

**TESTIMONY OF RACHEL JACOBSON, PRINCIPAL DEPUTY ASSISTANT
SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE
INTERIOR, BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION REGARDING GULF RESTORATION: A PROGRESS REPORT
THREE YEARS AFTER THE *DEEPWATER HORIZON* DISASTER**

June 6, 2013

Senator Nelson, Senator Wicker and Members of the Committee, I am Rachel Jacobson, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, at the Department of the Interior. I appreciate the opportunity to appear before the Committee today to testify on the Department of the Interior's (Interior) involvement in Gulf of Mexico restoration following the *Deepwater Horizon* oil spill (spill).

My testimony provides an overview of the actions we are taking to restore the Gulf Coast region with our federal and state partners by participating in the work of the Gulf Coast Ecosystem Restoration Council (Council) established under the RESTORE Act. I am also going to summarize our efforts to develop and implement a Natural Resource Damages Assessment (NRDA) case, required under the Oil Pollution Act (OPA), through the NRDA Trustee Council; this Council includes representatives of the five Gulf Coast States and four federal agencies including Interior, the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), the Environmental Protection Agency (EPA) and U.S. Department of Agriculture (USDA). Lastly, I will summarize our efforts to implement early restoration projects using the \$1 billion upfront commitment the Natural Resource Trustees secured with BP. This landmark agreement allows for restoration work to begin prior to the completion of damage assessment activities and prior to obtaining damages through a comprehensive settlement or through litigation. This early restoration agreement in no way affects our ongoing assessment work or our ability to recover from BP the full measure of natural resource damages needed to restore the Gulf resources injured by the spill. As a direct result, the Trustees, with sustained stakeholder engagement, have been able to begin delivering much needed and meaningful restoration projects in the Gulf Coast region which would otherwise be years in the offing.

Generally, with respect to the implementation of the RESTORE Act, we are in the very early stages of setting up the process and infrastructure for what will be a long-term program to restore the resources of the Gulf of Mexico and Gulf Coast region. The RESTORE Act carries forward the strategic planning and recommendations of the President's Gulf Coast Ecosystem Restoration Task Force and additionally establishes the Gulf Coast Ecosystem Restoration Council, which is chaired by the Department of Commerce, as a mechanism to ensure that actions will be taken to benefit both the environment and economy of this important region. The federal members of the Council are implementing the RESTORE Act with existing resources, notwithstanding the budgeting challenges associated with the FY2013 sequester.

The RESTORE Act complements Interior's long-standing collaborative efforts with the Gulf Coast States to address some of their most difficult resource management issues, including the loss of coastal wetlands. We have been collaborating with Gulf Coast States through the Coastal Wetlands Planning Protection and Restoration Act Task Force, the Coastal Impact Assistance

Program, and the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (known as the Hypoxia Task Force), to name a few. We are continuing to work on these projects while ensuring that they are well coordinated with our new Gulf restoration efforts through the RESTORE Act and the NRDA case.

The Department of the Interior has extensive natural and cultural resource responsibilities and numerous land management units within the Gulf of Mexico region that are critical to the long-term health, economy and resiliency of Gulf Coast communities, and the Nation. We manage roughly 3.5 million acres in the Gulf region, on 45 national wildlife refuges and eight national parks from Brownsville, Texas to the Florida Keys. These lands support an array of culturally and biologically diverse habitats, including barrier islands, coastal marshes and estuaries, wetlands and beaches which collectively provide important habitat for millions of migratory birds as well as fish and marine species such as the Gulf sturgeon and Kemp's ridley sea turtles. The Gulf Coast region is home to 135 federally protected species, 98 of which are endangered and most of which are under Interior's jurisdiction.

The natural resources in the five Gulf States support a multi-billion dollar economic engine that employs more than 8 million people, produces more than half of America's domestic crude oil and natural gas, and accounts for the majority of the nation's annual shrimp and oyster harvest. Hunting, fishing, bird watching and other wildlife-dependent recreation contribute more than \$25 billion annually to the region's economy.

But over the last century, climate change, sea level rise, coastal land subsidence habitat conversion and fragmentation, decreasing water quality and quantity, and invasive species have altered this historically productive system and diminished the natural resources of the Gulf of Mexico coastal ecosystem. These impacts are evidenced by the ongoing losses of Louisiana's coastal wetlands. Every half-hour, another wetlands area the size of a football field disappears into the sea, taking with it nature's best storm protection buffer and water filter. Every year, we see expanding "dead zones" as sediments, nutrients and other pollutants migrate down the Mississippi River as wetlands at the top of the watershed are being drained and converted to agriculture at unprecedented rates and agriculture soil erosion takes its toll. In Florida, excessive nutrients entering the Gulf from the Caloosahatchee River create massive algal blooms to the detriment of coastal fisheries. Recent hurricanes and the *Deepwater Horizon* oil spill exacerbated these impacts. In order to achieve a healthy Gulf of Mexico and Gulf Coast ecosystem, Interior supports the funding of effective conservation measures throughout the Gulf Coast region as critical to both the health of the environment and that of the regional economy.

Implementation of the RESTORE Act and Interior's Role as a Member of the Gulf Coast Ecosystem Restoration Council

The unprecedented magnitude of the *Deepwater Horizon* disaster created a unique opportunity for approaching the restoration of the Gulf of Mexico through a more effective comprehensive, and coordinated intergovernmental restoration effort. As one of the federal members of the Gulf Coast Ecosystem Restoration Council (Council), Interior encourages the Council and its members to make a well-coordinated, ecosystem-level restoration our top priority. The Council just released for public comment its first draft Initial Comprehensive Plan and we look forward to finalizing that document this summer. The Initial Comprehensive Plan contains goals and

objectives to address ecosystem restoration in the Gulf Coast region and outlines a process by which the Council will consider projects for funding. The Plan incorporates the strategy, projects, and programs recommended by the President's Gulf Coast Ecosystem Restoration Task Force. The Initial Comprehensive Plan will also serve as a guide for the Gulf Coast States as they develop individual spending plans required for the expenditure of the 30% portion of RESTORE Act funds that are allocated to States based upon a formula that considers the impacts of the *Deepwater Horizon* oil spill.

Because of the limited funds now available in the Gulf Coast Restoration Trust Fund, and due to the uncertainty of when additional amounts will be deposited into the Trust Fund, the Council elected to defer the statutory requirement for development of both a 10-year funding strategy and a three-year project list. In the meantime, the Council will seek public comment on our goals and objectives, as well as criteria by which the Council will evaluate projects.

The draft Initial Comprehensive Plan is based upon the findings and recommendations of the President's Gulf Coast Ecosystem Restoration Task Force. The draft Plan sets forth five overarching restoration goals, as well as a series of objectives that address the long-term environmental restoration needs of the Gulf.

The restoration goals identified by the Council include:

- Restore and conserve habitat;
- Restore water quality;
- Replenish and protect living coastal and marine resources;
- Enhance community resilience; and
- Restore and revitalize the Gulf Economy.

The Council's restoration goals are further amplified by a series of objectives that will guide the selection of projects. Interior fully supports the goals and objectives identified in the Initial Comprehensive Plan. We believe that by focusing the Council's investments in projects that restore and conserve habitat, restore water quality and replenish and protect living coastal and marine resources we will be enhancing community resilience and revitalizing the Gulf economy and promoting job creation.

For our part, Interior is promoting projects that reflect input from, and collaboration and planning with the Gulf Coast States and local communities, other federal agencies, Landscape Conservation Cooperatives, tribes, and non-governmental organizations. We will also seek to prioritize projects that promote leveraging of funds and expanded opportunities for youth conservation corps and veterans.

Interior's contributions to the Council's priority project list for restoring the Gulf of Mexico are being organized around the following six principles: linking our existing network of conservation lands with other federal and state conservation lands; restoring wetlands and aquatic ecosystems; restoring fresh water flow to support healthy coastal estuaries; protecting coastal and estuarine habitat; conserving forests and prairies; and managing lands and waters for sustainable populations of fish and wildlife.

We have been working closely with many organizations and individuals who have been working on these issues for decades and have an abiding interest in restoring the Gulf Coast. These

organizations and individuals are bringing innovative ideas to the table for projects that may be funded through the various funding streams. We are also working within Interior with bureaus that have resources or other responsibilities in the Gulf, including the U.S. Fish and Wildlife Service (FWS), National Park Service, U.S. Geological Survey (USGS), and Bureau of Ocean Energy Management, to help identify projects that will assist us in achieving our goals.

As the Initial Comprehensive Plan is further developed, the Council will evaluate the restoration projects that further the plan's goals and objectives. Project selection will take into account the availability of funds. The Council will also need to consider other restoration actions that will be underway through NRDA recoveries under OPA and projects funded by the National Fish and Wildlife Foundation pursuant to two criminal plea agreements resulting from the *Deepwater Horizon* oil spill.

Interior, along with the Department of Commerce, is also working closely with the Department of Treasury on the development of the regulations to establish the Gulf Coast Restoration Trust Fund. We anticipate that those regulations will be published soon for public comment.

As prescribed by the RESTORE Act, Interior, through the FWS and USGS is also assisting NOAA in the development and implementation of the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring and Technology Program. In partnership with NOAA, Interior has identified science and monitoring priorities to support, protect and restore trust resources. To support these priorities, we plan to build upon existing research, monitoring and modeling efforts and support database development in order to achieve a better level of organization and standardization across the Gulf watershed.

Natural Resource Damage Assessment

In the three years since the *Deepwater Horizon* oil spill, Interior, together with our co-trustee agencies in the federal and state governments, has made significant progress to address injuries to natural resources resulting from the spill. The progress made by the Trustees is a direct result of an extraordinary level of collaboration and cooperation among the federal Trustee agencies and the five Gulf States.

Through the NRDA process, natural resource trustees focus on identifying injured natural resources, determining the extent of the injuries, recovering damages from those responsible, and restoring the resources injured by the spill. Ultimately, the goal of the natural resource damage assessment is full compensation on behalf of the public from those responsible in order to restore the natural resources and services that were lost as a result of the spill.

The ongoing natural resource damage assessment for the *Deepwater Horizon* oil spill is the largest and most complex ever initiated. For our part, Interior employs many Gulf resource managers and scientists outstanding in their field and we remain steadfast in our commitment to complete the injury assessment in both a timely and cost effective manner. An accurate assessment of the injury will be essential to fully understanding the level of restoration required to restore the Gulf ecosystem back to pre-spill conditions.

On behalf of the NRDA Trustee Council, Interior and NOAA are currently leading roughly 95% of the assessment studies that are under various stages of completion. For our part, Interior is overseeing over 60 studies to evaluate injuries to our trust resources such as endangered sea

turtles, Gulf sturgeon, migratory birds, manatees, habitat for endangered species, and oiled beaches and wetlands on our National Park System Units and National Wildlife Refuges.

Early Restoration

At the same time the NRDA Trustee Council has been fully immersed in the injury assessment, we also have begun restoring the Gulf Coast with the \$1 billion provided by BP pursuant to the agreement known as *Framework for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill*, commonly called the Framework Agreement.

The Framework Agreement was adopted in April 2011, one year after the spill, when the Natural Resource Trustees and BP agreed that it was important to begin restoring the Gulf prior to either completion of the natural resource damage assessment or receipt of the full amount of NRDA recovery funds expected from BP. Under the terms of the Framework Agreement, the Trustees and BP have worked together to identify projects for the purpose of providing “meaningful benefits to accelerate restoration in the Gulf as quickly as practicable.” Early restoration of the Gulf is imperative.

It is important to note, however, that early restoration is not intended to provide the full restoration resulting from the spill, nor is it intended to fully satisfy the Natural Resource Trustees’ claims against BP. This is why the damage assessment continues unabated.

Although we are implementing these projects early before any of the other NRDA activities are complete, the projects are nonetheless subject to the requirements of OPA and its implementing regulations, and as such, must be published in OPA restoration plans. Interior is leading the planning effort required under OPA to implement these early restoration projects. Thus far, the so-called Phase I and Phase II Early Restoration Plans, announced on April 18, 2012 and November 8, 2012 respectively, together include 10 projects with estimated costs of approximately \$71 million. On May 6, 2013, the NRDA Trustee Council announced our intent to propose a Phase III plan for another suite of potential restoration projects totaling approximately \$600 million. We are working continuously to identify more early restoration projects until the entire \$1 billion is fully obligated. As part of that effort, just this week we published a notice in the Federal Register seeking public input (78 FR 33431 on June 4, 2013), and announced a schedule of public hearings in each Gulf state that will take place in the coming weeks to seek public input on all early restoration projects.

The Phase I projects that are underway will restore primary dune habitat in Alabama and Florida, coastal marshes in Alabama and Louisiana, oyster habitat in Mississippi and Louisiana, nearshore reefs in Mississippi and will provide enhanced recreational access in Florida. The Phase II projects will enhance sea turtle nesting habitat and protect beach nesting bird habitat.

An additional \$600 million will be used for Phase III projects in Texas, Louisiana, Mississippi, Alabama, and Florida. These projects are intended to focus on restoration of marshes, barrier islands, dunes, and near shore marine environments. This suite of projects will also include several projects to enhance access to recreational and other human-use opportunities across the Gulf Coast region.

This most recent group of projects - includes approximately \$15 million in funding to address natural resource injuries at Gulf Islands National Seashore, a National Park Unit, and \$72 million

to address natural resource injuries at Breton National Wildlife Refuge which supplies critical breeding habitat for the brown pelican.

Throughout this process we have remained committed to engaging the public in the early restoration effort. The Trustees have sought the public's input during early restoration planning through a variety of means, including requests for project proposals via public meetings and the web. In developing the first two early restoration plans, the NRDA Trustee Council held a total of 13 public meetings before finally selecting projects for inclusion in plans for Phases I and II. Our commitment to seeking robust public input as we plan for future early restoration projects is unqualified.

We have a unique responsibility to ensure we make wise investments that bring meaningful, long-lasting restoration to this vital ecosystem. Through continued cooperation with our fellow federal and state agencies, Interior supports restoration of the natural resources that were injured by the *Deepwater Horizon* oil spill, as well as comprehensive restoration of the Gulf Coast region while ensuring the residents of the region, tribes and other stakeholders and interest groups are fully engaged in these efforts. As strong and supportive members of the Gulf Coast Ecosystem Restoration Council, we are working with our fellow Council members to implement the provisions of the RESTORE Act as Congress intended.

Senator Nelson and Members of the Committee, thank you for the opportunity to testify today. I will be happy to answer any questions you may have.