

Chairmen, members of the Commission, thank you for the opportunity to be here today.

The Deepwater Horizon Oil spills brought attention to one of the greatest and most complex environmental, cultural and economic challenges facing our country.

Since the 1930s, coastal Louisiana has lost over 2300 square miles. To put this in perspective, it is like having the entire state of Rhode Island or Delaware removed from the map. Perhaps a little closer to home, it is like eliminating the District of Columbia – 37 times over.

Many may view the challenges that we are facing as a parochial, state, or regional problem with only local repercussions. This impression is flawed. The resources associated with coastal Louisiana have implications in all 50 states and every taxpayer is affected by our ability to develop a resilient coastal landscape and sustainable ecosystem.

Proof lies in experiences that have occurred in the last five years.

First, the U.S. Fish and Wildlife Service determined that coastal Louisiana's ecosystem is the most productive ecosystem in North America. In fact, 70 percent of the commercial seafood harvested in the Gulf of Mexico is from Louisiana's offshore and up to 98 percent of the commercial seafood harvested in the Gulf of Mexico is dependent upon Louisiana's unique estuary. This area produces up to one-third of the wild seafood harvest in the continental United States and is the top source of shrimp, blue crabs, crawfish and oysters in the nation.

Impacts observed following Hurricane Katrina indicated that much of the void in Louisiana fishing fleet was filled by foreign imports. This included filling the void of the most consumed seafood in the country, shrimp, with an influx of foreign, farmed seafood.

Louisiana is also the top producer of domestic energy and one of the nation's top import points for foreign oil and gas. The energy infrastructure in Louisiana's coastal area represents one of the highest concentrations of energy infrastructure in the world. Indicating the national importance and energy security implications of our state's energy production, gasoline prices spiked nearly 75 cents a gallon following Hurricanes Katrina and Rita in 2005 and prices surged over \$1/gallon following the Hurricanes Gustav and Ike in 2008. This represents the largest price spike since the Arab oil embargo. Every consumer in the nation paid the price for the vulnerability of coastal Louisiana.

Today, Americans are paying a different price for Louisiana's energy dominance. The offshore energy moratorium is causing increased reliance upon foreign energy and the transfer of jobs and economic activity to foreign energy sources – including Nigeria and Venezuela – and other nation's that do not share America's values.

Coastal Louisiana is also home to five of the nation's top 15 ports. We have the largest tonnage port in the hemisphere and one of the world's largest port cargo complexes in the world (between Baton Rouge and New Orleans). Today, the Mississippi River system, through our ports, provides maritime commerce to over 30 states and is responsible for approximately 19 percent of the water borne commerce in the United States.

Following Hurricane Katrina, the river system was shutdown and products were unable to access markets. This included an estimated 75 percent of the grain produced by the mid-western farmers.

Again, every consumer in the nation experienced the financial pain of not making more proactive investments in coastal Louisiana.

Finally, the reactions to the 2005 hurricanes included the appropriation of response and recovery funds and programs totaling \$150 billion. Virtually every penny was financed by deficit spending. Not only did taxpayers in 2005 foot this bill, but generations to come will help to finance these reactions.

We estimate that a proactive investment of \$8-10 billion in previously-approved projects before Hurricane Katrina could have saved over 1000 lives and in excess of \$100 billion for American taxpayers.

History and federal law are clear, the federal government will pay exponentially more reacting to a storm (Stafford Act) than could be proactively invested to improve the resiliency of the ecosystem and coastal communities.

The problems on Louisiana's coast date back 80 years to the construction of levees on the lower Mississippi River system through the Mississippi River and Tributaries program. While this civil works project was incredibly successful at preventing river flooding and ensuring the deep-draft navigation of the Mississippi River, it has caused one of our nation's worst environmental disasters – the loss of over 2300 square miles of coastal wetlands. In recent years, the loss has averaged up to 70 or 80 square miles of wetland per year. Keep in mind that during this same time, the United States has had a “no net loss of wetland policy” and requires permits for impacting as little as one-tenth an acre of wetland. Meanwhile, the same agency that is responsible for managing the wetland regulatory program is responsible for the majority of this wetlands loss. The U.S. Army Corps of Engineers has not issued a single permit for this loss and has not mitigated any impacts from their continuing actions. This must be addressed.

This encroachment of the Gulf of Mexico upon our coastal communities has increased the vulnerability of our citizens. Hurricane Katrina was evidence of this fact. Today, billions of dollars are being invested in repairs and revisions to the Greater New Orleans area hurricane protection system to provide a 100-year level of protection. Prior to the 2005 hurricane, we were constructing a 1960's-1970's-era protection system that was to provide a 300-year level of protection. In other words, the encroachment of the Gulf of Mexico has resulted in higher levees that actually provide a lower standard of hurricane protection. The coastal wetlands are our natural buffer to storm surge. Their loss not only reduces the ecosystem services, but exacerbates the impact of hurricanes in south Louisiana.

Since Hurricane Katrina, the State of Louisiana has applied many painful lessons learned in our coastal area. We have made fundamental changes in our organizational structure, made record investments in our coastal restoration, resiliency and sustainability efforts and eliminated regulatory and other policy conflicts that prevented, complicated or delayed projects. However, many critical policy and regulatory conflicts continue to exist at the federal level. In addition, coastal Louisiana appears to be a lower

federal budget priority than other less nationally significant ecosystems. We believe that this is a key area where the commission's perspective could yield important progress.

Other large-scale ecosystem restoration efforts such as the Everglades, Chesapeake Bay and Great Lakes have benefited from the federal investment of hundreds of millions of dollars to over \$1 billion annually in recent years. While we commend President Obama for recently requesting the first increment of construction funds for coastal restoration in Louisiana, the federal budget associated with the restoration of our ecosystem peaked with this FY2011 request of \$36 million. \$19 million of this amount is requested for construction.

At this same time, over \$165 billion has been derived from offshore energy production seaward of Louisiana's coast for the U.S. Treasury. For energy production on federal lands, states share in 50 percent of the revenue. An additional 40 percent is deposited into the Reclamation Fund for water-related projects in those same states. In effect, 90 percent of the funds generated from energy production on federal lands are returned to those states that host such production. For the \$165 billion produced for the federal treasury off of our coast, we have received virtually nothing. The disparity is indefensible. Further adding insult is the fact that our neighbor state of Texas retains full energy revenues for energy production up to approximately nine miles seaward of their coast while Louisiana retains energy revenues for only one-third this distance – or approximately three miles seaward of our coast. It is noteworthy that Louisiana's Constitution requires that any funds provided to the state from offshore energy production must be reinvested in coastal and ecosystem resiliency efforts. Our citizens have made their commitment to their coast evident.

A dedicated, sustainable funding stream comprised of oil spill remediation and energy revenue sharing should be committed to the Gulf Coast.

These unsustainable federal policies that result in the increased expenditure of federal funds, increased cost to taxpayers and increased economic uncertainty must stop. We have been studying coastal Louisiana's ecosystem for nearly five decades – without action. The current federal water resources project process takes 40-years from conception to completion. During this same period, we would lose miles and miles of wetlands – making the solutions studied decades earlier irrelevant to the ever-changing coastal environment. A fundamentally new process that is capable of responding to the dynamic and urgent situation facing coastal Louisiana is needed.

The State of Louisiana developed a coastal revitalization plan in July to address the Deepwater Horizon spills and the historic coastal losses.

This plan includes the following funding recommendations:

- 1) The dedication of Natural Resources Damage Assessment (NRDA) remediation efforts to fisheries and coastal restoration efforts. This would include a substantial and immediate down payment on NRDA liability. Should the responsible parties refuse to participate in an early settlement, I would urge that Congress act to compel the parties to provide a down payment on

NRDA. This early restoration payment should be allocated among the states based upon need and preliminary data related to oil spill impacts.

- 2) The dedication of appropriately-apportioned Clean Water Act fines to coastal and ecosystem restoration efforts in Louisiana. Once again, we would urge that a substantial down payment be made against this total liability -- currently estimated to be between \$5 and \$22 billion. It is critical that the Department of Justice and the Environmental Protection Agency seek full compliance with civil penalties provided under the Clean Water Act for this unique incident. The State of Louisiana, which has taken a Clean Water Act enforcement action against the responsible parties, should be a full partner with the federal agencies in the negotiation of a settlement offer with the responsible parties.
- 3) Expanding and expediting Gulf of Mexico Energy Security Act revenue sharing to begin immediately rather than beginning to share energy revenues with the Gulf States in 2017 will provide a long-term, sustainable funding stream dedicated to our coastal efforts.
- 4) Committing the \$250 million in New Orleans area hurricane protection system mitigation funds toward large-scale restoration efforts will allow for up to two large-scale restoration efforts to be implemented in the near-term.
- 5) A substantial, multi-agency budget request for coastal restoration in Louisiana in the President's FY2012 budget request will bring the full expertise of the federal government to the table. Agencies like the U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency have largely been sidelined while the Corps of Engineers has led federal efforts in coastal Louisiana.

While the funding stream is critical, the current dysfunctional federal water resources project development and implementation process is equally as challenging. Without changes, oil spill remediation dollars could remain escrowed as federal policy obstacles prevent critical action.

Alternative project implementation venues such as the federal multi-agency Coastal Wetlands Planning Protection and Restoration Act (Breau Act) process takes four to eight years to take a water resources project from conception to completion. The Coastal Impact Assistance Program has shown another alternative process whereby projects have moved to construction as quickly as two-three years. State-led efforts have shown even greater efficiency.

The bottom line is that a fundamentally new project development and implementation structure is needed. The state recommends a structure that would expand the existing Breaux Act program while allowing greater participation by the state and designating a new rotating task force federal co-chair consisting of high-level representatives from the U.S. Fish and Wildlife Service, NOAA and the Environmental Protection Agency. The State of Louisiana should co-chair the task force. Importantly, we request that alternative National Environmental Policy Act (NEPA) arrangements be granted that would allow the federal-state task force to quickly move forward on restoration and recovery efforts. These alternative NEPA arrangements would primarily apply to projects that are designed to restore or enhance the ecosystem. Expediting this process would result in a net benefit to the environment.

In the interim, the Commission should consider the establishment of an arbitration board that would work to resolve disputes between the State of Louisiana and the Corps of Engineers. An estimated 20 “statutory accountability” issues are stopping progress. A similar process was created for Federal Emergency Management Act claims related to Hurricane Katrina. In that case, the board was able to break the logjam on policy and other conflicts that stymied recovery efforts.

Last, the State of Louisiana has been intimately involved in the Natural Resources Damage Assessment (NRDA) trustee council established for the Deepwater Horizon incident. The council participants representing five states and two federal agencies have been working very hard to progress early restoration actions; however, it is difficult to see how the authors of the Oil Pollution Act framework could have contemplated a spill where five states were affected. To date, the 60-70 trustee representatives have been unable to reach consensus on an offer to proffer to the responsible parties for a NRDA down payment. In the case of Louisiana, this spill placed an additional burden on an already-stressed ecosystem. We must begin remedial actions now.

As this consensus remains elusive, our coastal resources continue to be impacted. The state proposed a solution whereby each trustee would have one, high-level, empowered representative assigned to a trustee management council. The Environmental Protection Agency and the U.S. Department of Justice would also join the management council – thereby providing a holistic picture of two primary funding streams – Clean Water Act fines and NRDA liability. The state also suggested that considerations be given to a change in the law that would require a preliminary Clean Water Act and NRDA assessment be performed by the National Academies in conjunction with the states. The preliminary assessment would yield: a) an estimate of total NRDA liabilities b) an assessment of Clean Water Act liabilities and c) a preliminary apportionment of impacts among the gulf states. The responsible parties would then be legally-compelled or incentivized to make a down payment on their NRDA and Clean Water Act liabilities.

The state of Louisiana has an estimated \$9billion in congressionally approved projects for coastal sustainability or ecosystem restoration. The State is prepared to immediately progress these projects as remediation efforts to the Deepwater Horizon spills.

Chairmen, members of the Commission, thank you for the opportunity to share the state’s perspective. We appreciate your recognition of the importance of this component of the oil spill recovery. Your

mission is critical not just to the restoration and recovery of the Gulf Coast, but to ensuring a functional response and recovery to future spills in communities around the nation.

We stand ready to address any questions or requests for information that you may have.