Congress of the United States
Washington, DC 20515

October 4, 2012

Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0009

Dear Attorney General Holder:

We write to express our concerns regarding the potential settlement agreement between the Department of Justice (Department) and the parties responsible for the April 20, 2010 Deepwater Horizon Oil Spill.

With the enactment of the RESTORE Act (P.L. 112-141), Congress and the President have expressed their clear intention that 80 percent of all administrative and civil penalties paid by the responsible parties under the Clean Water Act (CWA), whether by court order or negotiated settlement, be utilized by the affected Gulf states for environmental and economic restoration, long-term fisheries and ecosystem research, and to ensure the states are prepared for future man-made and natural disasters.

Recent press reports indicate that the Department is aggressively moving toward negotiating a global settlement agreement to include both Natural Resources Damage Assessment (NRDA) and CWA penalties. The CWA sets forth how oil spill penalties are to be determined and, separately, federal law establishes a process for establishing payments and commitments under NRDA. While a global settlement approach may not be problematic in and of itself, we are, in the strongest possible terms, opposed to a settlement agreement that disproportionately applies penalties to NRDA over the CWA. Any attempt to do so would be viewed as an effort to circumvent the will of Congress and the President, and the enacted formulas and procedure agreed upon in public law under the RESTORE Act.

Additionally, we strongly encourage the Department to limit the application and utilization of Supplemental Environmental Projects (SEPs) or Community Service Payments (CSPs) as part of the settlement agreement in this case. Under the RESTORE Act, federal agencies will be participants in determining how environmental restoration funds will be applied, through the review and approval of both the comprehensive and state plans. Therefore, we view efforts to predetermine projects through SEPs or CSPs in the settlement agreement as

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unnecessary under these circumstances and not in keeping with the consultative requirements of the federal-state partnerships prescribed under the RESTORE Act.

We appreciate your attention to these concerns and look forward to the Department's timely response with assurances that the settlement agreement will not shortchange the RESTORE Act.

With kind regards, we are

Sincerely,

Jeff Sessions
United States Senator

Roger Wicker
United States Senator

Jo Bonner
Member of Congress

Jeff Miller
Member of Congress

Steve Southerland
Member of Congress

Steven Palazzo
Member of Congress

Pete Olson
Member of Congress