



## Meeting Summary

September 12, 2012 • 9:00am – 3:00pm Central Time  
Emerald Coast Convention Center, Fort Walton Beach, Florida

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On September 12, 2012 the 2<sup>nd</sup> meeting of the Commission on Oil Spill Response Coordination was held at the Emerald Coast Convention Center in Fort Walton Beach, Florida.

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

- \*Brad Baker, Division of Emergency Management, Santa Rosa County (*for Lane Lynchard*)
- Alan Brock, Wakulla County Board of County Commissioners
- \*Tasha Carter, Florida Department of Financial Services (*for Tami Torres*)
- Jennifer Fitzwater, Executive Office of the Governor
- George Gainer, Bay County Board of County Commissioners (Chair)
- Dr. Kendra Goff, Florida Department of Health
- 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
- Leslie Palmer, Florida Department of Agriculture and Consumer Services
- Dave Parisot, Okaloosa County Board of County Commissioners
- Joseph Parrish, Franklin County Board of County Commissioners
- \*Ana Richmond, Florida Department of Economic Opportunity (*for Tom Beck*)
- Grover Robinson, Escambia County Board of County Commissioners
- Bill Williams, Gulf County Board of County Commissioners

The following members of the public attended the meeting:

- Dewey Blaylock, Gulf County Chamber of Commerce
- Mark Bowen, Bay County Chief of Emergency Services
- Susan Forsyth, Mom/Volunteer
- Stephen James, FAC
- Jay Jones, WRS Compass
- Gwen Keenan, Florida Department of Environmental Protection
- Jacquee Markel, SWCC
- Joe Preston, Walton County Emergency Management
- Valerie Sale, Bay County PIO
- Todd Sumner, Attorney, NWFMI
- Dino Villani, Okaloosa County
- Steven Webster, MW Consulting/Monroe County
- Doug White, Florida Department of Environmental Protection

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

- Melissa DeSantis
- Eric Dohner
- Michael Barnett
- Michael Bomar
- Dean Goodin
- Barry Tinning
- Tim Vanderwalker

## **Administrative Items**

After introductions and a review of the agenda by facilitator Barry Tinning of Tetra Tech, the Commission members discussed various administrative items.

### *Appointment of a Vice Chair*

The Commission agreed that a Vice Chair was needed. Grover Robinson, Escambia County, recommended Commissioner Dave Parisot from Okaloosa County as Vice Chair. Commissioner Bill Imfeld, Walton County, seconded the nomination and all members agreed to the selection of Mr. Parisot as Vice Chair.

### *Quorum for Voting*

All members of the Commission agreed that a quorum for any voting actions is required and defined the quorum as a total of 9 members of the Commission, including at least 5 of the 8 counties on the Commission. All members agreed by consensus to this definition of a quorum for voting purposes.

### *Proxies and Alternates*

Before deciding on whether the Commission should allow proxy voting, the Commission discussed the difference between a proxy and an alternate. Proxy voting is a form of voting whereby some members may delegate their voting power to other members of the same body to vote in their absence. An alternate would be able to vote on behalf of their own county or agency in lieu of the Commission member voting. Jennifer Fitzwater, Executive Office of the Governor, suggested that the Commission wait to make a decision on this issue until after DEP secures outside legal counsel to provide advice on this and other topics. Tetra Tech will inform the Commission via email of the legal advice received by DEP once that information is provided.

It was noted that no matter whether or not alternates are allowed to vote, Tetra Tech should alert the Commission ahead of time via email about any meetings at which votes will be taken. Commission members should be reminded of the need for a quorum as defined by the Commission for any voting actions so that they realize the importance of attending meetings in which voting will take place.

### *Sunshine Law As It Relates to the Activities of the Commission Members Outside the Meetings*

Under the Sunshine Law, Commission members are not allowed to discuss any business that will come before the Commission when attending other meetings or events in which other Commission members are present. Commission members are allowed to notify other Commission members of reports or other meetings; however, no members should be discussing any business that will come before the Commission outside of the publically noticed Commission meetings.

### *Discussion of Potential Presentation By a U.S. Coast Guard Representative at a Future Meeting*

The Commission agreed that they would like to hear from the Coast Guard on their perspective of lessons learned and improvements needed in oil spill response. They are also particularly interested in what the Coast Guard is doing in

preparation for oil drilling off the coast of Cuba, and how the Coast Guard's planning could potentially impact Florida should a problem occur. Tetra Tech will coordinate with the Coast Guard to secure the highest commander available to provide a presentation at one of the October meetings so that the person presenting can easily, and with authority, answer the questions that the Commission has for the Coast Guard.

#### *Public Affairs Officer*

Jennifer Fitzwater confirmed that Kendra Parson, Florida DEP, will continue to serve as the Public Affairs Officer for the Commission.

#### *Meeting Summary from Previous Meeting (August 22, 2012)*

The Commission reviewed the meeting summary provided by Tetra Tech from the August meeting. The Commission asked that Tetra Tech highlight where and how changes were incorporated into the meeting summary in response to comments provided to Amber Siegel of Tetra Tech by various Commission members on the draft version. Tetra Tech agreed to implement that suggestion for the August summary and for future meeting summaries. Tetra Tech will include action items and page numbers in the subsequent summaries, where applicable. Tetra Tech will also note support from the Commission regarding the National Association of Counties recommendations and resolution on oil spill response, as discussed at the August 22 meeting.

Chairman Gainer noted that he preferred to wait on approval of the meeting summary until after Tetra Tech adds the attachment and shows where comments were incorporated to make sure that there are no other changes.

### **Discussion of Draft Recommendations**

#### *Planning and Operations Issues*

Michael Bomar of Tetra Tech began the discussion by noting that the recommendations provided to the Commission are DRAFT and for discussion purposes only. He added that the input provided by the Commission and input received through Tetra Tech interviews will help to further refine these recommendations as the process moves along.

#### Additional Pre-Event Requirements for ACPs

The Commission began discussion of the draft recommendations that Mr. Bomar had listed relating to pre-event provisions for ACP development, approval and execution. Mr. Bomar explained that the Commission focused initially on how the ACP is used to address oils spills and hazardous clean-up activities.

One Commission member asked for a definition of regional contingency plans (RCPs). Richard Knudsen of the Florida Fish and Wildlife Conservation Commission responded by saying that RCPs are based on federally designated regions. The purview of this Commission is within Region 4 which covers Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina and the non-coastal states of Tennessee and Kentucky. He added that federal Region 6 covers the Gulf of Mexico and the rest of the states in that area.

Commissioner Bill Williams suggested that the Commission recommend the development of a training module that explains the ACP, NCP, and RCP processes. He explained that some county commissioners and local officials, especially those newly elected, are not aware of the ACP, NCP and RCP process.

The Commission agreed that each Gulf Coast county needs to review and accept the ACP.

Gwen Keenan, FL DEP, noted that Doug White, also with DEP, is on the Regional Response Team (RRT) and can serve as a valuable asset to the Commission. RRT IV is for Federal Region Four and RRT VI is for Federal Region Six.

One member of the public mentioned that all counties have a CCMP and suggested that it would be easier for each county to review and approve the ACP if it was wrapped into the CCMP that they already have to review. Commissioner

Williams agreed that having changes to the ACP built into other planning approval processes is a good idea to help keep the ACP on people's radar.

Chairman Gainer suggested that each County adopt a resolution to give them the authority to get moving quickly during a large oil spill.

#### Prioritization of Environmentally Sensitive Areas

The Commission then discussed who the responsible agencies are for determining what is considered an environmentally sensitive area when it comes to oil spill response. [He noted that Tetra Tech should list Offices of Primary Responsibility (OPRs) for all the recommendations so it is clear to whom the Commission needs to direct its recommendations.]

The Commission generally agreed that the counties need to have greater involvement in the USCG meetings and mapping workshops that are carried out to discuss environmentally sensitive areas. Commissioner Williams voiced the need for modeling assistance to predict results in "what-if" scenarios. There was a suggestion to look at what worked in terms of modeling from the BP money. Another suggestion was to look to the academic community for modeling assistance and Richard Knudsen strongly agreed with this. Commissioner Knudsen then described an exercise carried out recently in South Florida to evaluate a Tidal Inlet Protection Strategy developed for Bear Cut in Miami. This exercise was a full equipment deployment event to evaluate the effectiveness of the planned booming strategy. This was part of USCG District Seven's planning efforts.

#### Changes to Federal Law

The Commission discussed the implications of make recommendations for changes to federal laws. Russell Kent suggested that without developing proposed language for making the changes that are needed, that the Commission won't see those changes made.

Several Commission members said that because the heart of the problem during the DWH incident were the federal laws governing oil spill response, the Commission should suggest improvements to federal law. Mr. Williams added that although no one in the room could achieve these changes to federal law that the Commission is recommending, there are other individuals out there who can. It was noted by Gwen Keenan that it might not be necessary to change the federal laws, but rather to change how the laws are implemented during a response.

#### Local ACP Meetings

Ms. Keenan and others feel that some of these recommendations don't require changes to federal law, but rather changes in how the federal law is implemented. She noted that the ACP is a good example. Although an inclusive group develops the ACP, there have not been a lot of attendees at the ACP meetings from the fishing community. She stressed the importance of getting county commissioners to engage the community in the ACP development process at the beginning. She also noted that the encouragement must also come from DEP at the state level.

Commissioner Gainer noted that resources need to be prioritized during a spill. For example, if it seems that the oil spill will not affect Escambia, then the resources need to go to another county. He stressed that the Commission's recommendations need to be clear and improve the process of distributing resources so that future generations are not hampered in their efforts to move quickly if another oil spill occurs. There should be a representative from each county at the ACP meetings to discuss these issues.

There is no provision in OPA 90 for any money to be set aside for local ACP development, meetings, etc. One Commission member suggested that funding be set up for local commissions to set up volunteer committees to bring ideas to regional planning councils and others. There are a lot of things on the ACP that can be controlled if our needs are stated the right way.

## Responsibilities and Assignments Related to Spills of National Significance (SONS)

Michael Bomar explained the draft recommendations related to SONS and noted that changes to the responsibilities and assignments that exist today under SONS would require both changes in the law and changes in how the law is implemented.

The Commission was unclear as to how the Coast Guard performs SONS drills. Commissioner Knudsen explained that Coast Guard drills are called Preparation for Response Exercise (PREP) drills and that they are done regularly in each sector. Regulated facilities (companies) must have these drills every few years. Some drills are funded by government; some by industry. The drills involve the state and are similar to hurricane exercises. He also stated that the Coast Guard has policies in place that dictate what will be done when SONS occurs. These policies were recently updated as a result of DWH. The Commandant Instruction 16465.6 of May 23, 2012 can be found here: [www.uscg.mil/directives/ci/16000-16999/CI\\_16465\\_6.pdf](http://www.uscg.mil/directives/ci/16000-16999/CI_16465_6.pdf).

Ms. Keenan suggested that area committees take control of pre-designated vessels of opportunity (VOO) fleets. She noted that the VOO program on the west coast is set up and well organized. Currently VOO are controlled by the responsible party (BP). The VOO program should not be controlled by the responsible party.

Overall the Commission agreed that the current structure of OPA, and how it is implemented, allowed too much control by the responsible party. In addition, the structure for distribution of resources needs to be already in place prior to an event so that localities are not sitting and waiting for people to write checks to get things done on the ground.

## Collaboration with Other Florida Counties along the Gulf

Commissioner Williams suggested that the Commission reach out to the other counties such as Monroe and Pinellas to include them, or at least inform them, of what the Commission is doing since the Commission is suggesting changes to federal and state law that will affect them. He suggested that Tetra Tech, on behalf of the Commission, give a briefing on what the Commission is doing at the RESTORE Act meeting on September 19<sup>th</sup>. Other counties need to be particularly involved in any discussions related to distribution of funding. Commissioner Knudsen offered to notify his contacts (county managers) in the area committees about the scope, services, and documents that the Commission is working on.

The suggestion of participating in the RESTORE Act meeting brought forth a discussion of Sunshine Law limitations on who can present and what can be said at the meeting. There was discussion about double noticing the RESTORE Act meeting a Commission meeting also so that the public could be informed that the Commission could be involved in that meeting. The group agreed to decide the issue once legal counsel from DEP has weighed in.

## *Command & Control*

Michael Barnett of Tetra Tech led the discussion of the Coast Guard's National Response Framework and National Contingency Plan. The Commission agreed that a discussion about Command and Control organization and functions requires a Coast Guard representative to further shed light on the topic.

Ms. Keenan noted that the Commission should extend an invitation to Rear Admiral (RADM) Nash of District 8, in addition to Captain Slaughter or RADM Baumgartner for the October 3 meeting. District 8 oversees the entire panhandle and RADM Nash was Admiral Allen's second in command. He would be very knowledgeable about the policy issues.

Mr. Barnett suggested changing the language in the ACP where it says "may" include participation of counties, to instead say "shall" include input from counties.

Chairman Gainer stated that Incident Command should have authority to delegate to counties to what they need to do, before a responsible party is determined. Commissioner Williams added that the Commission should look at each area

of the ICS flow chart and see who the Coast Guard is working with in each of these areas. Ms. Keenan explained that the mini Incident Commands at each of the bays' branches worked very well to keep the response moving forward. The IC overall served as a resource only. The problem with the current NCP is that it doesn't consider the option of drilling down to the level required for an incident of the magnitude of DWH. What happened in Unified Command initially was that area command in New Orleans wanted some of the operational elements of the response, while Mobile and Houma also wanted involvement. It wasn't until the commands were broken down into the branches that it became successful.

Commissioner Williams suggested that the Commission recommend that the Coast Guard immediately set up miniature Incident Commands that are locally controlled. He also suggested that the state parallel the existing framework the Coast Guard has.

Ms. Keenan explained the structure and function of the state EOC, which is managed by different entities as determined by the nature of the event. For DWH, management of the EOC was assigned to DEP. The approach is designed to be both event-specific and adaptive, and generally works well. During DWH, the lack of pre-approved response contracts and a management structure that depended on seeking constant approval from Incident command – rather than the usual state/local EOC arrangement – hampered responsiveness.

Commissioner Williams also highlighted the role of Mike Sole, former Secretary of Florida DEP, during the DWH incident. Mr. Sole handled all the communication very well and if he had not done what he did, there would have been little effective communication.

Ms. Keenan added that Admiral Baumgartner has had DEP at the table for every Coast Guard meeting for the Cuba oil drilling. They realize that they need to get DEP involved before there's an incident.

Barry Toning asked the Commission if the ACP is fixed, would that also fix the IC problems. Ms. Keenan explained that the two are very different. The IC also had to review policy papers, run the VOOs, etc. There needs to be separation of policy issues and operations issues. With an oil spill of large magnitude policy and operations activities can't be consolidated too much.

The Commission also discussed the difference in operations in IC Houma and IC Mobile. IC Houma had only one governor to coordinate with, whereas IC Mobile had 3 governors with which to coordinate. This caused a problem. Commissioner Williams suggested that there be only one state per command center to make it easier to operate the system. Ms. Keenan followed up by saying that individual command structures at the state level are needed, no matter the command structure.

Chairman Gainer stressed the need to not only point out the problems encountered when conducting our research and writing the recommendations report, but to also highlight things that worked well.

#### *Resource & Logistic Issues*

Michael Bomar briefly reviewed the draft recommendations that fall in the category of Resource and Logistics Issues.

#### Data Needs

The Commission brought forth the following suggestions related to data needs and data sharing:

- Having a unified Gulf coast web mapping application compatible across all five Gulf coast states to track data reports (e.g., the Geospatial Assessment Tool for Operations and Response – GATOR) is going to take a lot of information sharing. For example, the state has air assets they were using to track the spill, but the counties did not know when they were flying and what data they had collected during DWH, so some of them ended up using their own air assets to collect data. These kinds of things need to be coordinated better to facilitate information sharing and reduce duplication of efforts.

- Need to develop a compatible, nonproprietary technology ahead of time so that there's a common playing field to use as an official common operational platform. NOAA's Environmental Response Management Application (ERMA) was a great tool, but it not accessible to everyone because it requires a login and password. Also, there is no modeling capability in ERMA, although it can display shape files exported from GNOME (General NOAA Operational Modeling Environment) which is NOAA's modeling tool for predicting spill trajectories. An example of what can be displayed are the 12, 24, 48, and 72 hour spill trajectory forecasts.
- Need to be able to put drones in the air to conduct monitoring and mapping for data collection, but also to direct vessels to respond to certain areas.
- VOO is a very good program since it allows Floridians to continue working in Florida waters, but it should not be run by the responsible party.
- Perhaps need to pre-certify VOOs with local addresses so they can get moving first.
- Need to improve partnerships and communications with the private sector (e.g., SWS).
- Partner with academia (e.g., Florida State University, Florida Institute of Technology, University of Florida and the University of Miami) to gain state access to the best pilots and air tools such as drones. Many already have great air assets (skills, tool, and equipment) and were even paid by BP to conduct some research/monitoring.
- Perhaps require that responsible parties hire or give grants to gulf coast universities instead of universities around the country, since gulf coast universities know the most about the gulf and since they are the most affected.
- Prevent the responsible party from withholding the findings of university-collected data.
- Need to devise a way to get a better understanding of who is conducting what research or monitoring efforts and who can provide certain services. Perhaps a single website listing the long-term health and environmental studies should be developed. The following efforts were mentioned in the discussion:
  - Daily or weekly DNA shoreside testing of oil that appears long after a spill
  - University of Maryland study on the long-term health impacts on BP clean-up staff for 5 years.
    - 130,000 people received Hazardous Waste Operations and Emergency Response (HAZWOPER) training for DWH.
    - About 80,000 people were contacted.
    - Approximately 85% of the people contacted have been tested and are being monitored.
  - All BP-collected health data
  - Louisiana State University has a study called WATCH (Women and Their Children's Health) where they are studying women and their children to monitor health at health clinics as part of the settlement.
- Need for some drilling activity information at the local level. Not the level of detail that DEP is interested, but enough to help plan for future disaster scenarios.
- Need for modeling of trigger point to tell us when we need to look harder at oil rig plans (NOAA already does this kind of thing). This is related to the Trajectory Analysis Planner (TAP) model that NOAA produced for the USCG in response to Cuba drilling. Richard Knudsen's recommendation is to have a TAP model produced for the Gulf of Mexico for investigations into BOEM/BSEE/Industry activities that could potentially impact Florida shorelines.
- Need for a closer look at the oil production and exploration plans than what was given in the past. Need to ensure that spill contingency plans are more tailored and robust.

## Financial Needs

A discussion of financial resource needs brought to light the following recommendations or concerns:

- The state Coastal Protection Trust Fund, which is a per-barrel tax on any pollutant brought into the state, is an active fund but the unspent portion of the fund gets raided every year for other agency priority needs instead of being used for spill response planning.
- The federal Oil Spill Liability Trust Fund comes from industry taxes and covers costs if there is no Responsible Party for a spill or if the Responsible Party meets their limit. However, there is no provision for any money to be spent on anything like contingency planning work. It is only for response.
- Putting funds through the RESTORE Act could provide a more sustainable income. This might be a better source of funding rather than from industry.

## **Action Items**

- Jennifer Fitzwater will inform Tetra Tech when she has secured DEP's legal counsel so that some decisions about how to proceed under Sunshine Law can be made.
- Tetra Tech will work to refine the recommendations into more specific language and add responsible agencies for each of the recommendations on the list.
- Tetra Tech will request a presentation by the Coast Guard at one or more of the October meetings.
- Tetra Tech will highlight changes made to the meeting summaries when comments are received on the summaries from the Commission members.