The issues accompanying the Gulf Oil Spill highlight the urgent need to remediate and to establish proactive approaches to safeguard the health of our population and ecosystems. Critical capabilities and assets necessary to find solutions to these complex problems reside in Houston and Harris County. The University of Houston has a vibrant environmental science program, spanning across ecosystem health research, effects of environmental contaminants on wildlife and human health, subsea engineering and petroleum engineering, and workforce safety and training. The University of Houston's Coastal Center provides an outstanding demonstration site for research on applications effective in preserving, enhancing, and remediating coastal ecosystems. Interactive programs with the oil and gas industry provide an outstanding venue to find collaborative approaches to effectively deal with these issues and to develop the next generation of technologies that will safeguard our environment.

We appreciate your consideration of our response and strongly suggest that Harris County be included in the defined impacted counties of concern.

Sincerely,

Ramanan Krishnamoorti, Ph.D.

UNIVERSITY of  
**HOUSTON**

Division of Research

October 29, 2015

Gulf Coast Ecosystem Restoration Council  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130.  
[www.RestoreTheGulf.gov](http://www.RestoreTheGulf.gov)

Dear Council Members,

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Sincerely,



Ramanan Krishnamoorti, Ph.D.  
Interim Vice Chancellor for Research and Tech Transfer, UH System  
Interim Vice President for Research and Tech Transfer, UH

**HOUSTON'S CARNEGIE DESIGNATED TIER ONE PUBLIC RESEARCH UNIVERSITY**

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# Correspondence: 26

## Author Information

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## Correspondence Information

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Date Sent:                              Date Received: 10/29/2015  
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Contains Request(s): No              Type: E-mail  
Notes:

## Correspondence Text

I offer my appreciation of the Gulf Coast Ecosystem Council, particularly my colleagues who serve with me as members of the Council as well as the Council's excellent staff. I commend them on the important work they are doing to implement meaningful and lasting improvements to the ecosystems and economies of the Gulf Coast region. It is in that spirit that I offer the following comments on the Council's proposed RESTORE Act Spill Impact Allocation.

I generally support the determinations the Council has made in support of this rulemaking. Specifically, the Council is correct to rely on U.S. Coast Guard data and determinations with regard to the total number of miles of oiled shoreline and the nearest and farthest points that experienced oiling within each state. Moreover, the mathematical formula the Council employs to calculate the inverse proportion of the average distance from the Deepwater Horizon Drilling Unit to those nearest and farthest points within each state is the most, if not only, reasonable interpretation of the RESTORE Act.

I do not support the Council's proposed list of counties bordering the Gulf of Mexico. Simply put, Harris County, Texas, borders the Gulf of Mexico and should have been included in the population component of the rule. Like Hillsborough County, Florida, and Orleans Parish, Louisiana - political subdivisions that are included in the population component of the proposed rule - Harris County borders a body of water that is part of the Gulf of Mexico. Moreover, I believe that the inclusion of Harris County is consistent with the Treasury Department's interpretation of the RESTORE Act, which includes tidal Florida counties in its definition of coastal counties.

I continue to believe that a more accurate list of coastal counties are the 18 counties of the Texas Coastal Management Plan. That list includes all of the Texas counties that border the Gulf of Mexico and is geographically consistent with the lists of counties and parishes that the Council proposes for Louisiana and Florida. Moreover, these are the same counties used in the Coastal Zone Management Act at 16 U.S.C. § 1453(1) (definition of "coastal zone"); the Outer Continental Shelf Lands Act at 43 U.S.C. § 1331(e) (definition of "coastal zone) and § 1356a(a)(1) (definition of "coastal political subdivision"); and the Submerged Lands Act at 43 U.S.C. § 1301(c) (definition of "coastline") - all of which Congress appears to have drawn upon in drafting the RESTORE Act.

I appreciate the opportunity to submit these comments.

Sincerely,  
Toby Baker

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 29, 2015

Gulf Coast Ecosystem Restoration Council  
500 Poydras, Suite 1117  
New Orleans, LA 70130

Re: Comments of Commissioner Toby Baker on the Council's Proposed *RESTORE Act Spill Impact Component Allocation*  
Docket No. 109002015-1111-08

I offer my appreciation of the Gulf Coast Ecosystem Council, particularly my colleagues who serve with me as members of the Council as well as the Council's excellent staff. I commend them on the important work they are doing to implement meaningful and lasting improvements to the ecosystems and economies of the Gulf Coast region. It is in that spirit that I offer the following comments on the Council's proposed *RESTORE Act Spill Impact Allocation*.

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I continue to believe that a more accurate list of coastal counties are the 18 counties of the Texas Coastal Management Plan. That list includes all of the Texas counties that border the Gulf of Mexico and is geographically consistent with the lists of counties and parishes that the Council proposes for Louisiana and Florida. Moreover, these are the same counties used in the Coastal Zone Management Act at 16 U.S.C. § 1453(1) (definition of "coastal zone"); the Outer Continental Shelf Lands Act at 43 U.S.C. § 1331(e) (definition of "coastal zone") and § 1356a(a)(1) (definition of "coastal political subdivision"); and the Submerged Lands Act at 43 U.S.C. § 1301(c) (definition of "coastline") – all of which Congress appears to have drawn upon in drafting the RESTORE Act.

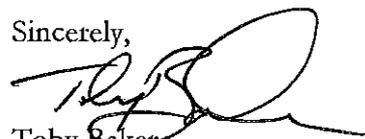
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I appreciate the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Toby Baker', written over a large, stylized circular flourish.

Toby Baker  
Texas's Representative to the RESTORE Council

# Correspondence: 27

## Author Information

Keep Private: No  
Name: Keith Wilkins  
Organization: Escambia County Department of Natural Resources Management.  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Escambia County, FL N/P  
USA  
E-mail: KTWILKIN@myescambia.com

## Correspondence Information

Status: Reviewed                      Park Correspondence Log:  
Date Sent:                              Date Received: 10/29/2015  
Number of Signatures: 1              Form Letter: No  
Contains Request(s): No              Type: E-mail  
Notes:

## Correspondence Text

Dear Chairman and the Gulf Coast Ecosystem Restoration Council,

My name is Keith Wilkins, Director of the Escambia County Department of Natural Resources Management. I would like to thank you for all the work the Council has done over the past few years as well as for your support and consideration of Florida and Escambia County in your evaluations.

This letter is in regard to the proposed rule that establishes the formula for allocating among the five States through the Spill Impact Component. The County does not believe the formula adequately addressed Florida which has the most citizens living in the Gulf and an economy tied to the health of the Gulf. In addition, Escambia County was second most to the number of miles of oiled shoreline of any state yet receives the next to lowest share.

The first and second criterion seem to accomplish the goal at hand and the only concern Escambia County has is with criterion three. Criterion number three, which is supposed to be based on population, doesn't seem logical. In this part of the calculation, the proposed rule suggest taking the average population of all of the coastal counties in the State.

(a) For the Alabama Coastal Counties, whose "average county population" is 297,629 persons (even though the total population of Alabama's two Coastal Counties is 600K} ... ends up with 31% in this criterion

(b) For the Florida Coastal Counties, whose "average county population" is 252,459 persons (even though the total population of Florida's 23 Coastal Counties: 5.6M) ... ends up with 26% in this criterion

Using this method, it tells the story that Alabama with only two coastal counties, actually has a higher average of people than the twenty three Florida coastal counties combined. This method would seem logical only if each state had the same number of coastal counties.

A recommended method would be to take the average population of each state across the Gulf Coast. Take the total population of all of the coastal counties and parishes and divide it by the total coastal population of each as seen below.

FL average= Total of population from all FL coastal counties/ Total population of the Gulf Coast

And the same for each other state. Escambia County believes using this method would more accurately represent the population effected in each state and hopes the Council would consider this before enacting this rule. However, we

acknowledge this was a negotiated process that the State of Florida participated in.

Thank you.

Keith Wilkins, Director



Board of County Commissioners • Escambia County, Florida

Keith T. Wilkins, Director  
Department of Natural Resources Management

October 29, 2015

500 Poydras Street  
Suite 1117  
New Orleans, LA 70130

Dear Chairman and the Gulf Coast Ecosystem Restoration Council,

My name is Keith Wilkins, Director of the Escambia County Department of Natural Resources Management. I would like to thank you for all the work the Council has done over the past few years as well as for your support and consideration of Florida and Escambia County in your evaluations.

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Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keith Wilkins".

Keith Wilkins, Director  
Department of Natural Resources Management  
Escambia County

# Correspondence: 28

## Author Information

Keep Private: No  
Name: Nelda Martinez  
Organization: Mayor  
Organization Type: I - Unaffiliated Individual  
Address: Not Provided  
Corpus Christi, TX N/P  
USA  
E-mail: NeldaM@cctexas.com

## Correspondence Information

Status: Reviewed Park Correspondence Log:  
Date Sent: Date Received: 10/06/2015  
Number of Signatures: 1 Form Letter: No  
Contains Request(s): No Type: Letter  
Notes:

## Correspondence Text

Dear Mr. Ehrenweth,

As Mayor of Corpus Christi, Texas, the most populous Texas city on the Gulf of Mexico, I am writing to protest the proposed regulations to implement the Spill Impact Component (Bucket 3) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).

It is of strong concern the Gulf Coast Ecosystem Restoration Council (Council) would propose in its formula for Bucket 3 funds a definition of Texas coastal counties that excludes Harris County - the most populous county in Texas. The Council made an error in using a map from the Texas Railroad Commission. To exclude Harris County from the list of Texas coastal counties is inconsistent with policies and practices of federal and state agencies. Instead, the Council should rely on the Coastal Zone map used by NOAA for the Coastal Management Program, Texas Coastal and Estuarine Land Conservation Program Plan and the Coastal impact Assistance Program. Harris County is considered Texas coastal county under the EPA's Beach Watch program. A federal court approved a settlement in July 2015 which validated economic loss claims as a result of the Deepwater Horizon spill with the City of Houston, Harris County, Houston Metro and more than 500 local governmental entities.

Excluding Harris County would, in effect, penalize the State of Texas financially by excluding 4.4 million residents and shortchanging Texas coastal counties from

receiving a fair and equitable share of Bucket 3 funds.

I respectfully urge you to amend said regulation by including Harris County as a Texas coastal county and re-calculating the formula for Bucket 3. An accurate calculation of impacted coastal communities under Bucket 3 will further enhance the quality of life for Texas families, businesses, and our invaluable environment. Thank you for your favorable consideration.

">



October 1, 2015

# City of Corpus Christi

Justin Ehrenweth  
Executive Director  
Gulf Coast Ecosystem Restoration Council  
Hale Boggs Federal Building  
500 Poydras Street, Suite 1117  
New Orleans, LA 70130

## OFFICE OF THE MAYOR

Nelda Martinez  
NeldaM@ctexas.com

RE: 40 CFR Part 1800  
Docket Number: 109002015-1111-08

Dear Mr. Ehrenweth,

Kristina Leal  
Chief of Staff  
KristinaL@ctexas.com

As Mayor of Corpus Christi, Texas, the most populous Texas city on the Gulf of Mexico, I am writing to protest the proposed regulations to implement the Spill Impact Component (Bucket 3) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORF Act).

1201 Leopard St., 78401  
PO Box 9277  
Corpus Christi  
Texas 78469-9277  
Phone 361-826-3100  
Fax 361-826-3103

[www.ctexas.com](http://www.ctexas.com)

It is of strong concern to the Gulf Coast Ecosystem Restoration Council (Council) would propose in its formula for Bucket 3 funds a definition of Texas coastal counties that excludes Harris County – the most populous county in Texas. The Council made an error in using a map from the Texas Railroad Commission. To exclude Harris County from the list of Texas coastal counties is inconsistent with policies and practices of federal and state agencies. Instead, the Council should rely on the Coastal Zone map used by NOAA for the Coastal Management Program, Texas Coastal and Estuarine Land Conservation Program Plan and the Coastal Impact Assistance Program. Harris County is considered Texas coastal county under the EPA's Beach Watch program. A federal court approved a settlement in July 2015 which validated economic loss claims as a result of the Deepwater Horizon spill with the City of Houston, Harris County, Houston Metro and more than 500 local governmental entities.

*Moving  
Corpus Christi  
Forward  
Adelante!*

Excluding Harris County would, in effect, penalize the State of Texas financially by excluding 4.4 million residents and shortchanging Texas coastal counties from receiving a fair and equitable share of Bucket 3 funds.

I respectfully urge you to amend said regulation by including Harris County as a Texas coastal county and re-calculating the formula for Bucket 3. An accurate calculation of impacted coastal communities under Bucket 3 will further enhance the quality of life for Texas families, businesses, and our invaluable environment.

Thank you for your favorable consideration.

Best,



Nelda Martinez  
Mayor

NM/twt

cc: The Honorable Penny Pritzker, US Secretary of Commerce  
Chair, Gulf Coast Ecosystem Restoration Council  
The Honorable Blake Farenthold, US Representative, District 27  
The Honorable Greg Abbott, Governor, Texas  
Toby Baker, Commissioner, Texas Commission on Environmental Quality  
The Honorable Ed Emmitt, Harris County Judge  
The Honorable Annise Parker, Mayor, City of Houston