

**TESTIMONY OF JEFF TRANDAHL, EXECUTIVE DIRECTOR,  
NATIONAL FISH AND WILDLIFE FOUNDATION  
BEFORE THE SENATE COMMITTEE ON COMMERCE REGARDING  
“GULF RESTORATION: A PROGRESS REPORT THREE YEARS AFTER THE  
DEEPWATER HORIZON DISASTER.”**

**JUNE 6, 2013**

Thank you for the opportunity to testify on behalf of the National Fish and Wildlife Foundation (NFWF) and our work to restore and protect the natural resources of the Gulf of Mexico region. NFWF was established by Congress in 1984 to foster public-private partnerships to conserve fish, wildlife, and their habitats. For almost 30 years, NFWF has developed a successful model of coordinating and leveraging public and private funds to address the most significant threats to fish and wildlife populations.

As one of the nation’s largest conservation funders, NFWF currently works with 14 federal agencies, numerous state agencies, private partners, and our local grantees to implement on-the-ground and in-the-water conservation projects in all 50 states and internationally. NFWF’s work helps to create and sustain abundant wildlife species and natural habitats that serve as both a source of enjoyment for all Americans and also an important driver of our nation’s economic health. Key elements of our approach include: (1) leverage, (2) efficiency, (3) partnerships, (4) transparency, and (5) measurable outcomes.

Since its inception, NFWF has leveraged nearly \$576 million in federal funds into more than \$2 billion for conservation. In FY 2012, NFWF supported a total of 505 projects. We used \$42.6 million in federal funds to generate an additional \$149.5 million in private funds and grantee matching funds for a total investment of more than \$192 million.

NFWF is governed by a 30-member Board of Directors that includes the Director of the U.S. Fish and Wildlife Service, the Administrator of the National Oceanic and Atmospheric Administration, and 28 private citizens, including several from states bordering the Gulf of Mexico.

**NFWF’s Response in the Gulf**

Over two decades prior to the Deepwater Horizon oil spill, NFWF had invested more than \$128 million to support over 500 fish and wildlife habitat projects in the Gulf region. These projects were supported with federal funds and private contributions from NFWF’s corporate partners. In response to the oil spill, NFWF’s experience in the Gulf region allowed us to take a leadership role in coordinating immediate efforts to minimize the impact of the oil spill on threatened fish, wildlife, and habitats and to bolster local wildlife populations to ensure their long-term survival.

NFWF immediately took action and has been working with government agencies, non-governmental organizations, private foundations, individuals, and corporations to protect and

restore Gulf Coast fish, wildlife, and habitats impacted by the oil spill. NFWF launched the Recovered Oil Fund for Wildlife in 2010, funded with proceeds from BP's share of net revenue from the sale of oil recovered from the Deepwater Horizon site, and leveraged by working closely with some of our other corporate partners. For example, NFWF engaged Walmart to secure a commitment of \$2.25 million for NFWF-funded conservation projects on the Gulf coast and also worked with FedEx during the summer of 2010 to facilitate the transfer of 25,000 endangered sea turtle eggs from the Gulf coast to the Atlantic coast—one of the largest wildlife relocations in history.

To date, NFWF has invested \$22.9 million from the Recovered Oil Fund for Wildlife and other funding sources to bolster species and habitats affected by the spill, notably shorebirds, waterfowl, marsh birds, oysters, sea turtles, marine mammals and various fish species.

In other ongoing collaborations that directly benefit the Gulf, NFWF works with Southern Company on the Power of Flight Bird Conservation Fund, which protects birds through habitat and species restoration and environmental education; Shell Oil Company through the Shell Marine Habitat Program, which supports conservation of species and habitats; and the ConocoPhillips SPIRIT of Conservation Migratory Bird Program, which conserves threatened birds and their habitats around the world.

To implement wildlife and habitat projects in the Gulf region, NFWF has worked with diverse partners including Ducks Unlimited, The National Audubon Society, The Nature Conservancy, Sea Turtle Conservancy, Florida Wildlife Federation, Louisiana Wildlife and Fisheries Foundation, Alabama Wildlife Federation, Wildlife Mississippi, Texas Rice Industry Coalition for the Environment, U.S. Fish & Wildlife Service, Natural Resources Conservation Service, other federal and state agencies, and other conservation organizations.

**Overall, NFWF's collaborative projects in the Gulf have resulted in:**

- creation of 500,000 acres of wetland habitat on agricultural lands to benefit migratory waterfowl and shorebirds;
- relocation of 25,000 sea turtle eggs in a collaborative partnership with FedEx and federal and state resource agency partners;
- protection of critical migratory bird nesting sites on 30 islands and beaches;
- enhancement of 14 wildlife rescue facilities to treat injured marine mammals and sea turtles;
- restoration of 3.5 miles of oyster reef; and
- reduction in by-catch of sea turtles as well as valuable recreational and commercial fish (bluefin tuna and red snapper) by providing over 500 Gulf fishermen with special equipment.

## **BP and Transocean Criminal Settlements**

In early 2013, the United States District Court for the Eastern District of Louisiana approved two plea agreements resolving certain criminal charges against BP and Transocean arising from the 2010 Deepwater Horizon oil spill. The plea agreements designate NFWF as the recipient of \$2.394 billion from BP and \$150 million from Transocean to be used for projects to “remedy harm and eliminate or reduce the risk of future harm to Gulf Coast natural resources.”

The requirements for BP and Transocean to pay these funds, as well as the usage restrictions applicable to the funds, were entered in Court orders that are enforceable as special conditions of probation. NFWF must look strictly to the plea agreements and these Court-ordered probationary conditions in determining how to properly administer the funds.

According to the plea agreements, the BP funds will be paid to NFWF over a 5-year period and the Transocean funds will be paid to NFWF over a 2-year period beginning in 2013.

The plea agreements require:

- 50% of the funding to be allocated for barrier island restoration and river diversion projects in Louisiana;
- remaining funds to be allocated by formula for natural resource remediation projects in the states of AL, FL, MS (28% each) and Texas (16%); and
- consultation with the Gulf state resource agencies, as well as the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Fish and Wildlife Service (FWS), to identify projects.

## **NFWF Gulf Environmental Benefit Fund**

NFWF has a long track record of successfully managing funds arising from legal and regulatory proceedings that are designated to benefit natural resources. In the case of the BP and Transocean criminal funds, NFWF will carry out this function through its newly established Gulf Environmental Benefit Fund (Gulf Fund). As directed by the two plea agreements, NFWF will administer a total of \$2.544 billion to fund projects benefitting the natural resources of the Gulf Coast that were impacted by the spill.

### **Purposes**

The underlying plea agreements specify a narrow purpose for the Louisiana-designated funds as compared to the purpose designated for funds in the other four states. In Louisiana, the funds may be used only “to create or restore barrier islands off the coast of Louisiana and/or to implement river diversion projects on the Mississippi and/or Atchafalaya Rivers for the purpose of creating, preserving, and restoring coastal habitat.” Selection of projects must take into consideration Louisiana’s Coastal Master Plan, as well as the Louisiana Coastal Area Mississippi River Hydrodynamic and Delta Management Study.

In the other four states, the funds must be used “to conduct or fund projects to remedy harm to resources where there has been injury to, or destruction of, loss of, or loss of use of those resources resulting from the Macondo oil spill.”

### **Consultation and Project Selection**

As required by the plea agreements, NFWF has begun consulting with natural resource management agencies in each of the five Gulf States and with NOAA and FWS on the identification and prioritization of appropriate projects. All of the agencies with whom NFWF is consulting serve on both the Deepwater Horizon Natural Resource Damage Assessment Trustee Council and the RESTORE Council, and their input will be the primary means through which project selection under NFWF’s Gulf Fund will be coordinated with similar activities under the NRDA and RESTORE programs.

The specific state resource agencies with whom NFWF is consulting are: the Alabama Department of Conservation and Natural Resources, Florida Fish & Wildlife Conservation Commission, Florida Department of Environmental Protection, Louisiana Coastal Protection and Restoration Authority (CPRA), Mississippi Department of Environmental Quality, Texas Parks and Wildlife Department, Texas Commission on Environmental Quality, and Texas General Land Office.

NFWF will work to develop consensus among the state and federal agencies in identifying projects that meet the conditions of the plea agreements and that maximize benefits for Gulf coast natural resources. When our state and federal agency partners suggest projects that provide regional benefits, such as those crossing state boundaries or even potentially Gulf-wide, NFWF will work to facilitate inter-agency agreement on project design and funding strategies. However, even in the absence of consensus, NFWF retains sole responsibility and authority under the plea agreements to make final project funding decisions.

In addition to the primary criteria for project selection set forth in the plea agreements, NFWF will seek to identify and prioritize projects that also meet the following criteria:

- advance priorities in natural resource management plans, such as those called for under RESTORE;
- are cost-effective and maximize environmental benefits;
- are science-based; and
- produce measureable and meaningful outcomes for natural resources.

As it does in its other conservation grant making, NFWF’s decision-making will rely on strong, science-based evidence and the technical input from state and federal resource agencies. In the aftermath of the oil spill, public agencies, universities, and other organizations have conducted, and continue to conduct, extensive research to improve the understanding of the Gulf of Mexico ecosystem and efforts needed to restore critical natural resources, enhance its resiliency and

improve management. As this information becomes available, it will be used to further inform our decision-making.

The Gulf states are establishing websites where the public can suggest a project for consideration or learn more about the process each state has established, or will establish, for identifying priority Gulf coast restoration projects, including those that may be candidates for funding through the Gulf Fund. As appropriate, deadlines may be set for project solicitations in individual states and this information will be provided on the state websites.

### Payment Schedule

Over the next five years, the Gulf Fund will receive a total of \$1.272 billion for projects in Louisiana, \$356 million each for projects in Alabama, Florida, and Mississippi, and \$203 million for projects in Texas.

In accordance with the terms of the two plea agreements, payments into the Gulf Fund will occur over a five-year period in the case of BP and over a two-year period in the case of Transocean. More than half of the funding will arrive in years four and five. As payments are received, NFWF will segregate funds into accounts by state and plea agreement in accordance with the formula established by the plea agreements and will begin obligating the funds after the required consultations with state and federal resource agencies.

As of May 2013, NFWF has received initial payments totaling \$158 million. NFWF currently is conducting intensive consultation with state and federal resource agencies in order to identify the first slate of projects to receive funding. NFWF anticipates announcing the obligation of at least a portion of these funds to initial projects in the Fall of 2013.

	Payment (in millions of dollars)	Louisiana	Alabama	Florida	Mississippi	Texas
Apr. 2013	\$158.00	\$79.00	\$22.12	\$22.12	\$22.12	\$12.64
Feb. 2014	353.00	176.50	49.42	49.42	49.42	28.24
Feb. 2015	339.00	169.50	47.46	47.46	47.46	27.12
Feb. 2016	300.00	150.00	42.00	42.00	42.00	24.00
Feb. 2017	500.00	250.00	70.00	70.00	70.00	40.00
Feb. 2018	894.00	474.00	125.16	125.16	125.16	71.52
<b>Totals</b>	<b>\$2,544.00</b>	<b>\$1,272.00</b>	<b>\$356.16</b>	<b>\$356.16</b>	<b>\$356.16</b>	<b>\$203.52</b>

*BP = \$2,394M*

*Transocean = \$150M*

## **Conclusion**

As we move forward with the implementation of the Gulf Fund, we will continue to work with our state and federal partners to identify high priority projects that meet the requirements of the pleas and provide long-term restoration benefits to the Gulf of Mexico region. As stated, we are utilizing existing planning and prioritization efforts such as those required by RESTORE to deliver the funds without creating new and duplicative processes. Accountability and transparency are essential to the process and we are committed to obligating the funds entrusted to us in a timely and responsible manner.

As required by the pleas, NFWF will report annually to Congress, as well as to the Court and Department of Justice, on its activities with regard to the Gulf Fund. This will include a list and descriptions of projects and the funding required for them.

We look forward to continued input from key stakeholders, both public and private, to ensure the success of the Gulf Fund and its associated restoration projects.