



Photo: Kevin McDonald



## Gulf Restoration Update

February 11, 2016

Florida Fish and Wildlife Conservation Commission  
Office of Strategic Initiatives

## Background

- FWC has been engaged in addressing the *Deepwater Horizon* oil spill since it began in April 2010, in response, assessment, and restoration
- FWC is partner to the Florida Department of Environmental Protection in representing the State of Florida in the major natural resource restoration avenues



Largest oil spill in U.S. history. Incident directly caused 11 human deaths; 134M gallons of oil discharged over 87 days; ~37% Gulf waters closed to fishing.

FWC and DEP each have agency units whose sole focus is to carry out post-spill restoration. Those units work hand-in-hand in planning, decision-making, and implementation. The FWC Gulf Restoration unit is within the Office of Strategic Initiatives of the Office of the Executive Director.

## Funding for Natural Resources

- NFWF Gulf Environmental Benefit Fund (GEBF)
  - Part of the criminal recovery against BP and Transocean
  - Criminal liability entirely resolved
  
- Natural Resource Damage Assessment (NRDA)
  - Compensation for injured resources, not a penalty
  - Partially settled with BP through \$1B early restoration
  
- RESTORE Act
  - Portion of the Clean Water Act (CWA) civil penalties
  - Partially resolved through \$1B settlement with Transocean



The focus of this presentation will be on the activities in which FWC acts as a decision-maker or has some role in influencing the decision-maker. However, the oil spill precipitated several other programs and funding initiatives that will not be examined in detail today, including the MOEX settlement, the Gulf of Mexico Research Initiative (GoMRI), the National Academies of Sciences (NAS) Gulf Research Program, and the North American Wetlands Conservation Act (NAWCA) grants.

## Summary of Funding Activity to Date in Florida

- GEBF
  - \$69.7 million awarded to 21 projects
- NRDA
  - Emergency restoration of seagrass
  - Four phases of early restoration approved, including 8 projects being implemented through FWC
- RESTORE
  - In 2015, first awards issued under NOAA RESTORE Science Program and Florida RESTORE Centers of Excellence Program & first Funded Priorities List determined



## Proposed Settlement

- Agreement in Principle with BP announced July 2, 2015; proposed Consent Decree (CD) lodged with Federal court October 5, 2015
- Draft Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement (PDARP/PEIS) released October 5, 2015
- Public comment on each were accepted until December 4, 2015



On July 2 of this year, an agreement in principle was reached with BP to resolve remaining Federal and state claims for environmental and economic damage sustained in the wake of the 2010 *Deepwater Horizon* oil spill. Details of this agreement, initially subject to a court-ordered confidentiality agreement, were released to the public on October 5 with the lodging of a consent decree in the multi-district litigation. Further information on the agreement as it pertains to the Natural Resource Damage Assessment portion of the proposed settlement has been made available via the release of a Programmatic Damage Assessment and Restoration Plan, also on October 5. Public comment is open on both documents until December 4.

PDARP/PEIS elaborates on the NRDA portion of the settlement.

## Proposed Settlement

- Intention of Agreement in Principle was to resolve remaining governmental claims against BP, including local government claims and state economic claims, in addition to natural resource damages (NRD) and CWA penalties
- NRD = at least \$7.1 billion in addition to \$1 billion for early restoration
- CWA = \$5.5 billion plus interest



Local government claims and economic claims are negotiated and finalized outside of Consent Decree (although the CD is conditioned on finalization of agreement to resolve state economic claims). The agreement provides Florida the largest share of the economic recovery at \$2 billion, which is subject to legislative direction on spending.

Under the terms of the CD, Florida will receive at least \$580 million (on top of \$100 million in early restoration) for NRD and at least \$572 million in CWA penalty money being distributed via the RESTORE Act.

# Proposed NRD Allocation

Restoration Funding in Dollars

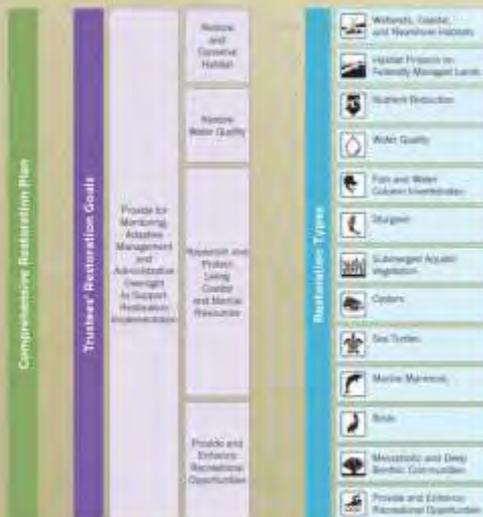
| Major Restoration Categories  | Delaware Conditions   | Virginia              | Open Ocean             | Alabama               | Florida               | Louisiana              | Mississippi         | Texas                | Total Restoration Funding* |
|---|-----------------------|-----------------------|------------------------|-----------------------|-----------------------|------------------------|---------------------|----------------------|----------------------------|
| <b>1. Restore and Conserve Habitat</b>  |                       |                       |                        |                       |                       |                        |                     |                      |                            |
| Wetlands, Coastal, and Nearshore Habitats   |                       |                       |                        | \$5,000,000           | \$,000,000            | 4,999,042,700          | \$5,500,000         | 100,000,000          | 4,734,542,700              |
| Habitat Projects on Federally Managed Lands   |                       |                       |                        | 3,000,000             | 17,500,000            | 60,000,000             | 1,000,000           |                      | 71,500,000                 |
| Early Restoration (through Phase IV)  |                       |                       |                        | 28,110,000            | 15,629,317            | 753,125,700            | 80,000,000          |                      | 857,365,027                |
| <b>2. Restore Water Quality</b>   |                       |                       |                        |                       |                       |                        |                     |                      |                            |
| Nutrient Reduction (Nonpoint Source)  |                       |                       |                        | \$,000,000            | \$,000,000            | 20,000,000             | 27,500,000          | 22,500,000           | 110,000,000                |
| Water Quality (e.g., Stormwater Treatment, Hydraulic Restoration, Reduction of Sedimentation, etc.) |                       |                       |                        |                       | 100,000,000           |                        |                     |                      | 100,000,000                |
| <b>3. Replenish and Protect Living Marine and Coastal Resources</b>                                 |                       |                       |                        |                       |                       |                        |                     |                      |                            |
| Fish and Water Column Invertebrates   |                       |                       |                        | 300,000,000           |                       |                        |                     |                      | 300,000,000                |
| Early Restoration Fish and Water Column Invertebrates   |                       |                       |                        | 20,000,000            |                       |                        |                     |                      | 20,000,000                 |
| Sturgeon  |                       |                       |                        | 10,000,000            |                       |                        |                     |                      | 10,000,000                 |
| Sea Turtles   |                       |                       |                        | 40,000,000            | 50,000,000            | 5,000,000              | 20,000,000          | 7,500,000            | 162,500,000                |
| Early Restoration Sea Turtles   |                       |                       |                        | 20,250,100            |                       |                        |                     | 19,900,000           | 40,150,100                 |
| Submerged Aquatic Vegetation  |                       |                       |                        |                       |                       |                        | 22,000,000          |                      | 22,000,000                 |
| Marine Mammals  |                       |                       |                        | 10,000,000            | 50,000,000            | 5,000,000              | 50,000,000          | 10,000,000           | 165,000,000                |
| Birds   |                       |                       |                        | 70,000,000            | 10,000,000            | 30,000,000             | 40,000,000          | 20,000,000           | 170,000,000                |
| Early Restoration Birds   |                       |                       |                        | 1,021,100             | 100,000               | 2,025,000              | 71,937,500          | 20,041,170           | 73,984,770                 |
| Neotropical and Sharp Shinned Seabirds  |                       |                       |                        | 272,000,000           |                       |                        |                     |                      | 272,000,000                |
| Oysters   |                       |                       |                        | 84,372,413            | 10,000,000            | 20,000,000             | 20,000,000          | 22,500,000           | 156,872,413                |
| Early Restoration Oysters   |                       |                       |                        | 2,329,000             | 5,510,500             | 14,078,500             | 13,000,000          |                      | 35,918,000                 |
| <b>4. Provide and Enhance Recreational Opportunities</b>  |                       |                       |                        |                       |                       |                        |                     |                      |                            |
| Provide and Enhance Recreational Opportunities  |                       |                       |                        | 25,000,000            | \$2,274,513           | 50,000,000             | 1,000,000           |                      | 78,274,513                 |
| Early Restoration Recreational Opportunities  |                       |                       |                        | 27,207,910            | 60,000,000            | 170,543,117            | 20,000,000          | 10,500,000           | 388,250,927                |
| <b>5. Monitoring, Adaptive Management, and Administrative Oversight</b>                             |                       |                       |                        |                       |                       |                        |                     |                      |                            |
| Monitoring and Adaptive Management  |                       |                       |                        | 60,000,000            | 200,000,000           | 10,000,000             | 10,000,000          | 275,000,000          | 505,000,000                |
| Administrative Oversight and Comprehensive Planning   |                       |                       |                        | 40,000,000            | 150,000,000           | 20,000,000             | 20,000,000          | 4,000,000            | 334,000,000                |
| Adaptive Management NRD Payment for Delaware Conditions   | 700,000,000           |                       |                        |                       |                       |                        |                     |                      | 700,000,000                |
| <b>Total NRD Funding</b>  | <b>\$,700,000,000</b> | <b>\$,048,000,000</b> | <b>\$1,128,000,000</b> | <b>\$,085,000,000</b> | <b>\$,400,257,542</b> | <b>\$5,800,000,000</b> | <b>\$76,000,000</b> | <b>\$194,100,000</b> | <b>\$10,251,357,542</b>    |

\* This table summarizes funding allocations for the Early Restoration work, not all restoration work, and monitoring, adaptive management, and administrative oversight work. Funding is in dollars. Average of 100 1/2 miles of coastline. Average of 100 1/2 miles of coastline. Average of 100 1/2 miles of coastline.



Restoration in Florida column includes \$100 million in early restoration projects in appropriate categories. NRDA settlement is organized around five restoration goals similar to the ecosystem goals articulated under RESTORE (Restore and Conserve Habitat; Restore Water Quality; Replenish and protect living marine and coastal resources; Enhance community resilience).

# PDARP



[www.gulfspillrestoration.noaa.gov](http://www.gulfspillrestoration.noaa.gov)

Four of the goals are then broken down into restoration types tied to major categories of resources injured by the spill. PDARP has >600 pages on injury assessment before describing restoration actions that may be pursued. Future project-level plans similar to the phased early restoration plans will tier off of the programmatic plan.

# RESTORE



[restorethegulf.gov](http://restorethegulf.gov)

Bucket 1: individual coastal counties; Multi-Year Implementation Plans in various states of progress

Bucket 2: Council (new federal agency) is comprised of governors of 5 states and 6 federal agencies; Mimi Drew represents Gov.; initial Funded Priorities List approved in December 2015

Bucket 3: Gulf Consortium working toward State Expenditure Plan; in December 2015, Gulf Coast Ecosystem Restoration Council approved regulation to establish formula for allocation

Bucket 4: NOAA RESTORE Science Program; research, observation, and monitoring to support long-term sustainability of ecosystem and fisheries; first funding opportunity opened Dec. 2014; science plan released May 6; first funding competition awarded approximately \$2.7 million to seven research teams, including one led out of the University of Miami with co-investigators from the University of South Florida and FWC's Fish and Wildlife Research Institute as collaborators; two other teams led by non-Florida institutions will include personnel from Florida universities as co-investigators or from FWC's Fish and Wildlife Research Institute as collaborators

Bucket 5: Florida Institute of Oceanography; initial RFP focusing on fisheries and wildlife research and monitoring in Gulf opened February 2015, closed in May; 10 awards issued across 8 Florida universities (only nongovernmental institutions and consortia are eligible to apply)—two selected have FWRI co-PIs

# RESTORE



Graphic: Environmental Law Institute

RESTORE Act dictates 20% goes of in Clean Water Act civil penalties goes to Oil Spill Liability Trust Fund and 80% is distributed via the five RESTORE component, which means that \$4.4 billion (80% of \$5.5 billion) be allocated to these components.

## Settlement Timeline

- Public review of CD and PDARP/PEIS through December 4, 2015
  
- Public meetings held across the Gulf and in Washington, D.C. in October and November 2015
  - October 27 in Pensacola
  - October 29 in St. Petersburg
  
- Finalization by court expected Spring 2016



Subject to finalization with court. Hearing on motion to enter CD as final settlement, if necessary, currently scheduled for March 23, 2016.

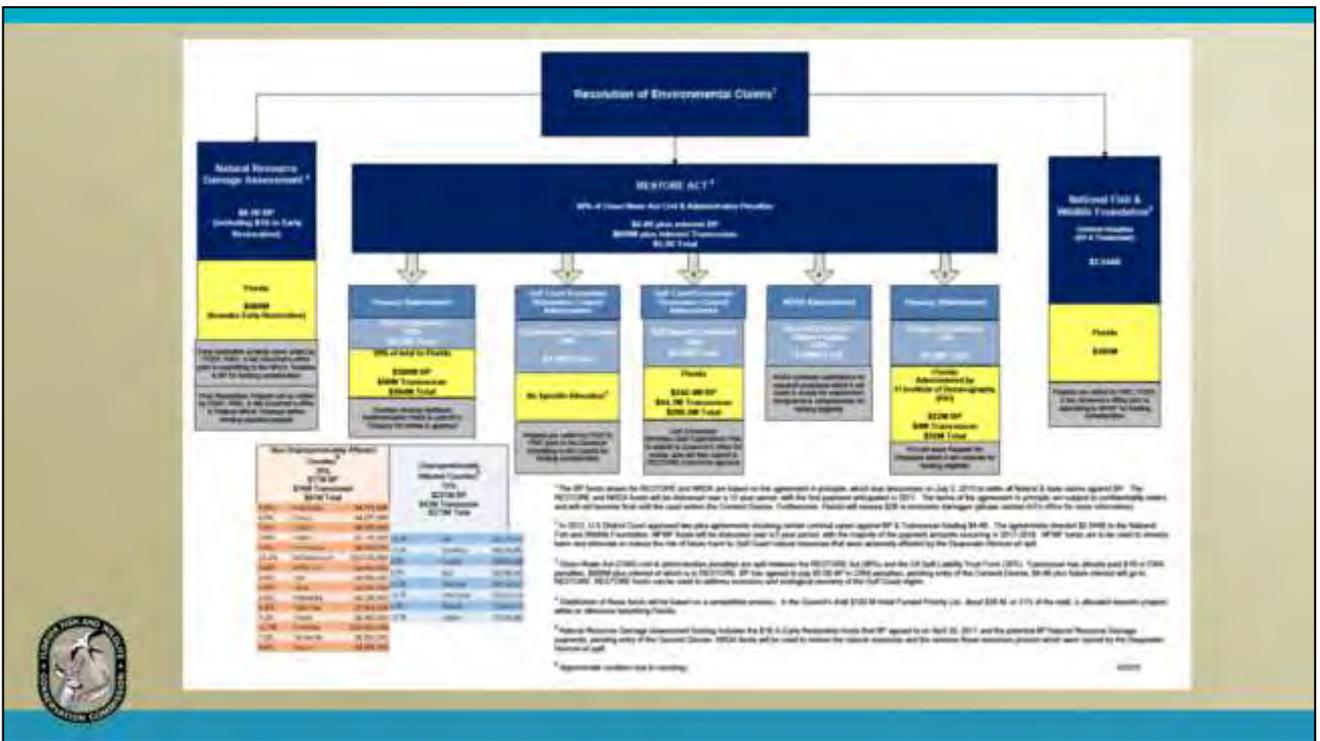
# Questions?

[deepwaterhorizonflorida.com](http://deepwaterhorizonflorida.com)



The following slides are considered backup material  
and are not anticipated to be part of the actual  
presentation





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## Unknown Conditions and Adaptive Management

- CD provides for an amount not to exceed \$700 million to address injuries not known as of July 2, 2015 or “to adapt, enhance, supplement, or replace restoration projects or approaches initially selected by the Trustees”
  
- Generated from unpaid interest on \$7.1 billion
  - Between January 1, 2026 and anniversary of entry of consent decree in 2032, Trustees can jointly demand payment of the interest
  - On anniversary of entry of consent decree in 2032, payment is required
  - On 16<sup>th</sup> anniversary of entry of consent decree, payment of \$232 million is required



# Natural Resource Damage Assessment

- Authorities: Oil Pollution Act of 1990 (33 USC §2701 et. seq.); NRDA Regulations, 15 CFR Part 990
- Scientific and legal process used by natural resource trustees to develop the public's claim for natural resource damages against the party or parties responsible for a spill and to seek compensation for the harm done to natural resources and services provided by those resources
- Goal is restoration of the injured or lost natural resources and lost human use of those resources



NRDA is a process described by Federal law and that law prescribes the state role. Trustees are the decisionmakers; DEP and FWC represent Florida. Both the AMOUNT and TYPE of restoration is determined by injury.

## NRDA



NRDA is a phased process. Standard scenario is described as a linear process. However, with early restoration, restoration implementation begins prior to the conclusion of injury assessment and restoration planning.

# Natural Resource Damage Assessment

- Emergency restoration
- Early restoration (\$1 billion committed under Framework Agreement)
- If CD is approved, NRDA would be settled with BP for an additional \$7.1 billion
  - Additional \$700 million to address conditions unknown at time of settlement and assist with adaptive management



Trustees may implement “emergency restoration” before completing an assessment to minimize continuing, or prevent additional, injury if the restoration actions are feasible and the costs are not unreasonable. For this event, three emergency restoration efforts were collectively implemented by the Trustees (individual Trustees may have implemented additional emergency restoration actions independently): a submerged aquatic vegetation restoration in select locations in the Florida Panhandle, provision of alternative wetland habitat in Mississippi for migratory birds, and a project designed to improve nesting and hatching success of Kemp’s ridley sea turtles in Texas.

On the first anniversary of the spill (April 20, 2011), the Trustees and BP agreed that BP would provide up to \$1 billion toward early restoration projects, under the terms of a Framework Agreement for Early Restoration, as a preliminary step toward restoring injured natural resources and services.

## **NRDA: Early Restoration Phase I**

- Eight projects in four states for an approximated \$62M
- In Florida, \$5.7M for a dune restoration project at Pensacola Beach and boat ramp construction or improvement at four sites in Escambia County



## NRDA: Early Restoration Phase II

- Two projects being implemented by multiple Trustees in three states for almost \$9M
- In seven Florida Panhandle counties, avian habitat project is stewarding beach habitat for 5 years (\$2.8M) and sea turtle habitat project is addressing detrimental lighting practices (\$3.5M) over 4 years



## NRDA: Early Restoration Phase III

- Forty-four projects in five states for approximately \$627M
- Twenty-eight of these projects are being implemented by the Florida Trustees; two other projects to be implemented by DOI in Florida
- Phase III Early Restoration Plan coupled with a Programmatic Environmental Impact Statement analyzing twelve early restoration project types



## NRDA: Early Restoration Phase IV

- Ten projects in four states for an estimated \$134M
- No projects are proposed for direct implementation by Florida Trustees, but one project to be implemented by DOI in Florida, two others would include activities in Florida, and a fourth project would benefit bird species Gulfwide



## NRDA: Early Restoration Phase V

- Agreement in principle reached with BP for an additional ~\$45.4M final phase of early restoration—land acquisition and recreational infrastructure improvements in Florida



## RESTORE Council-Selected Component



- Initial Comprehensive Plan provides framework for restoration
- 5 goals: Restore & Conserve Habitat; Restore Water Quality; Replenish & Protect Living Coastal & Marine Resources; Enhance Community Resilience; Restore & Revitalize the Gulf Economy



[restorethegulf.gov](http://restorethegulf.gov)

## RESTORE Council-Selected Component



- 50 submittals for first round focusing on water quality and habitat goals
- No predetermined allocation; ~180M available
- Initial Funded Priorities List approved December 2015



[restorethegulf.gov](http://restorethegulf.gov)

## RESTORE Council-Selected Component

- “Restoration in Key Watersheds: Acting Now and Laying a Foundation for the Future”
- Focuses on 10 key watersheds around the Gulf
- Two categories
  - ~\$156.6M for planning and ready projects
  - ~\$26.6M reserved for future, subject to additional review
- Approved by final Council vote at public meeting on December 9, 2015



### **Florida Sponsored - \$18.5 million**

- Category 1 - \$12.5 million
- Category 2 - \$6 million

### **Other Council Member Sponsored - \$12 million**

- Category 1 - \$4 million
- Category 2 - \$8 million

### **Gulf-wide Florida Benefits - \$7 million**

- Category 1 - \$5.7 million
- Category 2 - \$1.6 million

## Gulf Environmental Benefit Fund

- Established to administer criminal recoveries from settlements with BP and Transocean
- \$356M to be made available over five years for projects in Florida
- To be used to replenish and protect natural resources of the type impacted by the oil spill



# Gulf Environmental Benefit Fund

## 2013 Projects:

- Management & Restoration of Escibano Point Coastal Habitat
- Government Street Regional Stormwater Pond at Corinne Jones Park
- Apalachicola Bay Oyster Restoration
- Comprehensive Panhandle Coastal Bird Conservation
- Eliminating Light Pollution on Sea Turtle Nesting Beaches
- Enhanced Assessment for Restoration of Gulf of Mexico Fisheries



Fred Salzman  
Gulf Coast Haysen Fishing Association



\$15.7M in projects announced November 14, 2013.

## Gulf Environmental Benefit Fund

### 2014 Projects:

- Bayou Chico Restoration
- Boggy Bayou Watershed Water Quality Improvement
- Second Phases of Management & Restoration of Escribano Point Coastal Habitat and Enhanced Assessment for Restoration of Gulf of Mexico Fisheries
- Florida Shorebird Conservation Initiative
- Oyster Reef Habitat Restoration in St. Andrew Bay
- Benthic Habitat Mapping, Characterization and Assessment
- Restoration of Coastal Dune Lakes
- Destin Harbor, Joe's Bayou, and Indian Bayou Water Quality Improvement



\$34.3M in projects announced November 17, 2014.

## Gulf Environmental Benefit Fund

### 2015 Projects:

- Eastern Pensacola Bay Oyster Habitat Restoration
- Enhanced Assessment of Gulf of Mexico Fisheries – Phase III
- Eliminating Light Pollution on Sea Turtle Nesting Beaches—Phase II
- Increased Capacity for Marine Mammal Response & Analysis
- Water Quality Improvements to Enhance Fisheries Habitat in the Lower Choctawhatchee Basin



\$15.2M in projects announced November 10.

# GEBF Restoration Strategy

- Multi-year effort to plan remaining GEBF investments in Florida
  - Includes submerged habitat assessment and SWIM plan updates for SRWMD and NFWFMD
  - Based on the three NFWF GEBF funding priorities
  - Initial tasks underway: evaluate existing natural resource plans for priorities; categorize projects in state project portal



Focus is determining projects to be funded by GEBF; cannot directly serve as a global plan for other efforts such as RESTORE and other efforts but will coordinate with others such as the Gulf Consortium's SEP effort

Project portal is open at [deepwaterhorizonflorida.com](http://deepwaterhorizonflorida.com).  
~1,411 proposed projects currently in portal.

# GEBF Restoration Strategy

## Submerged Habitat Assessment

- Assess, map, and model natural and human stressors and roadblocks to submerged aquatic vegetation (SAV) in Perdido, Pensacola, Choctawhatchee, St. Andrew, Econfina, and Suwannee estuaries
- Collate all available SAV imagery, mapping, and monitoring data (and where gaps exist, gather new information) and combine with water quality and sediment data to evaluate roadblocks to recovery
- Develop Submerged Aquatic Vegetation Recovery Potential (SRP) model to identify areas where natural recovery is occurring and where losses are continuing



Six priority estuaries were selected on the basis of complementary watershed restoration plans and proposals, patterns of historical SAV distribution, severity of SAV loss, and preliminary assessment of SAV recovery potential. Model expected to be available Fall 2016.

# GEBF Restoration Strategy

## Restoration Planning for the Florida Panhandle

- Update watershed plans for seven major estuarine watersheds of Northwest Florida: Perdido River and Bay; Pensacola Bay System; Choctawhatchee River and Bay; St. Andrew Bay; Apalachicola River and Bay; Ochlockonee River and Bay; and St. Marks River and Bay
- Engage technical advisory committees to identify watershed issues, goals and objectives, and prioritize strategies and projects
- Conduct public workshops in each watershed



# GEBF Restoration Strategy

## Big Bend Watersheds Planning

- Update watershed plans for six major watersheds—Suwannee River, Aucilla River, Econfina River, Fenholloway River, Steinhatchee River, and Waccasassa River—and consolidate into two SWIM plans (Suwannee River and Coastal Rivers)
- Engage a steering group of agencies and NGOs to identify watershed issues, goals and objectives, and prioritize strategies and projects
- Conduct public workshops



Suwannee and Aucilla watersheds include tributaries.

# GEBF Restoration Strategy: Potential Actions

## Coastal Habitats:

- Utilize living shorelines and other non-structural or structural approaches to protect vulnerable shoreline
- Conserve key marsh or beach habitats that expand the network of state, federal, local and private conservation areas through fee or less-than-fee acquisitions
- Control and eradicate, when possible, non-native and invasive plant species and nuisance herbivores
- Enhance the habitat value for wildlife by taking actions to reduce human disturbance, such as utilizing fencing or educational signage, and controlling or eradicating, when possible, non-native and invasive species
- Restore dune habitat through native vegetation planting and sand-trapping fencing
- Protect and conserve strategic transitional and upland habitats necessary in the life cycles of many coastal species



Listed potential actions on next few slide modified from the NFWF website, which states: “The following list is a list of potential actions that may be supported through the Fund to advance important outcomes for each focal area. The list is not intended to be exhaustive but rather illustrative of the types of projects that may be candidates to receive funding through the Gulf Environmental Benefit Fund.

This list was prepared in collaboration with state and federal resource agencies. Individual projects will be subject to additional technical, legal and financial review as well as other considerations, including cost-effectiveness. These priorities and potential actions are expected to be refined over time as conservation planning at the regional, state and local levels occurs to better inform funding decisions.”

# GEBF Restoration Strategy: Potential Actions

## Coastal Bays and Estuaries:

- Measurably improve water quality by reducing significant non-point sources of degradation (e.g., storm water management, agricultural runoff) to enhance or maintain the functioning of priority bays and estuaries
- Improve freshwater inflows to priority bays to enhance or maintain the functioning of priority bays and estuaries
- Utilize living shorelines and other non-structural or structural approaches to protect vulnerable shoreline
- Restore and conserve (e.g., through land or easement acquisition) coastal and near-shore habitats, in particular marshes, oyster reefs, seagrasses, and coastal buffers
- Control and eradicate, when possible, non-native and invasive species to enhance native wildlife and fish habitat



# GEBF Restoration Strategy: Potential Actions

## Living Resources:

- Gulf Coast birds: Reduce nest predation and human disturbance to increase reproductive success; enhance food resources and habitat availability to increase overwintering success; protect and restore critical colonial waterbird nesting islands
- Sea turtles: Reduce light pollution, nest predation, and other disturbances; reduce by-catch; protect strategic nesting beaches and inshore foraging areas; enhance and/or expand stranding networks
- Reef fish: Improve data collection to inform sustainable fishing practices; reduce by-catch
- Oysters: Restore or replenish oyster reefs; promote sustainable harvest strategies
- Marine mammals: Enhance and/or expand stranding networks

