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August 26, 2010

Mr. David Hayes, Deputy Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dr. Jane Lubchenco, Under Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Re: Restoration Planning for the Gulf of Mexico

Dear Mr. Hayes and Dr. Lubchenco:

Ocean Conservancy has worked for more than two decades to protect and restore depleted fish and wildlife resources in the Gulf of Mexico, and we enthusiastically support the President's call for a Gulf Coast Restoration Plan that not only restores but enhances the Gulf of Mexico coastal and marine ecosystem. Given the nature and scope of the BP disaster and the several states and multiple interests involved, conducting the Natural Resources Damage Assessment (NRDA) and developing a Gulf Coast Restoration Plan will be every bit as challenging as capping the well at the Macondo drill site deep under the waters of the Gulf of Mexico.

When President Obama addressed the nation from the Oval Office on June 15, he stated:

Beyond compensating the people of the Gulf in the short-term, it's also clear we need a long-term plan to restore the unique beauty and bounty of this region. The oil spill represents just the latest blow to a place that has already suffered multiple economic disasters and decades of environmental degradation that has led to disappearing wetlands and habitats. And the region still hasn't recovered from Hurricanes Katrina and Rita. That's why we must make a commitment to the Gulf Coast that goes beyond responding to the crisis of the moment.

I make that commitment tonight. Earlier, I asked Ray Mabus, the Secretary of the Navy, a former governor of Mississippi, and a son of the Gulf, to develop a long-term Gulf Coast Restoration Plan as soon as possible. The plan will be designed by states, local communities, tribes, fishermen, businesses, conservationists, and other Gulf residents. And BP will pay for the impact this spill has had on the region.

What the President has set as a goal appears to go beyond a NRDA-based restoration plan. By defining the set of actions that respond to the short- and long-term damage done by the BP spill, the NRDA is essential to development of an appropriate Gulf Coast Restoration Plan. In turn, by addressing decades of environmental degradation in the Gulf, implementation of the plan will improve the efficacy of efforts to restore the natural resources injured and services lost due to the BP disaster. The plan also should outline mechanisms for aligning and directing agency programs and funding to achieve the final outcomes.

Previously, I wrote you in regard to the NRDA process and shared a series of “lessons learned” about assessing natural resources damages following the *Exxon Valdez* oil spill, based on the experiences of Ocean Conservancy staff and our advisors. I have attached a copy of that letter, which was dated June 3, 2010. Below, I offer additional perspectives and recommendations specifically on restoration planning, again based on the experiences of Ocean Conservancy staff following the *Exxon Valdez* and now with the BP disaster on the Gulf coast:

- Be as transparent as possible about NRDA results and the restoration planning process without compromising the public’s interest in obtaining the funds needed to support a fully compensatory restoration program. To this end, we encourage the governments to move quickly to describe and implement an action plan for public information and engagement.
- Clarify how restoration planning through the NRDA process relates to development and funding of a larger Gulf Coast Restoration Plan.
- Conduct a comprehensive, ecologically oriented NRDA that is sufficiently long running to detect subtle, long-term, and unanticipated injuries.
- Do not conclude the NRDA or otherwise settle with BP and other responsible parties prematurely or without preserving the ability to seek additional funds needed for restoration of injuries that were not evident at the time of settlement. The *Exxon Valdez* settlement contained a “reopener” clause, which was good in concept but set the evidentiary threshold too high and failed to establish a process for resolving disputed claims.

- If there is a settlement, follow the example of the *Exxon Valdez* settlement by including “enhancement” of natural resources in the definition of restoration. This would facilitate fulfillment of the President’s goal for a broader restoration program.
- Gather restoration ideas widely, but establish clear boundaries for what is appropriate for consideration in the NRDA-based restoration program and in the broader Gulf Coast Restoration Plan called for by the President. Restoration should focus on natural resources harmed and services lost due to the spill and the systemic degradation that has compromised the productivity and functions of the Gulf ecosystem. It is important not to create false expectations about what can be done with restoration funds, because such expectations will undercut public support and lead to disillusionment.
- Undertake restoration projects that cause no further harm to the environment, and avoid restoring one resource at the expense of another unless there is a clear rationale and overwhelming net benefit.
- Incorporate an ecological approach into not only the restoration plan but also individual projects, seeking to address problems systemically and obtain benefits for multiple species and biotic communities.
- Develop a restoration plan that is comprehensive and integrated and that is approved and implemented jointly by natural resource trustees across the Gulf coastal region. Do not simply divide restoration funds into state block grants, which might impair an approach that is integrated and ecosystem-based.
- Resist the pressure to fund local “economic or community development” projects and normal agency management. The former will be ineffectual at restoration and certainly will not reverse the decades of environmental degradation highlighted by the President. The latter will only undercut public support and lead to disillusionment.
- Think creatively about restoration options, and do not limit conceptualization and evaluation of options to ideas that are already “on the shelf” in the form of existing restoration projects and natural resource management plans.
- Where possible, allocate restoration funds to leverage and enhance local and Gulf regional expertise and institutions, provided that the projects serve the larger restoration effort and have clear restoration end points.
- Use restoration funds to ensure that the whole story of impact to and recovery of the Gulf ecosystem is told. With the *Exxon Valdez*, the public made clear that having information on impact and recovery is part of restoration and making the affected people whole again.
- Begin restoration planning by considering the legacy that will be left following the conclusion of the restoration program. In the case of the *Exxon Valdez*, it was protection of fish and wildlife habitats through acquisition of lands in surrounding watersheds and an investment in science that enabled tremendous improvements in long-term

management and conservation of marine resources in Prince William Sound and the northern Gulf of Alaska.

In addition to the recommendations above, I have attached an excerpt from the November 1994 *Exxon Valdez* Oil Spill Restoration Plan. The mission statement and the 21 restoration policies adopted by the federal and state trustees are highly relevant to the work that lies ahead for the Gulf of Mexico.

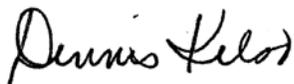
Although the NRDA process is only in the pre-assessment phase and we know little about actual injury caused by the BP disaster, we note that Secretary Mabus intends to issue a report on Gulf restoration in the near future. Hence, it is not too early to indicate that Ocean Conservancy envisions a Gulf Coast Restoration Plan embracing at least three broad themes:

- *Restoration of coastal wetlands, tidelands, estuaries, and barrier islands, which are critical to the health and productivity of the larger Gulf ecosystem.* Just as one example, an estimated 95 percent of commercially landed fish species and many recreationally important species in the Gulf depend on estuaries during some part of their life histories. Clearly, a significant part of a Gulf Coast Restoration Plan must address in a systemic way the decades of degradation that have compromised and devastated coastal habitats and the fish and wildlife dependent on them. In turn, these coastal habitats are no longer able to provide ecological services, such as buffering the coast from hurricanes, so important to the people who live, work and recreate on the Gulf coast.
- *Restoration of the marine environment, primarily by providing the tools, technology and information needed to restore and manage the Gulf ecosystem, including its fishery resources.* It may take several years before we understand the impacts of the BP oil and chemical dispersants on marine life ranging from corals deep under water to larval fishes and plankton in the water column, and the fish, turtles, whales, dolphins, and seabirds that range across the continental shelf and into the deeper waters of the Gulf. Of course, populations of many of these resources were already reduced due to decades of overharvest, pollution, disturbance, and other degradation. Where possible, we should seek to identify direct measures to restore their abundance and enhance resilience. In many cases, however, the best approaches may be to gather scientific information needed to support precautionary management during the time of recovery from oil spill impacts and provide the tools, technology, and data that will enhance management and conservation efforts over the long-term. Such an approach also will help the trustees secure full compensation from the responsible parties and fully restore publicly owned natural resources.

- *Restoration of ecological services provided by the Gulf ecosystem, including the opportunity for and ability of people to live, work, and recreate in the region and to use its resources sustainably.* Lost services will primarily be restored through restoration of the Gulf ecosystem itself—for example, a healthy and productive Gulf is one that will give people the opportunity to make a living by fishing sustainably for shrimp. We understand that compensation for private economic losses is not something that will be addressed through a NRDA-based restoration plan, but there should be creative thought about what is required and appropriate in order to restore public confidence in the Gulf ecosystem and in the fisheries and other services it provides. In the end, the goal should be to make the environment and the people whole again.

Ocean Conservancy is committed to playing an active, constructive role throughout the process of assessing the damages caused by the BP *Deepwater Horizon* disaster and in restoring the Gulf ecosystem after decades of environmental degradation. Ocean Conservancy has committed significant resources to these tasks, including opening a Gulf Restoration Center in Louisiana, and we will be delighted to work with you and your staff members to achieve these ends. Thank you for your consideration, and please let me know how we can be of assistance.

Sincerely,



Dennis Takahashi Kelso
Executive Vice President

Attachments:

Letter to June 3, 2010 to Mr. Hayes and Dr. Lubchenco
Chapter 2, *Exxon Valdez* Oil Spill Restoration Plan

Copies:

Honorable Ray Mabus
Secretary of the Navy