

Okaloosa RESTORE Advisory Committee (ORAC)



February 5, 2014

6:00 PM

Northwest Florida State College

Agenda

- * **Minutes Approval**
- * **Consultant's Administrative Report**
- * **Scheduled Presentations - None**
- * **Regional Updates**
 - * **Consortium**
 - * **Niceville-Valparaiso Chamber**
 - * **Okaloosa BCC**
 - * **Okaloosa League of Cities**
- * **Web-Based Application - Update**
- * **Finalize Application Process**
- * **ORAC Members Open Discussion**
- * **Public Comment**

Consultant's Administrative Report

- * Regular scheduled meeting dates and locations:
 - * **NWFSC, Room 302, 6:00 PM (Thursdays) -- Apr 2, Jun 4**
 - * **ECCC, various rooms, 2:30 PM (Wednesdays) -- Mar 4, May 6**
- * Upcoming community presentations:
 - * **Feb 9 – Crestview City Council, 6 PM**
 - * **Feb 10 – Destin Chamber of Commerce, 11:30 AM**
 - * **Feb 10 – Niceville City Council, 7 PM**
 - * **Feb 19 – Radio interview, 7:30 AM**
 - * **Feb 24 – Fort Walton Beach City Council, 6 PM**
 - * **Mar 2 – Destin City Council, 6 PM**

BP Trial (Ph III) Webinar Summary

- * Teresa Chan, Senior Litigator for ELI, Moderator
- * Trial is focused on civil penalties; trial does not cover: criminal issues; economic claims (individual, business, government); and, natural resource damage (NRDA)
- * Judge Barbier stated on Sep 4, 2014 that BP acted with “profit-driven decisions” that amounted to “gross negligence and willful misconduct”
- * Transocean settlement already has \$800M in motion (80% of \$1B settlement)

BP Trial (Ph III) Webinar Summary

- * Jennifer Larino, Business Reporter, The Times Picayune
 - * Civil trial started on Dec 15, 2010; broken into 3 phases; handled under maritime law (judge only)
- * Phase I: Feb 25 – Apr 17, 2013
 - * Q - Who is to blame and liability apportionment? A – BP (67%), Transocean (30%), Halliburton (3%)
- * Phase II: Sep 30 – Oct 18, 2013
 - * Q – How many barrels were released? A – Government says 4.2M barrels; BP says 2.45 M barrels; judge ruled on Jan 15, 2015 it was 3.19M barrels
- * Phase III: Jan 20 – Feb 2, 2015
 - * Q – How much does BP owe in CWA fines? A- Government wants \$4,300/barrel; BP says max penalty should be \$3,000/barrel
- * BP says it has paid (or will pay) \$42B in penalties, payments, and fines

BP Trial (Ph III) Webinar Summary

- * Blaine LeCesne, Professor of Law, Loyola University
- * Central issue is do “multiple acts of ordinary negligence” equate to an “aggregate or cumulative act of gross negligence?”
- * Not much case law supporting Barbier’s statement; will be battled on appeal
- * Standard on appellate review is very high; appellate court, to overturn trial court, will have to show judge significantly departed from acceptable procedures.
- * There is a tremendous amount at stake in this final phase...not just dollars, but the standard to which all future activities will be measured (precedence)

BP Trial (Ph III) Webinar Summary

- * Edward Sherman, Tulane University Law School
- * Trial will be studied by law students for decades to come; text book example of complex litigation
- * BP's argument is two-fold
 - * Expended enormous amount of time and treasure to right this wrong: beaches cleaner than ever been; seafood landings are consistent with pre-spill levels; and, tourism is at an all-time high
 - * Punished enough – more fines than any disaster in history; intent of civil penalties is to deter BP (and others) from risky behavior – they have learned their lesson
- * Government's argument to these points will be
 - * Not seen a full recovery
 - * Still have not quantified future risks
 - * Still substantial pollutants in the environment

Roadmap

Public Input / Full Transparency

- ✓ Form the ORAC
- ✓ Establish administrative ground rules
- ✓ Educate the ORAC on the RESTORE process
- ✓ Establish ORAC mission statement and goals
- ✓ Evaluate Treasury Rules
- ✓ Develop model to help evaluate projects
- ✓ Test the model with several projects – we are here
- ✓ Refine model as necessary
- Develop project submission protocol**
- ✓ Develop project information collection tool
- Collect project requests
- Use model to score and rank projects
- Develop Multi-Year Implementation Plan

Funding Sources / Rigorous Evaluation

Regional Updates

		NRDA	NFWF	RESTORE Act					Triumph Gulf Coast
Natural Resources	Restoration & Protection	✓	✓	Pot #1 Local	Pot #2 GCERC	Pot #3 Consortium	Pot #4 Research	Pot #5 Research	
	Mitigation	✓	✓	✓	✓	✓			
Federally Approved Management Plan Implementation				✓		✓			
Workforce Development / Job Creation				✓		✓			✓
Infrastructure: Economic & Ecological				✓		✓			✓
Flood Protection				✓		✓			
Administrative / Planning Assistance				✓	✓	✓			
Promotion	Tourism			✓		✓			
	Seafood			✓		✓			
Research / Monitoring							✓	✓	
Economic/Community Resilience					✓				✓

Regional Update - Consortium

- * **January 21, Tallahassee; 23 Counties + appointees**
- * **Attended by Commissioner Windes, Peter Bos, Lino Maldonado**
- * **Ratified Consultant Team: ESA (2 yrs + two 1-yr options)**
- * **Two years to develop FL State Expenditure Plan (FSEP)**
- * **Four-Phase Project Approach:**
 - * **Phase 1: Funding & Goal Setting**
 - * **Phase 2: Project Nomination**
 - * **Phase 3: Project Evaluation**
 - * **Phase 4: FSEP Development**

Regional Update - Consortium

- * **Technical Advisory & Economic Advisory Committees**
 - * TAC/EAC composition to be determined
- * **Seven-region approach; regional coordinators**
- * **University involvement (e.g. FL Gulf Coast, etc.)**
- * **Still developing protocol, meeting locations, schedule**
- * **ESA presentation available on Consortium website**
- * **Next Meeting:**
 - * **Wednesday, March 25 @10:00 am ET**
 - * **FDEP Carr Building—Tallahassee**

Regional Updates

- * **January 20, Niceville – Valparaiso Chamber**
 - * **Over 50 attendees; excellent question and answer**
 - * **Nothing to add to our FAQs**
- * **January 20, Board of County Commissioners**
 - * **Extremely pleased with ORAC effort**
 - * **Not asking to review any of your process related items**
- * **January 22, Okaloosa League of Cities**
 - * **Over 50 elected officials**
 - * **Lively discussion; nothing to add to FAQs**

Web-Based System

- * Met with County contractor on Jan 13
- * On track to have web-based application live by March
- * Demonstration

Application Process

- * Discussion / recommendations for remaining actions
 - * Pre-application “workshop” at Mar 4th ORAC meeting
 - * Application goes live on / about Mar 9th (Part A and B)
 - * Accept applications for 45 days
 - * Score applications
 - * Presentations for highest ranked proposals (10 min max)
 - * Finalize scoring and submit draft MYIP to BCC
 - * BCC approves draft MYIP; start 45-day comment period
 - * BCC submits final MYIP to Treasury for approval
 - * Treasury approves MYIP; successful applicants complete Part C

ORAC Open Discussion

Public Comment