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GULF COAST MONEY GRAB

IN THE RACE FOR
BP SETTLEMENT DOLLARS,
THE ENVIRONMENT
GETS SHORTCHANGED

Damage CONTROL

BP's pledge to "make things right" in the Gulf will fall way short under its legal settlement, experts say

**By MIKE MAGNER
and JEREMY DILLON**



Six years after the massive BP rig explosion that polluted the Gulf of Mexico with millions of barrels of oil, a federal judge this month signed off on a \$20 billion Justice Department settlement, bringing to just under \$55 billion the company's total obligation to right the damage.

On the surface it sounds like a windfall for the fish, birds, wetlands and other natural assets in the vast ecosystem that is considered one of the world's richest ocean resources.

In fact, less than a quarter of the pot is earmarked for environmental repair — an amount many environmentalists say is a fraction of what will be required.

So how is the BP pie divided?

- Nearly half — \$25.9 billion — goes to governments, businesses and individuals who suffered economic damages, such as lost earnings and tax revenues.
- Another \$15.8 billion went to the initial oil cleanup, related costs and contributions to a federal trust fund to help pay for future spills.
- That leaves \$13.1 billion for fixing the environment, although under the 2012 Restore Act as much as \$1.5 billion of it can be used for economic projects in the five states most affected — Alabama, Florida, Louisiana, Mississippi and Texas.

Experts on the ecosystem say it's not nearly enough to do the job.

BP's Gulf Payout

TOTAL: \$54.8B



Mario Tama/Getty Images

The Gulf ecology “bounces back like a rubber band. But the question is, have we stretched it too far?”

— Larry McKinney, director, Harte Research Institute for Gulf of Mexico Studies

Four years ago, the Sierra Club urged the Obama administration to demand at least \$60 billion in environmental damages from BP as part of the Justice Department’s lawsuit over the spill. BP declared an adjusted operating profit of \$5.9 billion for 2015.

“We were thinking both in terms of the scope of the damage and the length of time it would take to recover,” says Athan Manuel, director of the national environmental group’s lands protection program. “We call it the biggest environmental disaster in history for a reason.”

The amount earmarked for the environment “pales in comparison to what we thought would be a justifiable sum,” Manuel says.

Many are crying foul, saying restoration efforts are being shortchanged as states dole out settlement money for projects with tenuous, if any, direct links to the disaster.

In Mississippi, for example, state officials are spending \$15 million of their settlement money for a baseball stadium in Biloxi, \$17 million for the planned Mississippi Aquarium and \$1 million for William Carey University to establish a new school of pharmacy on the Gulf Coast.

They argue that tourism dollars literally stopped

flowing into coastal areas in the months after the spill, costing businesses and governments billions of dollars in lost revenue. The U.S. Travel Association estimated that \$23 billion in tourism dollars alone was lost in the three years after the spill.

“Our No. 1 industry is tourism,” says Vincent Creel, a spokesman for the city of Biloxi. “The stadium is designed as something to get people downtown to the waterfront. It’s not only a baseball stadium, it is also an entertainment center. We feel this is a good investment.”

In passing the Restore Act, Congress set broad parameters on how states could spend the money received from BP’s \$5.5 billion in penalties under the Clean Water Act. The law specified that 80 percent of that money, or \$4.4 billion, go back to the Gulf region, with 35 percent of it earmarked for either economic or environmental projects selected by the states and the rest — \$2.8 billion — to be used for ecosystem studies and projects approved by a council of state and federal representatives. (The council overseeing the Restore Act funding is separate from the trustees representing those same states and federal agencies who conducted the overall damage assessment and developed a broad restoration plan for the Gulf.)

One of the act’s co-authors, Republican Sen. Richard C. Shelby of Alabama, says the law otherwise gives the states “unprecedented flexibility” to spend BP’s money as they see fit. “The goal of the law is unambiguous,” Shelby says. “States and communities affected by the oil spill know better than federal bureaucrats where money is needed most for their economic and ecological recoveries, so they should have control over it.”

But with so much damage done to the Gulf ecosystem, some people argue that states could be more strategic and spend BP’s money in ways to



City of Biloxi

MISSISSIPPI DREAMING

Biloxi is using BP money for a new baseball stadium, above, while Gulfport has plans for a new aquarium, right.



City of Gulfport



Saul Loeb/AFP/Getty Images



Cain Burdeau/AP

address both economic and environmental problems at once.

“We understand that the economy and infrastructure improvements are important to a vibrant coastal ecosystem,” says Jordan Macha, policy director for the Gulf Restoration Network. “But why not put that money instead into infrastructure to protect the state’s natural resources?”

Coastal restoration can boost tourism, providing revenues for the state that could help both the economy and the environment, she argues. “By fixing the Gulf, you’re improving the economy,” Macha says.

Unknown Damages

BP’s Deepwater Horizon rig exploded on April 20, 2010, while drilling a well for the British energy conglomerate a mile below the ocean’s surface and about 50 miles off the Louisiana coast. Over the next three months, 3.2 million barrels of oil gushed into the Gulf. Besides the oil contamination, cleanup workers also poured 1.8 million gallons of toxic chemicals into the water to try to break down the oil before it hit the coast.

The cost for environmental recovery is difficult to calculate, but many say it will take far more than \$13 billion to come close to fulfilling BP’s pledge to “make things right” in the Gulf.

Like the Sierra Club, the World Resources Institute, a research organization based in Washington, estimated that the environmental damage alone amounts to more than \$60 billion. Michael Conathan, an ocean policy expert at the liberal-leaning Center for American Progress, says that figure doesn’t surprise him. “The reality is the damage is largely unknown,” he says.

Conathan notes that the Exxon Valdez spilled half the amount of oil into the Prince William Sound off the coast of Alaska in 1989 and the ecosystem still has not fully recovered. “We’re looking at a tip-of-the-iceberg situation here,” he says.

Pluses and Minuses

There’s no question many parts of the Gulf ecosystem have rebounded remarkably well. Because it is exposed to so many severe storms and dramatic weather changes, the Gulf is “a really resilient ecosystem,” says Larry McKinney, executive director for the Harte Research Institute for Gulf of Mexico Studies in Texas, a marine research center.

“It bounces back like a rubber band. But the question is, have we stretched it too far?”

Species with short lives, such as shrimp and crabs, are thriving once again because they are no longer exposed to oil, he says. “The longer-lived ones — whales, turtles, dolphins — the evidence is clear they took a significant hit and recovery is going to take a longer time.”

Scientists say oyster beds in the Gulf have been slow to recover from the spill; many wetland areas and beaches along the coast still have oil mats buried in the mud and sand; dolphins and whales are in danger of declining for decades; and a film of oil mixed with the chemicals used as dispersants during the cleanup covers the ocean floor in an area the size of the city of Houston.

“I thought the settlement was about half of what it should have been,” McKinney says.

Cyn Sarthou, executive director of the Gulf Restoration Network, a coalition of conservation groups in the region, notes other problems.

NATURAL DISASTER

Volunteers rescued a brown pelican covered by BP oil in June 2010, left, but five years later, dead dolphins were still washing up onshore.

③ RECOVERY

The Gulf Coast Ecosystem Restoration Council, with members from the five Gulf states and six federal agencies, has already approved 57 projects, including nine that are Gulfwide, to rebuild and refurbish natural areas damaged by the BP spill. Some projects involve land purchases, others call for construction work and nearly half only provide funds for planning to determine the best path to recovery. Some scientists say it's possible there will be projects that are never implemented, either because funds run out or the plans are scrapped. A sampling of the projects and the funding allocated for each is shown in green.

\$15.5M land acquisition and restoration along Mississippi Sound

\$14M for diverting Mississippi River water to Maurepas Swamp

4K acres preserved river and stream buffer zones near Houston

10K acre preserve near South Padre Island

② IMPACT

5 trillion
68 trillion

 fish larva killed

 invertebrates killed

A council of trustees from the five Gulf states and four federal agencies spent more than five years studying the effects of the spill, assessing the damages and developing restoration goals. The council's Natural Resource Damage Assessment, approved in March, describes the impacts on thousands of species, from microscopic organisms to marine mammals. Some key findings are listed in red.

7.6K  large sea turtles killed

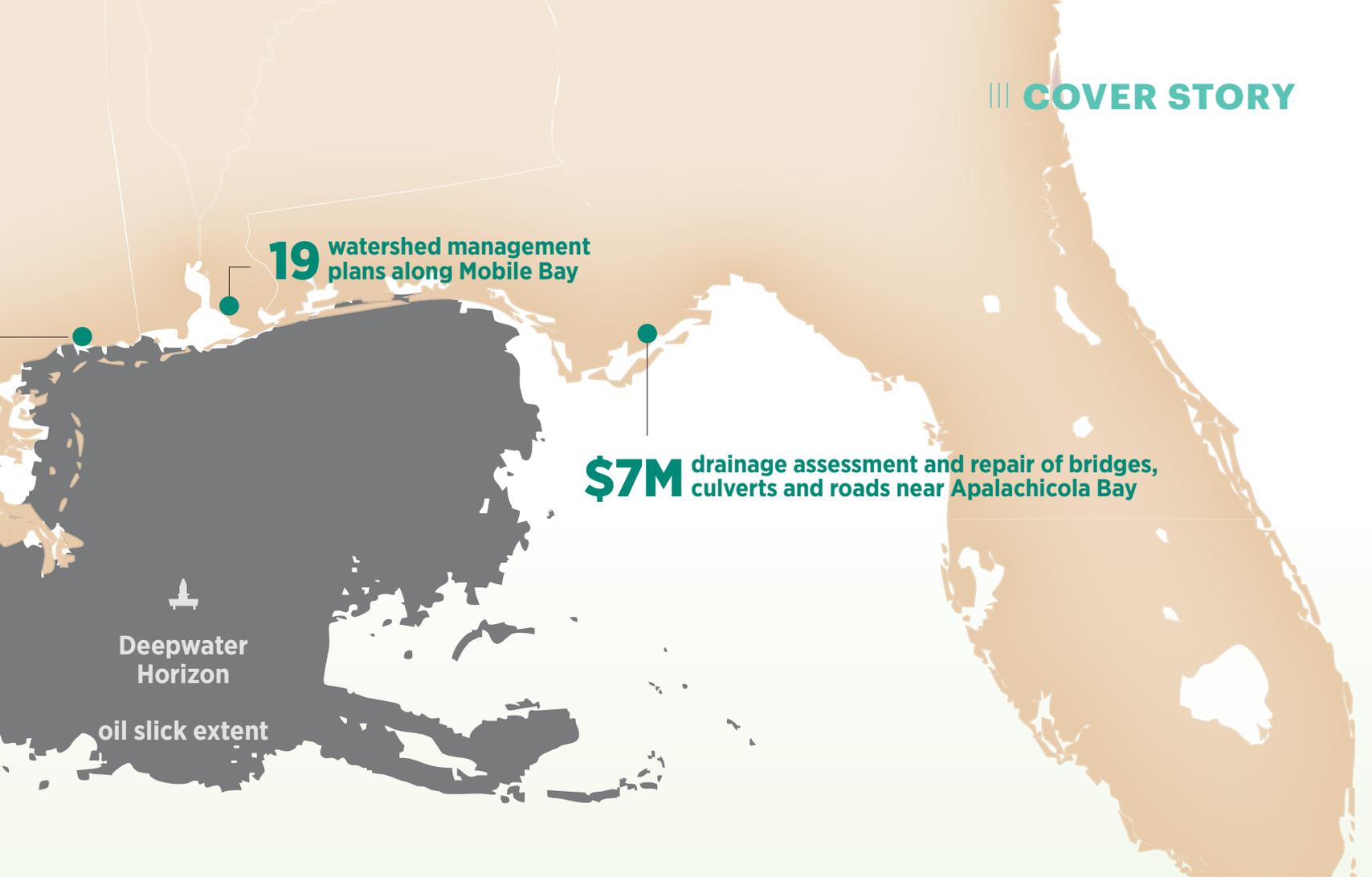
160K  juvenile small sea turtles killed

84.5K  birds killed

66%  Louisiana oyster harvest reduction

5K  dolphins & whales killed

Graphic by Randy Leonard/CQ Roll Call



In Deep Water

More than 3 million barrels of oil gushed from BP's Macondo Prospect in 2010; the cleanup efforts will continue into the foreseeable future.

- ① **THE SPILL**
- 3.19M** barrels of oil released
- 400+** square miles on ocean floor
- 43.3K** square mile oil slick
- 1.3K** miles of shoreline with oil deposits

The Deepwater Horizon, an offshore drilling rig leased by BP, was finishing up an oil well a mile beneath the ocean's surface and about 50 miles from the Louisiana shoreline when it exploded and sank on April 20, 2010. Eleven workers on the rig were killed. The uncapped wellhead proceeded to spew crude oil into the Gulf for the next 87 days. A federal judge in New Orleans ruled in 2014 that the disaster, the largest oil spill in U.S. history, was the result of BP's "gross negligence" and "willful misconduct."

A REELING SEAFOOD INDUSTRY

Shrimp in the Gulf were starting to rebound in August 2010, but oysters have taken longer to recover



Matt Davis/AFP/Getty Images



John Moore/Getty Images

“There are some really disturbing signs,” she says. Sperm whales are not feeding as before, she says. It’s unclear whether coral will regenerate. And some barrier islands along the coast — including Cat Island in Louisiana’s Barataria Bay, a thriving bird rookery before the spill — have disappeared because the oil killed sea grasses that kept the sands from washing out to sea, she says.

Spending for environmental projects identified so far has focused mostly on planning and

research, and in many cases the actual improvements are listed as tentative. “If implemented in the future” is common language in the proposals.

On the economic side, it’s safe to say the recovery in the Gulf region is well along, as many businesses and individuals have been reimbursed for damages sustained in the early months of the spill.

“The big oyster guys made out well,” says Harlon Pearce, president of the Gulf Seafood Institute, a fishing industry group. “One got between \$50 million and \$80 million. They’re crying all the way to the bank. The little guys didn’t do as well.”

Pearce says other parts of the Gulf fishery have bounced back. “Crabs are now all of a sudden exploding,” he says. “Shrimp is OK — we haven’t lost any shrimp or crab plants.” He says crawfish, catfish, alligators and finfish are also recovering well.

But Bethany Kraft, director of the Gulf Restoration Program at the Ocean Conservancy, a national environmental group, says the concern is with damages that aren’t visible and may take years to become known.

“We have this expectation that if something doesn’t destroy and decimate us, everything is fine,” Kraft says. “But there is at least an estimated 10 million gallons of BP oil still out there,” some still sitting on the bottom of the ocean and the rest buried beneath sand and sediment, she says.

BP has been ordered to set aside \$700 million for future unknown damages, but Jaelyn Lopez, staff attorney and Florida director at the Center

Humans, Too, Were Harmed by the Spill

More than 150,000 people were directly exposed to oil and chemical dispersants during and after BP’s massive spill in the Gulf of Mexico. Thousands of boat crews joined the company’s “Vessels of Opportunity” response to help clean up the spill from the water, and more workers were hired to scrub beaches and perform other cleanup work in 2010.

Years later, many of them are still suffering from respiratory ailments and mental health issues, says the head of a federal study tracking more than 33,000 of those cleanup workers.

“There were more respiratory symptoms — coughing and wheezing — in the first one to three years after the spill, and

we’re continuing to track those,” says Dale Sandler, leader of the Gulf Long Term Follow-Up Study being conducted by the National Institute of Environmental Health Sciences.

“The emphasis now is on mental health effects,” Sandler says. “We’re seeing more cases of depression, similar to post-traumatic stress disorder, though these have not been clinically diagnosed.”

While a direct connection between mental health and the spill hasn’t been established, Sandler says it isn’t surprising that people living in a region struck by a huge environmental disaster are dealing with depression and anxiety. Previous long-term studies of the human health

effects from big oil spills, in Spain and South Korea, found similar “mental health outcomes,” according to the National Institutes of Health website for the study in the Gulf.

Participation in the study, funded by the NIH, is voluntary. Initial results will be published in a medical journal as soon as they are peer-reviewed, hopefully this year, Sandler says, but it’s already clear that “those who had more exposure are more likely to report symptoms.”

The NIH plans to continue funding the work for years so epidemiologists can gather data on the ages of death for those who were exposed and how many of those involve suicide, Sandler says.

for Biological Diversity, calls that sum “woefully inadequate.”

“What are these future effects going to be? There are hundreds of thousands of species in the Gulf,” Lopez says. “It’s impossible to suggest that \$700 million will be adequate to address future unknown concerns.”

The Justice Department defended the settlement, the largest environmental penalty ever, as “just and reasonable.”

“It is enough for full restoration of the Gulf ecosystem to its state before the April 2010 spill,” department spokesman Wyn Hornbuckle said in an email statement.

As for the amount set aside for future unknown damages, he noted that after extensive study, federal and state trustees “were confident the amount of money set aside was completely sufficient.”

BP’s senior vice president for external affairs, Geoff Morrell, said in an email to CQ that the company is pleased “the historic settlement” announced in July 2015 has been entered in federal court. Morrell had no further comment.

Across the Gulf states, debates have erupted over BP beneficiaries and whether they’re getting money at the expense of worthier causes.

Besides the baseball stadium, aquarium and pharmacy school in Mississippi, the state House of Representatives passed a bill in March that would direct \$50 million — almost a third of the initial BP payment to the state — to pay for state infrastruc-

ture improvements, mainly highway repairs and construction. The legislation would create a state trust fund to pay off bonds already issued for the improvements.

That doesn’t sit well with many on the coast.

“This would be like the state of Kansas asking for Katrina money,” says Creel, the Biloxi spokesman who defends investing the money in the stadium.

The state Senate still needs to approve the measure before any money is committed, and it may have trouble doing so with growing opposition to the plan. Lawmakers representing districts along the coast have expressed outrage that the legislature would consider using settlement money for projects outside of coastal community development.

Mississippi’s reputation for managing coastal restoration projects took a bruising three years ago when the Interior Department inspector general reported the state had misspent some \$30 million in federal money designated for such projects since 2007.

Alabama Priorities

In Alabama, a proposal to renovate a dilapidated state-owned governor’s retreat along the coast with leftovers from an initial \$25 million grant that BP gave the state in 2010 has many onlookers challenging the spending of settlement money. The money was intended for contingency planning to address immediate environmental and economic fallout from the spill.

Embattled second-term Republican Gov. Robert Bentley, currently fending off calls for his resignation amid corruption allegations, initiated a \$1.4 million revamp of the governor’s mansion on the Fort Morgan peninsula. The mansion fell into a state of disrepair after a hurricane in 1997 caused extensive damage to the site.

“If this were a house in the woods in North Alabama, nobody would think anything about it,” Bentley said in a January interview with *The New York Times*. “It just sounds more elaborate when it’s on the beach. But it’s a state-owned property, and it is our responsibility to repair state-owned properties.”

The state also tried to tap BP environmental restoration money to finance a \$58 million hotel and conference center development to attract tourists to the coast. The proposed Baldwin County hotel along the same peninsula, some 15 miles away from the governor’s mansion project, would house up to 1,500 visitors to the Gulf State Park, one of the last state-operated public beaches.

Bentley endorsed both projects as boons to



“What we want to do is figure out what does exposure mean?” she says.

Sandler is a veteran of NIH’s

long-term studies monitoring thousands of people, including one involving more than 50,000 women with breast cancer. But the GuLF Study, as it is known, has special significance.

“This is a population exposed to hurricanes, is under-employed, does not have a lot of access to health care, and has lots of exposures through little oil spills,” she says. “So we can really learn a lot.”

— Mike Magner

Bentley, below left with President Barack Obama, defends the use of BP money for restoration of the governor’s mansion and a hotel project, both on the Alabama shoreline.



Saul Loeb/AFP/Getty Images

coastal tourism.

But environmental groups argued that settlement money should go to efforts that affect all residents of the coast, not just private interests.

A federal judge blocked the use of environmental funds for the hotel project after the Gulf Restoration Network successfully sued the state for tapping the money without proper environmental reviews for alternatives. The state still intends to pursue the project, possibly using other settlement funds not directly tied to restoration efforts.

The Gulf Restoration Network's Macha says there are other ways tourism can be bolstered.

"The state is sponsoring a private hotel. That in some ways is corporate welfare," she says. "How does that help the people, the environment or the economy?"

In addition, the Alabama state Senate is considering a measure sponsored by Republican Sen. Bill Hightower that would use \$320 million from the settlement for road projects in the southern part of the state.

"We wanted to do something that was strategic and long-term," says Hightower. "We have roads that are so dangerous, and they need to get fixed. They are also economic chokepoints that will help build economic development in southern Alabama."

"If anyone tries to touch the environmental restoration money, I'll lay down in the tracks for that."

— Rep. Garret Graves, R-La.

Louisiana's Focus

In Louisiana, officials are taking a harder line on dedicating money for environmental fixes, putting five times more into environmental restoration than into economic recovery efforts.

The spill amplified coastline erosion troubles that were already daunting. According to a 2012 state master plan, Louisiana had lost 1,880 square miles of land in the previous 80 years and was on pace to lose another 1,750 square miles in the next 50 years — a situation described by planners as "nothing short of a national emergency." The plan



estimates that between \$50 billion and \$100 billion worth of restoration work is needed to reverse the trend.

While levee construction and oil and gas dredging had left the coastline vulnerable, the spill accelerated the problems by damaging the marshes and barrier islands that guard against seawater intrusion, and by harming plant and wildlife important for soil integrity.

A new state law dictates that 80 percent of \$6.8 billion Louisiana expects to receive in settlement funds go toward coastal improvements. Late last year, officials on the Gulf Coast Ecosystem Restoration Council approved \$52 million for coastal activities, including marsh creation, coast stabilization and canal backfilling projects.

Louisiana officials have said the state will receive at least \$5 billion for natural resource damages, including \$368 million set aside for early restoration projects and more than \$780 million from the Clean Water Act civil penalties. It also expects to receive \$1 billion for state economic damages.

Still, some in Baton Rouge are targeting other settlement money to help bail the state out of its dire financial straits.

In January, Democratic Gov. John Bel Edwards proposed a budget plan that would invoke use of the state's "rainy day" fund and some of the settlement money — about \$200 million — not directly tied to coastal improvements to plug a \$900 million shortfall in the state's budget.

He vowed that any money designated for coast-



Sean Gardiner/Getty Images

SLOW RECOVERY: A man walks his dog on the beach in Grand Isle, La., in April 2014. Oil is no longer visible, but still lurks beneath the sand.

al projects would be used only for that.

“Using our funds responsibly assures Congress that we are serious about saving our coast and deserving of the federal dollars needed to preserve Louisiana’s coast for generations to come,” Edwards said in an April 4 statement.

The state legislature backed the proposal with minimal opposition, according to Steven Procopio, policy director with Public Affairs Research Council of Louisiana, a nonpartisan, nonprofit state think tank.

“Environmental groups understand they are drawing from the economic damage, not from the coastal restoration,” Procopio says. “As long as they do not cross the fire trench, we are fine with the proposal.”

Rep. Garret Graves, a Louisiana Republican who led the state’s coastal restoration authority before he was elected to the House in 2014, says he believes the settlement amount is “within the brackets of fairness.”

He bristles at critics who oppose spending the \$200 million in BP money to fill state budget holes. He says the money is for addressing lost revenue, partly resulting from a six-month drilling moratorium after the accident hurt the economy.

“I think it’s entirely appropriate,” says Graves.

But, he adds, “If anyone tries to touch the environmental restoration money, I’ll lay down in the

tracks for that.”

Florida and Texas are a study in contrasts with their plans for spending their settlement money.

Florida had less environmental damage from the spill than other states, but its tourism business took a big hit, so most of its money is going to the state’s Panhandle for economic projects. Texas, meanwhile, is heavily focused on ecological restoration.

The Texas Commission on Environmental Quality announced last year the formation of two “Centers for Excellence,” a consortium of local universities that intend to research local fisheries, coastal restoration efforts, offshore energy projects and sustainable and resilient growth of economic and commercial development in the region.

The state put forward \$4.1 million of BP money for the two groups — one led by the University of Houston and the other by Texas A&M University. While relatively small compared to the entire settlement sum, Texas’ initial investment in the research centers indicates a willingness to ensure resource sustainability and the promise to prevent a disaster of this scale from occurring again.

“We need to focus on science,” says Pearce, the Gulf Seafood Institute’s president.

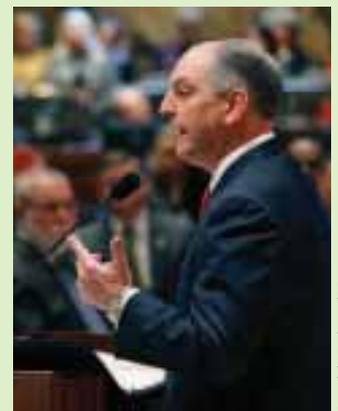
Other universities along the coast, including public schools in each state, have also launched research initiatives, but according to Pearce, they have not collaborated. “We want something sustainable that can keep going,” he says.

Spearheaded by the Gulf Coast Ecosystem Restoration Council, which was established by the Restore Act to oversee the spill response, 48 environmental projects using BP money have been approved for the five states, and nine others have been developed that are Gulf-wide projects. However, nearly half of those projects, 27, only have funds for planning. Roberta Swann, president of the Mobile Bay National Estuary Program, says that while it’s not certain how many of the plans will be implemented, she’s confident the process is being used to guide restoration investment decisions.

“Everyone recognizes there isn’t enough money to do everything in every plan,” says Swann, whose group received money to plan restoration efforts for 19 watersheds in Alabama. It’s a point emphasized by the Restoration Council in its report listing funding priorities, which also underscored the need to make every dollar count.

Noting the lack of sufficient funds to fully address the Gulf’s ecological challenges, the council said, “Effective leveraging of existing resources is critical for maximizing the ‘bang’ for each coastal restoration ‘buck.’” ■

Edwards has proposed using \$200 million in settlement money to help plug a Louisiana budget shortfall.



Gerald Herbert/AP