



# Levy County RESTORE Act

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# Analysis of the RESTORE Act of 2012

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*RESTORE Act Committee of Levy County  
Town Hall Meeting*

# The Clean Water Act

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The Clean Water Act (CWA) regulates the discharge of pollutants into U.S. water. Parties responsible for discharging oil in violation of the CWA face penalties.

The CWA was triggered by the *Deepwater Horizon* disaster.

# Clean Water Act & RESTORE

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- The Clean Water Act (CWA) levies civil and criminal penalties on parties that violate its oil discharge prohibitions.
- A legislative proposal called the **Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act** (known as the “**RESTORE Act**”) was developed to direct a portion of the Clean Water Act civil penalties from the Deepwater Horizon incident to Gulf restoration.
- President Obama signed the RESTORE Act into law on July 6, 2012.

## Where Do CWA Penalties normally go?

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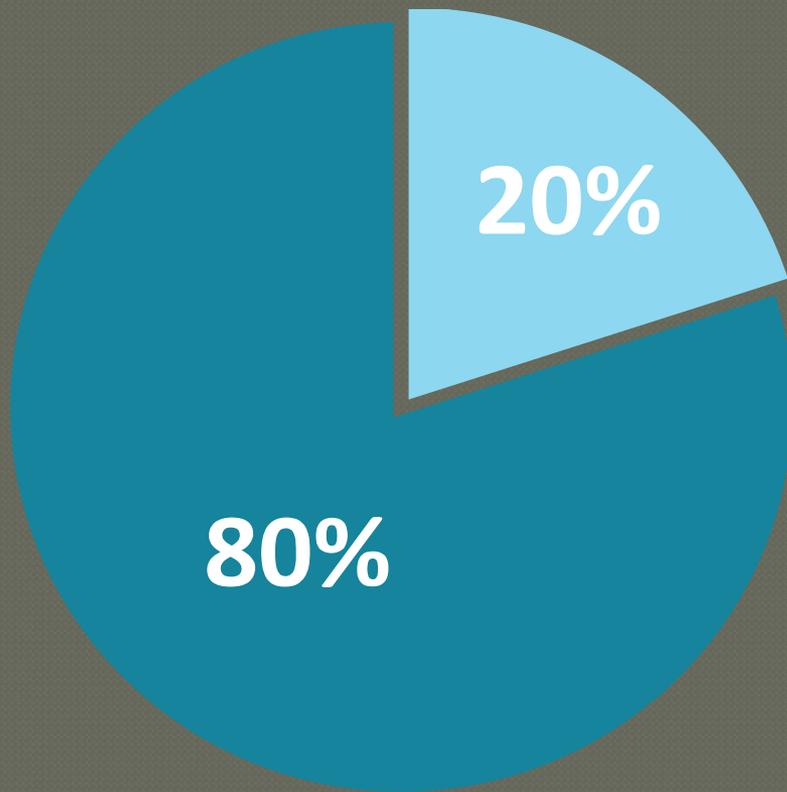
If the RESTORE Act had not passed, the CWA would have sent penalty monies to the Oil Spill Liability Trust Fund for use in cleaning up future oil spills.

# How much money might be involved?

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- The CWA grants the court discretion to calculate civil penalties on the basis of either the duration of the spill or the amount of oil discharged.
- The Deepwater Horizon spill lasted 87 days. Exactly how many barrels of oil spilled into the Gulf is still in dispute, but the federal government estimates 4.1 million barrels.
- The actual amount of penalties will depend on whether a court opts to apply a per-barrel or per-day penalty, the court's factual findings about the spill, whether the court finds the responsible parties acted with gross negligence or willful misconduct, and whether the case is settled or goes to trial.

# OVERALL RESTORE ACT FEDERAL/GULF RESTORATION SPLIT

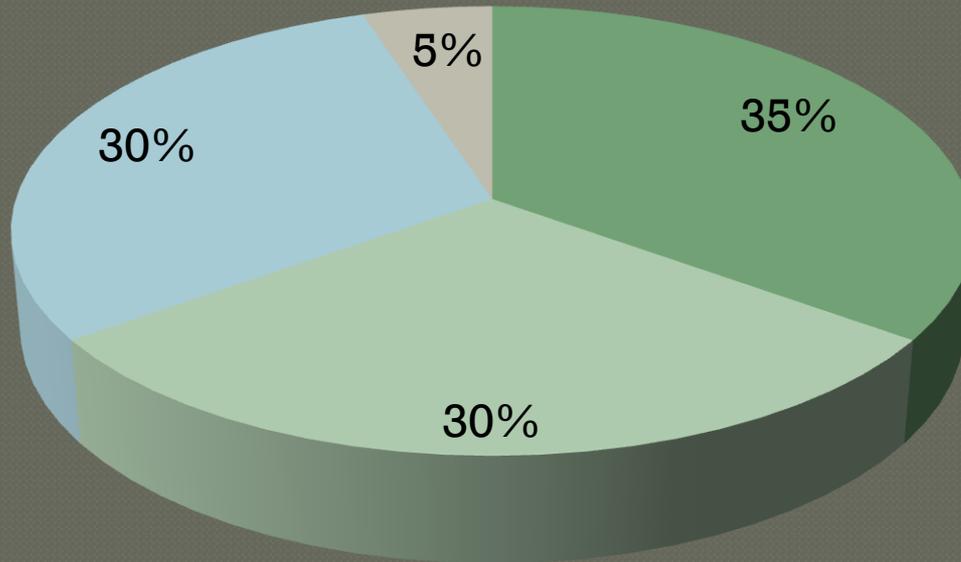


-  Federal Share
-  Gulf Share

**\* Sends 80% of all administrative and civil penalties by Responsible Parties in Deepwater Horizon, together with any additional appropriations provided by law to the Gulf region (5 affected states).**

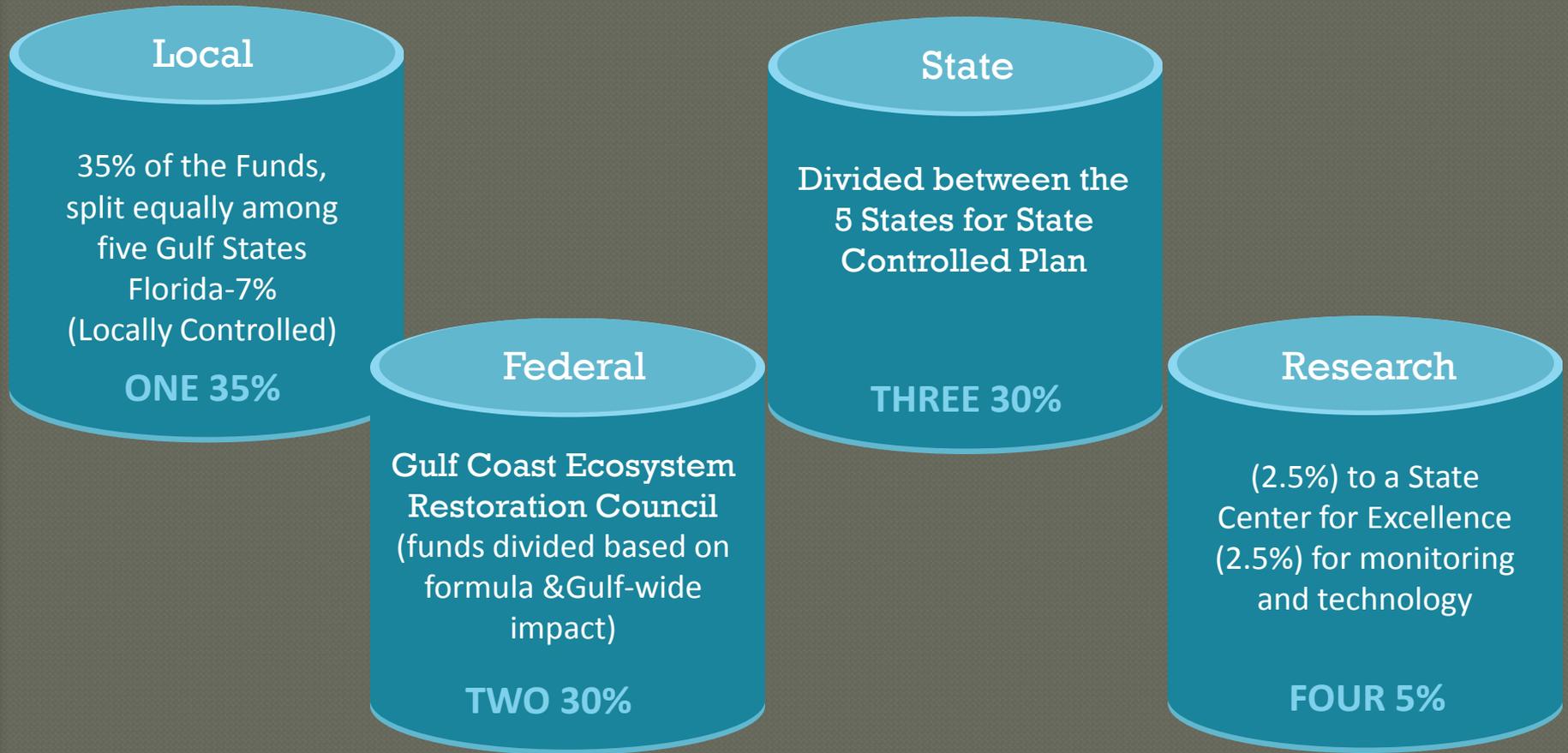
# THE 80% TO GULF SPLIT (GULF COAST RESTORATION TRUST FUND)

## Breakdown



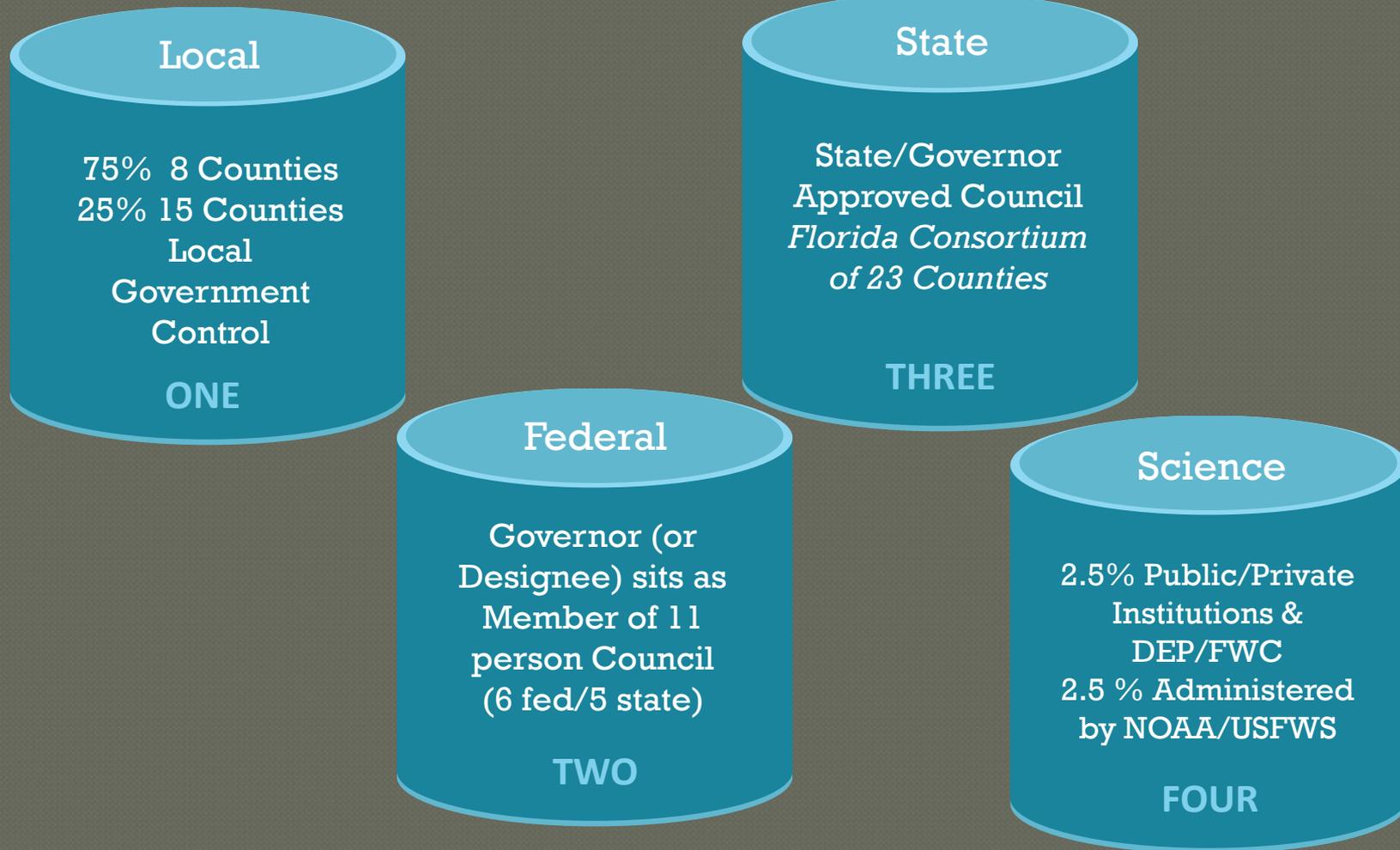
- 1st Pot: 35% Equal State Allocation (LOCAL)
- 2nd Pot: 30% Gulf Coast Ecosystem Restoration Council Allocation (Federal)
- 3rd Pot: 30% Oil Spill Restoration Impact Allocation (State)
- 4th Pot: 5% Research

# UNDERSTANDING THE POTS IN THE 80%



# HOW THE POTS ARE GOVERNED

## Florida is Unique



# Pot One in the State of Florida



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

- **75% directly to the 8 disproportionately affected counties (Escambia to Wakulla)**
  - **Example: if total fine is \$20B, 75% of \$1.12B = \$840M**
- **25% directly to the non-disproportionally impacted counties Jefferson to Monroe (15 Coastal Counties )**
  - **Formula: 34% based on population; 33% based on the county per capita sales tax collections estimated for FY2012; 33% based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.**
  - **Example: If total fine is \$20B, 25% of \$1.12B = \$280M, then 34% = \$95.2M; 33% = \$92.4M)**

# Pot One in the State of Florida



*Projects to restore  
natural resources or  
economy*

*Project selection  
requires meaningful  
public input*

*Multiyear plan for  
use of the funds*

*Consistent with  
standard  
procurement rules*

The County must adhere to general conditions for funding:

- Agree to US Treasury audit requirements
- Certify that a project requesting funding:
  - Is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands or economy of the Gulf Coast
  - Carries out one or more of the eligible activities
  - Was selected based on meaningful input from the public
  - In the case of natural resource protection or restoration project is based on the best available science

# Pot One in the State of Florida



The County must adhere to general conditions for funding:

- Certify that the project or program and the awarding of the contract are consistent with standard procurement rules and regulations, inc. applicable competitive bidding and audit req.
- Develop and submit a multi-year implementation plan for the use of funds, which may include milestones, timelines, and evaluation
- \*Funds allocated to a coastal political subdivision (in FL, a county) shall remain in the Trust Fund until plans submitted and approved

*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

*(Note: The responsibility for ongoing oversight of local projects and administration of contracts is not clearly established. We will have to wait for the rules.)*

# What Can Pot One Money Be Used For?



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

- ❖ **Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region**
- ❖ **Mitigating damage and restoration of fish, wildlife, and natural resources**
- ❖ **Implementing a federally approved marine or coastal conservation management plan**
- ❖ **Promotion of tourism in the Gulf Coast Region, including recreational fishing**
- ❖ **Promotion of the consumption of seafood harvested from the Gulf Coast region**

# What Can the Pot One Money Be Used For? Continued...



*Projects to restore natural resources or economy*

*Project selection requires meaningful public input*

*Multiyear plan for use of the funds*

*Consistent with standard procurement rules*

- ❖ **Infrastructure projects benefitting the economy or ecological resources, including port infrastructure**
- ❖ **Workforce development and job creation**
- ❖ **Improving state parks in coastal areas affected by the Spill**
- ❖ **Planning assistance**
- ❖ **Coastal flood protection and related infrastructure**
- ❖ **Administrative costs of complying with the Act (limited to 3%)**

## RESTORE Act Local Funds

Levy County will receive an automatic allotment of RESTORE Act funding in the event of a settlement.

Here are estimates for Levy County's local amount, based on range of settlement amounts:

Settlement Amount	Local Distribution to Levy
\$ 1B	\$546,206 (FAC/Transocean Example)
5B	2.73 M
10B	5.46 M
15B	8.19 M
20B	10.92 M

Why is the money coming to the County? The RESTORE Act legislation directs the State of Florida's funding to "coastal political subdivisions" defined in the Act as "any local political jurisdiction that is immediately below the State level of government, including a county, parish or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico."

## RESTORE Act Local Committee

### What is Levy County doing?

- ❑ Levy County passed a resolution creating a nine member advisory committee to assist the BOCC with Pot 1 process, public input, project review and recommendations for projects to be funded.
- ❑ The RESTORE Act Committee currently meets once a month, advertises all meetings and posts agendas and minutes to [Levycounty.org](http://Levycounty.org).
- ❑ Project Application – The Project Application can be downloaded online at [LevyCounty.org](http://LevyCounty.org). The form will be available for online completion and submittal September 10<sup>th</sup>.
- ❑ Scoring/Weighting- The empirical scoring criterion to rank projects is also available online. Please review before completing application.
- ❑ The Committee will host an Application Workshop on September 10 in Chiefland at the College of Central FL from 5p.m. to 7p.m. Anyone having questions regarding the Project Submittal Form is encouraged to attend. This will be a drop-in style workshop.
- ❑ There is currently no deadline for submittals. Applications submitted by November 15, 2013 will be reviewed by the RESTORE Act Committee at the December Committee meeting.
- ❑ Anyone having a project idea or questions is encouraged to come to one of Committee's meetings or contact either Fred Moody, Levy County Coordinator at (352) 486-5218, or Anne Bast Brown, County Attorney at (352) 486-3389.

# Pot Two



*30% Gulf Coast  
Ecosystem  
Restoration  
Council Allocation  
(Federal).*

Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.

## *The Gulf Coast Ecosystem Restoration Council*

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*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

- ❖ **Federal members are Secretary of the Interior, Secretary of the Army, Secretary of Commerce, Administrator of the EPA, Secretary of Agriculture, head of the department in which the Coast Guard is operating**
- ❖ **State members are the Governors of the five Gulf states or their designees**
- ❖ **Council's actions consist of approving a Comprehensive Plan, approving state plans, and approving reports to Congress**
- ❖ **50% of Council money is disbursed back to the states based on a formula including oiled shoreline miles, distance from the rig to the shoreline, and the average population of coastal counties from the 2010 census**
- ❖ **50% of Council money goes to the creation of the comprehensive plan**

## The Gulf Coast Ecosystem Restoration Council



TWO

*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

**Develop a science-based Comprehensive Plan to restore and protect natural resources.**

**The plan must:**

- Prioritize projects that contribute to Gulf restoration regardless of geographic location
- Include and “fully incorporate” the findings of the Task Force
- Include a 10yr funding plan(updated every 5yrs) and a 3yr list of projects (updated annually)

## The Gulf Coast Ecosystem Restoration Council



TWO

*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

**The Comprehensive Plan can only include projects to restore and protect natural resources.**

***Priority will be given to:***

- ❖ Projects that make the greatest contribution to restoring and protecting Gulf Coast natural resources
- ❖ Large-scale projects and programs that will be projected to substantially contribute to natural resource restoration and protection
- ❖ Projects contained in existing Gulf Coast State comprehensive plans for natural resource restoration and protection
- ❖ Projects that restore long-term resiliency of natural resources most impacted by the oil spill

## Council Members



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

### Members:

**CHAIR:** Department of Commerce  
Dr. Rebecca Blank

Department of Agriculture  
Thomas J. Vilsack/Harris Sherman

Department of the Interior  
Kenneth L. Salazar/Rachel Jacobson

Department of the Army  
John McHugh/Jo Ellen Darcy

Department of Homeland Security  
Janet Napolitano/VADM John Currier

Environmental Protection Agency  
Lisa P. Jackson/Ken Kopocis

### Governors' Representatives

AL - David Perry  
FL - Mimi Drew  
LA - Garnet Graves  
MS - Trudy Fisher  
TX - Toby Baker



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

- ❖ **Weighted formula to determine how much money each state receives.**
  - 20% avg population of coastal counties
  - 40% miles of oiled shoreline
  - 40% distance from Deepwater Horizon
- ❖ **FL Association of Counties facilitated a group of 23 counties to develop an interlocal agreement to oversee this fund. MOU with Governor signed**
- ❖ **Executive Body**
  - **Chairman: Grover Robinson, Escambia County**
  - **Vice Chairman: Susan Latvala, Pinellas County**
  - **Sec./Treasurer: Warren Yeager, Gulf County**
  - **Mayor George Neugent, Monroe County**
  - **Commissioner Sara Comander, Walton County**



*Council shall expend funds, using the best available science, to undertake programs and projects that would restore and protect the natural resources, ecosystem, and economy of the Gulf Coast.*

Funds may be used for “projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast region.”

***Projects, programs, and activities must:***

- Be eligible activities as defined for the equal-share funds (Infrastructure spending cannot exceed 25% of total funds, unless certain criteria are met)
- Contribute to the overall economic and ecological recovery of the Gulf Coast
- Take into consideration and be consistent with the Comp Plan

**\*State Plans must be approved by Council (pot 2)**



## ❖ 2.5% Centers of Excellence

The funds will be split up evenly among the 5 Gulf States to establish a center in each state.

Florida's center will be a consortium of public & private research institutions, including DEP & FWC

## ❖ 2.5% Gulf Coast Ecosystem Restoration Science, Observation, Monitoring & Technology Program

NOAA and US Fish & Wildlife Service shall consult Gulf of Mexico Fishery Management Council & Gulf States Marine Fisheries Commission

## Centers of Excellence



FOUR

**States will grant priority to applicants with the broadest expertise in at least one of the following areas of specialization:**

- Coastal/deltaic sustainability, restoration, and protection
- Offshore energy development, including improving sustainable /safe development
- Coastal fisheries and wildlife
- Sustainable and resilient growth, and economic and commercial development
- Comprehensive monitoring/mapping

# Restoration Science Program



## Lead Entity

NOAA Administrator (in consultation with the FWS Director, the Gulf Fishery Management Council, and the Gulf States Marine Fisheries Commission, at various times)

## Requirements

Regional Science, Observation, Monitoring, and Technology (RSOMT) Program will support research, observation, and monitoring to ensure long-term sustainability of Gulf fisheries

# Restoration Science Program



FOUR

The RSOMT Program will primarily fund long-term, non duplicative projects that address data collection and monitoring needs. The Act also limits NOAA's use of the funds.

*Funds may support:*

- Marine and estuarine research
- Marine and estuarine ecosystem monitoring and ocean observation
- Data collection and stock assessments
- Pilot data programs
- Cooperative research
- Admin expenses (3%)

*Funds may not support:*

- Existing or planned NOAA research (unless grant recipient agrees)
- Implementing/initiating regulations
- Developing or approving limited access privilege programs in Atlantic fisheries

# When Will We See the Money?

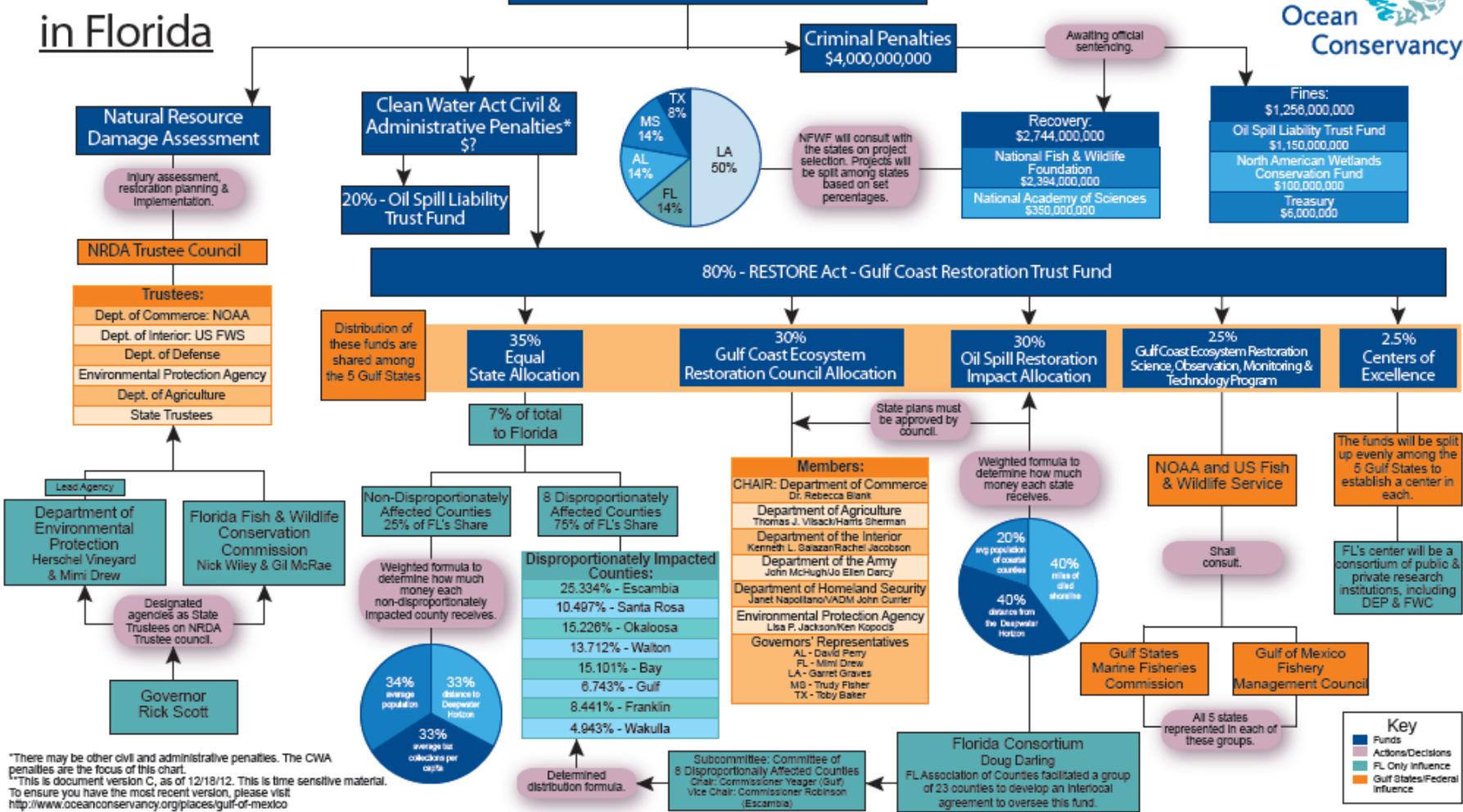
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- ❖ **There will be no RESTORE Act monies until the CWA penalties are either settled OR litigated.**
- ❖ **The litigation process will likely push the money well into 2013.**
- ❖ **Settlement could occur at any time, either as a separate CWA settlement or as part of a global settlement that pulls in the NRDA claims as well.**

# Flow of Oil Spill Funds in Florida

## Resolution of Criminal, Civil, Administrative & Natural Resource Claims

Contact: TJ Marshall  
 Director, Consultant Outreach  
 tmarshall@oceanconservancy.org  
 727-369-6616



\*There may be other civil and administrative penalties. The CWA penalties are the focus of this chart.  
 \*\*This is document version C, as of 12/18/12. This is time sensitive material. To ensure you have the most recent version, please visit <http://www.oceanconservancy.org/places/gulf-of-mexico>

