

**WRITTEN TESTIMONY OF  
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**OVERSIGHT HEARING ON  
“GULF RESTORATION: A PROGRESS REPORT THREE  
YEARS AFTER THE DEEPWATER HORIZON DISASTER”**

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

**June 6, 2013**

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 successes 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 six 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 currently serve as Chair of the Council. 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 Beneficial Use Fund.

The prior panel set the stage well for my comments. I will not spend time focusing on the different restoration efforts; rather, I will focus on our state's perspective on putting these restoration pieces together.

Though profoundly basic, the most important factor in our effort going forward with multiple funding sources is that we "get it right". 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 word "unprecedented" has become a common modifier since April of 2010, first in describing the spill and now in describing the challenges and opportunities which lie before us. 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. At the same time, the five Gulf states and the federal agencies are interpreting laws for the first time or applying existing laws for the first time in a situation of previously unexperienced magnitude and complexity.

Coordination and collaboration among the Gulf states and federal agencies are essential to any degree of success we have. For well over thirty (30) months, state and federal trustees and staff have sat together monthly working through the NRDA process to assess damages to the natural resources of the Gulf Region. As a result, strong bonds of shared understanding and effort have been formed and strengthened. Many of these relationships are replicated in the membership of the RESTORE Council. Our newest funding partner in the restoration effort, the National Fish and Wildlife Foundation, offers the third leg to a critical integration of resources to leverage results in all five Gulf states. I cannot overestimate the importance of this shared approach. It has fostered greater understanding across geopolitical boundaries, promoted a more wholistic view of the Gulf, and created an interlocked path to restoration. Though not seamless or without challenge, both of the Councils have produced tangible work results to date. Like all joint endeavors, they work best when everyone has common goals and objectives. Whether it is NRDA or RESTORE Council, 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.

A second compelling component in getting this effort right is our willingness to make decisions. We must be prepared to make 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.

I would like to focus on two discrete issues, one related to our understanding of the spill and our response and the other related to the RESTORE Act.

The Deepwater Horizon Oil Spill had unprecedented impact on the environment and on the laws which address such events. It has revolutionized our science, innovated our approach to restoration and stretched our thinking around the best ways to leverage multiple federal/state efforts. The nature of this spill also brings into focus the “lost human use” elements of the Oil Pollution Act on a scale heretofore unseen in environmental law. Simply put, people could not walk out to the end of a pier and go fishing, use personal boats to go take a sunset ride and listen to the sounds of nature, jump in a kayak, pull out a pair of binoculars and go bird watching, enjoy the beach, go swimming, or engage in similar activities of enjoyable use because of the BP oil spill. Restoration projects which address these losses do not diminish restoration of our natural resource injuries, which are very significant. They make the restoration complete, promoting both the use and

appreciation of the whole range of natural resources across the Gulf environment.

My final comment concerns The Draft Initial Comprehensive Plan prepared by the Restore Council released last week for public comment. Public meetings began in the Gulf states earlier this week and will continue through the middle of this month. Public interest in the work of the RESTORE Council has been robust and we anticipate substantial comment. It is essential that we thoroughly review and consider the comments as we finalize the Plan in keeping with the RESTORE Act. As a state representative, I view this Act as an innovative and bold Congressional statement on the importance of the five Gulf states in the thinking, planning, and actions which will restore the Gulf. Much of what I have said about collaboration and decision making will be important as we move forward from a draft plan to a final plan. We are going to have to coordinate our efforts as a Council, collaborate and make decisions. We remain anxious to see the Treasury regulations and we remain committed to Congress' vision of the RESTORE Act to create a meaningful state and federal partnership in our efforts. While much remains to be done and many challenges still exist, this model marks a clear path to legacy level results on behalf of the Gulf of Mexico, our Gulf Coast and its people.

Thank you again, Mr. Chairman and Members of the Committee, for 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.