

**Delta Discussion Group, Summary Report: Targeted Stakeholder Briefing on Coastal Master Plan and the NRDA Process**

Thursday, February 23, 2012 | 8:30 - 11:30 AM  
Longue Vue House and Gardens  
New Orleans, LA

Convened by: Mark S. Davis, Tulane Institute on Water Resources Law & Policy, Cynthia Sarthou, Gulf Restoration Network, and Dana Eness, The Urban Conservancy

**Introduction:**

The February 23, 2012 Delta Discussion Group briefing was convened by The Urban Conservancy, Tulane Institute on Water Resources Law & Policy, and Gulf Restoration Network. Since May 2010, the Delta Discussion Group has served as a participatory forum for a diverse group of scientists, academics, environmentalists, industry experts, artists, writers, NGOs, business owners and others in Southeast Louisiana affected by, documenting, and working to find long-term solutions to the BP drilling disaster, coastal restoration, and a sustainable Gulf ecosystem. Summary reports of previous DDG meetings are located [here](#).

The purpose of the Delta Discussion Group is to brief across sectors on strategic responses to the BP drilling disaster, and options for long-term coastal protection and restoration and a sustainable Gulf ecosystem. Topics included an update by Drue Banta, Counsel for Coastal Activities, Office of the Governor (view her presentation [here](#)), on the National Resource Damage Assessment process, a progress report on Louisiana's 2012 Coastal Master Plan by Kirk Rhinehart, Chief of Planning for the Coastal Protection and Restoration Administration (view his presentation [here](#)), and the ways in which these two processes affect individuals, businesses, the coastal environment, and harmed states.

The February 23, 2012, event was structured as a targeted briefing with interested stakeholders that permitted a focused conversation about issues affecting the long-term health and sustainability of Southeast Louisiana and its coast. There were twenty-eight attendees representing a number of NGOs (see attendance list following this report).

In order to make the discussion as substantive as possible, attendees were asked to familiarize themselves with both the Master Plan and the NRDA process.

The following sites containing useful information were forwarded to invitees in advance:

<http://www.coastalmasterplan.louisiana.gov/2012-master-plan/draft-2012-master-plan/>  
[http://www.lacpra.org/assets/docs/JAN2012CPRA/FINAL\\_1.18\\_CPRAmtg\\_Early\\_Restoration.pptx](http://www.lacpra.org/assets/docs/JAN2012CPRA/FINAL_1.18_CPRAmtg_Early_Restoration.pptx)  
<http://coastal.la.gov/>  
<http://losco-dwh.com/>  
<http://www.gulfspillrestoration.noaa.gov/>

Attendees were also asked to identify 3 - 4 questions or concerns that were shared with the speakers in advance. The due date for final comment submissions for the state of Louisiana's Coastal Master Plan was February 25, 2012 and the timeliness of this discussion gave

participants an opportunity to share their concerns and suggestions prior to that date.

Moderator Mark Davis opened the discussion by thanking DDG co-sponsors The Urban Conservancy, the Gulf Restoration Network, and the Environmental Law Institute, and Longue Vue House & Gardens. Hilairie Shackai of Longue Vue House & Gardens welcomed the group to the event space.

Davis introduced speakers Drue Banta and Kirk Rhinehart.

## **BP Oil Spill: NRDA Update by Drue Banta**

### **Overview**

NRDA is the long term legal process managed by trustees representing the public interest, whose goal is to “make the environment and public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of a discharge of oil.” In the case of the BP disaster, it could take 10 years or even more to resolve, given that 4.9 million barrels of oil were spilled. Banta’s office is tasked specifically with dealing with the BP oil spill; questions related to the NRDA process addressing the 800M gallons spilled during Katrina are under the jurisdiction of the Louisiana Oil Spill Coordinator’s Office.

### **Details Specific to the BP Oil Spill NRDA Process**

BP pledged \$1 billion in early restoration to jump start restoration. The agreement breakdown is \$300M for state sponsored restoration projects based upon impact; \$500M split equally among Gulf state (AL, FL, LA, MS, TX) trustees; \$200M split among federal trustees.

Specific to Louisiana, the various “Louisiana Plan” projects were selected based on multiple criteria, chief among them that they were compatible with the master plan and were time sensitive. Louisiana released 13 projects last July that have been put forward to the trustees for consideration for early restoration. Not all trustees have elected to disclose their projects as Louisiana did.

The first Draft Early Restoration Plan includes eight early restoration projects across the Gulf totaling \$57M including oyster cultch and hatchery projects, marsh creation, dune resotration, and boat ramp projects. Two of the eight projects are in Louisiana and total \$28M: the Oyster Cultch and Hatchery project and Lake Hermitage Marsh Creation project. See details in Banta’s presentation [here](#).

In other words, nearly 50% of the total allocation of first projects went to Louisiana. Louisiana sustained greater injury than other affected Gulf states in the BP spill and therefore expects to receive early restoration funds in line with disproportionate impacts. However, there is no set formula for whether Louisiana will receive 50% of future rounds of early restoration. Louisiana has the ability to move out faster on projects than most trustees because we have been planning projects for a much greater period of time.

## **Q & A**

### **Environmental concerns**

Banta fielded questions on the process of project selection and BP's role in project selection, as well as project assessment. Trustees review and consider projects between and amongst themselves; only once trustees agree on a project is it negotiated with BP. If BP drags its feet on its responsibilities, there might be legal ways to compel action since there is an early agreement with BP. Successfully negotiated projects are included in draft early restoration plans and are made public for review and for comment. Public comments can refine projects before they are finalized.

While a monitoring component is built in to all of the NRDA early restoration projects, sufficient public concern-- about lack of environmental assessment of a particular project, for example-- could lead to project amendment. All of the eight projects could go forward or a subset of the projects could, again based on public comment.

While the early restoration cultch placement project is a temporary assistance for the oyster industry, later rounds may reflect projects related to best projects in oyster cultch management. The State continues to accept projects for review and consideration. New projects can always be submitted to NRDA and /or the trustees for review and consideration.

### **Economic concerns**

Banta answered questions related to economic concerns including fund flow, transparency, and successfully integrating local businesses into restoration projects. The early restoration dollars are set-aside within the \$20 fund that BP set up in agreement with the White House. Once an early restoration plan is finalized, projects should be funded quickly. The State can start very quickly on its projects and do not anticipate that the transfer of the money will be an impediment to starting construction.

Banta explained that all projects follow the state contracting process. The oyster cultch is bid through the Department of Wildlife and Fisheries. Lake Hermitage is bit out through OCPR/CPRA. The Lake Hermitage project is an increment of an existing CWPPRA project and the overall project has been awarded to Pine Bluff Sand and Gravel. Many of Louisiana's proposed NRDA projects are coastal restoration projects and will be bid out through OCPR/CPRA.

Several attendees expressed concern about transparency and accessibility to the bidding process for local businesses. They urged the State to be proactive in getting the word out about contracts available and to recognize with their actions that entrepreneurs will be an important part of the restoration work. Businesses owners should be notified when contracts are up for bid. They feel they can't engage in the process because the contracts have quick turn-around times. They often feel shut out, like it's a "large corporate boys' club" they can't compete with.

Banta explained that the fact is that most of the bids are so large in scale that smaller businesses wouldn't have the capacity to compete; contracts would likely be going to large

contractors and then components would be sub-contracted out. One attendee urged for a better monitoring system in place to make sure the “little guys” (subs) are paid on a timely basis by primary contractors or else they can’t afford to sub and cannot build capacity. Another suggested The Veterans’ Administration was mentioned both as a possible workforce and funding partner.

Both Banta and Rhinehart acknowledged that the State currently lacks an accessible, navigable system where prospective contractors can get informed and plugged in and asked for the attendees to provide feedback on how to make the process more navigable and transparent for smaller businesses. Banta offered to meet with individuals to discuss this further. Davis also suggested that a smaller group within the Delta Discussion Group (DDG) could work on standardizing an approach for increased accessibility.

In addition to access, attendees called for strategic entrepreneurial development. The State needs to have a job creation policy, which is lacking in the Master Plan, so that restoration jobs stay in Louisiana. One participant noted that the word “jobs” comes up only 4 times in the Master Plan, and that is in reference to jobs lost, not job development. There is a need to connect the dots between entrepreneurs and job creation by providing funds that will nurture and cultivate an entrepreneurial environment. Louisiana should not outsource the work required to change Louisiana’s coastal environment; the people of LA should be working on these things. But Louisiana must also recognize the need for growing the population to meet workforce demand, and the need to not only invite people from other states to participate in these jobs, but also to incentivize relocation to Louisiana.

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## **2012 Coastal Master Plan, by Kirk Rhinehart, CPRA**

Kirk Rhinehart provided an overview of what has been discussed in public meetings regarding the Coastal Master Plan, followed by a round table discussion among participants.

In summary, the Master Plan (MP) is focused primarily on two things: to restore the coast and protect people. The CPRA made a decision to use the MP as a springboard to substantive discussion for assembling a team to set up land use programs, explore impacts and transitions for fisheries, jobs and water resources, and how to keep restoration money in Louisiana. The MP is a tool to start discussions, identify dollars, and create timetables to establish rallying points. CPRA wants the MP to be focused in order to make progress. If the MP becomes too controversial, it is subject to become mired in politics.

Rhinehart presented an overview of issues arising at public meetings, which include **diversions, climate change, prioritizing projects, transitioning populations, utilizing outside sediment, and oft-referenced geographical areas.** In brief:

- **Diversions:** The MP addresses efforts toward re-connecting/building the river through natural processes. A big polarizing issue revolves around diversions and the use of the river. Land loss has had a tremendous impact, however, building marshes is not the only solution. In the interest of successfully keeping land, the river must be reconnected to the wetlands.
- **Climate change:** The MP acknowledges climate change, but does not provide attribution details. Due to the rapid pace of creating MP, directly addressing climate change is not possible currently.
- **Prioritizing structural vs. non-structural projects:** Louisiana shares little consensus from region to region. Opinions about home elevation vary from region to region. There are structural and nonstructural elements in the plan.
- **Transitioning populations:** The plan needs to address how coastal communities and individuals reliant on the water will be able to pursue their jobs and livelihoods now and in the future. This could include providing low interest loans to communities.
- **Using outside sediment:** The cost per acre of marsh creation is very high. CPRA is getting some pushback from locals regarding their principle to utilize sediment from outside for our marsh creation projects. Due to its high cost, many local subcontractors feel slighted. The MP is looking toward sustainable approaches. Although rocks and bulkheads work to shore up coastline, they do not rebuild land. How to address the issue of successful sedimentation and shoring up is an urgent issue, but people aren't always grasping the urgency, complexity, and severity of the situation.
- **Donaldsonville to the Gulf and Lafitte:** Questions have arisen regarding the areas of Donaldsonville to the Gulf and Lafitte, as they are not mentioned in the MP. The MP is designed to look at coastal restoration as a system; we must have systems that are resilient and sustainable and approach projects with multi-purpose objectives that can work together holistically, not just address one symptom after another.

### **Round table discussion:**

Levee projects were prioritized based on estimated annual damages brought by the variety of storm surges that affected assets in those communities. CPRA costed all the projects based on federal standards because the projects will be using federal dollars, so they must meet federal standards. CPRA took project designs based on what was out there, then did an analysis to see which ones were best for the MP's purposes. Other projects that are built by locals that don't meet federal standards (including housing) need to be brought to federal standards.

Once the projects are built, maintenance plans will be required, and funds allocated to finance that maintenance. Levee districts have the authority to create millages, but that is something the State is trying to get ahead of. The State needs to get a better idea of the real costs associated with the projects. Studies are underway to identify costs, what local sponsors will need to have in place to operate and maintain these projects. The Lafitte levee is a good example.

Is Jefferson Parish or the Lafitte Levee District willing and able to step up to take care of the operations and maintenance of this project?

In order to address complex questions about financing and encouraging responsible growth, CPRA intends to use the annual plan to describe what we're going to do near-term. Insurability is an issue we need to tackle. Dollars will come via the NRDA process, but will possibly be constrained. There are other other sources of funding that the State plans to leverage as well.

### **Levee protection**

There is growing sentiment that building large levees have long term negative adverse impacts by concentrating risk. We must have long-term strategies both inside and out of the levee system. The CPRA supports federal government authorization of levee protection greater than 100 year protection for high population areas like New Orleans. However, it is unlikely that 500 year levees are in the works given the 40 year backlog nationally with Corps levee projects. In other words, there is no legal impediment to authorize greater than 100 year levee protection, but there is a disjunction between authorization and appropriation.

If the state adopts this MP, it is positioning itself to argue that we (the State, national and local NGOs and other agencies) are ready to start dealing with a very serious problem: the problem of restoration and salvation projects of our coastlines, land etc. The MP presents a comprehensive vision of how to deal with climate change and sea level rise. No other state has a plan as credible and remotely as detailed as this to deal with these issues. Louisiana is at the implementation stage of responding to sea level rise; we are an experiment to show how a state adopts, implements and executes a plan. Other places are in "planning to plan" stages whereas Louisiana is ready for investment in its plan and its implementation. To NGOs, it is important that these plans get executed. They need to have a stable base to work from, preferably generated annual sources of revenue to build the base on which they can project near term and long term futures better.

There have been some parochial suggestions for the MP to use soft language so other local projects can get implemented. This is dangerous to do; it would effectively gut the plan. This is the document that shows Louisiana has a sustainable plan. The dollars aren't simply sitting out there waiting to be applied to projects. The MP is the big-picture document that shows how the money is going to flow once sources are identified.

The State needs to do a better job of getting appropriations but also learn to put money aside at times, to build it up in order to use it for higher investment projects. This is something Louisiana has been hesitant to do in the past.

### **The public's role**

New projects/ideas are taken into the plan through a process of public feedback and comments. CPRA looks for project costs and sustainability in possible projects for the plan. If CPRA puts X project on the landscape, what/how will it benefit/survive? How long will the investment last? What does Louisiana get for the money?

The CPRA can make a strong business case to address climate change in a responsible way that frames it as a way for local business and economic growth. There is strong philanthropic support for this. While coastal restoration is going to create an incredible economic opportunity, insurability and sustainability, and adhering to corporate accountability standards is key in order to attract investment. Businesses and industries are planning for climate change and sea level rise as they consider relocating to Louisiana, so the MP absolutely must address it as well.

### **Worst case scenarios**

We need some consensus on worst case scenario to acknowledge the range of uncertainty and the limited dollars that will be a factor in selecting projects. The CPRA has been using various risk models to vet projects. For example, the Central Wetlands project fell out of the plan when CPRA tested it at higher risk scenarios and it didn't perform well. We are modeling with moderate conditions (of sea level rise and deltaic subsidence) but sometimes they don't hold up once higher risk scenarios are applied. Sea level rise in combination with subsidence is the driver in projects we select in the Lower Delta. Investments will go to projects that have higher likelihoods of success.

While some attendees felt strongly that leaving language about causation of climate change out of the MP was detrimental, others pointed out that inclusion of such language could create a major distraction and possibly jeopardize its passage in the state legislature

### **Specific geographic issues and projects**

\*The plan has both structural and nonstructural elements. Many gravitate toward the nonstructural, but improving the language within the plan is key. In addition to including mention of opportunities for job creation throughout, there needs to be more emphasis on *watersheds* as well. Watersheds are only mentioned twice in the entire document.

Morganza to the Gulf: At the Lafourche/Terrebonne meeting, there was a lot of concern revolving around the absence in the MP of discussion of the lower bayou communities—from Morganza to the Gulf. It's expensive to build marsh there—it is not close to rivers and anything that's built doesn't last long. Subsidence is chronic. CPRA doesn't yet have a plan for land use, let alone acquisition. How do you make it possible for whole communities to relocate? These are enormously complex issues that CPRA is working through.

West Bay: In Plaquemines Parish, the closure of West Bay creates a lot of doubt within Plaquemines about how sound the Master Plan really is. From the CPRA's viewpoint, that is exactly the sort of problematic one-off arrangement they are trying to avoid making moving forward. That situation is the result of an untenable agreement with the Corps. The State cannot afford to continue dredging West Bay to keep it a navigation feature, so they are working with the Corps to find agreement on how to maintain and sustain it. Building a diversion will protect what land there is, and without a diversion, Empire couldn't exist. The State plans to have robust fishing communities and shrimping, and understand the overwhelming economic

impact is negative if we don't.

While many within Plaquemines Parish push for a long-term dredge, the State's position is that it solves one problem but creates others. There is room for things like that at the local level but by itself it is not sufficient. We can build all that land mechanically (approx. 200 miles long), but it is not a panacea cure. It will bring with it all sorts of environmental issues and IS NOT SUSTAINABLE. CPRA doesn't want to address wounds, but instead FIX the system. A long-term dredge would not save Empire or the lower river or the fisheries; it would just postpone problems.

The Coastal Forest Restoration Initiative has \$5M and focuses on existing cypress tracts and refurbishing them, versus actual restoration efforts of areas. CPRA had a lot more proposals than dollars to fund, which is good because it indicates there is workforce capacity to scale up efforts. We are looking for more of that restoration component. (See K. Rhinehart's slideshow for maps of cypress tracts).

The CFRI is inclusive of a wide swath, but then CPRA used ranking criteria, looking at the MP for programs that are already underway. CPRA looks for existing projects that speak to something within the Master Plan, that complement a part of the plan. Maps are in the works to try to minimize confusion by distinguishing between projects in the works vs. prospective projects.

Hypoxia is a discussion in DC. It is a watershed issue that needs to be handled on a national level. It is something that we really need to work on. It is unclear on how this will be pursued from a policy perspective. One attendee pointed out the irony that the State is acknowledging it as an issue in the MP at the same time the DEQ is downplaying it as an issue. In essence, the State both recognizes and denies hypoxia as an issue which is upsetting to environmental organizations who feel the State's role is to catalyze it as an issue.

Comprehensive land use law requires answering the question: what is the capacity of local parishes to take care of their own issues? This is the point from which the State is trying to go forward.

Another question that needs to be discussed is how the State will use its regulatory authority to issue leases and licenses. These are programs meant to achieve a public purpose. How do will the State use its programs to achieve the purposes of the MP without replicating problems? The oyster task force is an example of a project that backfired. By trying to limit oyster leases by creating criteria they actually ended up issuing more. CPRA needs to know what we are trying to solve. Twenty years down the road, the agreement could put us in a bad position so the current stagnation stems from trying to mitigate the future potential problems by creating rights and expectations while at the same time getting things moving.

### Conclusion

The CPRA has received nothing but support for the Master Plan from the governor's office, who



is looking at coastal restoration as a legacy issue. Kirk Rhinehart encouraged the attendees to keep this dialogue going and suggested reconvening on a regular basis.

### Delta Discussion Group, February 23, 2012: List of Attendees

<b>Stakeholder Attendee List: Feb. 23, 2012</b>	
<b>Name</b>	<b>Organization</b>
Aaron Ahlquist	Herman, Herman, Katz & Cotlar
Ann Yoachim	Tulane Institute on Water Resources Law & Policy
Belinda Little-Wood	City of New Orleans
Beth Galante	Global Green
Casey Roberts	Alliance for Affordable Energy
Cynthia Duet	National Audubon Society
Cynthia Sarthou	Gulf Restoration Network
Dana Eness	The Urban Conservancy
Darryl Malek-Wiley	Sierra Club
David Muth	National Wildlife Federation
David Waggonner	Waggonner and Ball Architects
Doug Meffert	National Audubon Society
Elizabeth English	University of Waterloo & BRW III
Grasshopper Mendoza	Horizon Water Committee
Hilairie Schackai	Longue Vue House & Gardens
Jeff Supak	Global Green
Jordan Macha	Sierra Club
Joseph Frank	Buoyant Foundation Project
Karen Gautreaux	The National Conservancy
Karim Belhadjali	CPRA

Mark Davis	Tulane Institute on Water Resources Law & Policy
Monique Verdin	freelance photographer/ documentarian
Rebecca Marshburn	The Urban Conservancy
Richard Blink	Empire Environmental Solutions, LLC
Ryan Albright	Greater New Orleans Foundation
Sandy Rosenthal	Levees.org
Scott Eustis	Gulf Restoration Network
Stephen Picou	LSU Ag Center
Teresa Chan	Environmental Law Institute
<b>Speakers:</b>	
Kirk Rhinehart	Chief of Planning, CPRA
Drue Banta	Counsel for Coastal Activities