

**ALABAMA GULF COAST RECOVERY COUNCIL
5 RIVERS DELTA THEATER
SPANISH FORT, ALABAMA**

AUGUST 4, 2014 - 3:00 P.M. CENTRAL TIME

A meeting of the Alabama Gulf Coast Recovery Council was held at the time specified above at 5 Rivers Delta Theater, Spanish Fort, Alabama.

Director James K. Lyons, Vice-Chairperson of the Council, presided over the meeting.

PRESENT:

Director James K. Lyons, Vice-Chairperson
Franklin Johnson, representing Governor Robert Bentley, Chairperson
Commissioner Charles "Skip" Gruber, Baldwin County Commission Chairman
Commissioner Connie Hudson, Mobile County Commission President
Mayor Jeff Collier, Town of Dauphin Island
Mayor Sandy Stimpson, City of Mobile
Mayor Tim Kant, City of Fairhope
Mayor Robert Craft, City of Gulf Shores

ABSENT:

Governor Robert Bentley, Chairperson
Mayor Tony Kennon, City of Orange Beach
Mayor Brett Dungan, City of Bayou La Batre

COMMENTS:

Director Lyons (Council Vice-Chairperson):

I'd like to welcome you to the Alabama Gulf Coast Recovery Council meeting. It's been a long time since we met – I was counting up a little while ago, and it's been about 10 months. The essential reason we're having this meeting – we don't have anything earth-shattering – still don't have any money, still don't have any rules, but we'll talk a little bit about that, and where we are, and try to give you an update as to where we are is really the principal reason why we're having this meeting. We will have time for public comment after we get through our agenda, we'll have a microphone here, we're trying to take accurate minutes, so if you would please speak into the microphone only and speak as clearly as you can, especially with your name, so we'll trying to get your names straight.

First thing I'd like to do is just allow the Council members that are here - we've got 8 out of the 10 members here – just go through for those of you who don't know them, just introduce themselves.

Charles Gruber: Baldwin County Commission Chairman
Connie Hudson: President of the Mobile County Commission
Tim Kant: Mayor of Fairhope
Jimmy Lyons: Port Authority
Franklin Johnson: Deputy Legal Advisor to the Governor
Jeff Collier: Mayor of Dauphin Island
Robert Craft: Mayor of Gulf Shores
Sandy Stimpson: Mayor of Mobile

Director Lyons:

Just by way of brief introduction, Gov. Bentley sends his regards, obviously he's got a big state to run, and he really cares a great deal about what's going on with this Council. That's why he's sent Franklin Johnson, who will be our liaison with the Governor's office. He's deputy legal advisor and has worked for the Governor several years now. He will be our principal liaison with the Governor's office taking the place of David Perry who has left to return to the private sector.

We had a work session today earlier. It was a productive session. Main purpose of that session was to bring us up to date as to what has transpired – things are transpiring on a lot of fronts. Still a lot of things yet to happen before we can start seeing any money flowing or anything like that, but we'll try to get you up to date on that as we go through here. First thing we'd like to talk about is the overview of the U.S. Department of Treasury - their oversight authority – any of you who have read the Act understand the Department of the Treasury is writing the rules and through the Office of Inspector General will be watching over the activities of not only the Alabama Council, but the Federal Council as well as the other states, to ensure compliance, and we'll be introducing some of their representatives just a little bit later. First of all, I'd like to get Patti Powell to come up and give us an update on their role.

AGENDA ITEM #1: APPROVAL OF OCTOBER 3, 2013 MINUTES

Oh, we didn't approve the minutes yet. We have previously distributed the minutes from the October meeting. I'd like to have a motion to approve those minutes, or if there are any additions or corrections, please let me know. I have a motion for approval from Mayor Stimpson and a second by Mayor Craft. All in favor: Aye. OK, minutes are approved. All yours, Patti.

AGENDA ITEM #2: UPDATE FROM COUNCIL WORK SESSION

- a. **Overview of U.S. Department of Treasury oversight authority pursuant to the Act and Draft regulations**
- b. **Introductory meeting with U.S. Treasury OIG representatives**
- c. **Treasury Regulations**

Patti Powell:

Thanks, Jimmy. We are very lucky to have a couple of representatives from the US Treasury Department here today. I'm going to give you a little bit of an overview and make a few comments, and then we'll hear directly from them. The Council had a meeting with the Office of Inspector General, U.S. Department of Treasury today. As Jimmy said, U.S. Treasury specifically, under Section 1608 of the RESTORE Act is given authority for compliance and oversight of the RESTORE Act requirements, and they have been making visits, not only with the Federal Council but with each state and talking through a little bit more about their requirements and their roles and responsibilities, their authority pursuant to the Act, and as you know, each state is a little different. For Alabama, the Direct Component, and the Spill Impact Component, and as well as the Center of Excellence component, will be implemented by this Council. Varies state to state – in Mississippi, it's DEQ, it just varies a little state to state. But Treasury has been out visiting with each of the states and explaining their requirements, and I just want to say we so much appreciate the in-state visit. We talk a lot with all the federal agencies about how important it is to come to the Gulf, see the Gulf, understand the Gulf, get to know the people in the Gulf. And we very much appreciate the reaction to that request and the personal visit. It really was an introductory visit, to introduce everybody to each other and just run through basically that that Department will be overseeing compliance with the Act requirements. The Treasury folks here today with the Office of Inspector General are with the audit and inspecting branch. They are not the group that drafts the regulations, so do not look succinctly to the folks here today to speak to those regulations as they will be overseeing compliance. On the Treasury regulations, we understand the final regulations will be released as soon as possible, and I know that many of you may smile a little bit because that's been the

word for a quite a while, but I really do believe we are on the edge of seeing those come out. We are not privy to any information from Treasury specifically as to a date, other than they do feel it will be this fiscal year and hopefully fairly soon. We are looking forward to that and helping that inform this Council on further action. I would also note in speaking about Treasury that that body is the entity that will be approving the Multiyear Implementation Plans that are submitted under the Direct Component of the RESTORE Act, as well as the Center of Excellence grants, that will be administered through them. So, again, just wanted to state that as an overview that is their role, and we are in communication with them, and we appreciate that interaction, and we will be following the requirements of the regs if they are issued. I think now would be a good time, Anna and Shawn, to come up and introduce yourselves and explain better than I have the distinction of the different Treasury divisions. Thanks, y'all.

Anna Sansiveri:

Thank you. As she said, my name is Anna Sansiveri. I'm a program support specialist for the Treasury's Office of Inspector General, Office of Investigations. I'm here today with the assistant special agent in charge, Mr. Sean McDowell, who is losing his voice, so I'm going to speak real quick for him. I do want to put out their first and foremost too, this is particularly a topic near and dear to my heart. I've grown up on the Gulf Coast in Florida, though, so don't hold it against me. I just wanted to give everyone an update on what our office is doing. When the funds are released and the regulations do get approved, which unfortunately, I don't have any better dates than they gave you guys this morning. Our office is responsible for investigating the fraud, waste and abuse within the Gulf Coast Restoration Trust Fund, so our main concerns right now are that, as things start to get rolling, we may see some integrity risks – probably misuse of funds in certain places, failure for your contractors to deliver what you've agreed to, even favoritism in wording contracts. In order to kind of get it out to the public before we all get rolling, we have an 800 number that I'd like everyone to take down. Feel free to call if you suspect there is some fraud going on with these funds. It's 1-855-584-4853 which is 1-855-584-GULF. So, please get in touch with us if you think you have any problems as far as that's concerned, then we'll make sure to come out here and investigate. Thank you.

Sean McDowell:

I just wanted to add one part to that. Within the Office of Inspector General, we have an audit section, and we have an investigative law enforcement side of the house, so if you're getting inquiries coming to you from law enforcement, that would come to us. Here looking at how the program is run and how things work, that is going to be on the audit side of the house. So we're more of an investigative enforcement side of Treasury OIG, so we just wanted to get ourselves out here – Anna and myself – see everyone, get our faces out here. You will see us again, hopefully it's in good times, but if something does come up, and it does need to be investigated, then we will be the people coming down to work on those. Thank you very much for your time.

Director Lyons:

Thank you, Anna. Thank you, Sean. Children in the sandbox will not be unsupervised. In addition, their colleagues have already been in touch with our Examiners of Public Accounts who work to ensure legal compliance, as well as the Attorney General's office, so all of this is being set up on the front end, so we've got mechanisms in place to ensure that everything is done properly in accordance with the law. I, at least, have a great deal of comfort that things will be done properly throughout this process however long the process takes. Considering how long it's taken to get it started, I don't know how long it's going to last, but in any event, it will be around with us for years to come, I believe. The next item on our agenda is to give you an overview of the RESTORE Act components. I know some of you have heard a lot of this before. Eliska Morgan who works with the Department of Conservation and is tasked as being the

Executive Director of the RESTORE Council – her primary job is to work with us as the Council's Executive Director, so Eliska will go ahead and take this next section.

d. Overview of RESTORE Act component requirements

Eliska Morgan:

Good afternoon. Thank you, Jimmy. As you all may know if you've read the RESTORE Act or seen the draft regs online, there are certain expectations that we have as a Council, there will be requirements once the Council begins the process of selecting projects. For Bucket 1, which is the Direct Component - Patti mentioned this - there will be a Multiyear Implementation Plan that will be required to be submitted by the Council. What this does is that when that plan is submitted, it will basically be a slate of projects that will be reviewed by the Department of Treasury, and when approved, what it then does is give us, as administrators, the ability to then submit individual grant applications for projects. For those of you who may be familiar with the CIAP process, it will be very similar to that, we expect, once final regulations are out. And for Bucket 3, we will have to submit a State Expenditure Plan, and that plan will be reviewed by the Federal Council, and again, once approved for that slate of projects, it will come back to us, and then individual grants will be submitted. Now, what we anticipate once we have final regs, is that there will be certain components and requirements within each plan and within each project that will have to be demonstrated with each plan. First, we will have to demonstrate that the purpose of the project was designed to restore and protect our environment or our economy. Additionally, we will have to demonstrate that the project met one or more of the RESTORE Act eligibility criteria. We will also have to show that it is located in the Gulf Coast region. Now, one exception to this, we believe, will be seafood and tourism promotion, which obviously, if you're trying to promote your area, you wouldn't necessarily want to advertise in your area, so they will allow those to happen outside the Gulf Coast region. We will have to show a valid budget, specific milestones, metrics for evaluating success, and for ecological projects, we will have to demonstrate that Best Available Science was used, and also show how Best Available Science might have guided the Council in determining that that project was a good project to select. For the State Expenditure Plan, basically, we have to cover all of those requirements that you have to establish for the Multiyear Implementation Plan, with the addition that you have to demonstrate that it is consistent with the goals and objectives of the Federal Council's Comprehensive Plan. In addition to all those requirements, we also will have some certifications that must be met which we have to show that the procurement process will conform with federal grant law, and also a conflict of interest policy will be necessary, not just for the plan, but for each individual project, and of course, we will have a public comment period that is required – broad-based public input. Thank you.

Director Lyons:

Thank you, Eliska. As you are all aware, I'm certain we've talked about this enough times, there are multiple buckets that come under the RESTORE Act. One of those buckets – and when we refer to as buckets, these are caches of funds – Bucket number two is 30 percent of the funds that go into the RESTORE Act Trust Fund. Thirty percent of that goes to the Federal Council. The Federal Council is made up of the governors of the five Gulf Coast states along with the designees from five different federal agencies. They make up the Federal Council, and they have their own rules, and they will direct the funds that are available to them purely for ecological projects that meet the criteria of an overall plan. Patti Powell has been working very closely with that, and so Patti's going to give us a little bit of an update as to where the Federal Council is – bring us up to date there.

e. Update on Gulf Coast Ecosystem Restoration Council (Federal Council)

Patti Powell:

Although it's an Alabama Council meeting, while we had everybody together, and due to some recent information that was released on behalf of the Federal Council, I wanted to just take a minute to get you updated on that information and tell you where you can learn more. And as to learning more, first of all, all the information I'm about to mention, very briefly, is available both through the state's website, alabamacoastalrestoration.org as well as the Federal site which is restorethegulf.gov. So I just want to give a very brief overview. The Federal Council did release some information, an overview of the process that they will be using, both for project selection and project vetting. The Council did announce that, because of several factors, one, as many of you know, the only money that will be soon available under the RESTORE Act once the regulations are final is money from the Transocean settlement. That's the only known money, so to speak, I guess the next money that anyone would expect to come would be through either a settlement of trial of the other responsible parties, and primarily of BP, and there's really no idea when that would happen. So the Federal Council knew the uncertainty of when additional funds might become available in the future or even the dollar amount of those funds, did make the decision that they were going to move forward in working with the Transocean funds that will be available, that they were going to go ahead and start working on their process and developing their project list, which is called a Funded Priorities List – FPL. You'll hear FPL used a good bit. The Council also, in trying to figure out how to move forward with a limited amount of money that's all you're going to have in a while, when the goal of that body is to address ecosystem-wide restoration, decided that they would try to use this money and focus their efforts a little bit more. They have announced that they will focus on two of the goals that were announced in the Comprehensive Plan and released by the Council – that being habitat and water quality. And there are lots of projects that fall within those two areas, but that will be somewhat of a narrow focus of the Council. In looking at project types, they wanted to look at projects that had certain emphasis, for example, projects that are considered foundational. Foundational means beginning to take steps in the near-term toward long-term Gulf-wide ecosystem restoration. So the projects must demonstrate that they are the building blocks for also long-term efforts. The projects need to be sustainable, and not just really in the sense you're used to – any project ought to be sustainable if you select it – but in this scenario, if you're doing a – best example would be a phased project. If a project maybe has three phases, you shouldn't do phase one unless it can stand alone on its own until an unknown time in the future where you might have the money to then move forward with phase two and phase three. So, again, sustainable projects that are likely to succeed, that you have a basis for prior technology, or types of work or types of projects that they are likely to succeed, and that they demonstrate community benefits. It's to try to help explain to everyone what this project means to a community. So those are the emphasis of that limited scope of habitat and water quality. The submissions of project suggestions would be made to each individual member of the Federal Council, and when I talk about Federal Council members, the members are the 5 states and then 6 federal agencies that include Department of Interior, Department of Commerce, EPA, USDA, Department of the Army, which is largely represented by the Corps, and then the Coast Guard. Here in Alabama, projects will be submitted through our online portal that has been up for a while, and here in the next couple of weeks, I believe the Federal Council will release what they will call the solicitation for projects that will better explain what the Council will be looking for, but the the individual members will then come forward to the Council as a whole with project ideas that they will sponsor to the Council. Once the Council goes from submission to project vetting, they have further explained that they will be looking at eligibility requirements basically meeting the requirements of the Act, budget reasonableness – that the project that's proposed and the budget associated with it carries reasonable basis and breakdown, and that there is a coordinated review of understanding what the environmental requirements will be, not that they will all be met, but identifying what has to be done to get a project completed, and again, each project must fit within the Comprehensive Plan. Also, an element, a very specific

element that the Federal Council will be using in its vetting process is realizing, or demonstrating, that each project is based upon Best Available Science, both in its selection basis and in its implementation. For an ecological project, that is a requirement. Best Available Science is defined in the Act – I won't go through that definition, but that is a very specific component of the Federal process. So they're going to look at the Best Available Science, the plan requirements and the eligibility, and the reasonableness of budget, those types of items, and also, the identification of the environmental requirements for them to move forward. All that will be taken into consideration by the Council in their then selecting the projects that will appear on the Funded Priorities List and will move forward out for public comment at that point for the very specific projects then. That is a very overly simplistic, brief overview of the Council's announcement, but I wanted to give a brief description of the process and say we expect to see this solicitation that further explains what a project submittal from the individual Council member to the Council is supposed to look like. Then there is no deadline currently that's been established for when that period would end, but it would run on into the end of October, I believe, that would be a guess. We'll have more information as that becomes available. Again, I don't want to take up the Council's time too much, but I did want to mention that it is another funding source that we hope our state will benefit from, and again, more information will be coming. I appreciate the time, I just wanted to utilize while we had everyone together to briefly note that, although it may not have been that brief. Thank y'all.

Director Lyons:

Thank you, Patti. How many people have actually been online and looked at our project submission template? Great...a lot more that I thought. It's working very well. We still really have a lot less projects than I thought we would have at this juncture, and I thought one of the architects of the template, one of those that's administering it, could probably better explain a few of the nuances to it, maybe explain to you why we start at number 66 and why we skip some numbers. There are actually reasons behind that and those reasons don't have to do with us hiding projects. I thought I'd ask Eliska Morgan, Eliska being our full-time executive director works with this every day, and worked on the development of this, so she can explain a little bit more about the portal.

f. Project Suggestions online portal update

Eliska Morgan:

For those of you who have been on and looked, you may have noticed that we do start on number 66. Each project is given an ID number when a submitter goes online and submits a project suggestion. We ran 65 tests before we finalized our process, and our IT Department didn't reset the clock – that's the basic answer on that. So, we start on number 66, and if you notice as you go through, there are some gaps, and basically what happens is because every project is given an ID number when it submitted, if it is incomplete, and we cannot accept it, then we have to reject it, but we will forever have that project suggestion in our system. It just does not show when you click on View Project Suggestions. So, that's the reason why there are gaps, and if for any reason you ever wanted to see those, you could come by my office, and we can show you that we do have them. For any of you who have not been on to view the projects that have been entered thus far, our website address is www.alabamacoastalrestratation.org, and there's an option to click on Submit Project Suggestion, and when you click on that, you then have four different options. One is to view the questions that you will have to answer on the online portal, as well as showing you all the various criteria for each different funding source, then you have the application itself, and then you have the opportunity to view the projects that have already been submitted thus far. I think that covers it for the online portal. If you have any questions about it, and you'd like to talk to me about it afterwards, I'm happy to answer those. And I think the last – another item I'd like to talk about is

the state's coastal plan that is now just getting underway with the Corps of Engineers. As many of you may know, after Hurricane Katrina, Mississippi and Louisiana received federal funding to basically develop a master plan for their area, so Mississippi's is called MSCIP for Mississippi Coastal Improvement Plan, and Alabama did not have that opportunity after Katrina or Ivan to create such a plan, so the state has contracted with the Corps of Engineers to develop the Alabama Coastal Comprehensive Plan for south Alabama. This will not be a project-specific plan, it is really more of a vision – a long-term vision – to protect coastal Alabama, to make our coast more sustainable and more resilient both ecologically and economically. The Corps has begun, and you will probably soon hear more about it. The way the Corps is going to begin reaching out and working with focus groups to talk about not necessarily what we've already talked about before – when the Gulf Coast Ecosystem Task Force went around, when the Coastal Recovery Commission was doing some work, and you might have all gone to those meetings and talked about what values were important to you in south Alabama and what projects you felt were important. What they plan to do is to take all the plans that have been put together in recent years and to try to build on that to determine a long-term vision for our area. So, I hope as they start that process, and they hope to reach out to every different sector of our community, and I hope that you will take the chance to participate when given the opportunity, so please look for more on that. Thank you.

AGENDA ITEM #3: NEXT STEPS

Director Lyons:

Thanks, Eliska. I might mention at the same time that the Corps is going to be doing their work, the Coastal Alabama Partnership, which is a business-led group, is also working on a Mobile-Baldwin plan, and that is being very closely coordinated with the Corps plan so that the elements of the things they study, like tourism and things like that, will be covered, so we've really got two plans, but the plans are being coordinated, and hopefully will give us a good roadmap. There will be plenty of public hearings and opportunities for input in both cases during the process of developing these plans which don't necessarily have any bearing on what the Alabama Gulf Coast RESTORE Council is going to do, but these are roadmaps that are being developed for us to help us improve our communities. Next steps, I guess really what's holding back a lot of things is the Treasury regs, and as you heard today, we don't know when they're going to come out. We hear soon, we hope soon. A lot of the meetings that we have held, which have not been that often obviously, we have not been talking about projects, and at least personally, don't want to talk specifically about projects. What I'm really more interested in and what our discussions have been focused on is process, and we're not going to really be able to finalize our process until such time as we see the Treasury regs, because we have to be certain, for a lot of reasons, that our process adheres to and follows the regulations under which we'll be operating. There will be something released on that. We're not ready to release anything at this juncture, but that has really been the focus of our meetings and our efforts is to focus on process. At this juncture... Hank, do you have a portable microphone? We're going to open up the floor for public comments. We haven't done this in ten months, and I kind of forgot how we did it before, but before we had little cards where you could fill out to speak, so we're going to try to do it orderly, so if you would try to restrict your comments to three or four minutes to give all of those who want to speak an opportunity to speak. Please speak into the microphone because we're trying to take minutes as accurately as possible. Anybody want to speak?

AGENDA ITEM #4: PUBLIC COMMENT AS TIME ALLOWS

Patti Powell:

While somebody's deciding if they want to speak, I just want to ask everybody – we are trying to keep track of the number of comments that we get – the individual comments and those actual

comments – so if you would, since we don't have cards, if you would, take a minute each time to state your name just clear enough so we get it on the record, and if you're representing an organization in your comment, also go ahead and maybe mention the organization. Not everybody will, but if you are. So, if everybody will help hand the mic around, we'd appreciate it, so Jimmy, I'll turn it back to you.

Director Lyons:

OK, who's first? Yeah, I was pointing at you...I know you're going to say something.

Casi Callaway:

I'm Casi Callaway, the executive director for Mobile Baykeeper, and Jimmy knows me. So, couple of questions. One is Eliska talked about Pot 1, and I probably heard it wrong, but I think the way you described the project was "projects that support the environment or the economy." Is that how the projects are going to be judged or did I get it wrong or can they be both or will they be both?

Director Lyons:

There are 12 authorized uses that are enumerated in the law, and the economy is one of them, seafood marketing is another, environmental restoration – there's actually 12 different including planning assistance, and seafood and tourism marketing, but it has to meet one of those criteria. It doesn't necessarily have to meet two or three, but it has to meet one of those criteria to be eligible for Bucket 1. Bucket 3 has the same criteria, with the exception is that Bucket 3 has to be based on a plan that was submitted to the Federal Council and also is subject to a limitation of 25% for infrastructure. But all 12 uses are for those two buckets – Buckets One and Three – all twelve of those uses are authorized.

Casi Callaway:

Since you caught me off guard, let me apologize and start over and say thank you all for meeting. We are very grateful that you are. I know the community has a long-awaited this meeting, so we are very grateful that you're taking the time to get together with us and hope it's not another 10 months before we see you again in this venture. We also want to say, on behalf of Mobile Baykeeper, how important the process is to us as well. We are very excited about the Corps of Engineers' project moving forward and for the potential for the public to be involved in that aspect. I think that any of you who have ever heard me speak, standing in this room before, you know what is very important to Mobile Baykeeper and our membership is public participation in these processes. It's very exciting to hear science, science, science, and all the parts that are driven by science. It sounded like in all three buckets which is excellent. Patti also mentioned the community aspects in Buckets 2 and 3. I'm hoping that that component is included and incorporated in Bucket 1 as well. And I apologize for using the bucket terminology. I know y'all understand that a little bit, too. We do feel strongly, still, that these projects get vetted through some version of a public mechanism. You may not be ready to do that yet, because you're still waiting on the Treasury regs. We understand that. Can you or Patti or Eliska talk a little bit about how the Army Corps of Engineers' Comprehensive Coastal Plan could incorporate the public into their process and how will the environmental community work with the business community with the engineering community with that perspective?

Director Lyons:

I'll let Patti address that, because she's been the primary interface with the Corps.

Patti Powell:

Along with Eliska and others from my staff. After getting through some of the initial gathering back of what we've heard before – we're not asking everyone to start over so to speak with what they've participated in before. The vision we have is starting in with some smaller groups and have that build up – both having some feedback based on some smaller groups that may have similar interests to get those raised. But then taking those groups and building them in to larger groups to get some feedback and input that is only fully realized if you have different groups with different interests coming together because then they understand possibly what complicates one idea with another idea, and so it's building there. So it's part of gathering what we've heard before, starting with smaller groups and beginning to build and combine up to larger groups and then working in the general public. Both those concepts are driving specific interests and cross them with other interests to really get that back and forth between all the groups. So it would pull together, whether it would be pure community groups, whether it be business groups, whether it be the science side, academia – yes, it is designed to build up to that point.

Director Lyons:

I might want to add because I was in one of the first meetings with the Corps. They did that Mississippi plan and finished not long ago, and a lot of that work they've done will flow through, and they also fully recognize the work that's been done by other groups like the CCMP that's been done by the Mobile Bay National Estuary Program, and other bodies of work that already have a lot of public input. There will be plenty of opportunities for public input throughout this process which is what it should be. Anybody else?

Cameron Smith:

Cameron Smith, Alabama Policy Institute. Two questions: Could you elaborate on best available science that's applied in different settings? Does that require an academic sort of impact study for each project? That's the first question, and second question is, will federal contracting regulations apply regardless of which pot of money the project comes out of, for example, Davis-Bacon laws, that sort of thing?

Director Lyons:

We are not clear on the federal rules and that's a question I have – whether Davis-Bacon – a project that requires construction, does Davis-Bacon apply because we know what the implications are there, and that's a question that I have, but I do not have an answer to it at this time. Patti, you want to take on the Best Available Science question? I'm just a port guy.

Patti Powell:

First answer to your question – Best Available Science is given a very specific definition in the RESTORE Act. I would not rule out the possibility that it will be built further out by the final Treasury regulations – that's entirely possible. The RESTORE Act does include the concept of demonstrated, peer-reviewed publications. If they should apply, would they apply to each project would vary. The Best Available Science component is applicable really to ecological projects, and in addition to peer-reviewed materials, is also to demonstrate that the science came from publicly available data, that can be pulled and used – it goes to those elements. Under the Federal Council process that was announced, it will include outside reviewers, at least three, one of which will be from the Gulf region, one that would not, and that's designed to provide, in that context, a broad spectrum of review that is broader than coming from Alabama, just Alabama projects. So that's a little different. Right now, all we know is what's in the Act, and we'll see if it's built out further in the regs.

Director Lyons:

Who's next?

Thayer Dodd:

My name is Thayer Dodd. I'm an individual and concerned citizen. I read the bylaws of the Alabama Gulf Coast Recovery Council, and under Article 8 – I remember when Casi was asking about the environmental vs. the economic projects that most of them are restoration, tourism, that kind of thing, coastal flood protection. There are two that speak directly to economic projects – Article F, infrastructure projects benefitting the economy or ecological resources including port infrastructure, E, improvements to or on Alabama state parks located in coastal areas affected by the Deepwater Horizon Oil Spill. My first question is, are the RESTORE Act funds anticipated to cover any of the ship channel widening project? We've come across a Corps of Engineers presentation to a dredging conference in Miami that suggests that they intend to pay for that out of RESTORE Act funds, and my second question has to do with the state parks. Does this refer specifically to the lodge and meeting areas that have been discussed and proposed for the Gulf State Park?

Director Lyons:

Those items that you're reading from are taken directly from the RESTORE Act legislation, and those list the projects that are eligible. There's nothing pre-determined or anything like that. That is just the list that is taken word-for-word from the RESTORE Act itself as far as what the authorized uses are. There's been no specific discussion about any projects at this juncture. Next?

Clarence Carey:

My name's Clarence Carey, and I represent the group called Mobile Bay Park Project. What we would like to do is convince the University of South Alabama Foundation, with the help of politicians here in Mobile, to converting their property that they just recently purchased into a public waterfront park for the citizens of Mobile. This is one of the projects that's not a scientific project but a tangible project that the citizens of Mobile will really appreciate, and they will thank you forever if you do this, and we can make it a world-class park. I know our governor wants to build a convention center at Gulf Shores. This park would entertain more people than that convention center would ever entertain, and the foundation wants to build a commercial park there with – quote – a small linear park. This park would not be for the public. It would not be for activities for the public. We would like a large park, and we need one...we really need one. The water's beautiful, it's clear. We could use the sand possibly on the dredging of the ship channel to expand the beach. There's a hundred different things we could do at that park. We have a website – mobilebaypark.com. Please like us on Facebook, and if you think that this is a worthwhile project, please like us on Facebook and we will get in touch with you and let you know. The University Foundation has not given us any permission to do anything with this project. All that they've been able to tell us is they've got people who are interested in developing the property. I won't take up any more of your time, but we think that two or three dozen companies moving in on that property and possibly 3 or 4 hundred jobs cannot compare with tens of thousands of Mobilians enjoying this property. Those jobs won't go anywhere...there are plenty of places they could move at Brookley and close to Brookley where those jobs can move. I hope that there is public input so that the citizens will really have a voice in this and maybe we can get this going and make Mobile more than just an industrial city but one the citizens come to. Thank you.

Director Lyons:

Who's next?

Walter Ernest:

I'm Walter Ernest, Director of Operations for the Pelican Coast Conservancy in Mobile, a land trust. In Buckets 1 and 3, Mr. Lyons, do you see using funds for potential land acquisitions or potential conservation easements as a third party oversight acquisition. The reason I say that is because they mention habitat and they mention water quality and acquire some additional coastal wetlands should fall into that.

Director Lyons:

Walter, yes, land acquisitions are a permissible use, and I say I haven't been talking about projects, but I have gone onto the portal and have looked at some of the projects, and there's quite a number of land acquisition proposals – both fee title acquisitions as well as conservation easements, and as far as I can tell, that is a permissible use, and I would think that that would be something that could be done very easily.

Walter Ernest:

Thank you.

Hank Caddell:

Good afternoon, I'm Hank Caddell with the Alabama Coastal Heritage Trust, and I have maybe a fairly simple question. If projects have already been submitted and have not been kicked back for being incomplete, and the number deleted or whatever, do they stay in as far as – I understood a third phase from the Feds is coming down where it has to be more of the environmental federal standards – do we just leave them in or do we get it kicked back to us for possibly revision and compliance with the Federal?

Director Lyons:

That portal is being used for multiple – and I'm going to let Patti step in here also – multiple uses, not just for this Council. It's also for the State's use in submitting projects for NFWF funding, for the State's use - the submissions to the Federal Council will be done through the State of Alabama and of course, they're looking at what the requirements are and what has a chance of success, because as far as the Federal Council goes, there's no assurance that a dollar comes to Alabama. It is all competitive across the five states, and so what we're going to be counting on the Department of Conservation working on behalf of Governor, what they're going to do, and what Gunter and Patti are going to be doing is trying to find out the projects that we have got that have the best chance of success on the Federal level. So this portal is used for all three funding sources. Patti?

Patti Powell:

Hank, what we attempted to do, and it was a bit of a step out before the final regs, but we still believe that we built the various field entries broad enough to cover any of the funding sources that we're aware of. For example, if you go on, you may see some questions that you're wondering why are you asking that, because it may not be applicable to one source, but it's there because it was intended. And we still think we have built it broad enough to capture any type of project, and there won't be any special requirement related to the Federal Council, the Comprehensive Plan component, that would require a re-submittal. We would have enough information on the portal to account for that, and again, this is a project suggestion portal. It doesn't have to be as specific as a grant application, as an example, for some of you who fill out grant applications. For our state, the Department of Conservation and the Commissioner and working with the Governor, our intent is to look at all the projects and consider everything on there, so there's no need to re-submit. If you've got a project on that was accepted because it was complete, you've done all you need to do at this juncture. Again, you have heard from the

Federal Council a focus more on habitat and water quality, but that doesn't change the submission – a project is what it is and what it benefits. You may have checked another as to criteria as a priority, but you wouldn't change the primary reason for your project because the Council's looking for habitat and water quality, if that makes sense. It stands as a project.

Hank Caddell:

The Feds are putting out this solicitation – do you guys pick which of the projects you're going to throw up for this solicitation, or are you going to just dump them all in there? Do we need to do something extra to say, "hey, we think ours meets the federal solicitation" to try to get you to put it up there?

Patti Powell:

We would take any feedback on any project as we do every day of the week, so you are certainly welcome to contact us about something related to your specific project, but not, and I don't want to confuse the two, and I apologize, I just wanted to use this opportunity while we had everybody together to talk about the Federal component. But the Department of Conservation working with the Governor will be selecting the projects – the word used in the process is "sponsor" – and I think there's going to be probably some range of a number of projects that the Federal Council's going to tackle. I don't think it's going to be limitless, so we would be in the position of determining which projects on behalf of the State, as a member of the Federal Council, we would be moving up into that process.

Hank Caddell:

Are you going to notify every one of the ones that you pick to sponsor?

Patti Powell:

Yes, once they are selected and forwarded to the Federal Council that we would sponsor, they will be posted on the actual Federal Council website in addition to ours. But, yes, that will be known. Thank you.

Mark Berte:

Good afternoon, Council. My name is Mark Berte. I'm the Executive Director for the Alabama Coastal Foundation which has the mission to improve and protect our coastal environment through cooperation, education and participation – yes, I memorized that 2 ½ years ago when I was hired. I just want to make two quick comments. One, it is nice to hear the continuation of the decisions that the Council are going to be making will be based on science, and I think you've heard that echoed throughout. The second one is, you've heard these comments in other parts of the Gulf – people say "oh, don't do too many public meetings. Public's aren't going to come out and respond." I think this is sitting room only response that that is definitely not the case in Alabama, so we appreciate y'all allowing us to have this, the public say so, and encourage that public engagement throughout the entire process. We appreciate that and ACF would be happy to help y'all towards that end as well. My one request is we here locally the environment is our economy, so even the tourism and the seafood that can be done elsewhere, that's still our environment, and it does impact our state economy. I just wanted to ask at your next meeting if y'all can talk not in either/or but both/and just to talk about that because I think the quality of life that we all love here is because of our environment. Just wanted to put that request out to y'all.

David Underhill:

My name is David Underhill. I'm the conservation chair of the Mobile Bay Sierra Club, and unlike some public officials, I have not received a response to my Facebook request for a friend

from God, so I don't have any direct revelation about his opinions on coal or any of the other matters that come before this body. I'll have to rely on my own observations and reasonable conclusions from them which are: first, that people may disagree about how much global warming or climate change is attributable to what's done by whom, but few here would disagree that it's a bad practice to dump junk into the air and water, so you should not look favorably on projects that magnify those practices. Second, you should not look favorably on projects making it easier and more attractive to transport the very substances whose reckless pursuit brought us to this meeting today. And, third, you should look favorably on projects with different approaches so we will get different results. History of absentee-owned extractive industries is that they leave behind impoverished people and wrecked environments. You can promote alternatives to that by the choices that you make. For instance, you could invite Tim Cook to come home. He is the CEO of Apple Computer Corporation, he's an Auburn graduate, he grew up just down the road in Robertsedale, he was born just across the Causeway in Mobile, and his company has big manufacturing and operating facilities powered by on-site solar panel electric plants. Imagine what it would say to the world about Mobile, Alabama's intentions for the future if you could announce, that in conjunction with people like Apples or other skilled experts in the field, you are going to use RESTORE money to power the Airbus plant with solar renewable energy. You would have a unique opportunity, and you would have unique resources to take big steps in this direction and move our area forward, and these things need to be done. You, as leaders, need to take the lead in making them happen, and if you don't, you, and we who you represent, will be left behind clinging to fading geriatric and unsustainable ways of living.

J.J. McCool:

My name's J.J. McCool and I'm a wildlife biologist and forester – All Wildlife Solutions, Inc. We're a for-profit company, but we're the company that actually does the contracting, we do the work, we do the restoration. We plant the plants, we kill the hogs, we inject tallow trees. Currently, we've got four projects going all in Louisiana. I've been working over there for about the last four or five years, and two things I want to comment on. Number one, I'm sitting here working on one right now that bids Wednesday. Most of the projects we see in Louisiana – they got what's called the Louisiana Coastal Protection Authority. All these guys do is shelf projects, and as soon as this money started coming down, they were snatching them off the shelf. One thing to kind of keep in mind, a lot of stuff that they've got that they're putting money out on is armoring projects, which for folks who do this for a living that's bank stabilization and armoring. The next in line from that would be dredging projects and coming in and planting to create habitat – both for estuary habitat and limited freshwater habitat. The next thing in line behind that is invasive exotics, and these are the kind of buzz words, but as far as getting projects and the Corps of Engineers and the bodies that are going to be funding these things, that's the kind of stuff they really like. So if we can do some stuff like armoring, look at oyster shell reefs, things like that, that seems to be what's really selling Louisiana and what they're getting a lot of funding for. The other thing, I'm wanting to come home, and we got D'Olive Creek, Marsh Island, and these other projects, but for contactors like me, there needs to be a pre-qualification and I'm sure there will be, that contractors that do the work will be pre-qualified and that they've done this kind of work. A lot of problems that we run into is contractors – we've done this kind of stuff – you have to understand the science and the morphology of the plants and animals you're working with. I bid last week and I bid against – I'm not knocking the company, but I bid against lawn care companies at Bon Secour Wildlife Refuge for the mitigation bank, and so the people that are doing the work need to be folks that understand that. Also, when you start the bid process, guys like me, the reason I was late, I was out looking at a job down in Orange Beach, and I ran back up here to have the information for contractors like us, there's not a lot of us, but we need to know when these things are bidding and projects that are coming up. When you're writing your scope of work, call me or my competitors, you got Gina Toney, other

biologists here who are close, we can. When you're writing your scope of work there's no kind of ethical deal – at least talk to us, and say “hey, this will work, this won't work.” We have sunk every kind of piece of equipment, lost 4-wheelers, so we know what will and won't work, so when you folks are writing the scope of work, feel free to call up a contractor that's actually doing this kind of work, because he can tell you what will happen and what won't. And that's it.

Bill Walton:

Thank you. Bill Walton, Auburn University and Alabama Cooperative Extension. It's really kind of a boring process question, but you all have these projects that you're looking at, and there's one for Bucket 2 that Patti's talked about lining up, sponsoring projects for Bucket 2. I don't know how the timing will work, but if a project is lined up for Bucket 2, and then doesn't make the cut, what happens to that project? Can it go back to Buckets 1 and 3? You all are trying to make some decisions and move things forward, and I don't know what order the decisions will be made in, and you may not know that yet, but if you do, that would be great.

Patti Powell:

I don't know that we can give an exact order. Again, Treasury regs would be the first step for any of them. Each process then has a certain amount of preparation – I just really don't know how to answer. I can tell you, however, that it is perfectly anticipated that because of that, and NFWF and NRDA, and everything that, frankly, folks suggesting projects are going to be suggesting them for funding across the line. That is not a problem. You're not locked into one, you're not shut out because of not making it successfully into one. The only point at which it becomes an issue that we have to track closely is when you get to the point of projects getting awarded under whatever source that we're not duplicating funds, that if you are pushing it under one source but it's funded in another, that you notify the other sources and say, “hey, this project needs to come out for consideration because it has been awarded.” However, up to that point, practically nobody knows what's going to land where or in what order it's going to land. That's anticipated, and honestly, not a problem other than oversight and compliance to make sure we're not duplicating efforts and not doing similar work through money from two different sources. That help?

Casi Callway:

I know it's not quite 4:30, and I think our schedule went to 4:30, but some of the Council members are stepping out. Can y'all let us know how you're going to let the folks who couldn't be here or folks who had to check out early know what the public comments were, how that will work?

Director Lyons:

They're taking minutes, we're recording with two recorders in case one of them fouls up and they're taking notes also, and then the minutes will be distributed to the members. There are a couple who had to leave for unavoidable reasons and some who had to leave for other reasons, but yes, the minutes will be delivered to each of the members including those who couldn't stay.

Clarence Carey:

I have a question I'd like to ask the mayors of Dauphin Island and Gulf Shores. I read recently that the State is selling 57 million cubic yards of sand to Mississippi. Don't we need that sand? Can y'all answer that? What is the deal on that?

Mayor Collier:

Let' me speak briefly to that. First of all, the number you use is actually potentially \$57 million worth of sand. We're talking about 8 million cubic yards. From what I understand, that is not

yet a done deal, that's one of the suggestions, I guess, as it relates to the MSCIP program of rebuilding and stabilizing their barrier islands with Alabama sand, and so, the short is answer is, yes, we certainly, and I can speak for our community, we've been talking shoreline restoration and stabilization for as long as I can remember, and so, definitely that's something we could use right here in the State of Alabama. I will say that the Governor was the first one to mention this to me of this possibility that that may happen, and he did tell me at the time that they were looking at putting at least some of that money – he didn't tell me exactly how much – back into Alabama shorelines and beaches that could help. At this point, I'm taking the Governor at his word.

Clarence Carey:

Wouldn't it make sense for us to keep that in the bank, because we all know we're going to have more hurricanes, and your city and Dauphin Island both are going to need it, and we just had Fairhope re-nourish their beach with sand? I haven't seen any studies on this or anything, and we don't know how much sand we've got out there, and that seems like a lot.

Mayor Collier:

From what I'm hearing, I think there is a limited supply of beach quality sand in coastal Alabama. Of course, as Jimmy alluded to when the Corps did the study for the MSCIP program, they didn't stop at the state line, and that hopefully is going to prove to be beneficial. They actually studied all the way down, I believe, to Pensacola Bay, so areas all along the Alabama coastline were part of the particular study as they went into figuring out what they needed to do in Mississippi, and that makes sense because everything east of there is upstream, if you will. You all know that sand along the Gulf Coast moves east to west, and so it was smart that they looked upstream, if you will, and of course, we contend that things should have been done to Dauphin Island because Dauphin Island is a barrier – lead island of the barrier chains, so hopefully some of that information will come back to surface as the Corps is working on this latest Alabama Comprehensive program, so hopefully, some of that will come back to roost and be used for what Alabama's going to eventually need to have done as well.

Mayor Craft:

From a Gulf Shores perspective, we don't have any sand to sell. We're always looking for sand, so we don't have anything on the market for sale, and we have not been approached about selling any.

Glen Coffee:

Glen Coffee, concerned citizen. Just to follow up on that issue, what is in the decision criteria, I guess from the Governor, making that decision to sell the sand, because the only thing I've seen is in the newspaper about it, and the public meeting when the EIS went out for review. What is the Governor's timeline on making that decision, and the second thing is, on a different part, is projects that are selected for forwarding, will there be a public hearing held for the public to be informed of those projects before they're submitted or will we just find out after they're submitted?

Patti Powell:

Starting from the last question first as far as the submission, I can't say that the process has been fully developed – both the Federal Council's current plan is prior to getting to the point of the projects being sponsored and going up to the Council, I know that there will be public meetings held prior to that – both to the input as to the process and feedback on potential project suggestions themselves, and I do know that once they are suggested, that they will go up to the Council to be posted there and can receive comment at that time. It really hasn't been

developed other than anticipating the announcement of the solicitation which will describe a little bit better what a proposal will have to contain coming out. This month, I would expect a couple of weeks, maybe three, but in August, and then at least stretching into October before they would be forwarded. Frankly, I really don't know any more details. On your first question, I would be very remiss to try on behalf – as the State Lands Director or the Department of Conservation – to speak on behalf of the Governor, but what I do know, as far as the draft EIS that was put out by the Corps for the MSCIP program, it's still in draft form, they took comment. I know that I have requested, and I've been told that our state will be allowed to see the comments that were submitted from the public that is going into the Corps publication of the final EIS. Use of potential sand from Alabama's waters is just one of the alternatives, and I think that was an outside number, but again, we have asked, although certainly aware and fine with being put in the EIS, told them we wanted to see public comments and what feedback they got before there were any further discussions. And that's about all that I know.

Glen Coffee:

So the state hasn't taken a position at all, even during the comment period, on that alternative?

Patti Powell:

No, the State has not. We have said, though, that we wanted – normal process, I don't think we would exactly get to see the public comments before the final EIS came out, and we have requested, and I have been told that we will be given both the comments received at their public hearing as well as what was submitted formally in the written manner through the comment period. We don't have those in hand yet, but that's all I can share, but I do know that much.

Director Lyons:

One other comment. I really know very, very little about it, but one of the things I do know is that you have different qualities of material, and it could be very well that this material is not the kind of material you would want to put on Dauphin Island. Might have too much silt and clays in it, but it would be okay for an uninhabited island, but I don't know that.

Patti Powell:

I would say part of that is any time a project such as that is underway, there is a difference between the beach quality and the uninhabited island. Secondly, how far you have to transport it and costs. There a lot of considerations, but that is a factor in the EIS the Corps had to weigh. You'll see some of that similar analysis in that draft, but again, that's all I've seen so far.

Clarence Carey:

They did say in the paper that our quality of sand was better than Mississippi's, and that's why they wanted it.

Director Lyons:

Like I said, I don't know.

Just Cebrian:

Just Cebrian, Dauphin Island Sea Lab. I think this is a question for Patti. I was wondering, you know, anything about NFWF plans, what you will be recommending from the Alabama portal for NFWF funding?

Patti Powell:

We have been in discussions with NFWF, they had a recent round and will have another round coming up next year in trying to see what projects we could reach some consensus on that

would be able to move forward through their criteria as well as the suggestions we've received through the portal. That's a good example of going to the portal and taking from there suggestions that, you may have two or three suggestions that are molded into more of a programmatic move or multiple projects under one project, and we hope to hear back soon further information on that interaction with NFWF and we'll be passing that along in conjunction with NFWF as soon as we have that.

Just Cebrian:
You said next year anything?

Patti Powell:
I think we'll know very shortly as to whether we've reached... now let me make a qualification, each projects move forward with NFWF still has to be approved by the NFWF Board, that is the final say as to whether a project that we would even suggest would be done, or even their staff thinks might be something their board would like and approve, but we will not know until November whether or not any project has been awarded, but we think soon we'll have some feedback on some initial proposals that NFWF staff is putting forth to their board, but even that's not a final seal on a project until their board acts in November, so nothing final until November on NFWF.

Just Cebrian:
One more clarification... so you said if we have submitted one through the Alabama portal, we don't need to submit it through the Federal portal?

Patti Powell:
Let me say, my understanding, because I've gotten a couple of questions, some of the materials that were released by the Federal Council, and they were brief one-, two-page type documents talking about the process. I think there's some confusion – the Commissioner sits on the Federal Council on behalf of the State, and I assist with that. I do not believe, at this time, there's going to be a mechanism on the Federal website for project submissions outside, directly to the public. That capability might be built in down the road. I think right now all project submittals are going to be through individual members, and let me say, for example in Alabama, you could submit a project suggestion to any member, including the Department of Interior. You're not locked in to your state, and frankly, ideas that have multiple state reach may very well, and are of a particular type work that Interior or Commerce or USDA might favor, you might want to also submit to that agency. But I will tell you what we will be selecting from for sure, would be projects entered on our portal. If, in the interim, there's another mechanism through the Federal Council, we will take advantage of looking at those submittals also. But right now, please, if you have a suggestion you want considered to come from Alabama to the Federal Council, please enter in the Alabama Coastal Restoration website if you have not already.

Robert Tannen:
Among the many elephants that might be in this process in the room, the NEPA process...

Director Lyons:
Could you identify yourself, please?

Robert Tannen:
Oh, sorry, Robert Tannen, consultant on environmental matters. The NEPA process will be very helpful in much of what we're talking about, and since EPA is a part of the Federal Council,

I would hope there's been some discussion about programmatic environmental impact statements and other means in which the public process can benefit from the NEPA process.

Patti Powell:

The Council itself will be publishing, and they're not quite ready yet, will be publishing draft NEPA guidelines and procedures and an actual regulation-type issue through that that will explain the Federal Council's NEPA procedures, and that is underway. I can tell you there has been work on that, there's some drafts, but it is not quite ready to go out...not final, but that will be addressed specifically by the Federal Council. Oh, and I'm sorry...there may be something in the regs, too, but I'm saying the Council itself will issue procedures.

Robert Tannen:

Would it not apply to the state?

Patti Powell:

It's very clear that any requirements you would normally have to follow through in order to get a project done, would have to be followed by any project. Bucket 1, Bucket 3 are not excused from any of that. A grander, programmatic effort, we're just not quite sure yet, that should be forthcoming.

Director Lyons:

Going once? I'd really like to thank you. It makes me feel good that we have so many people that care enough to come out here and spend their time to listen and provide us with some input. Thank you for your time, and we hopefully won't be as long as we were between the last meeting. Hopefully, we'll have some rules and a lot more to talk about the next time that we get together. Patti, do you have anything you'd like to say in closing?

Patti Powell:

Of course, I can't get away from the microphone. I just want to remind everyone, if you have not gone on the alabamacoastalrestoration.org website and signed up, there's an email update entry you can make to receive updates when there are meetings or announcements. For example, when the Federal Council makes announcements, we'll shoot out an email. If you haven't gone on, please do that, and I'm sorry to interrupt, but I forgot to say that.

An unidentified lady:

So it didn't do any good to sign the sign-in sheet and check the box on the sign in sheet?

Patti Powell:

We will add those. I apologize, I just want to be sure that everybody's got it and getting information, so we will be sure and enter that for you.

Director Lyons:

OK, thank you again for your participation, and have a great evening.

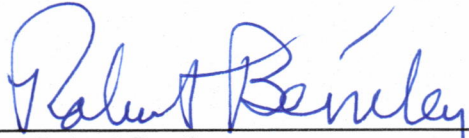
NEXT MEETING DATE:

No future meeting date was announced.

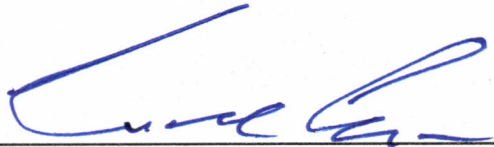
ADJOURNMENT:

Meeting adjourned by Director Lyons – 4:31 p.m. Central Time.

ALABAMA GULF COAST RECOVERY COUNCIL

By: 
Governor Robert Bentley
Its Chair

ATTEST:

By: 
Director James K. Lyons
Its Vice-Chair