

Summary of RESTORE Act Stakeholder Briefing
at Longue Vue House & Gardens
March 12, 2013

Sponsored by:

- Longue Vue House & Gardens
- The Environmental Law Institute

Hosted by:

- The Tulane Institute on Water Resources Law & Policy
- The Urban Conservancy
- The Greater New Orleans Foundation

Presenters:

- Garret Graves, Chair, Coastal Protection and Restoration Authority of Louisiana (CPRA)
- Chip Groat, President and CEO, The Water Institute of the Gulf (The Water Institute)

Moderator:

- Mark S. Davis, Director, Tulane Institute on Water Resources Law & Policy

Garret Graves: *Comprehensive Oil Spill Planning: Weaving It All Together*

CPRA is planning for a comprehensive response based on various funding sources stemming from the Deepwater Horizon disaster. Those sources are the NRDA process, the criminal plea agreements with BP and Transocean, the RESTORE Act civil penalties and fines, and assorted smaller damages, fines, and penalties.

Various factors impact CPRA's planning. The Coastal Master Plan (CMP) provides a substantial base for plans to build upon. However, not all response activities can simply be slotted into the CMP. For instance, any Natural Resource Damages Assessment (NRDA) projects must have a relationship to the injury and proof of how the project offsets that injury caused by the oil spill. Also, the timing and order of the various fund coming on line adds difficulty to comprehensive planning; CPRA needs to synchronize scheduling in order to maximize results.

Issues with the RESTORE Act still exist. The Initial Plan came out late because of issues over the scope of the Comprehensive Plan, but CPRA is of the belief that funds for the Comprehensive Plan should be restricted to ecological projects. Although the Gulf Coast Ecosystem Restoration Council (Council) has met eight or nine times, the timeline for Department of the Treasury regulations is still a mystery, and it is unknown how they will affect the centers of excellence program.

The phrase "authorized project" in the RESTORE Act can be confusing because it does not specify by whom the project is authorized, but at this times it is

interpreted to mean authorization under federal law. However, others want state and local authorizations to qualify.

Mr. Graves would like to revisit the Impact-Based State Allocations (Pot 3) funding formula because it does not make a distinction between heavy contamination and temporary traces of oil on a shoreline.

Unclear language in the RESTORE Act has delayed Treasury regulations. Also, some issues with the Office of Management and Budget (OMB) might have come up. Poorly defined terms in the RESTORE Act may have added to Treasury's delay, but there is no guarantee that these gray areas will be addressed.

Moving forward, the Council will have a continuing role in approving projects under Gulf Coast Ecosystem Restoration (Pot 2) and Impact-Based State Allocations (Pot 3). Whether or not the added economic goal (the "fifth goal") presented in the Council's *The Path Forward to Restoring the Gulf Coast: A Proposed Comprehensive Plan* (January 2013) remains in the plans, Louisiana will continue to move forward emphasizing ecologic restoration. NGO's have an opportunity to exert influence and provide assistance in interpretation of the legislation to ensure the spirit and intent of the law is considered where language is unclear.

Chip Groat: *Information on The Water Institute of the Gulf*

The Water Institute was founded as a not-for-profit independent research institution focused on the practical application of research. It was founded in February 2012 by the Baton Rouge Area Foundation, the State of Louisiana, Governor Jindal, CPRA, Louisiana Economic Development, and Senator Mary Landrieu. The purpose of The Water Institute is to develop innovative science and engineering to achieve a sustainable coast and delta, provide options to coastal communities, and provide strategies for water resource management.

The Water Institute is involved in research and innovation, models and data, expert analysis, knowledge sharing, and policy and planning. It collaborates with other, related institutes, federal partners, and local governments. In addition, it partners with private consultants on design, build, and project implementation; NGOs on policy, science, and advocacy work; and academic institutions on basic and applied research.

With regards to the RESTORE Act's centers of excellence (COE), the state has indicated that The Water Institute's independent support for the Coastal Master Plan (CMP) and their ability to draw from all of Louisiana's academic institutions means it is well-positioned to be a COE that could serve as an integrator of science and engineering and as a catalyst for research to support implementation of the CMP. This is still a work in progress. The Water Institute is working with its Academic Liaison Group to develop ideas on specific mechanisms and timelines. Furthermore, the state is still waiting on Treasury regulations before formally selecting its COE.

The Water Institute acknowledges the need for more social science research and leadership related to the difficult discussions with coastal communities who

may have to move. The Water Institute noted that there is a disconnect with policies and projects in the CMP and how actionable they are at the community level. For example, the design of a diversion (or other projects) needs to be incorporated at the forefront, not as an afterthought, and The Water Institute sees itself playing a role in integrating project design. In general, it wants to better connect its work with coastal communities and bring the human dimension to their projects.

Mark Davis, Final Remarks

Civic energy can play a major role. We need to be poised to act when the legislative session is underway to make sure that dollars do not get diverted and are spent properly.

Though Treasury has promised to allow states to review the regulations prior to publication; however, that is no guarantee. To date no one has seen a copy of the regulations; rumor that a draft version is currently in circulation and has undergone a certain level of federal review.

We need to collaborate not just on what the questions are, but what the best answers are for regulation writing. We need to look at the Act and figure out how to make it work – what regulations would make it work. Washington and the Treasury and the Council are being asked to do something they have never had to do before. Our expertise on these matters would be well received. Where the statute is clear, it will control, but where the statute is ambiguous, we need to step in.

Moving forward, we need to expand participation out of New Orleans to include coastal parishes. Rather than just try to be heard out in public, we need to identify entry points for nongovernmental advisers.