Florida Deepwater Horizon Response and Recovery Workgroup #1: Response to Current Disaster and Preparation for Future Disasters

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Task: To explore the current oil spill response system and determine whether the current oil spill response structure, with the operational changes put in place to address local government concerns, is effectively meeting the needs of the state, local communities, and others in responding quickly and successfully to the spill, or whether additional changes are needed. If additional changes are warranted, identify recommendations or establish guidelines to accomplish this. Further, explore changes that may enable all levels of government to better prepare for and respond to future disasters.

Work Plan

I. Week 1 (July 26-30)

- **a.** Review federal law and protocol pertaining to the National Contingency Plan and oil spill response.
- **b.** Review Florida law and protocol pertaining to oil spill response and Florida's oil spill response plan.
- **c.** Review the relationships and coordination between federal, state, and local governments when responding to an oil spill.
- **d.** Review the National Response Framework, its relationship with the national Contingency Plan, and possible changes to address future oil spills.
- **e.** Submit a briefing paper on state and federal oil response laws and protocol to the Members of the workgroup at the beginning of Week 2.

Summary of Week 1 Activities:

Staff researched federal laws and regulations authorizing a framework or system of emergency response protocols that requires the cooperation of federal agencies, as well as state, and local governments, to develop contingency plans that are designed to efficiently address manmade and natural disasters. Staff researched state law and regulations that authorize state agencies to develop or integrate federally-sponsored contingency plans for regional and/or local response to incidents. Finally, staff invited representatives from the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Department of Emergency Management, and representatives for the League of Cities and the Association of Counties, to participate in three separate teleconferences scheduled for Week 2.

II. Week 2 (August 2-6)

a. Meet with and conduct conference calls with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, the Division of Emergency Management, the League of Cities and Association of Counties, to discuss, where relevant:

- **i.** The current response system and the coordination between federal, state, and local governments.
- **ii.** The effectiveness of the current response to the oil spill in the Gulf of Mexico, including the coordination between federal, state, and local governments, and ways in which the response system and protocol could be improved to address immediate needs and future spills, either through changes to current operations or changes to federal laws and protocol or Florida's laws and protocol.

Summary of Week 2 Activities:

Workgroup 1 held three teleconferences during Week 2. The first occurred on Wednesday, August 4, 2010, with officials from the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission participating. The second occurred on Thursday, August 5, 2010, with officials from the Florida Division of Emergency Management participating. The third occurred on Friday, August 6, 2010, with representatives from the Florida League of Cities, Florida Association of Counties, and Bay County participating.

Highlights from each teleconference are below:

Department of Environmental Protection/Florida Fish and Wildlife Conservation Commission

In attendance for the Department of Environmental Protection (DEP) were Secretary Michael Sole and Phil Wieczynski, Manager for the Emergency Operations Center. In attendance for the Fish and Wildlife Conservation Commission (FWC) were Col. Jim Brown, Mark Robson, Elsa Haubold, and Gil McRae. In addition to the members from Workgroup 1, Representatives Drake and Nelson were also in attendance.

The focus of the teleconference was federal and state coordination efforts: what seemed to work, what improvements need to be made prior to another, similar incident. The following are highlights from the discussion:

<u>Praise for Florida Responders:</u> According to Secretary Sole, and affirmed by FWC, the coordination and cooperation of all Florida agencies providing resources, time, personnel, and participating in the Emergency Operations Center during this crisis was exceptional.

<u>Operations</u>: DEP and FWC discussed operation and communication difficulties inherent in Florida caused by Florida being split between the 7th and 8th United States Coast Guard (USCG) Districts. In addition, the lack of a Unified Command Center, or branch center, in Florida for this particular emergency exacerbated

communication difficulties between the federal government coordinators and local government responders. This was rectified recently by the creation of several branch offices across the impacted Panhandle counties. Generally, each branch office covers two counties, and includes officials from the coast guard and the state, as well as a local government emergency management official. This structure brings the decision making closer to the impacted area and ensures local government participation in the decision-making process.

Resources: According to Secretary Sole, due to the size of the event, insufficient tactical resources hindered the response. Experience demonstrated that booms and oil skimmers work very well when those resources are deployed correctly. Surface water booms, for instance, are not efficient prophylactic measures but are very effective for collection and deflection. Florida Panhandle counties, however, are not expected to possess these expensive resources because the threat of oil spill is remote. However, more immediate access to these resources in the event of another, similar incident needs to be explored, perhaps through the federal government emergency response system.

Further, fishing ground closures occurred prematurely and in some instances were not supported by evidence. Once the fisheries are closed, a lengthy sampling protocol is necessary to reopen. According to Colonel Jim Brown, of the FWC, there was inadequate federal laboratory capacity for testing seafood for oil contamination. Federal response increased in the later stages of the crisis; however, increased lab response will need to be planned for in the event of a similar incident. It was suggested that including fish and wildlife services in the unified command structure would be appropriate in the case of any future disasters of this nature.

Area Contingency Plans: DEP noted that in the 1990s, not every county in the Panhandle participated in the USCG-sponsored, voluntary workshops for developing area contingency plans for spills. This lack of coordination in the planning process resulted in the needs of local governments not being fully realized. In addition, many of these plans were created in the early 1990s and had not been updated recently.

Responsible Party Response to the Event: Secretary Sole commended BP for its aggressive response to the spill and providing grants to Florida for tourism ($25 million to the state and Panhandle counties), the Natural Resource Damage Assessment ($8 million to DEP), and to study the short-term and long-term impacts of the spill ($10 million to the Florida Institute of Oceanography). This immediate response may not have been possible if the blow-out had occurred at a well owned by a consortium of smaller companies with limited financial capacity to adequately respond. In comparison, the oil spill event in Tampa Bay in 1993 involved three vessels each owned by a separate company which delayed payments to the state while liability was determined through the legal process.

Division of Emergency Management
In attendance for the Florida Division of Emergency Management (DEM): David Halstead, Director, and Angela Peterson, Policy and Finance Chief.

The discussion focused primarily on how well the State Emergency Response Team (basically, the designated employees of Florida's Executive Agencies) organized and mobilized in response to the activation of the Emergency Operations Center (EOC), and the difficulties the EOC faced, both in terms of communication and tactical operations, because the Unified Command Center was located in the USCG station in Mobile, AL. Many of the challenges expressed by the DEP and FWC during Wednesday's teleconference were expressed by DEM.

Florida League of Cities and Florida Association of Counties
In attendance for the Florida League of Cities: Scott Dudley. In attendance for the Florida Association of Counties: Eric Poole and John Smith. Bob Maijka, Assistant County Manager for Bay County, provided input as well.

The discussion focused on two major points: (a) Local governments, used to responding to incidents in accordance with Florida's emergency management protocols (which has traditionally used a bottom-up approach, with emergency activities being resolved at the lowest possible level of response), were frustrated by conflicting messages from BP and Unified Command in Mobile, AL.; and (b) BP, as the responsible party, seemed to have too much authority in approving operations and logistics for local government response plans. It is the local governments' view that if their response activities fall within the parameter of the Area Contingency Plan, then BP's only role is to provide compensation.

One other point was raised: Local government Emergency Management Director positions are funded by the Emergency Management, Preparedness, and Assistance Trust Fund, as found in sections 252.371, and 252.372, F.S. The trust fund is funded by an annual surcharge of $2 per policy for every homeowner's, mobile home owner's, tenant homeowner's, and condominium unit owner's insurance policy, and $4 for every commercial fire, commercial multiple peril, and business owner's property insurance policy. Local government representatives participating in the call suggested that additional funding is necessary to adequately staff local government emergency management operations.

Local governments also agreed with comments made in earlier teleconferences that coordination and communication with local governments by the Unified Command improved greatly after the creation of the branch offices, as local governments were included more in strategizing the response.

III. Week 3 (August 9-13)

a. Contact Louisiana's state spill response coordinator to discuss that state's response laws and protocol and identify differences in the way Louisiana coordinates its spill response with the federal government and local government under the National Contingency Plan. Prior to the discussion, review the oil spill response

laws and response plans of Louisiana and identify the differences with Florida's approach.

b. To the extent time allows, conduct conference calls with oil spill response officials in other Gulf states to discuss their response laws and protocol.

Summary of Week 3 Activities:

On Monday, August 9, 2010, Representative Gary Aubuchon and members of Workgroup 1 (Representatives Trudi Williams, Leonard Bembry, Oscar Braynon, and Ken Roberson) traveled to Baton Rouge, LA, to discuss oil response issues with members of the Louisiana Oil Spill Coordinator's Office (LOSCO), representatives from the Louisiana Governor's Office, and state agency designees for oil spill response, at the Department of Public Safety & Corrections in Baton Rouge, Louisiana.

In attendance for LOSCO:

- Karolien Debusschere, Deputy Oil Spill Coordinator
- Stephanie Morris, Legal Counsel, Oil Spill Coordinator's Office
- Kristy Nichols, Deputy Chief of Staff, Office of the Governor
- Michael Dailey, Senior Policy Advisor, Department of Children & Family Services
- Kyle Graham, Deputy Director for Planning and Programs Coastal Activities
- Colonel Michael D. Edmonson, Superintendent, Louisiana State Police and Deputy Secretary, Department of Public Safety & Corrections
- Frank Blackburn, Assistant Secretary and General Counsel, Department of Public Safety & Corrections

The discussion highlighted two challenges Louisiana has dealt with while the Deepwater Horizon incident continues to unfold: command structure and the claims approval process. Additional information about these challenges may be found in the summary of the meeting, which is posted on the workgroup's resource page.

IV. Week 4 (August 16-20)

a. Conduct a site visit to the Panhandle and conference calls with regional state emergency operation centers and local government officials involved with the current oil spill response to gain insights into how the current response system has been implemented. Identify the perceived successes and shortcomings of the current response, and determine how federal and state response efforts have been coordinated with local government officials. Determine whether the system has improved since the creation of local branch offices, and whether this structure has been adequate in meeting the needs of those responding to the spill.

b. To the extent time allows, meet with or conduct a conference call with federal spill response coordinators to discuss any state and local concerns with the implementation of the spill response protocol and obtain their insights on strengths and weaknesses of the oil spill response and coordination between federal, state, and local governments.

c. Compile and analyze all the information obtained through conversations with federal, state and local government officials regarding the oil spill response protocol.

d. Based on all the information gathered, determine whether the current oil spill response structure, with the operational changes put in place to address local government concerns, is effective and meeting the needs of the state, local communities, and others in responding quickly and successfully to the spill, or whether additional changes are needed. If additional changes are warranted, identify recommendations or establish guidelines to accomplish this.

e. Begin writing first draft of report.

Summary of Week 4 Activities:

On Friday, August 20, 2010, Representative John Legg traveled to Destin, FL, to discuss oil response issues with local government representatives from the Panhandle. Representatives Bembry and Roberson attended the meeting via teleconference hosted by the City of Destin.

In attendance for local governments:

- Greg Kisela, City Manager, Destin, FL
- Buz Eddy, City Manager, Gulf Breeze, FL
- Randy McDaniel, Emergency Manager, Okaloosa County
- Gordon Goodin, Santa Rosa County Commission
- John Dosh, Escambia County Emergency Manager
- Mario Gisbert – Assistant City Manager, Panama City Beach, FL

The discussion primarily focused on the difficulty local government officials experienced with the communication between themselves and BP/U.S. Coast Guard (USCG) during the spill response. The local governments felt there was disorganization within the USCG, and a lack of coordination with the local governments who were trying to get spill response resources to their coastlines and approval to begin their own response activities. The participants also acknowledged that their local area contingency plans (ACP) were not drafted to address oil spills, particularly of this magnitude.

After the Deepwater Horizon spill first occurred, BP and the USCG established the Unified Area Command (UC) center in New Orleans, Louisiana, along with Unified Incident Commands in Houma, Louisiana; Mobile, Alabama; and Miami, Florida. BP, as the responsible party, had authority to approve or deny authorization for spill response activities of local and state governments. According to the local government officials at the meeting, they frequently requested information from BP/USCG about areas already impacted by the spill to help prepare for the threat to their own coastlines, but rarely received the information they requested. Several local governments sent their own people to affected areas to report the situation in order to learn how best to respond to the oil when it reached their coast. Information and guidance from UC was slow to cross the state line and often the information and/or guidance was inconsistent with actual situations in Florida. On several occasions UC told local governments that skimmers and boom ships were in the water off their

coasts, but local government officials would be down at the coast telling UC that no vessels were there. UC would send orders to deploy resources, but because they did not have any GPS or other monitoring equipment, UC never knew if the people they contracted with for response to the spill had followed those orders. In addition, several local government officials stated that BP/USCG dismissed their reports of oil moving towards their area and requests for response action because the potential impact was small, compared to the overall scale of the disaster and threats of larger oil impacts elsewhere along the Gulf. This greatly frustrated Panhandle officials because even a little oil on their beach, although not a significant threat to the environment, was a severe threat to tourism and their economies. One of the main reasons for the breakdown in coordination and communication was the distance between the command centers and the areas being impacted. Initially, the closest command center to the Panhandle was in Mobile, AL. However, once BP and the USCG realized the need for better communication and coordination in the response effort, they began opening local branch command offices to help alleviate these problems.

All of the local government officials at the meeting did acknowledge that communication between the UC and the local governments improved after the establishment of branch command offices in Florida. However, it took over two months after the spill occurred to open the first branch office and several weeks after that for the UC to allow the branch office managers to make decisions affecting the local areas they served.

The Panhandle government representatives offered the following recommendations:

- Request Congress to amend OPA 90 to include provisions that specifically include local government involvement in shore protection in event of a similar spill.
- Request the USCG to revise ACPs and require local government input in the development of the new plans.
- Identify an independent, third party to research the long-term impacts to the environment and the Gulf habitat that is BP-funded and has state oversight.
- Ensure that BP is required to pay for any impacts, such cleaning up tar balls, which may occur over the next several years.

V. Week 5 (August 23-27)

a. Finish first draft.
b. Begin editing and writing final draft.

Summary of Week 5 Activities:
Reviewed and analyzed the information gathered by the Workgroup during all of the conference calls and meetings with state and local government officials regarding the oil spill response. Began drafting final report.

VI. Final Report Due August 31