Commentary
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Safeguard Coastal Funding

As Louisiana is poised to spend some of its BP oil spill settlement on the state operating budget, now is a good time to evaluate the appropriate use of the various new revenue sources the state is receiving related to coastal damages and offshore drilling. The state's actions could affect future resources available to Louisiana through offshore revenue sharing and potential federal assistance.

PAR supports the governor's plan to spend the first portion of a BP economic damages settlement toward the immediate budget crisis. But state officials, coastal stakeholders and the public should appreciate how this batch of settlement is different from the others. Any similar use of other designated coastal resources for the state budget or non-coastal pet projects would be harmful to the state's goals of maintaining federal and national support and restoring and protecting its coastal region.

To address the state's immediate budget crisis, Gov. Edwards' administration is proposing a combination of higher revenues, reduced expenditures and a rainy day fund withdrawal. Also, the governor wants to use money from a BP settlement for economic damages arising from the Deepwater Horizon incident in 2010. Significantly, this particular economic damages settlement is different from the other civil, criminal and environmental damage settlements with BP because this money has never been pledged or intended for the state's constitutionally protected Coastal Restoration and Protection Fund.

Johnny Bradberry, the governor's chosen chief of the Coastal Protection and Restoration Authority, said recently, "All of the funds from the BP oil spill dedicated to coastal remediation and restoration are still going to coastal projects. None of that money is being diverted away from restoring and protecting our coast. Nothing the governor has proposed will slow down or hinder the progress we are making." This statement by Bradberry echoes the commitments made by Edwards when he was running for governor that this administration intends to protect the Coastal Fund from future raid attempts.

It is important to understand the difference between the economic loss settlement funds that can be used for non-coastal needs and the natural resources damages and Clean Water Act claims that are required to be spent on coastal restoration. To address the current year deficit, the governor is proposing to use the funds derived from the economic losses settlement.

Economic Losses

Louisiana, along with the other Gulf states impacted by the Deepwater Horizon incident, collectively asserted claims against BP Exploration & Production and other BP entities including claims for economic losses such as lost taxes and revenues and loss of royalties. The Gulf states' claims were consolidated, pretrial proceedings took place, and a settlement agreement was reached to satisfy all claims, other than the natural resource damages claims, Clean Water Act claims, and other claims being separately settled and resolved by the Consent Decree. The effective date of the settlement agreement is defined as the earliest date upon which the settlement agreement has been fully executed by all of the parties and the Consent Decree has been entered by the Court. This date has not yet been set.

Louisiana's economic losses settlement is $1 billion and the payment schedule is as follows:

Assumed Year*	Payments
2016	**$200,000,000**
2017	**$0**
2018	**$0**
2019 - 2033	**$53,333,333**
Total	**$1,000,000,000**

**The schedule assumes that the Settlement Agreement will have an Effective Date of 2016. The 2016 payments are due within 90 days of the Effective Date. Each annual payment thereafter is due on the anniversary of the Effective Date.*

In the 2014 regular session, the Legislature passed and the governor signed a bill dedicating these economic damages claims payments. State law (R.S. 39:91) requires the funds to be deposited into the Deepwater Horizon Economic Damages Collection Fund and then allocates them as follows:

- 45% to the Budget Stabilization (rainy day) Fund up to the amount statutorily mandated (R.S. 39:94);
- 45% to the Medicaid Trust Fund for the Elderly (R.S. 46:2691) until an amount not to exceed $700 million has been deposited;
- 10% to the Health Trust Fund (R.S. 46:2731) until an amount not to exceed $30 million has been deposited;
- In the 2015 regular session, a bill passed dedicating interest earnings to higher education.

The Edwards administration is proposing to use the first economic losses claims payment of $200 million to help address the current-year budget deficit. Therefore, the Legislature will have to pass legislation to allow for the use of these funds that have been previously dedicated as explained above.

Also, in order to receive the payment in the current fiscal year, the Consent Decree would have to be fully executed by all of the parties and entered by the Court. Once there is an effective date, BP has 90 days from that date to make a payment. A hearing has been scheduled for March 2016 by the Court to consider approval of the proposed Consent Decree. So, for the state to get the money this fiscal year, the hearing and the resulting Consent Decree must take place in time and BP would have to expedite the payment of the settlement. Commissioner of Administration Jay Dardenne has testified that the BP President has personally assured Gov. Edwards that the claim will be paid immediately once the Consent Decree is effective.

PAR commends the governor and CPRA chairman for communicating their intent to use the BP funds -- other than the economic losses settlement funds -- for the protection and restoration of our coast. Their commitment to coastal protection and restoration would be demonstrated by also avoiding sweeping the Coastal Fund and ensuring that all available dollars are invested toward advancing our state's science-based master plan.

The Coastal Fund

Most of the money the state spends on coastal projects comes through the Coastal Fund, a constitutionally protected account that draws its money from the state, the federal government, various settlements related to the BP oil spill, mineral revenues from oil companies and other sources. In addition to non-state sources, the Coastal Fund is projected to receive $16.2 million in fiscal 2016 and $13.5 million in fiscal 2017 from state royalties and severance taxes on mineral production and exploration. These projections have declined significantly from prior years' state revenues due to the decline in energy prices.

The state Constitution says that once money is placed in the Coastal Fund, it must be spent on projects consistent with Louisiana's coastal master plan. However, there is an exception to the rule. To balance a mid-year budget deficit, the governor has the constitutional prerogative to skim a portion of cash from a large variety of state funds, including the Coastal Fund. For many years the state safeguarded the Coastal Fund from any and all budget cuts. However, in February 2015 we saw, for the first time, an administration raid on the Coastal Fund to address a mid-year budget deficit. In November 2015, a subsequent action swept money from the Coastal Fund to address the fiscal 2016 mid-year deficit.

In the past two years, PAR has decried the planned use of the Coastal Fund as a kind of fiscal washing machine to churn one-time non-coastal revenue into general operating dollars for the state budget. Fortunately, the Legislature saw fit to stop using the Coastal Fund for that kind of budget gimmick. But the mid-year fund sweeps are direct raids of funds that were to be spent on coastal restoration projects and management.

The mineral revenues that flow into the Coastal Fund are the only predictable state-funding source. Because the price of oil has and continues to decline, the CPRA agency is already taking a year-after-year reduction in state funding. In fiscal year 2014, CPRA received $29.4 million through the state royalties and severance taxes deposited into the Coastal Fund. In fiscal year 2015, the revenues declined to $23.6 million. The CPRA is projected to receive $16.2 million in fiscal year 2016 and $13.5 million in fiscal year 2017.

Considering this decline in state mineral revenue for the foreseeable future, a new stream of revenue from offshore operations – GOMESA -- will become a critically important source for Louisiana's coastal master plan.

The President's New Attempt to Raid GOMESA

The federal government collects tax revenue from oil and gas operations in federal waters. Although Louisiana and its coastal infrastructure support these operations and are impacted by them, the state in the past has received little or none of these tax revenues. The Gulf of Mexico Energy Security Act of 2006, known as GOMESA, allows a portion of that federal revenue to be shared with the four Gulf oil and gas producing states of Alabama, Louisiana, Mississippi and Texas, and their coastal political subdivisions. The act provides for the disposition of small amounts of the outer Continental Shelf revenues for fiscal years 2007 through 2016. However for fiscal year 2017 and each fiscal year thereafter, the amount made available from any lease is supposed to be allocated based on a formula established by the Secretary of the Interior by regulation. Louisiana's revenue is currently estimated at about $176 million per year. Unfortunately, the Department of Interior is stalling on promulgating any regulations, which are critical to establishing the formula for revenue sharing among the states and coastal political subdivisions.

Instead, the President's recent budget proposal redirects the GOMESA revenues from Louisiana and the other Gulf states to help fund the President's climate change agenda. Louisiana's Congressional delegation opposes this move. There have been past failed attempts to redirect these revenues, with some federal decision makers seeking to use the offshore oil royalties for general fund purposes instead of dedicating these funds to the Gulf states.

Given these attempts to reroute Louisiana's share of the offshore oil and gas taxes, it is critically important that Louisiana continue to allocate its coastal funds only for coastal purposes. To do otherwise would only provide ammunition to those who would seek to divert money away from Louisiana.

What's at Stake?

Louisiana's coast is critical not only for coastal communities and their residents' livelihoods, but also for our state and national economy. While Louisiana has 40% of the country's wetlands, over 80% of the Gulf coast land loss occurs within the state. It is estimated that 25-35 square miles of wetlands are lost each year.

In addition to these land loss issues, the delta has in recent years suffered through additional catastrophes. In 2005, Hurricanes Katrina and Rita wrecked coastal communities and caused over 200 square miles of coastal land loss. The damage they brought, in the form of flooding and storm surge, was made worse by the on-going deterioration of the protective coastal wetlands. Then, in 2010, devastation came again in the form of the BP oil disaster, when millions of barrels of oil spilled from the Deepwater Horizon oil rig and washed up on Louisiana's barrier shorelines and coastal marshes. Both of these catastrophes were troubling to an already degraded region. Their effects add increased urgency to the need for long-term, large-scale restoration of the state's coast.

Coastal protection and restoration has always been a concern for Louisiana. However, most recently, the state's past few consecutive budget deficits have caused priorities to shift. The Jindal administration made the mistake of taking money from the state's Coastal Fund to spend on state operating expenses. Many stakeholders, including PAR, voiced their concern with redirecting dollars from critical coastal priorities. With the BP oil spill settlements and GOMESA funding, Louisiana has an opportunity to execute some critical coastal protection and restoration projects.

Louisiana is poised to receive and spend billions of dollars for coastal protection and restoration over the next decade. The most significant source of funding will come from the Deepwater Horizon oil spill settlements and adjudication of civil or administrative claims against responsible parties. With critical state revenues declining and the funding gap widening for coastal restoration and protection, Louisiana must not continue to make mistakes like siphoning designated money away from coastal protection and restoration.

The nation depends on America's wetlands and coastal operations to fuel much of its economy. Louisiana has five ports that are among the largest in the country. It has the largest oil and gas reserves in the nation and is the top producer of oil and second highest producer of natural gas. Louisiana is home to 40% of the coastal wetlands in the continental United States where nearly 26 percent (by weight) of the commercial fish and shellfish are harvested.

Louisiana must lead by example and make responsible investment decisions that will ensure Washington and the nation that protection of the Louisiana coast is in the national interest and is worth national support. The state should demonstrate that the dollars flowing from this national support will be safeguarded.

Public Affairs Research Council of Louisiana
P.O Box 14776, Baton Rouge, LA 70898

For more information contact:
Steve Procopio, Policy Director
225-926-8414 ext.224
steven@parlouisiana.org