Restoring the Gulf After Deepwater Horizon

Kathryn Mengerink (slide credit: Jordan Diamond)
Environmental Law Institute

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Four Years Ago

Photo: US Coast Guard/Marine Photobank
Response & Restoration

Where do things stand?
Response & Restoration

- Natural Resource Damage Assessment
  - Oil Pollution Act

- RESTORE Act
  - Clean Water Act civil penalties

- NFWF
  - U.S. partial settlements with BP, Transocean

- Other
  - Settlements, litigation, etc.
Response & Restoration

Natural Resource Damage Assessment
- Oil Pollution Act

RESTORE Act
- Clean Water Act civil penalties

NFWF
- U.S. partial settlements with BP, Transocean

Other
- Settlements, litigation, etc.
NRDA

Goal

• Restore natural resources to the condition they would have been in had the spill not occurred

Process

Stage I
Preassessment
Assess jurisdiction and injuries.

Stage II
Injury Assessment & Restoration Planning
Evaluate injuries caused, estimate compensation owed, and develop a restoration plan.

Stage III
Restoration Implementation
Undertake the projects as outlined in the restoration plan.
Early restoration

- Idea behind early restoration is to start before NRDA is completed
- $1 billion committed; BP receives “NRD offsets”
- Phase I-III projects approved (~$700 million)

What’s happening?

- Phase 1: $62 million
- Phase 2: $9 million
- Phase 3: $627 million
- Remaining: $302 million
Response & Restoration

Natural Resource Damage Assessment

RESTORE Act

Clean Water Act civil penalties

NFWF

U.S. partial settlements with BP, Transocean

Other

Settlements, litigation, etc.
### Clean Water Act civil penalties

<table>
<thead>
<tr>
<th>Standard maximum penalty:</th>
<th>Maximum penalty if there was gross negligence or willful misconduct:</th>
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<td>$37,500 per day * 87 spill days</td>
<td>$140,000 per day * 87 spill days = $12 million</td>
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</table>

- **Standard maximum penalty:**
  - $37,500 per day for 87 spill days = $3.3 million
  - $1,100 per barrel for 4.1 million barrels = $4.5 billion

- **Maximum penalty if there was gross negligence or willful misconduct:**
  - $140,000 per day for 87 spill days = $12 million
  - $4,300 per barrel for 4.1 million barrels = $17.6 billion
80% through the RESTORE Act

Transocean
$1B in civil CWA penalties
$800M
Jan. 3, 2013
Transocean criminal and partial civil settlement

BP
$?? in civil CWA penalties
80%
Jan. 20, 2015
Phase III of the DOJ-BP trial will begin
What’s happening?

- 80% of the CWA civil penalties stemming from this disaster supports five processes to help the Gulf recover ecologically and economically from Deepwater Horizon and decades of development.
Response & Restoration

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- RESTORE Act
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- Other
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NFWF

BP
$2.744 B for other criminal recoveries
$350 M – National Academy of Sciences
$2.394 B – NFWF

Transocean
$300 million in other criminal recoveries
$150 M – National Academy of Sciences
$150 M – NFWF

= $2.544 B
Response & Restoration

Natural Resource Damage Assessment
- Oil Pollution Act

RESTORE Act
- Clean Water Act civil penalties

NFWF
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Other
- Settlements, litigation, etc.
What else is ongoing?

- National Academy of Sciences
  - U.S. partial settlements with BP, Transocean

- North American Wetlands Conservation Fund
  - U.S. partial settlements with BP

- Gulf of Mexico Research Initiative
  - BP commitment (affirmed in settlement)
Need for Coordination

- Natural Resource Damage Assessment
- RESTORE Act
- National Academy of Sciences
- Louisiana’s 2012 Coastal Master Plan
- Mississippi GoCoast 2020 (2013)
- NERR, NEP, and other coastal management plans
- National Fish & Wildlife Foundation
- Gulf of Mexico Univ. Research Collaborative
- GoCoast 2020 (2013)
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- National Fish & Wildlife Foundation
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Thank you!

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Visit us at www.eli-ocean.org/gulf
Transocean Criminal Settlement

$400 million

- $100 million in Clean Water Act criminal penalties
- $300 million in other criminal recoveries
  - $150 M – National Academy of Sciences
  - $150 M – National Fish and Wildlife Foundation