



Gulf Consortium Agenda
Special Meeting on U.S. Treasury Rules
October 25, 2013 11:00 a.m.-12:30 (EDT)

Florida Department of Environmental Protection

3900 Commonwealth Boulevard

Carr Building, Room 170

Tallahassee, Florida 32399

Conference Call Accessible

Dial-in Number: (888)670-3525

Participant Passcode: 998 449 5298#

1. Call to Order
2. Pledge
3. Public Comment
4. Consent Agenda
 - a) Minutes Approval
 - b) Updated List of Directors/Alternates
 - c) Notice of Meeting as published in the Florida Administrative Register
5. Proposed Treasury Rules
6. Public Comment
7. Adjourn

Gulf Consortium Meeting
September 18, 2013 10:00 a.m. – 12:00 p.m. (EDT)
Marriott West Palm Beach
Palm Beach County

Directors / Alternates in Attendance: Jim Muller (Non-voting)(Bay), Commissioner Christopher Constance (Charlotte), Commissioner Tom Henning (Collier), Administrator Mike Cassidy (Dixie), Commissioner Grover Robinson (Escambia), Commissioner Cheryl Sanders (Franklin), Administrator Don Butler (Gulf), Commissioner Wayne Dukes (Hernando), Mr. Brandon Wagner (Non-voting)(Hillsborough), Commissioner Betsy Barfield (Jefferson), Kurt Harclerode, (Non-voting) (Lee), Commissioner Ryan Bell (Levy), Natural Resources Director Charlie Hunsicker (Manatee), Mayor George Neugent (Monroe), Commissioner Dave Parisot (Okaloosa), Commissioner Jack Mariano (Pasco), Commissioner Susan Latvala (Pinellas), Commissioner Jim Melvin (Santa Rosa), County Administrator Jack Brown (Taylor), Administrator David Edwards (Wakulla), Commissioner Sara Comander (Walton)

Agenda Item #1 – Call to Order

Commissioner Grover Robinson called the meeting to order at 10:05 am (EDT).

Agenda Item #3 – Consent Agenda

Mr. Doug Darling, Interim Director, presented the consent agenda containing minutes from the August 22, 2013 Gulf Consortium Board of Directors' (Board) Meeting in Pinellas County, an updated list of Directors/Alternates and the Financial Report, information on funding of other State's expenditure plans, transmittal of Council Initial Comprehensive Plan and Notice of Meeting as published in the Florida Administrative Register. A motion to approve the consent agenda was presented by Commissioner Sarah Commander (Walton) and seconded by Commissioner Susan Latvala (Pinellas). Ms. Ann Redmond, Brown and Caldwell, provided an update on Louisiana's Coastal Master Plan that some have interpreted as the State Expenditure Plan.

ACTION: PASSED

Agenda Item #4 – Draft Treasury Rules

General Counsel Sarah Bleakley presented an overview of the draft Treasury Rules – including timeline for the collection and submittal of comments and rules regarding Spill Impact Component (Pot #3). Discussion ensued including scheduling a meeting in October 2013. A motion to hold a Gulf Consortium meeting in Tallahassee in October 2013 was presented by Commissioner Wayne Dukes (Hernando) and seconded by Commissioner Dave Parisot (Okaloosa). A friendly amendment to the motion was offered by Commissioner Christopher Constance (Charlotte) and seconded by Commissioner Dave Parisot (Okaloosa) to adopt an amended Treasury rule comment timeline.

ACTION: PASSED

Agenda Item #5 – Procurement of Plan Development

Ms. Sarah Bleakley, Interim General Counsel, presented an overview on the procurement of plan development and possible scope of services. Discussion ensued. Mr. Jack Brown (Taylor) moved that this item be deferred to the November 2013 meeting in Volusia County, Commissioner Christopher Constance (Charlotte) seconded.

ACTION: PASSED

Agenda Item #6 – Interim Manager Contract Extension

Mr. Doug Darling, Interim Manager, presented an item to extend the Consortium's Interim Manager contract with the Florida Association of Counties. Mr. Jack Brown (Taylor) moved to approve the extension of contract, Commissioner Cheryl Sanders (Franklin) seconded.

ACTION: PASSED

Agenda Item #7 – Interim General Counsel Contract Extension

Mr. Doug Darling, Interim Manager, presented a suggestion for the extension of the Consortiums' Interim General Counsel contract with Nabors, Giblin & Nickerson, P.A. (NG&N). Commissioner Cheryl Sanders (Franklin) moved to extend contract with NG&N, Commissioner Betsy Barfield (Jefferson) seconded.

ACTION: PASSED

Agenda Item #8 – Transition Budget

Mr. Chris Holley, Florida Association of Counties Executive Director, presented an overview of budgetary needs for the next annual cycle including division of cost for 15 counties and 8 small counties. Discussion ensued. Commissioner Dave Parisot (Okaloosa) moved the approval of the transition budget, including expenses and modified allocations, Mr. Jack Brown (Taylor) seconded.

ACTION: PASSED (2 Opposed)

Agenda Item # 9 – Interim General Counsel

Ms. Sarah Bleakley, Interim General Counsel, presented information regarding new legislation for public comments including time limits and the allowance for public comments before any actions are approved by the Consortium. Commissioner Christopher Constance (Charlotte) moves that public comments be held before any votes at the beginning of each Consortium meeting, Commissioner Jack Mariano (Pasco) seconded.

ACTION: PASSED

Agenda Item # 10 – Future Meeting Information

Mr. Doug Darling, Interim Manager, presented schedule of future meeting including the additional meeting on October 25, 2013 in Tallahassee approved in Agenda Item # 4.

Agenda Item # 11 – Proposed Future Meetings

By show of hands, January 24, 2014 was the selected date for January meeting. Location is to be determined, but staff is looking at either Pensacola or Tallahassee.

Agenda Item #12 – New Business

Commissioner Grover Robinson (Escambia) talked about the need for the Executive Committee to meet with state officials to discuss current status of business. Commissioner Wayne Dukes (Hernando) move to have the Executive Committee meet with state officials, Commissioner Jack Mariano (Pasco) seconded.

ACTION: PASSED

Agenda Item #12 – New Business

Commissioner Sara Comander (Walton) requested a resolution passed by the Walton County Board of County Commissioners be entered into the record. The resolution (2013-68), attached, requests the State of Florida to advance funds to retain a professional consultant to develop, assist, and advise of all RESTORE related activities. Entered without objection.

Agenda Item #12 – New Business

Commissioner Dave Parisot (Okaloosa) made a motion to propose the ability of any Director of the Consortium to add items to Consortium meeting agendas, contingent upon Chair approval. Any item approved would be accompanied by an agenda memo and background materials needed. Commissioner Constance (Charlotte) seconded.

ACTION: PASSED

Agenda Item #12 – New Business

Commissioner Christopher Constance (Charlotte) made a motion to not have end times for Consortium meetings, Commissioner Dave Parisot seconded.

ACTION: PASSED

Agenda Item #13 – Public Comment

Consortium heard comments from:

Ms. Jessica Koelsch regarding U.S Treasury Rules

Mr. TJ Marshall regarding the watershed model

Agenda Item #14 – Adjournment

Commissioner Susan Latvala (Pinellas) moves adjournment, Commissioner Paterson (Sarasota) seconded.

ACTION: PASSED

Gulf Consortium Directors and Alternates

October 25, 2013

County	Director and Alternate
Bay	Comm Mike Thomas, Director; Comm George Gainer, Alternate
Charlotte	Comm Christopher Constance, Director; Comm Tricia Duffy, Alternate
Citrus	Comm Rebecca Bays, Director; Richard Wesch, County Attorney, Alternate
Collier	Comm Tom Henning, Director; Comm Donna Fiala, Alternate; Director Bill Lorenz, 2nd Alternate
Dixie	Tim Alexander, Director of Emergency Management; Administrator Mike Cassidy, Alternate
Escambia	Comm Grover Robinson, Director; Comm Gene Valentino, Alternate
Franklin	Comm Cheryl Sanders, Director; County Administrator Alan Pierce, Alternate
Gulf	Comm Warren Yeager, Director; Tan Smiley, Alternate; County Administrator Donald Butler 2nd Alternate
Hernando	Comm Wayne Dukes, Director; Comm David Russell, Alternate; Administrator Len Sossamon, 2nd Alternate
Hillsborough	Comm Les Miller, Director; Comm Ken Hagan, Alternate
Jefferson	Comm Betsy Barfield, Director; County Coordinator Parrish Barwick, Alternate
Lee	Comm Tammy Hall, Director; Comm John Manning, Alternate
Levy	Comm Ryan Bell, Director; County Coordinator Fred Moody, Alternate
Manatee	Comm Carol Whitmore, Director; Charlie Hunsicker, Natural Resources Dept., Alternate
Monroe	Mayor George Neugent, Director; Comm David Rice, Alternate
Okaloosa	Comm Dave Parisot, Director; Comm Kelly Windes, Alternate
Pasco	Comm Jack Mariano, Director; Comm Henry Wilson, Alternate
Pinellas	Comm Susan Latvala, Director; Coastal Manager Andy Squires
Santa Rosa	Comm Lane Lynchard, Director; Comm Jim Melvin, Alternate
Sarasota	Comm Nora Patterson, Director; Laird Wreford, Natural Resources Manager, Alternate; Comm Christine Robinson 2nd Alternate
Taylor	Comm Jim Moody, Director; Jack Brown, County Administrator, Alternate
Wakulla	David Edwards, County Administrator, Director; Comm Ralph Thomas, Alternate
Walton	Comm Sara Comander, Director; Comm Cindy Meadows, Alternate

Any subsequent changes to this notice will be posted on the Department of Management Services Vendor Bid System (VBS) website located at: <http://vbs.dms.state.fl.us/>.

A copy of the agenda may be obtained by contacting: Adrian Williams, Procurement Manager, email: Adrian_Williams@dcf.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Adrian Williams, Procurement Manager, email: Adrian_Williams@dcf.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

GULF CONSORTIUM

The Gulf Consortium announces a meeting on proposed U. S. Treasury Rules by conference call and public meeting to which all persons are invited.

DATE AND TIME: October 25, 2013, 11:00 a.m. Eastern Daylight Time

PLACE: Florida Department of Environmental Protection, Carr Building, Room 170, 3900 Commonwealth Boulevard, Tallahassee, Florida; conference call number: 1(888)670-3525; participant code: 998 449 5298#

GENERAL SUBJECT MATTER TO BE CONSIDERED: Gulf Consortium Directors will be meeting for the purpose of consideration of comments on the proposed U.S. Treasury rules [Docket ID: TREAS-DO-2013-0005] relating to the RESTORE Act and other matters.

A copy of the agenda may be obtained by contacting: Doug Darling at (850)922-4300 or ddarling@fl-counties.com; or see www.FACRestore.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Doug Darling at (850)922-4300 or ddarling@fl-counties.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Doug Darling at (850)922-4300 or ddarling@fl-counties.com or see www.FACRestore.com.

NORTHWEST FLORIDA TRANSPORTATION CORRIDOR AUTHORITY

The Northwest Florida Transportation Corridor Authority announces a public meeting to which all persons are invited.

DATE AND TIME: October 24, 2013, 10:00 a.m. EST

PLACE: Franklin County Courthouse, County Commission Room, 34 Forbes Street, Apalachicola, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Board Meeting.

A copy of the agenda may be obtained by contacting: Alicia Stephen at (850)429-8905 or alicia.stephen@hdrinc.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Alicia Stephen at (850)429-8905 or alicia.stephen@hdrinc.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Alicia Stephen at (850)429-8905 or alicia.stephen@hdrinc.com.

WORKFORCE FLORIDA

The Workforce Florida announces public meetings to which all persons are invited.

DATES AND TIMES: November 6, 2013, 10:00 a.m. – 11:45 a.m., ET, CareerSource Florida Internal Brand Orientation; 1:00 p.m. – 3:00 p.m., ETm Global Talent Competitiveness Council; 3:30 p.m. – 8:00 p.m., Board & Partners Field Experience/Reception; November 7, 2013, 8:30 a.m. – 12:30 p.m., ET, Workforce Florida Board of Directors Meeting

PLACE: The Shores Resort, 2637 South Atlantic Ave., Daytona Beach Shores, FL 32118

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board meetings for discussion of workforce issues.

A copy of the agenda may be obtained by contacting: www.workforceflorida.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Peggy Dransfield, (850)921-1119. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

MRGMIAMI

The Florida Department of Transportation, District Four announces a hearing to which all persons are invited.

DATE AND TIME: Thursday, October 24, 2013, 5:30 p.m., Formal Presentation at 6:30 p.m., followed by a public

Gulf Consortium
October 25, 2013

Agenda Item # 5 Consortium's Comments on Treasury RESTORE Act Rules

Statement of Issue or Executive Summary: The attached draft correspondence provides comments to the Treasury Rules on the RESTORE Act.

Background: On September 6, Treasury published its RESTORE Act Rules for comment in the Federal Register. Treasury provided a 60 day comment period, which ends on November 5, 2013. At the September 18 meeting, the Consortium established a October 4 deadline for counties to provide comments on the Rules to Consortium staff. The Board also announced a special meeting on October 25th in Tallahassee to consider a response to Treasury.

Thirteen counties have provided comments, with five counties meeting that deadline. A copy of each counties' comments are on the FACRESTORE website.

Consortium staff and interim general counsel have held conference calls on the Rules with the county managers and the county attorneys of the 23 counties. Additional calls or in-person meetings were held with several county attorneys, and some of the stake-holders. Consortium staff and interim General Counsel have met with staff and attorneys at the Department of Environmental Protection. Staff also met with members of Florida's Congressional delegation in Washington about the Rules.

Once the comment period ends, Treasury will review each comment and respond in writing to those that present substantive issues. Treasury may revise the Rules. Thereafter, Treasury's recommendation is transmitted for review to the federal Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA). OIRA determines whether the Rules, as revised, should be re-submitted for public comment. If so, the Rules comment process begins anew. If not, the Rules become final.

Analysis: The attached draft correspondence is intended to present the overarching concerns of the Consortium on the Rules relating to the Spill Impact Component (Pot 3) and on the Direct Component (Pot 1, the local pot). It includes the most-suggested issues raised by the counties' comments.

Options:

- 1) Approve a motion to adopt the attached correspondence and transmit it to Treasury by the November 5th deadline.
- 2) Provide other direction.

Fiscal Impact: Indeterminate.

Recommendation:

Approve a motion to authorize the Chairman to sign the attached correspondence and transmit it to Treasury by the November 5th deadline.

Prepared by: Sarah M. Bleakley, Nabors, Giblin & Nickerson, P.A., Interim General Counsel



October 25, 2013

Via Federal eRulemaking Portal: www.regulations.gov

Department of the Treasury
Attention: Ms. Janet Vail
Room 2050
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

**Re: Comments on RESTORE Act Proposed Rules by
Department of the Treasury. Docket ID:
TREAS-DO-2013-0005-0001; RIN: 1505-AC44;
CFR: 31 CFR Part 34; Federal Register Number: 2013-21595.**

Dear Ms. Vail:

On behalf of the Gulf Consortium, we appreciate the opportunity to comment on the U.S. Department of the Treasury's ("Treasury") proposed rules ("Rules") implementing the RESTORE Act ("Act"). The Deep Water Horizon oil spill significantly impacted all of Florida's Gulf Coast communities, both in terms of environmental and economic damages. The Act and the Rules present an unprecedented opportunity to provide direct relief for these impacts to Gulf Coast communities. This correspondence is intended to explain Florida's unique situation under the Act, discuss the effects of the Rules on the Consortium and the 23 Florida counties, and suggest Rules revisions that could reduce some of the unnecessary financial burdens on them.

The RESTORE Act in Florida

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

Direct Component

Unlike the other states, the Act divides the Florida share of the Direct Component into two portions:

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

The Act requires public input as Florida's 23 Gulf Coast counties develop their individual restoration plans under the Direct Component. Most of the counties have convened local advisory committees to evaluate and recommend projects for funding under the Direct Component to the respective Boards of County Commissioners.

The Gulf Consortium

The second unique feature of RESTORE in Florida is the formation of the Gulf Consortium. Florida's 23 gulf coast counties came together to officially form the Gulf Consortium and facilitate the development of a coordinated state plan that would enhance Florida's recovery through the prudent investment of the Spill Impact Component, equal to 30 percent of the Trust Fund allocation to Florida. This part of the Act gave Florida a distinct opportunity to create a partnership between local governments and the State to oversee the money coming to Florida and ensure it is used to fund the projects that are the most beneficial to our state.

Formed through Inter-local Agreement under Chapter 163, Florida Statutes, the Gulf Consortium is a public entity that operates fully under Florida's extensive sunshine laws.¹ It adheres to Florida's public records and public meeting requirements and recognizes the importance of public participation by ensuring that all meetings are publicly noticed and there is ample time for citizens to address the Consortium and provide input and feedback for full consideration. Like a state agency, the Consortium will provide reports to the Florida Auditor General and Florida's Chief Financial Officer. This State oversight is in addition to the Treasury Rules for federal reporting and auditing requirements.

The Gulf Consortium is comprised of one county commissioner from each of the 23 gulf coast counties. This guarantees each county, from Escambia in the panhandle to the Florida Keys, a role and a voice in the State's recovery efforts. The formal

¹ A copy of the Interlocal Agreement Relating to Establishment of the Gulf Consortium (2012) is included with the Consortium's electronic submittal of its comments.

collaboration of 23 separate government entities -- more than 115 elected officials representing 6 million people -- recognizes that Florida and the Gulf Coast should not just survive this tragedy, but maximize resources and apply lessons learned to best benefit the Florida's environment and economy.

The Gulf Consortium is also working with Florida's Governor, state agencies and other restoration partners to advance common goals, reduce duplication, and maximize benefits to the Gulf Coast region. To this end, the Consortium and the State have entered into a Memorandum of Understanding to further our collective objectives of maximizing efficiencies and revenue opportunities under the Act.² This Memorandum provides the Governor with six ex-officio, non-voting appointees to the Consortium representing diverse interests to provide input and guidance to the Consortium on policies and criteria used to determine projects, activities and programs for inclusion in the State Expenditure Plan.

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

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

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

² A copy of the Memorandum of Understanding between Governor Rick Scott and the Gulf Consortium is included in the Consortium's electronic submittal of its Rules comments.

Opportunities and Challenges for the Gulf Consortium

The Gulf Consortium was formed to promote a recovery effort that is economically efficient and devoid of bureaucracy. Up to now, the Consortium has been funded from contributions of its 23 member counties. Eight of the 23 counties are fiscally constrained, so their county commissions struggle to provide a basic level of government services. Still struggling to recover from the Great Recession, each of the 23 counties has cut back services and staffs as property values have fallen and tax revenues have dwindled. The 23 counties individually and collectively through the Gulf Consortium are hoping the final Treasury's Rules and future grant processes will include only the bare minimum of federal bureaucracy necessary to maintain the integrity of the program.³ Florida's counties want to spend the lion's share of Florida's Direct and Impact Components on actually restoring the economy and our ecosystems. In that spirit, the Consortium comments on the proposed Rules focus on minimizing the bureaucracy -- both the federal layer and what must be created by Florida's counties and the Consortium, in responding to it.

Gulf Consortium Comments On Rules

Prior to the opening of the comment period on the proposed Rules, the Consortium had made specific requests to Treasury regarding rules, including:

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

The Consortium renews its request for the Rules to address these issues. The Consortium's comments on the Rules are provided below. Comments suggesting additions to the Rules are presented through underlined text and deletions through ~~struck through~~ text.

³ The Consortium is authorized to act as a resource to its member counties on all Act issues, including the development of federal rules implementing the Act. See Interlocal Agreement, Sec. 2.02(A).

Regulatory Flexibility Act and Eight Fiscally Constrained Counties

The Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 et seq.) generally requires agencies to prepare a regulatory flexibility analysis of any rule unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Treasury has certified that these Rules do not have a significant economic impact on a substantial number of small entities, and thus no initial regulatory flexibility analysis is required. Nonetheless, Treasury has invited comments on the Rule's impact on small entities.

Eight county members of the Gulf Consortium qualify as "small entities" under the Regulatory Flexibility Act. Dixie County, Franklin County, Gulf County, Jefferson County, Levy County, Suwannee County, Taylor County and Wakulla County each have populations under 50,000.⁴ Two of the small counties are Disproportionately Affected Counties under the Act: Franklin and Gulf. The other six are Non-Disproportionately Impacted Counties under the Act. The State of Florida has recognized these eight counties as "Fiscally Constrained Counties", which is defined to mean those with a population under 50,000 and those where the value of one mill of ad valorem property taxes generates less than \$5 million.⁵ At its heart, a designation of Fiscally Constrained County means that the county struggles to meet its obligations to fund basic government services.

A federal agency should make a reasonable, good-faith effort, prior to issuance of a final rule, to inform the public about potential adverse effects of its proposals and about less harmful alternatives.⁶ As the eight Fiscally Constrained Counties are small entities under the RFA, the Rules should provide them with alternatives to expensive, onerous compliance requirements. The Rules should also clearly light the path to grant application and compliance procedures so that the eight counties are not required to incur additional expenses hiring consultants and experts to discern and follow the Rules' intent and meaning. The Rules should also provide for the advancement of costs, instead of reimbursement, so as not to further hamper the eight counties' financial ability to provide basic services.

Where applicable, the Consortium's comments on the Rules offers specific suggestions for modifications that could alleviate additional costs on the eight Fiscally Constrained Counties.

⁴ See the State's official population estimates for the eight fiscally constrained counties which is included in the Consortium's electronic submittal of its Rules comments..

⁵ *Id.* and *see*, sec. 218.67, Florida Statutes. Florida's Constitution limits a county's ad valorem tax levies to 10 mills. See, Art. VII, sec. 9, Fla. Const.

⁶ *Southern Offshore Fishing Ass'n v. Daley*, 995 F. Supp. 1411 (M.D. Fla. 1998).

Recognition of the Gulf Consortium

The Gulf Consortium was formed for the purpose of serving as "a consortium of local political subdivisions that includes at a minimum 1 representative of each affected county . . ." under the Act to develop Florida's State Expenditure Plan. The Rules should expressly recognize that the Gulf Consortium serves in that role. Adding recognition of the Gulf Consortium will also help clarify the rules and their requirements on the Consortium. To accomplish this recognition, the definitions section could be revised to include the following: "A consortium of local political subdivisions means the Gulf Consortium created by interlocal agreement between the 23 Florida Gulf Coast counties." Rule Section 34.503(a)(2) should be revised accordingly.

Pre-Award Costs for the Consortium

Only one section of the Rules provide authorization for pre-award costs, and that section is limited to costs for environmental review and compliance⁷. As detailed above, Florida is unique among the five Gulf Coast states under the Act in that the Florida's portion of the Spill Impact Component is allocated to the Gulf Consortium and Florida's portion of the Direct Component is allocated directly to the 23 Gulf Coast Counties. The Rules should recognize the financial challenges presented in creating the Consortium and putting the financial burden on the 23 counties, which unlike the other states do not have the financial backing of a State government to prepare for the Act requirements.

The Rules should expressly allow federal reimbursement for the up-front costs of the creation and operation of the Consortium which has been funded thus far by the 23 Florida counties. The specific authorization for pre-award costs to pay for up-front costs for the Consortium will help alleviate the Rules' burden on the eight Fiscally Constrained Counties. At a minimum, the Rules should specify that such costs incurred after the initial deposit of moneys in the Trust Fund on March 21, 2013, the Consortium and the 23 counties should be reimbursed for their Consortium costs.

A new subsection (5) should be added to Section 34.200(a) to read:

(5) Grant agreements shall provide for pre-award costs for amounts reasonably incurred either individually or collectively through written agreement for up-front costs of establishing and operating an entity, other than a Gulf Coast State, required by the Act to develop a State Expenditure Plan.

⁷ See, Rule Sec. 34.200(a)(3).

Pre-Award Costs for Florida's 23 Gulf Coast Counties

As detailed above, Florida is unique among the five Gulf Coast states under the Act in that the Florida's portion of the Direct Component is allocated to the 23 Gulf Coast Counties. The counties do not have the underwriting of a State government. And the eight Fiscally Constrained Counties do not have the financial wherewithal to shoulder the expenses of beginning the development of its plan through the hiring of plan consultants for development of the Multi-Year Plan and the creation and operation of local advisory committees. The Rules should expressly authorize pre-award costs to the 23 Gulf Coast counties to recoup the amounts already expended on plan consultants and for the establishment of their local committees. This addition will provide critical relief to the Eight Fiscally Constrained Counties.

A new subsection (6) should be added to Section 34.200(a) to read:

(6) Grant agreements shall provide for pre-award costs for costs incurred either individually or collectively through written agreement for up-front planning costs and advisory committee costs by an entity other than a Gulf Coast State as required in the Act to develop a Multi-Year Plan.

Planning Costs for the Gulf Consortium and Florida's 23 Gulf Coast Counties

The Gulf Consortium recommends the Rules be revised to expressly authorize the 23 Florida Gulf Coast Counties to provide planning monies from their respective Direct Component allocations to the Gulf Consortium for the purpose of developing Florida's State Expenditure Plan. Informal guidance from Treasury assured the Consortium that the counties would be authorized to provide a portion of their planning costs to the Gulf Consortium. Yet, the Rules do not specifically allow for it. Specifically, the Consortium recommends that Rule 34.305 be revised to add a new subsection (c) as follows:

(c) An entity that is a member of the Gulf Consortium may apply for and provide planning costs to be used by the Gulf Consortium for the development of a State Expenditure Plan.

Additionally, the Gulf Consortium recommends the addition of the following broader definition of the term "planning" be included in definition section of Rule section 34.2.

Planning Costs means direct and indirect costs of data gathering, studies, analysis, and preparation for eligible

activities under section 34.201(a) through (i), including the costs of staff, public comment requirements and environmental review and compliance of plans and projects. Planning costs can include preparation and revision of a Multi-Year Implementation Plan or a State Expenditure Plan.

Administrative Costs

The Act expressly authorizes funds to be used for administrative costs of complying with the Act. The Act limits administrative costs to not more than three percent. Rule 2.05(a) limits the application of the three percent limitation to each grant as follows: "The three percent limit is applied to the total amount of funds received under each grant" In contrast, Rule 2.05(b) provides the Council's three percent limitation to the total amount of funds received by the Council, as follows:

(b) Of the amounts received by the Council under the Comprehensive Plan Component, not more than three percent may be used for administrative expenses, including staff. The three percent limit is applied to the total amount of funds received by the Council, beginning with the first fiscal year it receives funds through the end of the fourth, or most recent fiscal year, whichever is later.

The administrative costs actually incurred for administering a grant will vary depending on the activity, program or project funded by the grant. For example, a grant to develop a State Expenditure Plan or a Multi-Year plan may require a larger expenditure of administrative costs than a grant to fund a stormwater project. The Rules should recognize both the Act's limits on administrative costs and the varied amounts for administrative costs to accomplish an eligible activity cost. Specifically, the Rules should allow Florida's counties to be treated similar to the Council in determining the application of the three percent limit. Rule 2.05(a) should be amended as follows:

(a) Of the amounts received by a Gulf Coast State, coastal political subdivision, or coastal zone parish under the Direct Component, Comprehensive Plan Component, and Spill Impact Component, not more than three percent may be used for administrative costs, including staff. The three percent limit is applied to the total amount of funds received by such entity under each Component. ~~under each grant, beginning with the first fiscal year it receives funds through the end of the most recent fiscal year.~~

Procurement

Section 34.402 relates to the Comprehensive Plan Component Application procedure and grant award process. It provides for the Council to develop an application and selection process, and failing that, the assignees can use a selection process of their choosing that is fair, open, and meets the requirements of Federal laws and, for State and local governments that are awarding, the applicable State and local laws. The Consortium has two recommendations regarding this section.

First, the Gulf Consortium construes the Act's phrase "applicable State and local laws" in a manner that is consistent with the Consortium and counties' powers under Florida law. In Florida, absent a specific reference and mandate in a Florida Statute, generally the State does not control the home rule power of a county to act or the authority of an interlocal entity such as the Gulf Consortium to choose its own method of procurement.⁸ Thus, the Consortium will use a competitive method of procurement that is not inconsistent with State law requirements regarding interlocal entity procurement for applicable projects. The counties "applicable" competitive bidding requirements are those developed locally under their home rule powers, where there is no state mandate to procure contractors in a manner specified in an applicable Florida Statute.⁹

Second, the Consortium suggests deleting the requirement that local governments meet both Federal and State and applicable local law. On the issue of procurement, the Act provides as follows:

consistent with standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements¹⁰

This provision in the Act expresses Congressional intent that a contract for expenditure of Trust Fund monies be procured in a manner that is consistent with State law. The

⁸ Home rule is well-established in Florida. A Florida county can act for any public purpose as long as the action is not inconsistent with a statute. It encompasses all counties under Article VIII, section 1 (f) and (g). See, generally, section 125.01(1) for an enumeration of certain specific powers, and subsection (3) clarification that the enumerated list is not intended to be exclusive or restrictive, rather the legislative purpose is to be liberally construed to grant to all counties the broad exercise of home rule powers authorized in the Florida Constitution. The broad construction of section 125.01 has been approved by the Supreme Court of Florida on numerous occasions. See, e.g., *State v. Orange County*, 281 So. 2d 310 (Fla. 1973). See also, *Sutton Corp. v Lake County Water Dist.*, 870 So. 2d 930 (Fla. 5th DCA 2004), [county not required to apply State procurement sec 287.057(18), Fla. Stat. governing state procurement requirements].

⁹ The State of Florida has adopted statutes that control some aspects of local and Consortium procurement that expressly provides that it must be followed by the counties and other entities, including the Consortium See, e.g., the Competitive Consultant's Negotiation Act, requiring a certain procurement process for the State and local governments to follow in procuring engineers and architects. Sec. 287.55, Fla. Stat.

¹⁰ Sec. 311(t)(3)(E)(iii), Federal Water Pollution Control Act.

Act does not require consistency with Federal law as well. Treasury should follow the well-recognized statutory rule of construction: *expressio unius est exclusio alterius*, which means that the listing of one requirement in a law excludes all other requirements from the law. The Rules requirement that procurement process must also meet federal law adds enormous cost and administrative burden on the Consortium and the 23 Florida counties. The circumstances of the eight Fiscally Constrained Counties both individually and through their financial contributions to the Consortium strongly advises against piling on federal law procurement requirements. Consequently, the Rules should be revised to delete the non-RESTORE Act requirement added by the Rules that the contracts be procured in a manner that meets Federal law. The following is a suggested revision to Rules section 34.402:

§ 34.402 Application procedure and grant award process.

The Council may establish a selection process for assignees to use for awarding grants, cooperative agreements, or contracts to other entities. If the Council does not establish an application and selection process, assignees must use a selection process of their choosing that is fair, open, and meets the requirements of Federal laws, ~~and, for~~ State and local governments that are awarding grants shall use the applicable State and local laws including all applicable competitive bidding and audit requirements.

The Gulf Consortium also recommends that the procurement certification in Rules section 34.802(e) be conformed to reflect that Florida counties and the Gulf Consortium are not required to follow all the State of Florida's procurement rules, only those that are expressly applicable to them.

Advance Payment and Grant Phasing

The Consortium recommends that the Rules specify that the grants be awarded in advance instead of subject to reimbursement, especially grants for the development of the State Expenditure Plan and the Multi-Year Plan. Requiring counties and the Consortium to advance fund the plan development will result in fiscal problems in the Eight Fiscally Constrained Counties or delays in the plan development.

The Consortium also recommends that the Rules expressly recognize that a Multi-Year Plan and a State Expenditure Plan may be developed incrementally, and funding should be allowed in all phases of plan development. Rule 34.202 provides some important latitude and specific funding authority for Council plans, including amendment; preparing reports and audits; and establishing and operating advisory committees. This same specificity should be included in Rule 34.203 for the Spill

Impact Component and the Consortium and the Rule 34.201 for the Direct Component and the 23 Florida counties.

Rules 34.502 and 34.303 seem to suggest that the Consortium and counties must prepare and submit a State Expenditure Plan or Multi-Year Implementation Plan prior to receiving any grant funding. If that is not the intent, it would be helpful if the Rule were revised to expressly allow the advancement of plan development funding prior to the submission of a full blown Plan. Requiring a Plan prior to awarding the funds will be an extreme hardship to the Consortium, which has no funding independent of that provided by the 23 counties, and to the 23 counties themselves, especially the eight Fiscally Constrained Counties. The Consortium suggests Treasury revise the Rules or provide guidance on this point in its response to these comments.

Additional Treasury Rules and a Standard Format

Rule section 34.301, entitled "Responsibility for administration" states that Treasury may develop and apply policies and procedures consistent with the subpart, applicable Federal policies and the Act. Rule section 34.303 states "Treasury will develop an application process for grants available under [the Direct Component] . . . that is consistent with the Act and Federal policies on grants." Subsection (a) further provides "Treasury may require a standard format for the plans and additional information."

We recognize that some of these future regulations, such as a standard format for plans, may be helpful for Florida to determine the necessary information to Treasury. But, without seeing those future regulations, it is impossible to determine whether these additional regulations will be helpful to the counties. They may well provide an additional, unnecessary burden on the eight Fiscally Constrained Counties, despite the protection of the Federal Regulatory Flexibility Act.

The Gulf Consortium recommends that the referenced future policies, procedures, process and format should either be added to these Rules for comment or separately promulgated in a manner that solicits comment from the Gulf Consortium and the Florida Gulf Coast Counties during the development stage, but certainly before they are finalized.

Formula for the Eight Disproportionately Affected Counties

The Rules define "Disproportionately Affected Counties" and state that Treasury will follow their mutually agreed to formula for distributing funds among them when the counties include them in their Multi-Year Plans.¹¹ Since a formula for the Eight Disproportionately Affected Counties was not included in the Act, these counties joined together as a committee to develop a distribution that treats each county in a fair and

¹¹ Rule 34.302(b).

proportionate manner. The formula determined by the eight Disproportionately Affected Counties distributes 20 percent of the funds equally among the eight counties. The remaining 80 percent is distributed based on oiled shoreline, per capita sales tax collections, population and distance from the Deepwater Horizon oil rig. The formula has been approved by the Boards of County Commissioners of each of the eight counties.¹²

Bay County	15.10 1
Escambia County	25.334
Franklin County	8.441
Gulf County	6.74 3
Okaloosa County	15.226
Santa Rosa County	10.497
Wakulla County	4.943
Walton County	13.712

The Consortium is grateful that the Rules include a definition of Disproportionately Affected Counties and recognize that the eight counties have agreed to a formula.

Formula for the Fifteen Nondisproportionately Impacted Counties

The Act includes a formula for computing allocations to the 15 Nondisproportionately Impacted Counties, but does not specify the methodology or sources for computing. The Rules invite comments on the appropriate methodology and sources. The Gulf Consortium's Committee of 15 Nondisproportionately Impacted Counties, consisting of one Consortium Director from each of the 15 counties, recommended a methodology and sources, as acknowledged and referenced in the Rules. The Committee recommendation was approved by the full Gulf Consortium. The Consortium requests that the Rules adopt the following methodology and sources as approved by the Gulf Consortium:

- 1) The recommended sources of data are:
 - a) "34% Based on Weighted Average of the Population of the County" – 2010 Census <http://quickfacts.census.gov/qfd/states/12000.html>
 - b) "33% Based on Weighted Average of County Per Capita Sales Tax Collections Estimated for FY 2012" <http://edr.state.fl.us/Content/local-government/reports/lqfih12.pdf>
Starting on Page 152 of report, use "Countywide Total" number
 - c) "33% Based on Inverse Proportion of the Weighted Average Distance from the Deepwater Horizon oil rig to each of the Nearest and Farthest points of the Shoreline"

¹² See, e.g., Escambia County Resolution No. R2013-15 (Jan. 17, 2013), a copy of which is included with the Consortium's electronic submission of comments.

<http://response.restoration.noaa.gov/maps-and-spatial-data/environmental-response-management-application-erma/erma-gulf-response.html>

- 2) The recommended methodologies are:
- a) Take total population of all 15 counties and divide by each county population equaling a weighted average percentage
 - b) Take sum of all Per Capita Sales Tax Collections for Calendar Year 2012 and divide by individual county Per Capita Sales Tax equaling a weighted average percentage
 - c)
 - a. Average the nearest and farthest point in each county to determine the County Mean Distance (CMD).
 - b. Average the nearest and farthest point of the Region to determine the Regional Mean Distance (RMD)
 - c. Calculate the inverse proportion (IP) of the CMD of each County to the RMD (Formula: RMD/CMD)
 - d. Equals each County's share (expressed as a percentage) of the inverse proportion (Formula: CMD IP/SUM of IP)
- 3) Final percentage for each county is computed as the Sum of (2a X 0.34+2b X 0.33+2c.d. X 0.33)

The computation for allocation among the 15 Nondisproportionately Impacted Counties employing the approved methodology and sources is as follows:

County	Population 2010 Census	Proportionate Share	Sales Tax Per Capita	Proportionate Share	Distance to DWH	Proportionate Share	Inverse Proportion	Estimated Allocation
Charlotte	159,978	3.27%	127.40	6.45%	698,666	7.4%	5.85%	5.17%
Citrus	141,236	2.89%	85.90	4.35%	590,799	6.3%	6.92%	4.70%
Collier	321,520	6.57%	183.07	9.27%	775,680	8.3%	5.27%	7.03%
Dixie	16,422	0.34%	48.47	2.45%	525,021	5.6%	7.78%	3.49%
Hernando	172,778	3.53%	90.93	4.60%	592,839	6.3%	6.89%	4.99%
Hillsborough	1,229,226	25.11%	156.36	7.92%	610,369	6.5%	6.69%	13.36%
Jefferson	14,761	0.30%	52.62	2.66%	472,097	5.0%	8.66%	3.84%
Lee	618,754	12.64%	156.12	7.91%	715,632	7.6%	5.71%	8.79%
Levy	40,801	0.83%	74.52	3.77%	568,273	6.0%	7.19%	3.90%
Manatee	322,833	6.60%	144.26	7.30%	622,336	6.6%	6.57%	6.82%
Monroe	73,090	1.49%	378.34	19.16%	913,479	9.7%	4.47%	8.31%
Pasco	464,697	9.49%	95.31	4.83%	593,404	6.3%	6.89%	7.09%
Pinellas	916,542	18.73%	142.00	7.19%	590,602	6.3%	6.92%	11.02%
Sarasota	379,448	7.75%	149.56	7.57%	634,421	6.8%	6.44%	7.26%
Taylor	22,570	0.46%	90.00	4.56%	494,401	5.3%	8.26%	4.39%
	4,894,656	100%	\$ 1,974.86	100%	9,398,019	100%	101%	100%

Environmental Law Compliance

The Rules specifically invites comments on appropriate methods for ensuring full compliance with applicable environmental laws while also providing for timely funds disbursement and project implementation.¹³ Additionally, the Rules require "[E]nvironmental review and compliance procedures must be complied with for each program, project, or activity, as applicable."¹⁴ The Gulf Consortium recommends that this Rule be revised to express that the Multi-year Plan and the State Expenditure Plan are not subject to the National Environmental Policy Act's evaluation requirements to the extent that they are plans expressing a policy or a procedure. The Gulf Consortium recognizes that the implementation of a specific project within a plan may affect the environment and may therefore be required to undergo a NEPA analysis. But plans, as such, should be exempted from NEPA in the Rule. The adoption of this recommendation will ensure that the Act funds are not wasted in performing a NEPA analysis of an action that is a plan and procedure and not a specific project. As outlined earlier in this correspondence, it is important to avoid excessive burdens on the Eight Fiscally Constrained Counties. That avoidance of unnecessary burdens concept for small counties applies equally here to the Gulf Consortium's State Expenditure Plan and to all 23 Counties for the Multi-Year Plans.

Specifically, the Gulf Consortium recommends a new subsection (c) be added to Rule section 34.200 to read as follows:

(c) A Gulf Coast State, coastal political subdivision, and coastal zone parish shall not be required to conduct an evaluation under the National Environmental Policy Act for the respective State Expenditure Plans or Multi-Year Plans to the extent that they express only policy and procedures. Grants proposing funding for specific projects and programs may require a NEPA analysis if applicable.

¹³ Supplementary Information, I Background.

¹⁴ Rule Sec. 34.200(a)(3).

Ms. Janet Vail
October 25, 2013
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If you should have any questions about the Consortium's comments, please contact the Consortium interim General Counsel Sarah Bleakley via email at sbleakley@ngnlaw.com or phone at 850.224.4070.

Sincerely,

Grover C. Robinson IV, Chairman
Gulf Consortium

cc: Gulf Consortium Directors and Alternates
County Managers and County Attorneys of the 23 Florida Gulf Coast Counties
Mr. Chris Holley, Executive Director, Florida Association of Counties
Mr. Douglas Darling, Interim Manager, Gulf Consortium
Ms. Sarah M. Bleakley, Interim General Counsel, Gulf Consortium

STATE AGENCY LEGISLATIVE BUDGET REQUESTS INFORMATION

FWC AGENCY NARRATIVE:

Request: This request is for a total of \$59,500,000, funded between two budget entities, from the Grants and Donations Trust Fund for natural resource restoration efforts on the marine and coastal environments resulting from the Deepwater Horizon oil spill. It is estimated that the Division of Habitat and Species Conservation will utilize \$2,000,000 for land acquisition and another \$3,727,340 for gulf restoration projects. The remaining \$53,772,340 will be utilized by the Fish and Wildlife Research Institute for gulf restoration projects.

Current Situation: In early 2013, a U.S. District Court approved two plea agreements resolving the criminal cases against British Petroleum (BP) and Transocean. The agreements direct funds to the National Fish and Wildlife Foundation (NFWF) to fund projects benefitting the natural resources of the gulf coast that were impacted by the Deepwater Horizon oil spill. NFWF will carry out the plea agreement through its newly established Gulf Environmental Benefit Fund (Gulf Fund) and consult with the Florida Fish and Wildlife Conservation Commission (FWC) as well as federal agencies to identify projects in Florida. The Department of Justice announced a criminal settlement with BP in the amount of \$4,000,000,000. The criminal plea agreement specifies that approximately \$2,400,000,000 of the funds will be administered by NFWF for restoration projects in the five gulf coast states. The funds will be made available as described in the plea agreement which specifies allocation for the state. NFWF will have \$335,160,000 to fund restoration projects in Florida over a five year period.

Projects will focus on improving water quality and other critical habitat elements, strengthening management of important fish and wildlife populations, and enhancing the resiliency of coastal resources and communities. Funds appropriated will be used to cover expenditures for Other Personal Services, Expenses, Operating Capital Outlay, Acquisition and Replacement of Motor Vehicles, Acquisition and Replacement of Boats, Motors and Trailers, as well as land acquisition. Purchases from this appropriation may include motor vehicles, ATV's, swamp buggies, heavy equipment (such as tractors, backhoes, dump trucks, etc.), boats, motors, and trailers.

Total NFWF Request: \$ 59,500,000

DEP AGENCY NARRATIVE FOR RESTORE:

The Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act), attached to the Surface Transportation Bill, was signed into law early in July 2012. The bill allocates to the Gulf Coast Restoration Trust Fund (Trust Fund) eighty percent of the Clean Water Act administrative and civil penalties resulting from the Deepwater Horizon (DWH) incident, which are paid by the responsible party(ies) pursuant to a court order, negotiated settlement, or other instrument. Transocean settled its liability relating to the DWH oil spill. Transocean will pay \$1,000,000,000 in civil penalties and will be the first funding to be dispersed through the formula outlined in the RESTORE Act.

Based on a calculation stated in the Restore Act, one part of this settlement is a distribution from the Gulf Coast Ecosystem Restoration Council to the five Gulf Coast States (Florida, Alabama, Texas, Mississippi and Louisiana) in the amount of \$240,000,000.

While the exact amount of funds to be allocated to the state is unknown at this time, the Department of Environmental Protection is requesting \$48,000,000 of spending authority for one fifth of the \$240,000,000. Funds in this category will be used to focus on natural resource restoration efforts in the marine and coastal environments that were impacted by the Deepwater Horizon oil spill. Resource restoration efforts include, improving water quality and quantity, coastal and marine resources, other critical habitats, improving community resilience, and enhancing and revitalizing the economy. A percent of the funds may be used for DEP administrative purposes and project oversight including but not limited to: staff (established Full Time Equivalent and Other Personal Services), travel, office space or equipment. Florida will have to work with the four other gulf coast states (Alabama, Texas, Mississippi, Louisiana) and federal partners (Environmental Protection Agency, United States Department of Agriculture, Department of Interior, Department of Commerce, Army Corp of Engineers, and United States Coast Guard) on project selection. Types of projects could include: Stormwater or wastewater infrastructure projects, other water quality projects, living shoreline projects, habitat restoration, land acquisition, and implementation of agriculture best management practices.

Category Amount Fund

Request for RESTORE: \$48,000,000

DEP AGENCY NARRATIVE FOR NFWF:

In early 2013, a U.S. District Court approved two plea agreements resolving the criminal cases against BP and Transocean. The agreements direct funds to the National Fish and Wildlife Foundation (NFWF) to fund projects benefitting the natural resources of the Gulf Coast that were impacted by the Deepwater Horizon oil spill. NFWF will carry out the plea agreement through its newly established Gulf Environmental Benefit Fund (Gulf Fund). NFWF will consult with the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Department of Environmental Protection (DEP), as well as other federal agencies, to identify projects in Florida.

The Department of Justice announced a criminal settlement with BP in the amount of \$4 billion. The criminal plea agreement specifies that approximately \$2.4 billion of the funds will be administered by NFWF for restoration projects in the five Gulf coast states. The funds will be made available as described in the plea which specifies allocations for the states. NFWF will have \$335,160,000 to fund restoration projects in Florida, and this amount will be paid out over five years.

The \$2.394 billion will be designated for expenditure in the 5 Gulf Coast States as follows:

- o 50% in Louisiana - \$1,197,000,000
- o 14% in Florida - \$ 335,160,000
- o 14% in Alabama - \$ 335,160,000
- o 14% in Mississippi - \$335,160,000
- o 8% in Texas - \$191,520,000

\$335,160,000 will be available for expenditure in Florida as follows:

- o Within 60 days - \$14 million
- o Within one year - an additional \$ 42,000,000
- o Within 2 years - an additional \$ 42,000,000
- o Within 3 years - an additional \$ 42,000,000
- o Within 4 years - an additional \$ 70,000,000
- o Within 5 years - an additional \$125,160,000

Transocean recently settled its criminal liability relating to the Deepwater Horizon oil spill. Transocean will pay \$400 million in criminal fines. Out of that, \$150 million will be paid to the National Fish and Wildlife Foundation (NFWF) for restoration projects in the five Gulf coast states. NFWF will have \$21 million to fund restoration projects in Florida, which will be paid out over two years.

\$21,000,000 will be available for expenditure in Florida as follows:

- o Within 60 days - \$8,120,000
- o Within one year - an additional \$7,420,000
- o Within 2 years - an additional \$5,460,000

The Department of Environmental Protection is requesting \$59,500,000 for NFWF funding. This amount is 50% of \$119 million (this is the amount Florida is scheduled to receive before June 30, 2015- \$98 million BP criminal settlement and \$21 million for Transocean criminal settlement), for the purpose of this request, the Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission estimates the agencies will share the first distribution of funding equally.

The funds will come to the state from the Gulf Environmental Benefit Fund, which was recently created by NFWF to fund projects benefitting the natural resources of the Gulf Coast that were impacted by the spill. Types of natural resource restoration projects on these marine and coastal environments could include: water quality, critical habitat restoration, fish and wildlife population monitoring and management, and enhancing the resiliency of coastal resources and communities. A percent of the funds may be used for administrative purposes and DEP project oversight including but not limited to: staff (established Full Time Equivalent and Other Personal Services), travel, office space or equipment.

Request for NFWF: \$59,500,000

Resolution 2013-68

WHEREAS, the Walton County Board of County Commissioners (Board) recognizes that with the passage of the Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies (RESTORE) Act in the Summer of 2012, that millions of dollars will come to Florida as a result of fines levied against companies responsible for the 2010 Deepwater Horizon explosion and oil spill; and

WHEREAS, one purpose of the RESTORE Act is to restore the natural resources, the ecosystems, the wildlife and marine habitats, the beaches and the coastal wetlands of the Gulf Coast States and to create jobs and revive the economic health of the adversely affected communities; and

WHEREAS, on February 26, 2013, A Local RESTORE Act Advisory Committee (Committee) was appointed by the Walton County Board of County Commissioners to assist in allocating certain fine and settlement amounts pursuant to the federal RESTORE of the Gulf Coast States Act of 2012 and to accept applications and prioritize local and united projects; and

WHEREAS, the Committee is tasked with developing a plan, taking public input into consideration, that sets forth the final goals for the community's use of the subject RESTORE funds; and

WHEREAS the Committee is also tasked with establishing an application and application procedure for potential projects or activities to be funded by RESTORE Act funds and solicit and accept all applications; and

WHEREAS, the Committee shall review and rank each proposed project and activity based upon the guidelines provided in the RESTORE Act, federal rules, community needs, desires, and other relevant factors, including the best available science for natural resource protection or restoration projects or activities; and

WHEREAS, the Committee shall provide input and assistance in the drafting of a multi-year implementation plan for the use of RESTORE Act projects and activities with the County, which shall include milestones, projected completion of each project or activity, and a mechanism to evaluate the success of each activity in helping to restore and protect Walton County; and

WHEREAS, the Board realizes the complexity of defining the tasks necessary to help position the County to maximize the funds flowing to the County from the various pots of money established by the RESTORE Act and the criminal fines associated with the Deepwater Horizon oil spill; and

WHEREAS, the Board recognizes the need for a professional to help formulate criteria for the evaluation of potential projects, perform an initial review/feasibility analysis of candidate projects as directed by the Committee, determine which possible funding sources are available for candidate projects, develop a multi-year implementation plan, and interact with other governmental agencies, jurisdictions, and funding entities; and

WHEREAS, the Board desires to employ the services of a professional consultant for representation at all RESOTRE activities such as Consortium and Council meetings, and other meetings related to the RESTORE Act as well as assist the Local RESTORE Act Committee in the development of a multi-year implementation plan; and

WHEREAS, the Board recognizes the importance of a successful plan and that such tasks require the expenditure of significant dollars for which Walton County does not have budgeted nor have the means to budget in these depressed economic times; and

WHEREAS, RESTORE Act funds may not be realized or received by Walton County in many months to come.

NOW THEREFORE BE IT RESOLVED that the Walton County Board of County Commissioners does hereby request the State of Florida advance the County funds to retain a professional consultant to develop, assist, and advise of all RESTORE related activities.

DULY ADOPTED THIS 10th day of September, 2013 by the Walton County Board of County Commissioners, DeFuniak Springs, Florida.

APPROVED: 

Kenneth Pridgen, Chairman

ATTEST:


Alex Alford, Clerk of Court

CERTIFIED A TRUE COPY

SEP 10 2013
ALEX ALFORD

CLERK OF COURTS &
COUNTY COMPTROLLER
WALTON COUNTY, FLORIDA

BY: 
DEPUTY CLERK