



**Commission on
Oil Spill Response Coordination**

December 7, 2012 • 9:00am – 12:00pm Central Time
South Walton County Courthouse Annex, Santa Rosa Beach, Florida

On December 7, 2012, the 5th meeting of the Commission on Oil Spill Response Coordination was held at the South Walton County Courthouse Annex in Santa Rosa Beach, Florida.

The meeting was attended by the following Commission members (or their designated alternate noted with an asterisk):

- George Gainer, Bay County Board of County Commissioners (Chair)
- Dave Parisot, Okaloosa County Board of County Commissioners (Vice-Chair)
- Tom Beck, Florida Department of Economic Opportunity
- Donald Butler, Gulf County Board of County Commissioners
- *Chris Brooks, Florida Department of Agriculture and Consumer Services (*for Leslie Palmer*)
- Jennifer Fitzwater, Executive Office of the Governor & Florida Department of Environmental Protection
- Dr. Kendra Goff, Florida Department of Health, Division of Disease Control & Health Protection
- Bill Imfeld, Walton County Board of County Commissioners
- Russell Kent, Florida Office of the Attorney General
- Danny Kilcollins, Florida Division of Emergency Management
- Richard Knudsen, Florida Fish and Wildlife Conservation Commission
- Lane Lynchard, Santa Rosa County Board of County Commissioners
- Joseph Parrish, Franklin County Board of County Commissioners
- Grover Robinson, Escambia County Board of County Commissioners
- Tami Torres, Florida Department of Financial Services

The Commission's legal counsel, Dan Thompson of Berger Singerman, also attended the meeting.

The following members of the public attended the meeting:

- Jeremy Novak, Gulf County
- Mark Bowen, Gulf County

- Valerie Sale, Bay County
- Keith Wilkins, Escambia County
- Tim Williams, USCG
- David Bailey, Seaside Town Council
- Mike Sturdivant, Surfrider Foundation
- Bob Brooke, resident of Wakulla County
- Bill Williams, SCG Governmental Affairs
- Doug White, FL Department of Environmental Protection
- Gwen Keenan, FL Department of Environmental Protection
- Camille Tharpe, Government Services Group
- Todd Sumner, Sumner Law Offices
- Susan Forsyth, volunteer
- Steven Webster, Monroe County/Mathews-Webster Consulting
- Jacquee Markel, South Walton Community Council
- Keith Rapp, BP
- Anita Page, South Walton Community Council

In addition, staff from the Commission's contractor (Tetra Tech) in attendance included:

- Eric Dohner
- Michael Barnett
- Michael Bomar
- Barry Tanning
- Rebecca Fisher

Chairman George Gainer called the meeting to order at 9:00 am, and requested a roll call of Commission members in attendance. After the roll call, the Chairman asked the contractor's facilitator to proceed with the business items listed in the agenda.

Administrative Review

Meeting facilitator Barry Tanning of Tetra Tech asked everyone, including audience members, to introduce themselves. Mr. Tanning then briefed the Commission on several administrative and logistical items.

Mr. Tanning then welcomed Dan Thompson, legal counsel for the Commission, who had prepared a brief review for the Commission regarding Commissioners' ability to participate in meetings via conference call. Mr. Thompson stated that attending the final Commission Meeting by phone is allowable but only under specified circumstances. Generally speaking, the Attorney General has opined that it is permissible for individual members to attend meetings by phone, provided there is a quorum physically present and the member has a medical excuse or other compelling reason not to attend. Mr. Thompson continued, stating that only one Commissioner has expressed a need to call into the final meeting (due to a medical excuse). However, if the numbers grow the Commission must publicly notice the meeting as a teleconference/in-person combination.

Mr. Toning thanked Mr. Thompson for sharing his advice with the Commission. Mr. Toning then introduced the agenda for the day, beginning with a discussion of the Commission Draft Recommendations. He explained that the requirements contained in Florida Statutes, Section 496, Ch. 2012-119 state that the Commission “shall prepare a report for review and approval by the Board of Trustees of the Internal Improvement Trust Fund”. Following the Commission’s and Board of Trustees’ approval of the report, the Board of Trustees “shall deliver the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Environmental Protection, and the executive director of the Department of Economic Opportunity by January 1, 2013”. Mr. Toning stated that from the Commission’s perspective, our work will be completed once the Final Report is submitted to the Board of Trustees.

Mr. Toning then presented what the Commission must address in the Final Report to frame the group’s next discussion regarding its recommendations. The six key elements that must be in the Commission’s Final Report are:

1. Identifies potential changes to state/federal law and regulations which will improve the oversight and monitoring of offshore drilling activities and increase response capabilities to offshore oil spills.
2. Identifies potential changes to state/federal law & regulations which will improve protections for public health and safety, occupational health and safety, and the environment and natural resources.
3. Evaluates the merits of the establishment of a federal Gulf-wide disaster relief fund.
4. Evaluates the need for a unified and uniform advocacy process for damage claims.
5. Evaluates the need for changes to interstate coordination agreements in order to reduce the potential for damage claims and lawsuits.
6. Addresses any other related issues as determined by the Commission.

Commissioner Parisot requested that Tetra Tech send the Commission the revised draft of the final report by Wednesday, December 12, 2012. Mr. Toning agreed, stating that Tetra Tech would send it by close of business that day.

Mr. Thompson commented that, in the introduction of the Final Report, the Commission must address the replacement of members over the lifetime of the Commission. He stated that it was important to relate such information to the Board of Trustees and explain how such changes impacted the voting within the Commission.

Discussion and Revision of Draft Recommendations

Mr. Toning stated that the majority of the meeting today would be a review of the Commission Draft Recommendations, which were shown on a screen in the front of the room. The Commission then went through each recommendation, making changes based on discussions and comments from Commission and audience members. Appendix 1 is a list of the

initial recommendations and the corresponding revised recommendations, as well as the agency(ies) responsible for taking action on each.

Status of Reports and Closing Announcements

Following the discussion and revision of Final Report Recommendations, Mr. Tinning updated the Commission on the status of the six supporting reports prepared by Tetra Tech reports:

Report 1 – <i>Analysis of current state and federal laws addressing oil spill planning and response</i>	Finalized
Report 2 – <i>Analysis of the effectiveness of the use of the Incident Command System in the DWH incident</i>	Finalized
Report 3 – <i>A study of the National Response Framework and National Contingency Plan during a major oil spill incident</i>	Finalized
Report 4 – <i>Analysis of the adequacy of existing funding mechanisms for large oil spills</i>	Final internal review
Report 5 – <i>Analysis of other Gulf state laws and implementation related to spill planning and response</i>	Finalized
Report 6 – <i>Summary of lessons learned from the DWH incident</i>	Final internal review

Mr. Tinning then discussed the next and final meeting for the Commission, which will be held on December 17, 2012 from 9:00 a.m. to 12:00 p.m. at the South Walton County Courthouse Annex, Santa Rosa Beach, Florida.

Commissioner Gainer adjourned the meeting.

Appendix 1: Recommendations Revision Matrix

Initial Recommendation Text	<u>Revised</u> Recommendation Text	Responsible Agency(s)
<p>1. Several Florida state agencies currently monitor oil drilling and well production activities from different perspectives and have mechanisms in place to alert state and local officials if a spill occurs. Current Florida laws, regulations, and agency practices regarding offshore drilling, oversight, and monitoring appear to be adequate and do not require any changes at this time.</p>	<p>1. Several Florida state agencies currently monitor oil drilling and well production activities from different perspectives and have mechanisms in place to alert state and local officials if a spill occurs. Current Florida laws, regulations, and agency practices regarding <u>oversight and monitoring</u> of offshore drilling appear to be adequate and do not require any changes at this time.</p>	<ul style="list-style-type: none"> • Florida Fish and Wildlife Conservation Commission (FWC) • Florida Department of Environmental Protection-Office of Emergency Response (DEP-OER)
<p>2. United States Coast Guard (“USCG”) Districts 7 and 8 should be encouraged to:</p> <ol style="list-style-type: none"> a. Achieve general consistency in their general oil spill preparations as well as their Spills of National Significance (“SONS”) policies, procedures, and protocols regarding Florida oil spill contingency plans, preparedness activities (<i>e.g.</i>, drills and exercises), incident command system deployment and operation, communication methods, and requirements for data collection, activity reporting, and response activity reimbursement and other forms; and b. Convene triennial conferences on SONS planning, preparedness, and response for the Gulf Coast and Caribbean regions. 	<p>2. <u>The Commission prefers that Florida reside within a singular Coast Guard District. At a minimum,</u> United States Coast Guard (“USCG”) Districts 7 and 8 should:</p> <ol style="list-style-type: none"> a. Achieve consistency in their general oil spill preparations as well as their Spills of National Significance (“SONS”) policies, procedures, and protocols regarding Florida oil spill contingency plans, preparedness activities (<i>e.g.</i>, drills and exercises), incident command system deployment and operation, communication methods, and requirements for data collection, activity reporting, and response activity reimbursement and other forms; and b. Convene conferences on SONS planning, preparedness, and response for the Gulf Coast and Caribbean regions <u>at least every three years.</u> 	<ul style="list-style-type: none"> • USCG – Districts 7 and 8

Initial Recommendation Text	<u>Revised</u> Recommendation Text	Responsible Agency(s)
<p>3. State and local emergency preparedness and management responsibilities should require active participation by Florida agencies, counties, and elected officials in USCG Area Contingency Plan development and biennial drills and exercises.</p>	<p>3. State and local emergency preparedness and management should require active participation <u>in USCG Area Contingency Plan development and drills and exercises every two years.</u></p>	<ul style="list-style-type: none"> • DEP-OER • County Emergency Management Divisions/Offices
<p>4. Regional and Area Contingency Plans should be amended to ensure better organization, deployment, and management protocols for the Vessels of Opportunity program and relevant Oil Spill Response Organizations, emphasizing the importance of air surveillance and monitoring, preference in hiring and contracting local resources, and the value of local knowledge and experience in assessing tidal impacts and flow patterns in predicting the movement of spilled oil.</p>	<p>4. Regional and Area Contingency Plans should be amended to ensure better organization, deployment, and management protocols for the Vessels of Opportunity program and relevant Oil Spill Response Organizations, emphasizing the importance of <u>airborne</u> surveillance and monitoring, preference in hiring and contracting local resources, and the value of local knowledge and experience in assessing tidal impacts and flow patterns in predicting the movement of spilled oil.</p>	<ul style="list-style-type: none"> • USCG
<p>5. Initial state and local responses to oil spills threatening Florida’s coast line (e.g., boom acquisition and placement, assembling and training cleanup personnel) should be improved through better area contingency planning along with preparedness activities.</p>	<p>5. Initial state and local responses to oil spills threatening Florida’s coastline (e.g., boom acquisition and placement, assembling and training cleanup personnel) should be improved through better area contingency planning, <u>pre-approved contracts, preparedness activities, and support for characterizing pre-impact baseline conditions.</u></p>	<ul style="list-style-type: none"> • USCG • DEP • County Officials

Initial Recommendation Text	<u>Revised</u> Recommendation Text	Responsible Agency(s)
<p>6. USCG oil spill contingency plans, state spill plans, and other plans, should be amended to ensure support for—and participation in—coastal mapping and oil spill movement, monitoring, modeling, and spatial analysis coordinated by the Florida Fish and Wildlife Research Institute’s Center for Spatial Analysis (e.g., Geospatial Assessment Tool for Operations and Response) and the federal Environmental Response Management Application.</p>	<p>6. USCG oil spill contingency plans, state spill plans, and other plans should be amended to ensure support for—and participation in—coastal mapping and oil spill movement, monitoring, modeling, and <u>interoperable spatial data analysis (e.g., Geospatial Assessment Tool for Operations and Response, and the Environmental Response Management Application).</u></p>	<ul style="list-style-type: none"> • USCG • DEP-OER • FWC
<p>7. USCG Regional and Area Contingency Plans and any incident or unified commands established to respond to SONS affecting Florida should be amended to include:</p> <ol style="list-style-type: none"> a. Placing a USCG representative and responsible party representative in Emergency Operations Centers at each level of government when a spill approaches state waters; b. Consolidating public health and scientific research/information services at the incident command level to reduce redundancy and overlap; and c. Incorporating local branches under the Incident Command System to ensure appropriate local involvement and integration into spill response and cleanup actions. 	<p>7. USCG Regional and Area Contingency Plans and any incident or unified commands established to respond to SONS affecting Florida should be amended to include:</p> <ol style="list-style-type: none"> a. Placing a USCG representative and responsible party representative in Emergency Operations Centers at each level of government when a spill approaches state waters; b. Consolidating public health and scientific research/information services at the incident command level to reduce redundancy and overlap; c. Incorporating local branches under the Incident Command System to ensure appropriate local involvement and integration into spill response and cleanup actions; and, d. <u>Coordinating and sharing data and information.</u> 	<ul style="list-style-type: none"> • USCG

Initial Recommendation Text	<u>Revised</u> Recommendation Text	Responsible Agency(s)
<p>8. Congress should consider reviewing the Oil Pollution Act of 1990 (“OPA”) or other laws to ensure that: (a) incident command authorizations allow reimbursement for actions undertaken by state or local governments to protect their resources and restore damaged areas during SONS events if the actions are included in an Area Contingency Plan; and (b) the Oil Spill Liability Trust Fund is capable of addressing SONS where there is no financially viable responsible party for whatever reason.</p>	<p>8. Congress should <u>amend</u> the Oil Pollution Act of 1990 (“OPA”) or other laws to ensure that: (a) incident command authorizations <u>provide for</u> reimbursement for actions undertaken by state or local governments to protect their resources and restore damaged areas during SONS events if the actions are included in an Area Contingency Plan; and (b) the Oil Spill Liability Trust Fund is capable of addressing SONS where there is no financially viable responsible party for whatever reason.</p>	<ul style="list-style-type: none"> • Congress • Florida Governor’s Office
<p>9. Area Contingency Plans should improve identification, prioritization and protection of environmentally sensitive areas/habitats through the use of state or region-specific information, best available technologies, and application of sound science, engineering, and technical principles that consider water currents, tidal variations, and the effects of protective measures used in environmentally and economically sensitive areas.</p>	<p>9. Area Contingency Plans should improve identification, prioritization and protection of environmentally sensitive areas/habitats through the use of state or region-specific information, best available technologies, <u>tidal inlet protection strategies (TIPS)</u>, and application of sound science, engineering, and technical principles that consider water currents, tidal variations, and the effects of protective measures used in environmentally and economically sensitive areas.</p>	<ul style="list-style-type: none"> • USCG • FWC?
<p>10. Florida should consider providing further guidance on the use (if any) of dispersants in state waters.</p>	<p>10. Florida <u>state agencies</u> should <u>provide clear protocols and notification</u> on the use (if any) of dispersants in state waters.</p>	<ul style="list-style-type: none"> • DEP • FWC
<p>11. In the event of a SONS affecting Florida, any civil and/or criminal settlement framework should provide full compensation for restoring the impacted ecological and economic conditions within the state.</p>	<p>11. In the event of a SONS affecting Florida, any civil and/or criminal settlement framework should provide full compensation for restoring the impacted ecological and economic conditions within the state.</p>	<ul style="list-style-type: none"> • Undecided

Initial Recommendation Text	<u>Revised</u> Recommendation Text	Responsible Agency(s)
12. The voluntary early restoration program should be reviewed to determine whether it can be streamlined and ultimately become part of the Natural Resource Damage Assessment process.	12. <u>The Florida Department of Environmental Protection should review the voluntary early restoration program to determine whether it can be streamlined.</u>	<ul style="list-style-type: none"> • DEP
13. Future OPA claims processes should operate under a practical, equitable, reasonable, fair, efficient, consistent, and transparent framework that includes provisions for: (a) proper staffing and office accessibility; (b) identifying errors in processing; (c) recommending claims processing improvements; and (d) providing free legal assistance for those who cannot afford it.	13. <u>Florida should advocate that</u> future OPA claims processes operate under a practical, equitable, reasonable, timely, fair, efficient, consistent, and transparent framework that includes provisions for: (a) proper staffing and office accessibility; (b) identifying errors in processing; (c) recommending claims processing improvements; and (d) providing free legal assistance for those who cannot afford it.	<ul style="list-style-type: none"> • Florida Governor’s Office
<p>14. Florida should support the development of an oil spill mutual aid framework that incorporates emergency and environmental agencies and resources.</p> <p>15. Florida and other Gulf states should establish a common mechanism for access to multi-state resources through the Emergency Management Assistance Compact regardless of whether the incident response is handled through the National Contingency Plan process or National Response Framework process. Such a mechanism should seek to integrate state environmental agency resources into the arrangement and develop guidance for national and regional response teams, joint meeting and training materials, and integrated drills and exercises.</p>	14. Florida and other Gulf states should establish a common mechanism for access to multi-state resources through the Emergency Management Assistance Compact regardless of whether the incident response is handled through the National Contingency Plan process or National Response Framework process. Such a mechanism should seek to integrate state environmental agency resources into the arrangement and develop guidance for national and regional response teams, joint meeting and training materials, integrated drills and exercises, <u>and improvements in communication and coordination.</u>	<ul style="list-style-type: none"> • DEP-OER