

WRITTEN STATEMENT
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NRDA TRUSTEE COUNCIL EXECUTIVE COMMITTEE
AND
LEGAL ADVISOR FOR ROBERT BENTLEY,
GOVERNOR OF ALABAMA
TO THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER AND WILDLIFE
UNITED STATES SENATE
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Chairman Cardin, Ranking Member Sessions, members of the subcommittee, I would like to thank you for the opportunity to speak with you today. My name is Cooper Shattuck, and I am Chairman of the NRDA Trustee Council Executive Committee and Legal Advisor for Robert Bentley, Governor of Alabama.

The NRDA Process Generally and Early Restoration

As you know, the NRDA process was created after the *Exxon Valdez* oil spill in Alaska. In 1989 the *Exxon Valdez* ran aground and spilled 11 million gallons of crude oil affecting a surface area of approximately 75,000 square miles. The trust ultimately established to restore the natural resources in the area consisted of \$900 million monitored by a council consisting of three state trustees from Alaska and three federal

trustees. The *Exxon Valdez* spill was the largest spill in U.S. history until the BP oil spill in the Gulf. The restoration process for the *Exxon Valdez* spill is still continuing today, over twenty years later.

The explosion aboard the Deepwater Horizon platform caused a spill of 5 million barrels (approximately 210 million gallons) of oil – almost 20 times larger than the *Exxon Valdez*. This spill is unprecedented. Five states along with the Gulf of Mexico itself have all been adversely affected though the exact extent of the damage is still unknown. Impacts to the Gulf include commercially important aquatic life; endangered or threatened species of turtles, birds, and marine mammals; habitat use, migration patterns, and erosion; and current Gulf Restoration projects.

The Gulf is an essential fish habitat for countless species of fish and shellfish. The Gulf contains over 21 species of marine mammals which are protected, six of which are endangered. Five species of turtles live in the Gulf, four of which are threatened/endangered; and the only nesting beaches for the Kemp's ridley turtles are in the western Gulf of Mexico. The marshes which border the Gulf of Mexico are the feeding and nesting habitat for many species of offshore, nearshore, and marsh birds. The presence of the oil in these habitats may lead to decreased habitat use in the area, altered migration patterns, altered food availability, and disrupted life cycles. The oil may also cause plants to die, whose roots stabilize the soil, and thus lead to erosion.

The response to the spill from a natural resources perspective has also been unprecedented. The NRDA Trustees have secured \$1 billion from BP for Early Restoration Projects in the Gulf. The fact that the Trustees and the responsible party have even attempted to address early restoration of this magnitude is extraordinary. The sum

secured for early restoration alone is larger than the entire NRDA restoration process for the *Exxon Valdez* spill. Under the Framework Agreement for Early Restoration, each trustee (Alabama, Mississippi, Louisiana, Florida, Texas, Department of the Interior, and NOAA) will select and implement \$100 million in projects. The remaining \$300 million will be used for projects selected by NOAA and the Department of the Interior from proposals submitted by the State Trustees.

This Agreement would not have been possible without the combined and concerted efforts of all Trustees. With so many resources and agencies involved in this daunting but incredibly important task, it is essential to ensure continuing cooperation and coordination to guarantee that restoration of our natural resources is carried out to the benefit of all – both from an early restoration perspective and in the long run.

In order to manage the early restoration process and continue the assessment that has been ongoing for some time, the Trustee Council has formed an Executive Committee. The committee is made up of representatives from each of the Trustees. We have also created committees dedicated to legal work, assessment and science, restoration planning, and public affairs. Each committee is composed of a representative from each of the Trustees. The Executive Committee and committees will work together to make certain that each Trustee is represented in an equal and balanced manner to ensure that the priorities and goals of all of the Trustees are achieved.

Challenges of Restoration, Including Early Restoration Project Selection

The Resource Assessment process and Early Restoration Project selection present many challenges given the magnitude of this disaster, its widespread impact and the

number of parties involved. Each state was impacted differently and all may have unique priorities for the needed restoration. Each state may very well have its own goals for restoration as may each federal agency. Even within a state or agency, there will be different approaches and ideas about how to meet these needs and achieve these goals. After all, restoration on this scale has never been done before. All of the different perspectives and ideas have the potential to lead to many disagreements over how best to assess the damages sustained and how best to spend the funds to restore our natural resources. Such disagreements could easily manifest themselves between the states, the states and the federal government, the different federal agencies, or Democrats and Republicans.

However, we are reminded that the natural resources do not share our notions of boundaries and borders. A fish does not realize it crosses from the waters of Mississippi to Alabama or from state waters to federal waters. Wetlands do not begin and end at state borders, but cross the lines indiscriminately. An oyster does not know whether it sits in the waters of a red state or a blue state. Just as it was necessary for us to frame our initial discussions in fairness for the common good of all, we will be challenged to eliminate disputes based on our boundaries and maintain our focus on the ultimate goal of restoring the Gulf of Mexico's natural resources back to their status prior to the oil spill. But, we have created and experienced the precedent that will allow us to accomplish just that.

Overcoming the Challenges of Early Restoration and the NRDA Process

From the beginning of the disaster it was essential that the states and the federal government work together through the response and clean-up process. We did. As we

began the monumental task of assessing the extent of the injuries to our natural resources, the need for cooperation became pronounced. And, we have done it. Obtaining \$1 billion for early restoration projects set new standards for our ability to tackle obstacles and succeed by uniting for a common good. The cooperation between the five states is unprecedented; as is the cooperation and support between the states and the federal agencies. The need for cooperation continues as we make plans to implement early restoration projects. And, it does. We simply must continue united to overcome the real problem – the extensive damage to one of our nation’s greatest natural resources, the Gulf of Mexico. The uniqueness of the many challenges presented only makes cooperation more imperative to ensure adequate and effective implementation of NRDA and thus provide for the long-term recovery of the Gulf’s natural resources.

The communication and cooperation has and will continue as we select and implement the Early Restoration Projects. Though the full extent of the damage to the resources is not yet known, all agree that there must be a nexus between the oil spill, the injury and the projected benefits of the projects. We must also work together as we evaluate and negotiate the offsets to the ultimate resource damage assessment that should be attributed to the projects. Cooperation is not only necessary for the selection of the projects, but for the implementation of them as well.

The process is going well. We have challenged ourselves with some fairly demanding timelines. Our plan is to select an initial set of projects in July of this year.

Even as the Early Restoration projects are selected, negotiated and implemented, the NRDA process will continue in order to determine the full extent of the damage to our resources and our long-term restoration plan.

Thus far, the NRDA process must be measured as a tremendous success. Though the magnitude of the spill, the damage, the affected resources, the affected parties and divergent interests are all unparalleled, we have overcome every obstacle which has appeared thus far. We have secured a historic sum of money within a year of the tragedy which created the need for this assessment. The monumental assessment task continues in what will undoubtedly result in the most widespread and thorough analysis of a significantly large ecosystem ever attempted. Nevertheless, the damage done to our natural resources will begin to be addressed as soon as this year. All of this is unprecedented. The level of cooperation between the states, between the states and the federal government, and between the federal agencies involved has likewise been unprecedented. We rest assured that if the success of the process is to continue, such cooperation will not be a luxury, but a necessity. I am confident that it will continue and everything that makes this process unprecedented will create a precedent by which future cooperative efforts will be possible. Thank you.