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February 22, 2012

The Honorable Eric H. Holder, Jr.  
U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

RE: Terms of Settlement with BP and other RPs under Clean Water Act for Deepwater Horizon Disaster

Dear Attorney General Holder:

I understand that it is possible that the Justice Department may enter into a legal settlement with British Petroleum ("BP") and other responsible parties for damages under the Clean Water Act related to the Deepwater Horizon disaster. I commend your team for their work in holding the responsible parties accountable for the economic and environmental damages. The magnitude of the Deepwater Horizon disaster requires a settlement that is structured to implement scientifically-grounded strategies to benefit the long-term health of the Gulf of Mexico. This is an once-in-a-lifetime opportunity to dramatically improve the environmental and economic vitality of the Gulf of Mexico and related communities and businesses. The Gulf of Mexico supports millions of jobs in the tourism, fishing, recreation, and wildlife industries. All of these jobs rely upon a healthy and resilient Gulf of Mexico. As the result of decades of natural disasters and environmental and economic stresses, the health of the Gulf of Mexico has rapidly declined, placing not just the ecosystem at risk, but millions of jobs. President Obama pledged to restore the Gulf of Mexico and its communities and I am pleased to recommend a few ways forward.

Fortunately, since the BP disaster, three detailed reports have been completed that should guide settlement terms. The December 2011 *Gulf of Mexico Regional Ecosystem Restoration Strategy* by the Gulf Coast Ecosystem Restoration Task Force and the September 2010 Secretary of the Navy Report titled *America's Gulf Coast: A Long Term Recovery Plan After the Deepwater Horizon Oil Spill*. These Reports are good starting points for the terms of a structured settlement. The bipartisan Report of the National Commission on the Deepwater Horizon Oil Spill recommendations, particularly Chapter 9, Section E, Overcoming the Impacts of the Deepwater Horizon Spill and Restoring the Gulf, also should be implemented in a structured settlement. All three reports concur with President Obama's call to devote at least 80% of the proceeds from such settlement to Gulf of Mexico recovery and research. In addition,

a general consensus of stakeholders strongly endorses the 80% approach. According to the Oil Spill Commission, the Gulf of Mexico will require \$15 billion–\$20 billion for restoration and long-term research and monitoring. The structured settlement provides the most effective opportunity for Gulf-wide environmental and economic restoration. Most policymakers agree that without a reliable source of long-term funding and targeted improvements, it will be impossible to achieve restoration in the Gulf.

Based upon my extensive involvement with stakeholders and as Co-Chair of the bipartisan Congressional Gulf Coast Caucus, I am pleased to provide a number of important recommendations for the terms of a structured settlement:

- **Gulf Coast Ecosystem Restoration Task Force** - The restoration and long-term improvement of the Gulf of Mexico cannot be addressed in a piecemeal fashion by individual states or by the federal government alone. Instead, the settlement should provide a Gulf-wide framework to implement a multi-year comprehensive gulf-wide restoration plan. The Gulf Coast Ecosystem Restoration Task Force, which was established by executive order, is the logical overarching entity to implement a large portion of the restoration strategy. The Oil Spill Commission recommendation similarly endorsed a joint state-federal Gulf Coast Ecosystem Restoration Council and advised that the *Exxon Valdez* Oil Spill Trustee Council should inform the structure of the Gulf Coast Council on the question of the relative representation of the federal and state governments on the council. The Gulf Coast Task Force/Trustee Council should be the implementing entity for the restoration strategy. A large percentage of the proceeds thereby should be directed to the Task Force per a Gulf of Mexico Economic and Environmental Recovery Fund to implement the Task Force Strategy. The settlement also should direct that the Task Force priorities and decisions are informed by input from a Citizens Advisory Council that represents diverse stakeholders and the establishment of a Gulf Coast Ecosystem Restoration Science and Technology Advisory Committee.
- **Endowment for Gulf of Mexico Long-Term scientific research and Gulf of Mexico Centers for Excellence** – Separate and apart from the Task Force and its restoration fund, the landmark settlement should devote significant resources to study and repair the Gulf of Mexico for decades to come. The BP settlement must establish a long-term endowment for ensuring the health and vitality of the Gulf of Mexico. The Gulf Research endowment can be administered by National Research Council with oversight from federal agencies such as EPA and Interior. This endowment should fund Gulf of Mexico Centers for Excellence and other scientific grants that will enable us to collect much needed data and deploy much needed monitoring capabilities across the Gulf. The Centers for Excellence should focus on the Task Force’s broad recommendations and overall Gulf Strategy. The Gulf of Mexico is one ecosystem and thus, should be repaired as one ecosystem.

The Gulf of Mexico University Research Collaborative (GOMURC) has formed a solid partnership within the Gulf States of Alabama, Florida, Louisiana, Mississippi and Texas in pursuit of scientific understanding of issues and has already served to inform decisions on state, regional, national and international resource management and policy practices

affecting the Gulf of Mexico ecosystem and economy. Immediate grants to GOMURC and its continued involvement would ensure a solid foundation of science to support ecosystem restoration research conducted with endowment funds and ensure a gulf-wide perspective and input from major stakeholders.

- **Gulf of Mexico Observation System to monitor the Gulf** – Resources should be devoted right away to an ocean observing system in the Gulf of Mexico. Such robust, large-scale ocean observing systems have been created and sustained in other parts of the country and we need a commensurate investment in the Gulf. For example, on the Pacific coast, the California Cooperative Oceanic Fisheries Investigations (CALCOFI) is a long-term oceanography and marine biological monitoring program jointly supported by the federal government (NOAA-NMFS), Scripps Institute of Oceanography and California Fish and Game. Operating since 1945, the program annually invests about \$6 million to provide key ocean condition information which allows assessment of species such as sardine, anchovy, marine mammals and large sharks. <http://calcofi.org/> In the North Pacific, the North Pacific Research Board (NPRB) has a trust fund that was created through a \$1 billion settlement of submerged land claims (Dinkum Sands) in the Beaufort Sea. The endowment supports ongoing marine monitoring programs in the Bering Sea, Gulf of Alaska, and Arctic Sea. <http://www.nprb.org/>.

In North Atlantic, North Pacific, and Antarctic, the U.S. National Science Foundation and NOAA jointly funded for more than 20 years a program of large scale monitoring and marine research at the large marine ecosystem level called the Global Ocean Ecosystem program or GLOBEC. The goals of GLOBEC were to understand the joint stressors of climate and harvesting on marine populations in LMEs around the country. The Gulf of Mexico was never a target region for GLOBEC and thus many of the questions answered elsewhere were never researched in the Gulf.

<http://www.cop.noaa.gov/stressors/climatechange/current/GLOBEC/default.aspx>.

Also, note that US Ocean Observatories Initiative (OOI), North Atlantic and North Pacific, is funded by the National Science Foundation, and is creating high technology arrays of instruments and associated infrastructure in the North Atlantic and North Pacific. These arrays will provide continuous data on ocean conditions, marine resource status and marine pollution surveillance. No such array is being funded for the Gulf. <http://www.oceanobservatories.org/> Regional collaborations such as the Chesapeake Bay program also is funded by the EPA and several states provide intensive monitoring of restoration efforts including water quality, air quality, nutrient contamination, marine species, meteorological data and living marine resource evaluation. The Chesapeake Bay program has the ability to compile a precise “report card” on the status of the Bay, based on the funded monitoring activities <http://www.chesapeakebay.net/>.

The Oil Spill Commission also recognized that the "monitoring needs in the Gulf of Mexico, which because of its multiple uses and economic value should be a national priority. To that end, the National Ocean Council should work with the responsible federal agencies, industry and the scientific community to expand the Gulf of Mexico Integrated Ocean Observing System, including the installation and maintenance of an in

situ network of instruments deployed on selected production platforms. Participation in this system by industry should be regarded as a reasonable part of doing business in nation's waters."

- **Boost Gulf Fisheries monitoring and research** – Outside of the Task Force Restoration Strategy and funding, direct resources should be set aside now for fisheries monitoring and research. After all, one-third of the national seafood harvest hails from the Gulf of Mexico. It is under stress and needs immediate help. Like ocean observing systems, the Gulf of Mexico fisheries have historically lagged behind those in Alaska and New England. Significant work in fisheries needs to be prioritized within the settlement terms. For example, there is a need to implement independent and dependent fishery modeling systems; acquisition, protection and restoration of essential fish habitats; need to enhance Assessments for Marine Protected Species such as Sea Turtles, Dolphins and Whales. The Gulf of Mexico Regional Fishery Management Council as well as commercial, recreational, state and federal participants should be major players in this effort.

The Oil Spill Commission also highlighted the importance of fisheries research and protection, particularly how using coastal and marine spatial planning has the potential to improve overall efficiency and reduce conflicts among ocean users: "Ocean management should also include more strategically sited Marine Protected Areas, including but not limited to National Marine Sanctuaries, which can be used as "mitigation banks" to help offset harm to the marine environment. Given the economic and cultural importance of fishing in the Gulf region—and the importance of Gulf seafood to the rest of the country—scientifically valid measures, such as catch share programs, should be adopted to prevent overfishing and ensure the continuity of robust fisheries. Marine spatial planning was designed to ensure that myriad ocean management decisions are compatible and consistent, that they make sense. In the decades since marine protection began, scientists have developed a much more robust understanding of the Gulf's physical and ecological processes. Now, for example, Marine Protected Areas can be used—and should be used—to ensure the continuity and robustness of fisheries into the future."

- **Independent Sea Grant Program to fund restoration projects carried out by sea grant colleges or institutions** – Resources should be used to establish a grant program to fund Gulf coast restoration projects carried out by sea grant colleges or institutions, as designated under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), that are located in Gulf States. Studies have shown that every dollar invested in Sea Grant returns \$20 in economic growth in coastal communities.
- **Gulf of Mexico Seafood Marketing Program to promote the Gulf seafood that accounts for one quarter of the nation's seafood catch** – BP settlement funds should be devoted to Gulf of Mexico seafood marketing through the Gulf coalition or state agriculture/seafood entities. The Gulf of Mexico region is of tremendous national significance: not only does it provide 30 percent of the nation's gross domestic product, but it also provides 33 percent of the nation's seafood, yielding more finfish, shrimp and shellfish annually than the south, mid-Atlantic, Chesapeake, and New England regions combined. According to the Congressional Research Service in 2008, Gulf commercial

fishery landings totaled 1,273 million pounds with a dock-side value of \$697 million. When related processor, wholesale, and retail businesses are included, the seafood industry of the Gulf States supported over 213,000 full- and part-time jobs with related income impacts of \$5.5 billion.

The BP oil disaster had a direct and devastating effect on fisheries and the Gulf seafood industry. In the days following the BP oil disaster, NOAA closed 6,817 square miles of the Gulf of Mexico to commercial and recreational fishing. A study by MRops, a marketing research company commissioned by the Louisiana Seafood Promotion Board to study the impact of the BP oil disaster on Gulf seafood, reported that 70% of consumers polled expressed some level of concern about seafood safety and that 23% had reduced their consumption of seafood as a result of the disaster. Despite the fact that Gulf seafood is the most tested seafood in the nation, consumers are still afraid to purchase and consume it as a result of the BP oil disaster. BP spent more than \$93 million on advertising in just the three months following the BP oil disaster in an effort to improve its image. It is only fair that a portion of the BP settlement go towards restoring the reputation of Gulf seafood that BP's negligence sullied.

- **Boost Gulf of Mexico National Estuary Programs** - The National Estuary Programs that operate in the Gulf of Mexico Region should be bolstered with significant new investments per the BP settlement. Estuaries are critical to a healthy Gulf of Mexico as they provide nurseries for many species, including oysters, shrimp, and crab, which are integral to commercial fisheries. The Gulf estuaries have been degraded for years by nutrient runoff, pollution, energy development, and coastal development. I recommend, as does the Gulf Coast Ecosystem Restoration Task Force, improving the quality and health of Gulf estuaries. This can be accomplished by strengthening the National Estuary Programs.
- **Ensure Natural Resource Damage Assessment Monies and Programs Are Not Duplicated** - Over \$1 Billion dollars are currently designated for the areas of the Gulf Coast that were impacted most directly by the BP oil blowout. More is likely on its way. The targeted environmental restoration projects under NRDA and the Oil Spill Act allow the Clean Water Act settlement proceeds to be utilized for the larger Gulf of Mexico economic and environmental restoration and research. The settlement agreement should directly delineate that the settlement proceeds are not intended to and shall not duplicate the extensive environmental restoration projects under the jurisdiction of NRDA and the Oil Pollution Act.

I commend the Justice Department for doggedly pursuing a settlement for those affected by the disaster, but we must now ensure that the settlement amounts are used in the most effective manner to secure the long-term health and stability of our region's most precious economic and environmental asset, the Gulf of Mexico. Thank you for the opportunity to relay priorities for the landmark BP Deepwater Horizon structured settlement agreement. Citizens and businesses across the Gulf Coast and the country are depending upon you and President Obama to make good on the pledge to restore the Gulf of Mexico to a higher quality than before the blowout disaster. I urge you to act expeditiously. A healthy Gulf of Mexico means a healthy economy

and jobs for Florida and all Gulf Coast communities. This is our once-in-a-lifetime opportunity to repair our region's greatest natural and economic asset.

I look forward to discussing the matter with you further. Thank you.

Sincerely,



Kathy Castor  
U.S. Representative  
Florida- District 11

Cc: Associate Attorney General Tom Perrelli  
EPA Administrator Lisa Jackson  
Dr. Jane Lubchenco, NOAA Administrator  
John Hankinson, Gulf Coast Task Force