

**WRITTEN TESTIMONY OF
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**

**OVERSIGHT HEARING ON
“Revisiting the RESTORE Act: Progress and Challenges in Gulf
Restoration Post-*Deepwater Horizon*”**

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION
U.S. SENATE**

July 29, 2014

Good morning Senators Nelson and Wicker, and members of the Committee. Thank you for the opportunity to testify on behalf of the State of Mississippi on environmental restoration following the 2010 *Deepwater Horizon* oil spill and the progress and challenges in implementing the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act).

My name is Trudy D. Fisher and I have served as the Executive Director of the Mississippi Department of Environmental Quality for over seven years. Our agency is responsible for state environmental programs as well as most of the federal environmental programs delegated to the states by the Environmental Protection Agency. In addition, MDEQ serves as a “first responder” for man-made and natural disasters. As Executive Director, I serve as Mississippi’s Trustee under the Oil Pollution Act. Our emergency response to the Deepwater Horizon oil spill and responsibilities as a Trustee and Trustee agency began very shortly after April 20, 2010. Since that time, I have been actively engaged in the Natural

Resources Damages Assessment (NRDA) process on behalf of the State, through the NRDA Deepwater Horizon Trustee Council comprised of the five Gulf states and the four federal trustees. I also serve as Governor Phil Bryant's designee on the RESTORE Council and MDEQ is the lead agency for coordination of monies flowing through court decrees, including the sums administered by the National Fish and Wildlife Foundation's (NFWF) Gulf Environmental Benefit Fund.

My comments are in context to the other thoughtful perspectives you will hear today as you have assembled stakeholders from around the table we all share in restoring the Gulf. The Restore Council's Executive Director, Justin Ehrenworth and Deputy Secretary of Commerce Bruce Andrews have both spoken to the structure work which has occurred since your last briefing as well as the map for near term progress on RESTORE. Rather, I will focus on Mississippi's perspective on the overall journey to Gulf restoration across the multiple funding lanes which have materialized since the spill. I will also speak directly to some of the challenges we have faced as well as the significant progress I believe we have made and the gains I see in our near future.

In April 2010, no one could have predicted the enormity of federal and state resources which would be devoted to response and restoration after the spill. I seriously doubt that any of us conceived then how long and tedious the path ahead would be. While Gulf residents are a hearty and resilient cohort, the largest manmade disaster in U.S. history, the spill, came as the region was still struggling to complete recovery from the largest natural disaster in U.S. history, Hurricane Katrina.

Our experience in the early days after the spill taught us lessons which are as important today as they were then. First and foremost, virtually every endeavor since the spill has been unprecedented, complex, and unique. The three restoration funding streams are no different. I will take a moment to highlight each.

NRDA weaves together the largest Trustee Council ever assembled after an oil spill, bringing to one table five diverse states and four federal agencies. NRDA also marks the first use of the "early restoration" model, whereby the NRDA Trustee Council has managed to commit over \$600 million to projects while at the

same time shouldering the most complex natural resource damage assessment in history. Distinguished by its decided long term injury nature, this assessment will create both policy and practice which has never existed before as we learn more about the important issues of long term exposure, aggregate impacts, and synergistic effects. I fully believe that we will all look back at this time and it will reveal gains in scientific method far beyond what we could have imagined in 2010.

In the case of Mississippi, we have secured (or will soon secure) over \$60 million in early restoration projects and are on course to securing additional projects should exhaust close to our state's full share of early restoration. Those projects include artificial reed enhancement, oyster reef restoration, projects to restore human use losses and other projects designed to restore habitat. Each of these projects is wholly ecological in purpose.

With its passage two years post spill, the RESTORE Act entered the restoration funding arena as a bold new model for assuring that restoration would be Gulf driven and that the tangible benefits would be visible on the ground in all five Gulf states. As a state representative, I view the RESTORE Act as an innovative Congressional statement on the importance of the five Gulf states in the thinking, planning, and actions which will restore the Gulf. But, it too is the first of its kind, bringing together five states and six federal agencies. As an independent federal entity, there has been much infrastructure work required to actualize RESTORE. You have received a report on that work today and I will not recount the numerous steps which have been taken. I am sure that every member of the Council and every member of our staff wish we could move faster and wish we had projects to share with you today. That said, I often have to remind myself that we presently have only a small portion of the funding which is likely to come through a final future resolution of the Clean Water Act penalties which fuel RESTORE.

We come before you today poised to pull the trigger on the release of RESTORE funding to projects and planning efforts. We are going to have to coordinate our efforts as a Council, collaborate and make decisions. We must press ourselves to come to closure on a number of decisions which are within our grasp. We have worked mightily as a federal/state partnership to get to the base camp below the summit of RESTORE. If we don't redouble our efforts now and exert that last

burst of energy, shame on us. As a state representative, I am comfortable that we have all worked hard to date and that our discussion has been a rich one. However, it is time to quit talking and start acting. If we sit here before you again next year and we have not fielded suites of projects under all three RESTORE buckets, none of us should be satisfied. And you should not be satisfied with us.

We remain anxious to see the final Treasury regulations which control all of the uses of RESTORE dollars. We are energized and eager to apply for RESTORE funds out of the shared portion of funds and we are poised to thoughtfully spend Mississippi's allotment from both the direct component and the Oil Spill Allocation Fund. The potential release of planning dollars through the interim final rule described by other witnesses today will be vital to all five states in charting a comprehensive map for maximum use of the RESTORE dollars.

Mississippi has also made great strides in the use of funds directed to the states as a part of the consent decree which resolved criminal charges against BP and Transocean. The Gulf Environmental Benefit Fund, created by NFWF to administer over \$2 billion to the states over a five year period has launched with great gusto and is in its second round of annualized funding. Mississippi has used funding to date to improve streams in all three of our coastal counties, provide improved habitat for birds in more than twenty locations, and to restore and improve the State of Mississippi's system of Coastal preserves. Our state is excited about the projected announcement of Round Two projects later this year and we expect to field a robust suite of restoration activities from that round. We also recently received a \$3.6 million grant from NFWF (approximately one percent of the overall NFWF dollars allocated to Mississippi) to create an integrated, coast wide, restoration plan that will guide the path forward for using the balance of our state's \$356 million share of NFWF funds.

Lest any of us forget, results since 2010 have all been accomplished atop the backdrop of complex multiple legal proceedings by the federal government and the states to hold one of the world's richest companies accountable for their actions in the Gulf of Mexico.

In the face of this panoply of historic factors, we have all had to learn to see things differently and to do different things. In Mississippi, our team has coalesced around a duet of guiding principles in our work on restoration. Though profoundly simple, our watchwords are to “get it right” and to conduct “business as unusual”. Getting it right means taking the necessary time to consider and resolve important issues and questions, most of which have never been addressed before or have never been addressed in an effort of this scale. The energy we all share for tangible results must be tempered with the overriding goal of “getting things right” through a science based, transparent, collaborative approach. “Right” in this context means decisions based on the law, based on science, and made in the full context of the concerns and expectations of our public, NGOs, Tribes, state and federal elected and appointed officials.

A second compelling component in getting this effort right is our willingness to adopt a “business as unusual” business model. We must be prepared to make expedited decisions to make progress. As one of our federal partners has observed in many of our meetings, “we cannot afford to let great be the enemy of good.” While many of the questions which face us in this effort are unique and of first impression, we must wrestle with them, apply our best thinking, and move forward. While all of our decisions must be based upon law and best available science, we must find practical answers to the questions of restoration, make decisions, and move forward. As we say on the Mississippi team, we have to remember to play offense in every setting. We cannot afford to focus on undue effort to over define the challenges or to become trapped in negative thinking or “getting to no” in our decision making. Every member of our team is expected to bring his or her best game to the table every day. Our citizens rightly expect this level of commitment and hard work and we will not deliver the results each of you envisioned from the RESTORE act without this mindset.

We only have one chance to get this right and those of us privileged to represent our fellow citizens in this effort bear a fiduciary duty to those back at home to turn our discussions into projects. Coordination and collaboration among the Gulf states and federal agencies are essential to any degree of success we have, as is the will to seek solutions which serve our common good. Through both the NRDA process and the RESTORE Council, strong bonds of shared understanding and

effort have been formed and strengthened. Many of us have spent literally thousands of hours together in the last four years. I cannot overestimate the importance of this shared experience. It has fostered greater understanding across geopolitical boundaries, promoted a more holistic view of the Gulf, and created an interdependent path to restoration. Like all joint endeavors, things work best when everyone has common goals and objectives. The biggest challenges arise when a member state or federal agency acts out of a singular interest rather than the common interest, or strays from or stretches basic reading of federal law. We cannot afford to distract our focus or risk the good of the whole by self-serving actions. And when we must disagree with one another, it must be done in a way which does risk damage to long term collaboration.

In summary, are we as far along as we wish we were in the RESTORE process? Absolutely not. But, we are proud of the hundreds of millions of dollars in projects which are either already on the ground in Mississippi or are targeted there over the next five years through NRDA and NFWF funds. We understand the Gulf and its sensitive ecosystem better than we ever have. We understand our stakeholders' needs and concerns better than we ever have before. And we understand one another better. We are confident that prompt execution of the RESTORE Council's near term decisional agenda will result in the flow of projects to the five Gulf states.

Thank you again, Mr. Chairman and Members of the Committee, for continuing to focus on the RESTORE Act and its implementation. Your active involvement acts as a powerful meter of accountability for all of us who do the day to day work to give full impact to this important law. Your continued inquiry is one of our most powerful tools in assuring that we harvest all that was intended by the Act. I would also like to thank Senator Wicker and his staff for their continued perseverance in restoration of the Mississippi Gulf. I know that he feels, as I do, that the work we accomplish in this effort is legacy work, which, if we are tenacious and thoughtful, will live long after all of us are gone.

I greatly appreciate the opportunity to discuss MDEQ's role in the Gulf of Mexico and our Gulf Coast restoration. I appreciate the Committee's time and attention,

welcome any questions, and look forward to working with you further on this important effort.