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# GULF COAST CATASTROPHE: ASSESSING THE NATION'S RESPONSE TO THE DEEPWATER HORIZON OIL SPILL

## HEARING

BEFORE THE

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

MAY 17, 2010

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# GULF COAST CATASTROPHE: ASSESSING THE NATION'S RESPONSE TO THE DEEPWATER HORIZON OIL SPILL

**MONDAY, MAY 17, 2010**

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Committee met, pursuant to notice, at 2:37 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Pryor, Landrieu, Collins, and McCain.

## OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good afternoon. The hearing will come to order.

We convene today to assess the private and public sector response to what is rapidly and ominously becoming the worst oil spill in America's history. We do so as part of this Committee's responsibility to oversee the operations of government and in this case specifically the incident management operations of the Department of Homeland Security (DHS) and the U.S. Coast Guard (USCG).

We are not here to determine how the explosion of the oil rig known as Deepwater Horizon happened. Nor do we seek to determine which elements of the well failed and who is responsible for that. Those are critically important questions, but other congressional committees, Executive Branch agencies, and private groups have already begun to explore those questions.

Our focus today is on preparedness and response—the preparedness and response of our government and the private businesses involved to this accident and oil spill after they occurred. Were the oil companies and government agencies prepared for a deep-water blowout like this one? And how have they performed in response? Those are the big questions that we hope to begin to answer this afternoon.

We owe it to the American people to learn from this catastrophe not only so that we can do everything we can to prevent anything like it from happening again but also having in mind our focus on preparedness and response so that we can guarantee that if it does happen again, the oil companies and the government will not be left to scurry about trying to figure out how to stop the oil gushing



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into the Gulf, like firefighters trying to extinguish fires already burning and consuming a neighborhood. Instead, hopefully they will have learned lessons from this spill and will be much better prepared to respond quickly.

Under the Homeland Security Act and Homeland Security Presidential Directive 5, the Secretary of Homeland Security is charged with coordinating the Federal response to major disasters.

The Secretary is further charged with coordinating the activities of the private sector and non-governmental players in response to a disaster and must ensure that disaster information is gathered and disseminated to the public, and public and private sector officials. The U.S. Coast Guard is specifically responsible for managing a marine oil spill clean-up.

A host of other agencies of our government—the Minerals Management Service (MMS) within the Department of Interior, the National Oceanographic and Atmospheric Administration (NOAA), and the Environmental Protection Agency (EPA) also have critical responsibilities in this kind of crisis.

And, of course, the private sector companies involved here have enormous obligations under law. In fact, much of the actual clean-up is being conducted by contractors BP has hired to respond to the spill. And as provided by law, the private companies responsible for the spill will pay for the clean-up, regardless of who is actually carrying out the response.

We know that the oil companies' Oil Spill Response Plans must be filed and approved by the Minerals Management Service for wells and by the U.S. Coast Guard for drilling vessels or rigs before any drilling can begin. This afternoon, we are going to ask whether BP has adequate incident management and response plans in place ahead of time to guide their response efforts. Did the MMS require such adequate incident management and response plans? Did the plans specifically cover the consequences of a blowout and oil gushing 5,000 feet under water.

We also want to know what plans were in place to guide the Coast Guard and other Federal agencies involved in the response. What capabilities did the Department of Homeland Security, the Department of Defense, and other agencies make available in the early days of the oil spill? Did they act quickly enough? And what response capabilities will be made available as the disaster continues?

We are also going to ask whether our government was forced to over-rely on the oil company's expertise and information here? Did the government have knowledge of the disaster independent of what BP was telling it?

I would say myself that I have spent, since this accident and spill, some time studying what the law requires of the oil drilling companies and our government and what should be in the response plans that were filed and approved by the U.S. Coast Guard and the Minerals Management Service for the Deepwater Horizon well. And I must say that I emerge with an unsettling tentative conclusion and questions that I hope can be answered today by our witnesses.

There is one set of witnesses that are not here, and I must say that is from MMS. I regret that the MMS leadership has chosen

not to appear before our Committee today because really they need to be asked the same questions I am going to ask Homeland Security, the Coast Guard, and BP, because MMS, as I mentioned, must approve or reject the Oil Spill Response Plans for wells, which is where this accident occurred, before those wells can be drilled. The Secretary of the Interior, the department in which MMS is housed, will first appear tomorrow before its committee of original jurisdiction, the Energy and Natural Resources Committee. But I do want to say here this afternoon that, if appropriate and constructive, our Committee will ask the Secretary and/or leadership of the MMS to appear before us at a later date.

But here in brief is some of what I have concluded tentatively based on my own inquiry and the questions I believe most need to be answered by our witnesses. BP was required to submit an Oil Spill Response Plan to the MMS. Under the law, this plan can be regional or specific to a particular well and rig. Almost 10 years ago, in December 2000, BP filed only a Regional Response Plan, and the MMS accepted it without asking for more. So BP satisfied its legal requirement. Was it adequate? And should MMS have asked for more? That regional plan was mostly recently revised on June 30 of last year.

Should the government have been satisfied with only a Regional Response Plan instead of one for each well, and a Regional Response Plan that was filed almost a decade ago?

Second, and more important, did our government, through the Minerals Management Service, require an Oil Spill Response Plan adequate to the widest range of possible dangers, including the failure of a blowout preventer? It sure appears that they did not.

The response plan which BP filed and which was approved by the Minerals Management Service, as required, included an appendix which identifies worst-case spill scenarios and proposed methods for responding. Under MMS regulations, the plan must address an uncontrolled blowout at a well's highest capacity for at least 30 days. And in its plan, BP foresaw such a worst-case scenario for a deep-water blowout resulting in more than 250,000 barrels of crude oil being discharged every day. As people who have been following this crisis know, that is much more than is actually being discharged in this horrific spill occurring in the Gulf today. The estimates range from a low of 5,000 barrels daily to a high of 100,000 barrels daily.

But here is the problem, as I see it and want to ask about it. In its proposed Oil Spill Response Plan approved by the Minerals Management Service, BP said it could use booms and skimming vessels and dispersants to counter or collect more than 490,000 barrels a day. But that was, as I see it, mostly from the surface where booms and skimming vessels and dispersants are mostly effective. As far as I can tell, those methods do not effectively deal with the enormous accumulation of oil forming now underwater in the Gulf, reportedly as large as 10 miles long, 3 miles wide, and 300 feet thick. Was that a foreseen consequence of a deep-water well blowout? And if it was, why didn't MMS of the Department of Interior require that oil companies have a better plan for responding to that consequence?

And perhaps most important, in the approved BP response plans, there appears to be in the end total reliance on the blowout preventer as the last line of defense, as if a blowout preventer could not fail. But blowout preventers have failed in the past, none with anywhere near the consequences of this one, but they have failed. And no plans were filed or requested for what to do to control and stop a spill if a blowout preventer in deep water failed, as it did in the current case. So I want to ask, why not?

What can be done to prevent another failure of a blowout preventer in deep water or control the spill more quickly and effectively if it does?

Until those questions are answered satisfactorily, I do not see how our government can allow any new deep-water wells to be permitted and drilled. And I say that with regret because I know how important offshore American oil is to our Nation's energy independence. But the U.S. Government has a responsibility for protecting the public safety that is more important, and that responsibility, I fear, was not fulfilled in this case prior to the accident occurring. The result is the human, environmental, and economic catastrophe we are now witnessing in the Gulf.

Senator Collins.

## OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Chairman, as we begin this oversight hearing into what is certainly an environmental catastrophe and what is likely to be an economic disaster, let us also remember what a personal tragedy this incident is for the families of the 11 workers who lost their lives after the explosion rocked and then sank the Deepwater Horizon oil drilling platform nearly 4 weeks ago.

We know when this catastrophe began, but none of us knows when it will end. Today, 27 days after the fatal explosion and fire, oil continues to gush from the wellhead nearly a mile below the surface of the Gulf of Mexico.

Despite recent successful efforts to siphon off a portion of the oil spewing from the broken pipe, the waters of the Gulf are slowly becoming a sea of crude oil. The expanding plume is menacing the fragile ecosystems in the Gulf, potentially damaging a vast array of sea life, the environment, and the futures of Americans who live and work along the Gulf Coast.

NOAA has estimated that each day some 5,000 barrels of oil are flowing into the waters of the Gulf, but recent estimates from experts place that number as high as 70,000 barrels. Hundreds of Federal officials, Coast Guard personnel, scientists, engineers, and officials from British Petroleum search for solutions to fix this urgent problem: How do we turn off this faucet of oil that is stuck open nearly a mile under the water?

In the recent weeks, we have learned much about the explosion, fire, and challenging response efforts, but there are still far too many unanswered questions.

At today's hearing, we will ask what the government and industry could have done differently to avoid this catastrophe. We will ask how the continuing damage to the Gulf of Mexico can be mitigated and how the spill can eventually be stopped.

As the Coast Guard Commandant has noted, the technological feats and ingenuity needed to stop this leak have parallels to the April 1970 rescue mission for Apollo 13.

In responding to this catastrophe, our Nation faces a similar Herculean engineering task, but this time in a deep ocean environment that is dark, cold, and unforgiving.

There are some 90 rigs drilling in the Gulf right now, providing 1.7 million barrels of oil a day, or nearly one-third of total U.S. production.

According to the Federal Minerals Management Service, only 0.7 percent of active drilling platforms are searching for oil in waters deeper than 1,000 feet, yet more than 50 percent of all leases are in those deep waters. Clearly, oil companies believe there is much promise in deep-water drilling; therefore, there could be a rapid expansion in this area in coming years. In light of the Deepwater Horizon disaster, we must examine whether we need special requirements for drilling operations in these challenging conditions. And until we figure out what went wrong, I believe the Administration is correct in calling for a halt to the approval of further drilling in deep waters.

MMS has the responsibility for reviewing and approving Oil Spill Response Plans for drilling conducted by offshore rigs like the Deepwater Horizon. We need to explore what level of preparedness MMS requires of companies seeking to drill in this hazardous environment.

For the Coast Guard to effectively perform its role in marine environmental protection, it must work closely with the MMS and with the private sector in order to be prepared for a worst-case scenario.

To that end, I was surprised to learn that there currently exists no requirement for MMS to share Oil Spill Response Plans with the Coast Guard.

How can that be? It seems to me that mandating concurrent Coast Guard approval of these plans is a common-sense change that we should make immediately.

Today, we will also hear more about the Department of Homeland Security's coordination of the response to the spill. The Federal Government and the private sector have committed substantial resources to respond to this spill, and these efforts will certainly continue. But concerns have been raised regarding the adequacy and timeliness of resources committed to this effort in the initial days of the blowout.

Furthermore, with the Administration's proposed $75 million cut in the Coast Guard's budget, it is a question in my mind whether the Coast Guard can continue to maintain sufficient capabilities to respond to this and future disasters, along with performing its myriad other missions. Surely, this catastrophe should prompt the Administration to reconsider that ill-conceived budget cut. It is always the Coast Guard, whether it is Hurricane Katrina, the crisis in Haiti, or the oil spill in the Gulf Coast region that is always first to respond, and the last thing we should be doing is reducing the number of Coast Guard uniformed personnel by more than 1,000 individuals, as the Administration's budget proposes.

Finally, the private sector must accept responsibility for this failure in modern engineering, and we need to take a close look at the liability caps to see whether they still are adequate.

This oil spill, when it finally does conclude, will be recorded as an epic catastrophe whose impacts are likely to be felt for a long time to come.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Collins.

We will go right to Secretary Napolitano. Secretary, it says the obvious that you have one of, in my opinion, the toughest jobs in America. I thank you for what you do every day, and I appreciate your willingness to come before this Committee of oversight of original jurisdiction over your Department for this testimony this afternoon. Thank you.

**TESTIMONY OF HON. JANET A. NAPOLITANO,[1] SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY; AND REAR ADMIRAL PETER V. NEFFENGER, DEPUTY NATIONAL INCIDENT COMMANDER, U.S. COAST GUARD, U.S. DEPARTMENT OF HOMELAND SECURITY**

Secretary NAPOLITANO. Thank you, Mr. Chairman and Senator Collins and Members of the Committee. I look forward to this opportunity to testify about the response to the BP Deepwater Horizon oil spill in the Gulf of Mexico.

As you noted, Mr. Chairman, some of your questions are probably better directed at the Department of Interior or for British Petroleum itself, but I will be testifying about what happened, what the original response was, and how we coordinated the ongoing response. Rear Admiral Peter Neffenger is here to answer any questions of a technical nature that I am not myself able to answer, although I must say I have learned, as we all have, a lot about oil spills over the last 4 weeks.

I want to begin by thanking the men and women of the Coast Guard who have been at this event from its beginning. They have worked swiftly, they have worked tirelessly in response to what, as Senator Collins rightly noted, is one of the most devastating environmental disasters this Nation has ever faced. And I also would like to express my own sympathies to the families of the workers who were killed in the initial explosion. It was a terrible human tragedy, even as we continue to deal with the environmental outflow from it.

It is a constantly evolving situation. The Federal Government has brought all resources to bear to limit the spills, environmental, economic, and public health impacts, and ensure that communities and natural resources of the Gulf Coast are restored and made whole by British Petroleum.

DHS, as you noted, is the principal coordinating agency. I believe this may be the first time that the Homeland Security Presidential Directive 5 (HSPD–5) has actually been overlaid on the National Response Framework, enabling us to coordinate across the many

[1] The joint prepared statement of Secretary Napolitano and Admiral Neffenger appears in the Appendix on page 44.

Federal agencies and to do the interagency consultation and involvement necessary for this spill.

We are literally working 24/7 in close coordination with our State and local partners to ensure the efficient deployment of response assets, personnel, and equipment, and the impact to date bespeaks of their extensive efforts.

First, I would like to give you a quick update on the current status as of the time I left the National Advisory Council (NAC), and then I would like to give you some detail on the original response because it is of some important interest to many of you.

More than 17,000 personnel are currently in the Gulf Coast region conducting response activities. In addition, more than 2,100 volunteers have been trained to help deal with any potential effects of oil onshore. More than 750 vessels are currently responding to the spill. They include skimmers, tugs, barges, and recovery vessels that assist in containment and clean-up efforts. This is in addition to dozens of aircraft, remotely operated vehicles, and other assets being deployed.

We have deployed 1.7 million feet of boom to date, and we have another 1.9 million feet of boom in the supply chain. Aircraft are constantly monitoring the integrity of the boom and are directing pollution response teams to make necessary adjustment to the lines.

We are able, with these supplies, to ensure that we can respond within 24 hours or 5 miles of oil hitting shore, whichever would be sooner. Let me just say that the boom is set up and deployed in staging areas so that it can be deployed within 24 hours or 5 miles of oil, whichever would be sooner.

More than 6.6 million gallons of oily water have been recovered. Approximately 625,000 gallons of dispersant have been applied. This includes approximately 45,000 gallons applied sub-sea, a method that has been approved by the National Response Team (NRT) and for the first time.

Seventeen staging areas are currently set up to protect vital shoreline. We have approved the use of up to 17,500 National Guard members; more than 1,350 are currently deployed.

All shipping channels and ports remain open in the Gulf Coast region. There are no reported delays or closures to shipping. No vessels have required cleaning or decontamination, but our teams are on standby if such a need arises.

Drilling has commenced on both relief wells, which will relieve pressure and permanently stop the flow of oil. Yesterday BP attempted another test to contain some of the oil leaking from the riser by inserting a small pipe into it carrying oil directly up to the surface to a colleague vessel.

As of this morning, BP reports the pipe is recovering some oil and gas; there is no confirmation yet on the rate of flow. MMS and BP are monitoring this test closely today and adjusting pressures to achieve the highest concentrations of oil being brought to the surface.

Now, it is important to note that even if this effort is successful, it will not change our posture. We will continue to bring all resources to bear until the well is tapped, the oil is cleaned up, and the claims are paid.

That said, we are also actively exploring other methods to mitigate the spill's impact. Right now, Federal scientists are continuing to provide oversight and expertise to BP as they move forward with other strategies to contain the spill and stop the flow of oil. And this weekend, BP staged equipment for a technique called the top kill, which will pump heavy fluids into the well in an attempt to stop the flow of oil. This operation is expected to start at the end of this week.

Now, as I said earlier, the response to this incident began immediately and has remained constant and strong over the past 4 weeks. When the explosion on the Deepwater Horizon occurred late at night on Tuesday, April 20, the Coast Guard was first on the scene with two cutters and aircraft, beginning a large-scale search-and-rescue effort. By the morning, 115 crew members were accounted for.

On April 21, we named Rear Admiral Mary Landry the Federal on-scene coordinator, stood up the regional response team, which is compromised of Federal, State, and local representatives, and launched an interagency investigation. In other words, from April 21, we were already beginning to bring resources to bear in an intergovernmental way to this tragedy.

On the morning of Thursday, April 22, the oil rig sank, with 700,000 gallons of diesel fuel onboard. This prompted the immediate activation of the National Response Team, which includes the leadership across the Federal Government from the White House to DHS to the EPA and the Departments of Defense, Commerce, and Interior. I lead the NRT as the principal Federal official responsible for coordinating the Federal response.

That same day, President Obama convened a principals meeting about the incident. At this time, there were no apparent oil leaks, but 100,000 gallons of dispersants were prepositioned. We also initiated intergovernmental calls to provide updates on the situation to potentially affected communities along the Gulf Coast.

On Friday, April 23, the sunken rig was found on the ocean floor, with an oil sheen estimated at 8,400 gallons nearby. No oil leak was apparent, but the NRT convened in order to plan ahead in case the situation deteriorated and continued to preposition vessels and dispersants and hundreds of thousands of feet of boom in preparation for such a worst-case scenario.

The next day, Saturday, April 24, BP found the first two leaks and alerted the Federal Government. The first three equipment staging locations were stood up at Venice, Louisiana; Biloxi, Mississippi; and Pensacola, Florida. And additional personnel and vessels were deployed to the area. We began to actually move additional boom there the next day.

On Wednesday, April 28, the first controlled burn operation was conducted, and it was successful. Later that day, BP discovered an additional leak from the oil well. By this time, the discovery of the third leak, we had already mustered 50 response vessels; roughly 150,000 feet of boom had been deployed; we had applied 56,000 gallons of dispersants; and we had over 1,000 personnel working the scene.

On Thursday, April 29, I designated the events a Spill of National Significance, which built on the operational and policy coordination already underway from the beginning of this response.

Now, by this day, we had 70 vessels already on scene, 1,100 personnel, and more boom and dispersant at the ready. On May 1, we announced that Admiral Thad Allen, the outgoing Commandant of the Coast Guard, would serve as the National Incident Commander.

Now, let me briefly describe the ongoing response activities. We are doing everything we can to ensure that vital response assets, personnel, and equipment are efficiently and effectively deployed and utilized. I have visited each of the affected States to see that response efforts are underway and firsthand, meeting with governors, mayors, first responders, and impacted communities.

We are working closely with State and local governments every step of the way on joint response plans and through the command centers. We have daily calls with governors, mayors, and Members of the Congress. We are overseeing BP, the responsible party, in its efforts to stop the leak at its source, reduce the spread of oil, protect the shoreline, and mitigate damages.

Drilling relief wells, which will relieve pressure and permanently stop the flow of oil, as I mentioned is underway. The Federal Government has mobilized its best scientists and industry experts to work with BP to identify other strategies for sealing the well, and the President has tasked the Department of Energy to provide expertise on that front.

Above the surface, we continue to conduct controlled burns, skim oil, and apply chemical dispersants to reduce the amount of oil and break up the slick far offshore. We are deploying boom to protect shoreline and wildlife in all the Gulf States that could be affected and immediately dispatching clean-up teams when oil, generally in the form of tar balls, reaches the shore.

We are keeping the public engaged and making sure that people who want to volunteer for clean-up, for helping to deploy boom, or in other ways can help. And we are ensuring that British Petroleum, as the responsible party, is paying the costs of the clean-up and compensating the individuals, communities, and businesses that have suffered already as the result of this spill.

Actually, beginning today, their claims can actually be filed online, an access point we have been urging BP to make available for the past few weeks. So far, over 16,000 claims have been filed by affected individuals and businesses. BP has paid out over $9.6 million. It has not yet denied a claim.

Looking ahead, the Administration will continue the strong response that we have sustained since April 20. We will mobilize every available resource to protect the environment, the economy, and public health in the Gulf Coast region, with all hands on deck.

Thank you, Mr. Chairman, for this opportunity to be with you today. I will be happy to answer your questions.

Chairman LIEBERMAN. Thanks very much, Madam Secretary. We will do a 7-minute round of questions.

I appreciate very much the response efforts, really quite enormous, that you have described, Secretary Napolitano, that the government is involved in and that BP is involved in. But I want to

go back again to some of the questions I raised in my opening statement, and this really goes to preparedness uniquely for a problem with a deep-water well. Madam Secretary, it may end up that this is technical stuff and you want the Admiral to respond—let me just speak as somebody who has been watching this. As you watch, and as we watch the company and the government, trying desperately to figure out how to close this well to stop this spill in the Gulf, we obviously have to conclude that people were not prepared to do it, were not prepared to deal with this kind of problem. In fact, as the company said, quite honestly, they had capped wells before, perhaps some that had a failure of the blowout preventer (BOP), but never at this depth.

So why shouldn't the Committee, I, or anybody in this country conclude that, in fact, we were not prepared, either the government or the company, by demand of the permitting authorities, to deal with this kind of blowout of a deep-water well?

Secretary NAPOLITANO. Let me divide it, if I might, Mr. Chairman, into before the blowout and after the blowout.

Chairman LIEBERMAN. OK.

Secretary NAPOLITANO. I think before the blowout, it is clear that there was an assumption that a BOP would never fail, and that plans were submitted to the MMS, which is part of the Department of Interior, based on that assumption. And I have read some of the same materials that you have.

But from the point of view of an explosion and a spill, there have been extensive plans prepared under the National Response Framework. There are area contingency plans which are put together. They include intensive input from State, localities, and parishes. There are Regional Response Plans. Then there is the National Response Framework.

Those plans not only exist but are exercised on a regular basis. Indeed, I think there was an Area Response Plan for an oil-related incident just in March off the coast of Maine, Senator Collins, and there was a national exercise with the exact premise of this, which is a major spill in the Gulf Coast. That was done in 2002, and Admiral Allen was the national commander for that exercise, and, indeed, he is the national incident commander here.

So to the extent that before spill there was overreliance perhaps on the BOP, that will become more clear as the investigation proceeds. Post-spill, though, there was an extensive planning exercise framework in place.

Chairman LIEBERMAN. Yes. But isn't it true that—and, Admiral, I welcome you to come in on this—those kinds of drills were not really to deal with a blowout in a deep-water well? In other words, there was a lot of work done, and there has been enormous effort at response, and I think it has really had an effect on the water on the surface. But now we have two enormous problems that I do not believe, unless you can convince me otherwise, that we were ready to deal with, and the company was not either, which is: What do you do when a deep-water well blows? And then what do you do about the oil under the water that is now accumulating in this massive plume?

Admiral does the Coast Guard—I know you do a lot of drills. How do you train for dealing with the consequences of a deep-water well explosion?

Admiral NEFFENGER. Mr. Chairman, we do not drill this specific scenario, no. And what the Secretary was referring to was the Spill of National Significance exercise that we do every 3 years throughout the country.

We do, however, drill for massive oil releases, and in this case, we did drill in 2002 for a massive oil release from a wellhead discharge in the Gulf of Mexico, although it was not at all like this specific scenario.

Chairman LIEBERMAN. And was it as deep as this well?

Admiral NEFFENGER. No, sir, it was not.

Chairman LIEBERMAN. And as Senator Collins said, my understanding is that increasingly in the Gulf and elsewhere we are using deep-water wells. Is that true based on what you know? We are deep-water drilling?

Admiral NEFFENGER. Well, I do not know the exact number of deep-water wells. I know that it is some 1 percent of all the wells that are out there, and I guess I would have to refer to MMS for the exact number. But there is an increasing amount of activity in the deeper parts of the outer continental shelf, yes, sir.

Chairman LIEBERMAN. I know that the Coast Guard—and correct me if I am wrong—has responsibility for approving Oil Spill Response Plans that come from what is called the vessel or what I would call the rig, that is on the surface of the water. And the Minerals Management Service at the Interior Department has to approve the plans for a spill from a well, at no matter what depth.

But I wanted to ask you two things. One is, going back to something I said in my opening statement, does it make sense that BP was unable to file just a Regional Response Plan, which presumably would cover both deep-water and more shallow water wells, as opposed to a specific response plan for each well, particularly the deep-water wells?

Admiral NEFFENGER. Well, I can tell you that in our case we require specific response plans per vessel that we think might have the potential to discharge——

Chairman LIEBERMAN. OK, that is very important. So you have a different approach than MMS does on that.

Admiral NEFFENGER. Yes, sir, we do.

Chairman LIEBERMAN. Well, that is important.

Let me just ask you finally, because my time is winding down—I think the Secretary said it correctly, and I agree with her from what I have looked at. There was total reliance put on this blowout preventer, but in the end, like so much in life, it is a piece of equipment and they fail. In fact, there was some evidence, as I said, that the blowout preventers had failed in the past—not a large number, and never with a spill of this kind. But because the Coast Guard has responsibility for marine oil spills, what do you think should be done to try to have a level of preparedness that allows for the possibility—which may be rare, but as we see now in the Gulf, consequences are enormous of a failure of a blowout preventer?

Admiral NEFFENGER. Well, Senator, I think that this spill raises a lot of questions like that at which we are going to have to take

a good, hard look. Clearly, this is beyond what we anticipated being something that could happen. We certainly never anticipated an ongoing release of this magnitude over this period of time. So I think that is a very real question that has to be addressed.

I think at a minimum we are going to have to go back and look at our planning factors for future revisions of our various contingency plans.

Chairman LIEBERMAN. Madam Secretary, I know that you are working with Secretary of Interior Ken Salazar and maybe one or two others on this short-term study that the President has asked you to do, and I am sure you probably were doing it already. I hope that you will take a close look at the special requirements for protection that it seems to me we now have all learned have to apply to deep-water drilling, including the blowout preventers, that I fear were not applied by MMS before.

Secretary NAPOLITANO. If I might, Mr. Chairman, with every incident that occurs, lessons are learned, and I think that is one of the reasons why the President has been so very clear that further deep-water drilling permits are going to be stopped until this can be investigated and assurances can be gained that things have been changed so that we do not have a duplication of the Deepwater Horizon incident. And I think, prudence would dictate that would be what would happen.

And so I think we are all working together to say, all right, what happened here? What powers should MMS have had that it did not have? What powers did it have that it did not exercise? Was there overreliance on the BOP? What happened with the BOP? I think that perhaps there may be a few lawyers that get involved in some of that as the litigation happens. But I think the President was absolutely right last Friday to say this is not about who is responsible for paying. Our work is to make sure that this well is capped, to make sure that it is cleaned up, to make sure that oil is prevented from hitting landfall, and when it does, that it is cleaned up, that all claims are paid, and that they are done so promptly. And, to me, that is the definition right now of this response and when we will declare the response over.

Chairman LIEBERMAN. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

The Chairman mentioned the divided responsibility for approval of the Oil Response Plans between MMS and the Coast Guard. In my statement, I raised the question of why wouldn't you require the Coast Guard to have some sharing of information with the MMS such that the Coast Guard would be responsible for some sort of concurrent approval of the plan. It does not make a lot of sense at first blush to have one agency responsible for approving the plan if it is above the water, for the vessel, and a different agency—in a different Department even—responsible if the plan applies to the wellhead. Has there been any thought to at least broadening the Coast Guard's responsibility in this area, Madam Secretary?

Secretary NAPOLITANO. Senator Collins, I think there will be a lot of different things looked at as to who has what authorities and what authorities need to be adjusted in light of this. And speaking

for myself right now, I think that is one of the legitimate questions or authorities that we need to be looking into.

Senator COLLINS. Admiral Neffenger.

Admiral NEFFENGER. I would concur with the Secretary. I think that, moving forward, we need to look at whether or not there needs to be a definitive statement with respect to that concurrent review.

As you know, we do currently have memoranda of understanding with the MMS which would allow us to review those plans, but there is no requirement to do so.

Senator COLLINS. Admiral, this catastrophe is the first spill to be classified as a Spill of National Significance since that term was first coined in the wake of the Exxon Valdez disaster in 1989. During the intervening 20-plus years, some have expressed the concern that because our Nation, fortunately, has not been forced to respond to a major oil spill in such a long time, we have lost the expertise and institutional knowledge that is necessary for a quick and effective response. And, indeed, in 2004, when the Coast Guard did an exercise in this area, the After Action Report had some troubling conclusions, and I want to read from that.

The After Action Report concluded that, "Oil spill response personnel did not appear to have even a basic knowledge of the equipment required to support salvage or spill clean-up operations. There was a shortage of personnel with experience to fill key positions. Many mid-level spill management staff had never worked on a large spill, and some had never been involved in an exercise."

I know that there have been two subsequent exercises since 2004, including the one hosted by the State of Maine this spring, for which the After Action Report has not yet been written. But what is your assessment of the expertise that we have today in government and in the industry to deal with a major spill?

Admiral NEFFENGER. Well, Senator, I think you are referring to the 2004 drill in Los Angeles, Long Beach Harbor. I was actually the unified commander for that exercise, and those were my recommendations that you just read that came out of that. So I took that very seriously——

Senator COLLINS. So you tend to agree with them. [Laughter.]

Admiral NEFFENGER. Well, I did at the time. I absolutely did. And as a result of that, though, we actually did a lot of work to improve our ability. And, in fact, if you look at the subsequent Spills of National Significance exercises as well as the intervening periodic annual and triennial exercises that we do, we have rolled a lot of those lessons learned into that so that we could improve that capability.

It is true that we have not had a major spill, but that does not keep you from training effectively to prepare for that.

Senator COLLINS. Do we have that expertise now?

Admiral NEFFENGER. Well, clearly, if you are actually cleaning up oil, there is an expertise that you develop that cannot be developed any other way.

I think we have capability now, and we have a lot of people who have looked at this over an extended period of time, and you have capability also in the private industry with respect to the oil spill response organizations, and they are required to maintain exper-

tise. And you still have a number of ongoing smaller spills every single year that do provide an opportunity for training people and responding.

So I do believe that we have the capability, and in the case of this spill, I have been very impressed—I spent quite a bit of the last 2 weeks down in the Gulf, both flying over the area of the spill as well as visiting the incident command post and watching the on-scene operations, and I have been very impressed with what I have seen.

Senator COLLINS. Madam Secretary, you mentioned in your statement the Federal resources that have been brought to bear in this catastrophe and the fact that the Coast Guard was on the scene immediately. As you know, there have been some questions about whether resources were adequately and quickly deployed to deal with this catastrophe. After all, I assume when the Coast Guard was first on site, its mission was search and rescue. It was not at that point, and understandably so, focused on containing the spill.

What is your assessment of the resources, the adequacy and the timeliness of the resources that British Petroleum and its partners brought to the task in those initial days?

Secretary NAPOLITANO. I thought you were going to ask a different question.

Senator COLLINS. Well, I thought of asking you whether you were satisfied with the Federal response, but I have a feeling I know what the answer to that would be, so I decided to ask you about the private sector response.

Secretary NAPOLITANO. Well, yes, and that is one of the reasons why I wanted to give you really the tick-tock of the Federal response, because recognizing that the explosion occurred late on the evening of April 20, then on April 22, the rig sinks; on April 24 you begin first seeing signs of leaking oil; and then on April 28 is when you had signs of the third leak from the riser. So this was an evolving spill as we were going along that first week after the explosion. I would like to, if I might, reserve judgment on the adequacy of the private sector response.

I will say that British Petroleum leadership, both the American head of British Petroleum and the international head, were in Washington very quickly. They were immediately assuming responsibility as the responsible party, which they should and should have. They have been in the command centers and in the staging areas. They have been working in terms of clean-up and hiring, for example, local fishermen to help deploy boom and the rest.

Whether the exact hours around the explosion and sinking of the rig they should have had more or different equipment there or more or different kinds of expertise there, it would be premature of me to say.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

Senator McCain, and then Senator Landrieu, in order of appearance. Good afternoon.

**OPENING STATEMENT OF SENATOR MCCAIN**

Senator MCCAIN. Thank you. Thank you for being here, Madam Secretary and Admiral. Maybe, Madam Secretary, to lift this up a little bit, what is your best-case scenario and worst-case scenario about this crisis right now?

Secretary NAPOLITANO. Well, obviously, we would like to see the insertion pipe continue to work and lift oil off the surface. We would like to see when and if the top kill methodology is deployed, that it works and that oil immediately begins to be lifted off of the sea floor as opposed to rising to sea surface, and we would like, as they are drilling the relief well, that they hit it the first time. In other words, when you drill these deep-water wells, my understanding is you do not necessarily hit the place you need to hit the first time. That would be a best-case scenario.

We, on the other hand, have from the beginning not planned our response based on numbers or based on was it 5,000 barrels or 25,000 barrels. Our response is geared to what is necessary to fight the oil on the sea, to prevent the oil from hitting land, and if it hits land, to clean it up immediately.

Senator MCCAIN. Worst-case scenario?

Secretary NAPOLITANO. Worst-case scenario is that we will be at this for quite a while.

Senator MCCAIN. And where do you think we are in either scenario?

Secretary NAPOLITANO. Well, the riser tube is in right now, and if it begins to lift oil, as it looks promising that it is, and they are able to do the junk fill, that would happen by the end of the week. But in terms of drilling of the relief well, I think we are some weeks away, well into the summer. I think there is a BP witness after me. You might ask him.

Senator MCCAIN. And where is your level of optimism?

Secretary NAPOLITANO. I am just taking it day by day, and I think that is what we need to do. I think we need to just say, look, we are in the middle of this crisis; we are not at the beginning. We have been at it a month, almost, but we are not near the end, as well. And in my view, our job is to just keep moving and just keep assembling, deploying, preparing, cleaning, and keeping track of what we are spending because ultimately the taxpayers should not have to bear this cost.

Senator MCCAIN. And you have dispatched 17,000 National Guard troops to help with the clean-up and other efforts that need to be made in the Gulf of Mexico. Is that right?

Secretary NAPOLITANO. There have been up to 17,000 that have been authorized. I believe there are about 1,000 or so that are actually working right now.

Senator MCCAIN. And what do you expect?

Secretary NAPOLITANO. It depends on whether we continue to see oil reaching the shore. We are going to have to start rotating people in and out in terms of doing air flights over the boom, monitoring it, and replacing it, because it does not last forever out there. It gets broken. We are going to need to replace people in terms of staffing the forward operating centers and the like. So I think over the course of the summer, we will see a number of the Guard deployed in those kinds of capacities, sir.

Senator MCCAIN. Well, if you will indulge me, we think we have another crisis on the U.S. Southern Border. I sent you a letter back in March, and you sent me a return letter back on April 9—well over a month ago, in response to our request that the National Guard be sent to the Arizona-Mexico border. And I quote from your response: "The National Guard has the potential to contribute additional capabilities and capacities to assist law enforcement agencies in their border security and law enforcement missions. The use of the Guard to support civilian law enforcement efforts is one of the many options being considered in the Administration's overall border security strategy. I will keep you informed as our force multiplication along the Southwest Border continues."

Do you have now in the intervening month anything to keep me informed about?

Secretary NAPOLITANO. Yes, I do, actually, because we have been working the Southwest Border issue constantly and hard. But let me, if I might, Senator—and we will give your staff, if we have not already, I apologize, a more extensive briefing. And I am going to use as my start date the date of the murder of Rob Krentz, who was the rancher down there in Douglas, Arizona.

We have increased flight hours 50 percent over the Tucson sector since the day of that murder. We have 24/7 coverage there, and we continue to increase on both the fixed and rotor-wing aircraft that we are applying—just on the Tucson sector. I am not talking about the rest of the border.

We have moved—and I will give you exact numbers—mobile surveillance——

Senator MCCAIN. I do not mean to interrupt, Madam Secretary, but I know all those things are going on. I want to know about whether you are going to send the National Guard to the border or not?

Secretary NAPOLITANO. Let me, if I might, give you one other thing that we have added in addition to numbers, and that will be starting at the end of this month. But we are beginning again the process of interior repatriation of everybody that we pick up.

But with respect to the Guard, those requests, as you know, involve the Department of Defense, they involve the Department of Homeland Security, and they involve the White House. That request and that analysis remains in that interagency process.

Senator MCCAIN. And do we have any idea as to when that decision might be made?

Secretary NAPOLITANO. I would like it to be made as soon as possible, but I cannot give you a date certain.

Senator MCCAIN. Well, meanwhile, people's homes are being violated, and families cannot take their kids to the bus stop. You are very familiar with the issue because you yourself asked for the National Guard to go to the Arizona-Mexico Border back in 2006. So I do not know what it takes for us to get a decision on it. This is a longstanding request—in fact, it was originally requested back in 2009. I think the citizens of Arizona have the right to know whether the National Guard will be sent or not. So I would hope you would expedite that process, at least telling us whether or not they are going to be deployed.

Finally, if I might ask, have you had a chance to review the new law—S. 1070, that was passed by the State of Arizona?

Secretary NAPOLITANO. I have not reviewed it in detail. I certainly know of it, Senator.

Senator MCCAIN. So you are not prepared to make a judgment on it?

Secretary NAPOLITANO. Senator, as you know and are well aware, that is not the kind of law I would have signed.

Senator MCCAIN. And for what reason?

Secretary NAPOLITANO. Because I believe that it is a bad law enforcement law. I believe it mandates and requires local law enforcement—or puts them in a position many do not want to be placed in. When I was dealing with laws of that ilk, most of the law enforcement organizations in Arizona at that time were opposed to such legislation.

Senator MCCAIN. Well, I would be pleased, maybe in writing, to hear what specific aspect of the law would impede or harm law enforcement considering the majority of law enforcement in Arizona strongly supports this legislation. And, unfortunately, the President of the United States portrayed the law's effect as preventing people from going out for ice cream without being harassed. This is one of the more outrageous statements I have ever heard. And now our own Attorney General has, after condemning the law, said that he had not even read it.

This is an important issue not just in Arizona but around this country. I would hope that we would at least have a decision on whether the National Guard is going to be sent to the border. And I would like to have specifics, if you get time. I know it is not in your area of expertise anymore, but I know as the former governor of Arizona you have a significant interest in Arizona's border security. So I ask that your writing state the particular aspects of this law that you find objectionable.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator McCain.

Senator Landrieu, thanks for being here. Once again, unfortunately, you have come to one of these inquiries—as you did so often during the Hurricane Katrina investigations—with a real personal interest on behalf of your State. So I appreciate that you are here.

**OPENING STATEMENT OF SENATOR LANDRIEU**

Senator LANDRIEU. Thank you, Mr. Chairman. My job is made somewhat easier because of the work that you and the Ranking Member have done, and I mean that sincerely.

I thank you and Senator Collins for calling this hearing. I have actually encouraged the calling of hearings in a variety of different committees because obviously the people that I represent would like answers. They are extremely concerned, everyone in the State, along the Gulf Coast, particularly those along the coastal communities, Madam Secretary. So I want to begin, Mr. Chairman, by saying that I hope that we will get answers to the questions that you asked in your opening statement, and I thought that they were excellent and right on point.

Second, Madam Secretary, I want to thank you for your multiple visits to Louisiana over the last several months before this incident

happened, working on the last incident that occurred, as well as your time focused on this one, and the many senior-level officials that have been on the ground from the Coast Guard to the Interior Department to NOAA to EPA. You all have not just sent your mid-managers or your newly appointed directors, but your Cabinet officials have been there and continue to be. And I get good feedback from Republican and Democratic local officials because of that, and I want to on their behalf express our thanks.

I would say that the people in Louisiana are very interested in a couple of important questions, some of which you hit. When will this uncontrolled flow be stopped? Is everything being done that can possibly be done? When and how will claims be paid? Will they be transparent? Will they be adequate? What are the long-term impacts to our fisheries? Which is a multi-billion-dollar industry as you know. And how can this industry be made safer for the future? I am not going to ask you to respond to all four of those now, but in writing, I would like some response.

I would like, Mr. Chairman, to put some things in perspective for this situation. I think it is important. I did this at the oversight hearing of the Committee on Energy and Natural Resources, I did this at the oversight hearing for the Committee on Environment and Public Works, and I would like to do it today.

There are 42,645 wells that have been drilled in State and Federal waters in the Gulf of Mexico alone. The first deep well was drilled 31 years ago—not last week. The first deep well was 31 years ago in 1979. From that time until 2008, there have been 2,239 deep-water wells drilled averaging approximately 133 wells per year.

Getting to your point, Ranking Member Collins, in 1990, you are correct, only 4 percent of the oil coming from the Gulf was from the deep-water wells, only 4 percent. But today 60 percent of the oil coming from the Gulf comes from deep water and ultra deep water. The record will show that from 1947 to 2009 only 175,000 barrels have been spilled out of 16 billion produced. That is about one-thousandth of 1 percent of total production.

So until this happened, the record was pretty good. The problem is this blowout is putting more oil in the water in 1½ days than has been put in this water in the last decade. That is startling to those of us that are fairly familiar with the industry, and we are extremely concerned and want it to be safer.

So I support the President's 30-day look. I most certainly support tighter controls over deep-water wells and would say to this Committee, we pioneered this technology in the Gulf of Mexico. We did. It is important that we get this right because it has a major impact on how these wells are drilled around the world. If ours are safe, most other countries' will be safe, and we have an obligation not just to ourselves but to the people of the planet, actually.

So let me ask a couple of things because I am extremely interested in how much money our government has spent on research and development either through Homeland Security, EPA, NOAA, or the Interior Department. Do you have a record for your own agency—you will not have it for other agencies—Madam Secretary, do you know if any money and, if so, what the dollar amount or what percentage is spent on response to a catastrophe like this?

And if you do not have that exact number, could you give it to me in writing and maybe comment generally on if you think Homeland Security is doing what it needs to do to be better prepared or prepared for an incident like this?

Secretary NAPOLITANO. Well, as I said earlier, you learn from every incident. You begin with the plans, and you exercise the plans. But then as any incident coordinator or commander will tell you, you have to work the problem at that point. You have to go at it. And that is what we have been doing.

I will tell you, we are accumulating within the Department of Homeland Security the costs that we are expending. In our Department's response, that includes the Coast Guard. It will not be an insignificant sum. And we have asked through the NRT that the other Federal agencies keep track of the costs that they are expending.

Since we are really in the middle of a response, as I indicated to Senator McCain, I think it would be premature to give you an estimate of that.

Senator LANDRIEU. OK. I just want to restate on this. I know that we do not have the full estimate of what the costs are going to be, and I am assuming that BP if going to step up, as they have said, and cover all of these costs for individuals, for businesses, and for the government at every level. And I know that they have been forthcoming with some of the requests from our governors, $25 million in authority, up to $1 million for some of the counties, which has been impressive. But we may need more than that.

But it is the research and development dollars in these major agencies that I am wondering, considering this industry, just the industry for bonuses and severance have contributed $165 billion to the Federal Treasury since 1955—$165 billion. What percentage of our budgets and their budgets—I am going to be asking them—are going to research and development on specifically safety, equipment, new technology, and clean-up? Because we may need, I suggest, to invest more money to make sure this never happens again.

So we are going to try to collect that data, Mr. Chairman, and my time has expired. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Landrieu. Senator Pryor.

**OPENING STATEMENT OF SENATOR PRYOR**

Senator PRYOR. Thank you, Mr. Chairman. I want to thank you and Senator Collins for leading the effort on this.

Let me, if I may, Madam Secretary, start with you, and talk about the Stafford Act. Typically, a disaster happens, and the governors make requests. But I am assuming that you have already done quite a bit of work with the governors to understand the scope and the nature of their request. Could you give us just a little outline on what you think this next few weeks might look like down there?

Secretary NAPOLITANO. Yes, well, we have representatives of the governors in all of the various command centers down there, as well as we have a daily call with the governors. And we are working with them now on what the claims process should be for States and localities.

We are very cognizant of long-term economic damages that might pertain such as to some of the fisheries down there that have been closed by NOAA already. And so we are working our way through that.

As you know, Senator, this is not a Stafford Act situation. This comes under another statute altogether, and the difference is huge, because under the Stafford Act the taxpayers of the United States pay for the response. Under this one, the responsible party is going to pay. And so we are in the process of making sure there is a good and easy procedure for those claims to be made.

Senator PRYOR. OK. Let me ask Rear Admiral Neffenger, I know that in other circumstances, the Federal Emergency Management Agency (FEMA), for example, might just burn through resources very rapidly on a major disaster. Is that true with your agency in how you are dealing with this?

Admiral NEFFENGER. Well, as the Secretary mentioned, we are spending money every day to manage this response. But as she also mentioned, what the Oil Pollution Act of 1990 provides is an ability to reach into the Oil Spill Liability Trust Fund, the emergency fund of that, to fund some of those initial response actions.

There is an initial $50 million available. We can take a one-time transfer of another $100 million into that emergency fund, which we have done. We have asked for it, and it has been granted. So that provided $150 million to the Federal Government for its response actions, and that is primarily paying for Coast Guard activities at this point.

Senator PRYOR. And I know in this Committee we have talked about the Coast Guard before and how you guys just do great work, we saw it down on the Gulf Coast after Hurricane Katrina, and we have seen it many times. We recognize that in many ways you are underresourced, and you have a backlog of older ships that you are trying to update or replace.

Has the fact that you have been hampered from a budgetary sense—can you see that in how you are able to respond to this?

Admiral NEFFENGER. Our budget situation has not hampered our response initially to this. I mean, obviously, for any agency a long-term sustained response to something of this magnitude becomes a challenge, and that would be the case no matter how many people you have.

I think, as the Secretary said, sustainability is one of the critical concerns that we are looking at right now. How do you do this if it were, in fact, to go on for some extended period of time?

We have quite a force surging to that area right now. At some point we have to look to what impact and risk position we take throughout the rest of the country as we pull those resources from other parts of the country.

Senator PRYOR. And I know that your office as well as FEMA and many other Federal, State, and local agencies try to anticipate various disasters and run through exercises and game them out to try to understand what all would happen. Were you able to do this? Have you been doing this in years past with a major oil event like this?

Admiral NEFFENGER. Well, every 3 years, somewhere in the country we do what we call a Spill of National Significance exer-

cise, and that is a full-scale deployment exercise where we simulate a massive oil discharge of some sort. The most recent one was up in the Northeast, off the coast of Portland, Maine, where we did a Spill of National Significance, simulating a large tanker oil spill.

The one that Senator Collins referred to earlier was one in which I had participated in 2004 off the southern coast of California—again, simulating a tank ship rupturing and spilling a lot of oil. So we do actually exercise for massive oil discharges periodically throughout the country.

And then in every Captain of the Port zone or Federal on-scene coordinator zone where there is an area contingency plan, there is a cycle of exercises that are required to be conducted on an annual, biennial, and triennial basis. So I would say that we exercise quite a bit, although those full-scale exercises are every 3 years, and they are not necessarily in every zone every 3 years.

Senator PRYOR. But it sounds like those exercises have paid off for you in how you have been able to respond to this.

Admiral NEFFENGER. Well, I think they have. Clearly, the response that we were able to mount to this bill is a significant improvement over what you might have seen 20 years ago prior to the Exxon spill, before we had this program in place. There is a robust exercise oversight program that we have called the Preparedness Response Exercise Program (PREP), and they manage this program throughout the country, and they watch the results. Then there is a lessons learned process for feeding what we learn from those exercises, such as those—my words are coming back to me—coming from 2004. And we try to feed that into the way in which we would actually respond.

As you might guess, it is more or less effective depending upon how well we can feed that in, but we think that we have a pretty robust exercise program, and it is one that connects Federal, State, and local officials, resource trustees, and the private sector to the extent that they can participate so that you at least talk the same language and spend time together pre-need, if you will.

Senator PRYOR. Thank you. And thank you very much for your answers, and, Mr. Chairman, again, I would like to note that in our Subcommittee on State, Local, and Private Sector Preparedness and Integration, we are actually having a hearing in the near future about this and go into more detail about what State, local, and the private sector have been doing for this. But thank you very much.

Chairman LIEBERMAN. Thank you, Senator Pryor. I appreciate that your Subcommittee is doing that.

Madam Secretary, Admiral, I want to ask you if you would stick with us and we will do a second short round of no more than 5 minutes apiece.

As I hear the questions back and forth, it seems to me that certainly post-Exxon Valdez, the government and the oil industry have worked together to get very good at dealing with a major spill at the surface. But I still remain to be convinced, one, that we did enough to prevent this deep-water accident in the well from occurring; and, two, that we are ready to deal with the unbelievable consequences of it underwater.

In that regard, I wanted to ask both of you this question. We have been reading in the media in the last few days that there are scientists who have essentially discovered and are reporting giant deep-sea plumes of oil in the Gulf as a result of this accident, one of which measured 10 miles long, 3 miles wide, and 300 feet thick in spots.

What are we capable of doing to try to break that up? And if we do not, what is going to happen to it? In other words, the consequences here for the environment, obviously the Gulf's environment, are potentially very severe.

Secretary NAPOLITANO. Indeed, Mr. Chairman. I think, first of all, we have to be careful right now about what is being assumed about the undersea plume and not. I think the head of NOAA this afternoon put out a statement saying that some of those early reports that had been made were not based on observation and had not been verified and confirmed, certainly by some of the other work that was being done.

Chairman LIEBERMAN. That is important for us to hear.

Secretary NAPOLITANO. But, obviously, we need to continue to watch the undersea plume, to the extent one develops, in addition to the top of the sea spill. So that process is being looked at with a consortium of government scientists who continue to look at what is going on underneath the surface of the ocean, what is happening there. And, again, I think NOAA Director, Dr. Jane Lubchenco, really responded very strongly to some of these early statements that had not been verified and seem inaccurate.

Now, the EPA has approved the undersea use of dispersants. And as I mentioned in my statement, this is very novel. It is being done in a very controlled way because every time we do something like that, you have to explore the environmental trade-offs that are being made. But EPA has a very rigorous protocol for how that will be done and the continuous monitoring that will happen. And so those undersea dispersants are being injected and have been injected over the last days.

Chairman LIEBERMAN. I appreciate hearing that. And, again, it seems to me that we are experimenting because this is something unprecedented and I think unanticipated—by the regulatory process, anyway, the one that the Minerals Management Service imposed on the companies prior to granting permission on this well.

Admiral, let me ask you insofar as the Coast Guard obviously has supervision over marine oil spills. Isn't there a danger that these enormous plumes will be taken by the current and move far away from the actual source of the spill now, and that could have very wide ranging and bad environmental effects?

Admiral NEFFENGER. Mr. Chairman, I think you are referring to the out-of-pocket current that is being talked about.

Chairman LIEBERMAN. Yes.

Admiral NEFFENGER. I know that we have been watching that very carefully. NOAA is helping us to model the location. Currently, it shows to be somewhere in the neighborhood of 40 to 50 miles from the southern edge of the spill. So we are watching that carefully, and as a result of that, we are preparing for potential impacts on the southern Florida coast and actually around the southern Florida coast.

But I will say that the other piece of that is it is likely the kind of oil that will get picked up in the loop current and will be heavily weathered oil. You are likely to see things like tar balls forming on the beaches. It is a little easier to manage as they come ashore. They come ashore in ways in which it is relatively easy to clean up. This is not saying that this is a good thing. It is just that I think that it will be a more manageable piece that we will deal with there than what we are currently looking at out in the Gulf.

Chairman LIEBERMAN. Let me ask you just quickly, and then we will go for a final word to the Secretary. Have you encountered any underwater sea plumes of oil of the dimensions being discussed here in your experience with the Coast Guard?

Admiral NEFFENGER. No, sir. This is the first time I have seen a leak at this depth and that poses these kinds of complexities.

Chairman LIEBERMAN. Secretary Napolitano.

Secretary NAPOLITANO. I was just going to mention that in respect to the loop current, the numbers are as the Rear Admiral said in terms of distance. We are monitoring it very closely. But we are actually treating it as if it were its own coastline. In other words, that if we were to see that the oil really was beginning to move toward the loop current, we would begin doing some things by way of dispersant and booming, whatever, as if the loop current itself were a piece of the coast.

Chairman LIEBERMAN. Thank you. My time is up. Senator Collins.

Senator COLLINS. Thank you.

Admiral to follow up on the Chairman's line of questioning, one of the concerns that I have is that no one seems to really know what to do when you have a spill this big, a failure this deep underwater. And when we follow the events in the press of the various ways that are being used to try to contain the spill and plug the well, the impression that you get is that there is no protocol for handling a blowout of this nature.

Is that a correct impression? I am not talking about containing the oil and trying to prevent it from getting to the shore. We clearly have plans, protocols, and procedures for that. I am talking about plugging the well.

Admiral NEFFENGER. Well, I understand that perception. I will tell you that I have been involved with this now since May 3. That is when I was named as a deputy to Admiral Allen. And the very first trip that I made to the Gulf was to Houston to talk to the BP engineers and the scientists who were working on the solutions.

I would say that in the end there is a technological solution to this, and we are seeing that begin to play out. I think initially it was trying to determine what actually was going on down there, and, again, it is because there is no human access to the site. It is 5,000 feet below the surface, and everything we are seeing is through the lens of a remotely operated vehicle. So that makes it challenging just to initially assess what you actually have going on.

And so I think the complexity is that you have a blowout preventer that failed to operate as it was designed. We do not know why that happened. That will take some time to determine that. It may ultimately not be determined until we can get that to the surface. The second piece is you have this very complicated 5,000

feet of riser laying like spaghetti across the sea floor on which there were a number of different leaks. That was complicating the determination as to how best to approach it. And then a lack of understanding as to what the pressures might be inside there.

So I think it takes time to accumulate the knowledge necessary to know what the next step forward was. If you had that thing on the surface and this were happening on the surface, I think you would have seen a much more rapid ability to come to a closure on it. It is the distance below the surface that makes it so challenging.

Senator COLLINS. The relief well has been held out as the ultimate solution if everything else fails, whether it is the top hat or the straw-like approach with the riser pipe that we are trying right now. Is the relief well a sure thing? It is going to take a long time to bring it about, but has this been done before?

Secretary NAPOLITANO. That is probably a question you might want to address to the BP witnesses.

Senator COLLINS. I will, but I would like to know the Admiral's opinion on that.

Admiral NEFFENGER. Well, I will qualify it by saying I am not a petroleum engineer or a geologist, but I will say that in talking to those who are, they have done relief wells before—and I would concur with the Secretary that is a good line of questioning for BP. But the top kill, the technology that they are using to shut in the well, pumping fluid into it, is a tested method. They have used that many times. In fact, it is a traditional method for closing in a well for which you have no trouble, when you are just done with it. When you are done with the well, you pump this fluid in. So I understand that is a regular method for doing so, particularly for a blowout.

As far as a relief well, I do know that it will be a challenge—and the Secretary alluded to the challenge—as you try to intersect a very small well bore from a distance of 18,000 feet.

Senator COLLINS. Thank you.

Madam Secretary, just one comment. As you know, the President's budget did include $200 million for the civilian criminal trials of Guantanamo Bay detainees in major urban areas of the United States. Since the Coast Guard keeps coming to the rescue over and over and over again, and since it is very difficult to find anyone who agrees with the plan to try Guantanamo Bay detainees in major cities, doesn't it make sense for the Administration to submit a revised budget that fully restores the money cut out of the Coast Guard using those funds?

Secretary NAPOLITANO. Senator Collins, I will be happy to transmit that message to the White House.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. It sounds like the beginning of a meeting of minds. I hope.

Senator Landrieu.

Senator LANDRIEU. Thank you.

Madam Secretary, could you comment, if you do not mind, on a letter that I understand you received from BP regarding the question that you asked them about their intention to fulfill their obligations? I have a copy of that letter. It is a public record. But

would you comment about your understanding of what they wrote, which is pretty clear? "We are prepared," they say, "to pay above $75 million on these claims, and we will not seek reimbursement from the U.S. Government or the Oil Spill Liability Trust Fund. Of course, we reserve our right to recover what we pay from other parties that may be responsible."

You asked for the letter, you received it, so what is your understanding of their response?

Secretary NAPOLITANO. My understanding is that they are going to pay all legitimate claims, and by legitimate, I think they mean non-fraudulent claims and without respect to any cap, whether or not it applies. But they seek their right to recover contributions or likewise from other entities such as Transocean.

Senator LANDRIEU. Let me ask you this about claims, because there are obviously now thousands of individuals and businesses that are concerned. Some have already been directly affected. Some are thinking they may be affected, and because there is so much uncertain about the situation—we do not know how long it will go on—it is important, I think, for us to try to be as clear as we can be about how people might actually receive assistance.

My reading of the Oil Pollution Regulations Act indicates that the trust fund may not reimburse claimants for the costs they incur in preparing and filing their claim, collecting documentation, or paying accountants to verify lost wages.

Now, I know your office is trying to make this process as simple as possible, and I have been told by BP that they are trying to make it as simple as possible. But I am wondering if you can comment on the availability for technical assistance under the existing claims regime. In other words, it is clear people cannot be reimbursed for an accountant they might have to hire to get their documentation in order. They cannot be reimbursed for X, Y, and Z. We are trying to keep people from being out-of-pocket for anything.

So are you familiar with how these claims are actually being paid, how the office that reports to you is monitoring them? Can you give any comment? And do you maybe support some additional resources to help people?

Secretary NAPOLITANO. Yes, indeed, Senator Landrieu, and again this goes to the continual and evolving nature of this, and some of the questions that are being posed today are evolving answers as well. But there is a claims process. There are 800 numbers. There are rollover numbers if you cannot get through on that. BP has now opened up a way to file a claim on the Internet.

The issue you raise, well, how does somebody get reimbursed? Let us say you own a small business, and you have had to now hire somebody to come in and get your records together about what lost profits you have had because you were not able to stay open during this season. Those are the kinds of issues that we will now begin working through.

We have some great people on the ground there working through these issues in the unified command center. You are right, they do report to me. They are some of the same people who helped us with cleaning up the remaining Hurricane Katrina claims that were there when I came into office. And so those are the kinds of things that we are working our way through. They are the kinds of things,

I would suggest, if your constituents are asking you, that you should forward those questions to us so that we know, hey, this question has arisen out there, what is the answer? If there is not an answer that we can shoot to you, it means that we have not thought our way through it yet, and it will give us the prompt to do it.

Senator LANDRIEU. Well, I say that, and I thank you, and I will submit it, because we found this to be very helpful in providing some grant assistance to nonprofits and others on the ground assisting fishermen and small businesses because the documentation is important. You have to verify your claims are legitimate. But if you do that to some of these businesses, it costs them money to prepare those documents. So we just want to make sure we do not put businesses along the Gulf Coast at any more of a disadvantage than they already are.

They also need help applying for aid from other government programs like the Small Business Association (SBA) loans, and this is money that has been appropriated. So I thank you for your comments. My time has expired. But I will forward on those requests to you.

Chairman LIEBERMAN. Thanks, Senator Landrieu.

Senator Pryor has indicated he has no further questions, so, Secretary Napolitano and Admiral Neffenger, I thank you for your testimony today. We all have a lot of work to do together. I appreciate what you are doing now to contain the spill, and particularly, Secretary, what you are doing with Secretary Salazar to come up with a reform package, is the best way I can think about it, to make sure that we better prepare for a deep-water accident and spill of this kind and do everything we can to both prevent it and be better prepared to respond to it. But for now, thank you very much for what you are doing every day.

We will now call to the stand as our second panel Lamar McKay, who is Chairman and President of BP America.

Mr. McKay, good afternoon. I appreciate your being here. I appreciate the fact that you have been here the whole afternoon. You heard both the questions and the answers and the testimony of Secretary Napolitano and Admiral Neffenger, and we would welcome your testimony at this time.

## TESTIMONY OF LAMAR MCKAY,[1] CHAIRMAN AND PRESIDENT, BP AMERICA, INC.

Mr. MCKAY. Thank you. Chairman Lieberman, Ranking Member Collins, and Members of the Committee, my name is Lamar McKay, and I am Chairman and President of BP America.

We have experienced a tragic set of events. Nearly 1 month ago, 11 people were lost on the Deepwater Horizon rig and 17 others were injured. My deepest sympathies go out to the families and the friends who have suffered such a terrible loss.

Those in the Gulf Coast communities are being severely impacted by this, and their livelihoods are being terribly impacted every day.

I have seen the response firsthand, and I have talked with the men and the women on the front line. There is a deep, steadfast

[1] The prepared statement of Mr. McKay appears in the Appendix on page 53.

resolve to do everything we humanly can to stop this, to stop the leak, to contain the spill, to fight it offshore, to fight it at the shoreline, to clean it up, and to deal with the economic impacts that it has caused and will cause.

Now, as a responsible party under the Oil Pollution Act, we, BP, will carry out our responsibilities to mitigate this environmental damage and the economic impacts of the incident. Our efforts are part of a unified command that was established within hours of the incident, and it provides a structure for our work with the Department of Interior, the Department of Homeland Security, other Federal agencies, as well as State and local governments. We have pledged our commitment to work with President Obama and members of his cabinet, the governors, congressional members, State agencies, and local communities of Mississippi, Alabama, Louisiana, Texas, and Florida. We appreciate the leadership, direction, and resources that they are all providing.

I want to underscore that the global resources of BP are committed to this effort and have been from the outset. Nothing is being spared. Everyone understands the enormity of what lies ahead and is working to deliver an effective response—at the wellhead, on the water, and on the shoreline.

Before I describe our around-the-clock efforts in response to the events, I want to reiterate our commitment to find out what happened. There are really two key lines of inquiry here. First is what caused the explosion and fire onboard the Transocean Horizon rig. And, second, why did the rig's blowout preventer, the key fail-safe mechanism, fail to shut in the well and release the rig?

We are cooperating with the joint investigation by the Department of Homeland Security and the Interior Department as well as the investigations by Congress. In addition, BP has commissioned an internal investigation whose results we plan to share so that we all learn from these terrible events.

In the meantime, we cannot draw any conclusions before all the facts are known. We will continue full speed ahead with our investigation, keeping all lines of inquiry open until we find out what happened and why. At the same time, we are fully engaged in the response to the devastating events.

Now, our sub-sea efforts to stop the flow of oil and secure the well are advancing on several fronts. Our immediate focus is on a riser insertion tube that we have talked about just prior. This involves placing a tapered riser tube into the end of the existing damaged riser, which is a primary source of the leak, until a watertight closure is achieved. The gas and oil then flows under its own pressure up the riser tube to the Enterprise drillship on the surface.

We successfully tested and inserted the tube into the leaking riser, capturing some oil and gas. Although the test was temporarily halted when the tube was dislodged, we have since successfully reinserted the tube. We are now in the early stages of stabilizing the system to process oil and gas onboard the Discover Enterprise, and that is 5,000 feet above on the water's surface.

Now, an additional effort is known as a top kill. This is a proven industry technique for capping wells that have been used—it has been used worldwide, although never in 5,000 feet of water. It uses

a tube to inject a mixture of multi-sized shredded fibrous materials directly into the blowout to clog the flow. This procedure is ongoing, and the attempt could take 1 to 2 weeks.

We have also developed a modified containment dome strategy. As you know, initial efforts to place a large containment dome over the main leak point were suspended because of a build-up of methane hydrates, which are essentially like ice crystals. This prevented a successful placement of the dome over the spill area.

A second smaller containment dome, which is being called the top hat, is being readied, if needed, and it is actually on the sea bottom. It is designed to mitigate the formation of large volumes of hydrates.

It is important to note, however, that the technology has never been used at this depth. We are working to address the remaining technological and operational challenges should we need it.

We have also tested injecting dispersant directly at the leak on the sea floor under the Environmental Protection Agency and Coast Guard approvals. Dispersant acts by separating the oil into small droplets that can break down more easily through natural processes before it reaches the surface. Sonar testing and aerial photographs show encouraging results. The unified command, supported by the EPA and other agencies, has approved additional sub-sea application subject to ongoing protocols.

We also began the drilling of the first of two relief wells on Sunday, May 2, and as of May 16, this well had reached approximately 9,000 feet below sea level. A second drillship has arrived on site and yesterday began drilling a second relief well. The entire relief well operation could take approximately 3 months.

Finally, we have succeeded in stopping the flow from one of the three existing leak points on the damaged well. While this may not affect the overall flow rate, it should reduce the complexity of the situation to be dealt with on the seabed.

Now, on the open water, we have a fleet of more than 750 response vessels that has been mobilized. In addition to using approved biodegradable dispersants at the leak point, we are also attacking the spill with dispersants pre-approved by the EPA and Coast Guard for the surface, applied using planes and boats.

To protect the shoreline, we are implementing what the U.S. Coast Guard has called the most massive shoreline protection effort ever mounted. Approximately 1.7 million feet of boom are now deployed, with more than 1.9 million additional feet available. Seventeen staging areas are now in place, and more than 15,000 volunteers have come forward to offer their services. To ensure the rapid implementation of State contingency plans, we have provided $25 million to Louisiana, Mississippi, Alabama, and Florida.

Now, we recognize that beyond the environmental impacts, there are also economic impacts on many of the people who rely on the Gulf for their livelihood. BP will pay all necessary clean-up costs and is committed to paying all legitimate claims for other loss and damages caused by the spill.

We are expediting interim payments to individuals and small business owners whose livelihood has been directly impacted by the spill: The men and women who are temporarily unable to work. Today we have paid out over $13 million to claimants, mostly in

the form of lost income interim payments. We intend to continue replacing the lost income for as long as the situation warrants.

We are responding to claims as quickly and as efficiently as possible. Starting this week, we will have in place an online claims-filing system, and our call center is open 24 hours a day, 7 days a week. We have 12 walk-in claims offices open in Louisiana, Mississippi, Alabama, and Florida, and we will open at least five more this week.

They are staffed by nearly 700 people with almost 350 experienced claims adjusters working in the impacted communities. We will continue adding people, offices, and resources for as long as required.

We are striving to be responsive and fair. We are taking guidance from the established regulations and other information provided by the U.S. Coast Guard, which handles and resolves these types of claims.

Now, tragic as this accident was, we must not lose sight of why BP and other energy companies are operating offshore, including in the Gulf of Mexico. The Gulf provides one in three barrels of oil produced in the United States, and it is a resource our economy requires.

BP and the entire energy industry are under no illusions about the challenge we face. We know that we will be judged by our response to this crisis. We intend to do everything in our power to bring this well under control, to mitigate the environmental impact, and to address economic claims in a responsible manner. No resource available to this company will be spared. I can assure you that we and the entire industry will learn from this terrible event and emerge from it stronger, smarter, and safer.

Thank you for the opportunity to appear before you today. I stand ready to answer your questions.

Chairman LIEBERMAN. Thanks, Mr. McKay. I appreciate your statement.

I know that the company has been doing everything that it has been asked to do, in some sense more, since the accident occurred. But I want to come back to the line of questioning that worries me as we try to learn from what has happened.

The fact is that in recent years BP and other energy companies have been increasingly drilling for oil in deep water. And as BP representatives have indicated, including yourself, I think, in this crisis, deep water does present a different set of challenges than from other offshore oil drilling. Yet as I look at this process, it seems to me that the Minerals Management Service did not ask enough of you and the other oil companies doing deep-water drilling, and the companies did not do enough themselves, including BP, to prepare for an accident just like the one that has occurred.

Very briefly, by way of background, there was a 2005 study, referred to in the media the other day, by Jerome Schubert and Samuel Noyanaert, actually financed, at least in part, by BP—maybe you are familiar with it—that said that "Blowouts will always happen no matter how far technology and training advance."

Another press report, which I have not confirmed but I believe is correct, says that blowout preventers have failed in as many as

14 other accidents since 2005, although obviously none as consequential as this.

So the Minerals Management Service required an Oil Spill Response Plan. But as I look at it, it mostly seems to be a plan related to effects on the surface, and although in one part of it you were required to address the effect of an uncontrolled blowout resulting in oil flowing for 30 days from deep water—although I do not think at this depth—there is nothing in the plan that I see that addresses the critical question about how you stop the leak at 5,000 feet under the water.

As you look back at this now, as your company has been jolted—even though it is a massive company, its economic strength has been threatened by this accident. Why wasn't more done as more deep-water drilling was done to deal with the consequences of an accident if it occurred at that depth?

Mr. MCKAY. Well, this, as you know, is a unique and unprecedented event. The Oil Spill Response Plans that are required by regulation are extensive, and that forms the foundation of the surface spill response plan, and I can talk about that in detail if you would like.

In the sub-sea, as you rightly point out, there are no major regulations requiring the sub-sea intervention plans. I think as we look at this accident in hindsight, I think we will need to look at what type of sub-sea intervention capability is planned or could be available.

What I would like to say is the sub-sea intervention resources that have been brought to bear are tremendous. We have three deep-water rigs working simultaneously in an unprecedented situation.

Chairman LIEBERMAN. I agree with that, and I do not fault you on the resources you brought. I think you brought everything you possibly could. But, to me, the tragedy of this is that when that dome was first lowered over the leak and it was rendered ineffective by the gas hydrates forming at such low temperatures and high pressure, it struck me that if you had been asked by our government or chose yourself to test that system before an actual blowout, you would have known that the gas hydrates would form and that would be ineffective.

So we have been watching—and you must feel as much distress as the rest of us—this scurrying around to try to find a way to close the leak at that depth. And I just feel that either the government should have demanded—I speak here as part of the Federal Government—or the Minerals Management Service should have demanded before giving the permit that there be plans to deal with this kind of explosion, or you should have in your own economic self-interest done it yourself.

Mr. MCKAY. Could I comment on that?

Chairman LIEBERMAN. Please.

Mr. MCKAY. The work that is going on has simultaneous paths to try to get this under control. You mentioned the cofferdam or the hydrates. We knew hydrates could be a problem. That was something that we could try to get it to work, because this fluid is very specific, and you do not know until you try it.

I would just say that one of the complicating factors in this situation is that we have a blowout preventer that should have worked; we have manual intervention on that blowout preventer that did not work; and, unfortunately, we have a lower marine riser package on top of it that did not release. So where in many blowout situations—and you have mentioned 14, but around the world there have been more, especially onshore—you can get on top of the blowout preventer. This specific situation has a riser and leaks along the riser. It is a very unique situation.

I do think the point is right, though. I do think that understanding sub-sea intervention capability and having a plan is a model. Where are the resources? Where do you get them? How can the industry respond? I do agree that I think that is going to need to be looked at.

Chairman LIEBERMAN. Well, I appreciate it, and I certainly agree that is the case. Do you also agree that too much reliance was put on the blowout preventer here? I am not an expert at this, obviously. I have studied it now since this has happened. I know more than I knew before. But, as I say, a blowout preventer is a piece of equipment. Equipment sometimes fails, particularly operating in unusual environments, and 5,000 feet under the water surface was one of them.

So as you look back at it, did you and the government put too much faith in the blowout preventer as the last line of defense?

Mr. MCKAY. Well, it is one of several lines of defense, and it is what is considered the fail-safe mechanism when you get into an emergency situation. There are other lines of defense that have to fail before you get there, like the hydrostatic head of the mud, the cement and casing, and then well control procedures, and the blowout preventer is considered to be the methodology when you get in trouble to shut the well in and release that rig and let it get away.

I cannot comment on too much reliance until we know what has happened.

Chairman LIEBERMAN. A final question, and then I will yield to Senator Collins. On the relief wells being dug, I understand that—this is quite remarkable, really. There are two of them, and there are two ways to get to where the problem is way under the surface of the water to see essentially which gets there first.

This is the same question asked of the Coast Guard on the first panel. Do you have a high degree of confidence that this is—if everything else fails before then—the one method of stopping the leak that will work?

Mr. MCKAY. We do have a high level of confidence that the relief wells will permanently secure the well.

Chairman LIEBERMAN. And is that based on previous experience with such relief wells?

Mr. MCKAY. Yes, relief wells are used to control blowouts and permanently seal wells, and, yes, we do have a high degree of confidence.

Chairman LIEBERMAN. Of course, the ominous note here—I appreciate hearing that—is that, as you said quite openly and directly, it could take 3 months. So if all else fails, this well could be pouring oil into the Gulf until—do you count from the day of the

accident or the day the relief well drilling started? It must be the day it started.

Mr. MCKAY. Yes. Roughly 3 months to drill each relief well.

Chairman LIEBERMAN. Yes, so this could take us until the end of July or early August.

Mr. MCKAY. It could, yes. Of course, we are doing everything we can, and there are many things we are doing to try to stop it ahead of that.

Chairman LIEBERMAN. Understood, so let us hope and pray that one of those works a lot sooner than July or August. Senator Collins.

Senator COLLINS. Mr. McKay, I know that BP is trying everything it can think of to stop this well from gushing, but it feels like you are making it up as you go along, that no one really knows what will plug this well, what will stop the oil from gushing, particularly since this is so complex because you are dealing with a leak in the riser pipe, and other locations so it is not one source of leaking.

What I am trying to better understand is the response plan. I do not doubt at all that you are throwing everything possible at this problem, that you have extremely talented engineers that are working night and day, and that you are fully cooperating with the government. But I am concerned that it seems that no one had really planned for this particular scenario. Is that accurate? Is that perception correct?

Mr. MCKAY. Let me first say this is an industry effort. It is not just BP. We have over 90 companies working just in the Houston office to try to get the interventions that we have talked about done.

There was not a response plan per se for an individual blowout with a riser on the seabed. The resources that are brought—relief wells are conventional and the plan for relief wells was not submitted, but it was available to be worked up very quickly.

The other options that we are pursuing, the first and foremost was to get that blowout preventer closed, get it to actuate. We had to do that in a situation where it has never been done before, and we have run into some issues with the blowout preventer that did not allow that actuation to happen.

While we were doing that, we were pursuing containment and collection systems—the first one being the cofferdam that did not work very well—relief wells, and the surface responses that we planned, as well as a way to kill the well from the top, from the blowout preventer.

Now, one thing the Admiral mentioned earlier I just want to highlight because he is right. It has taken awhile to, in effect, see inside that blowout preventer and understand pressures. We have used gamma rays and pressure probes, anodes, to understand what is happening in that blowout preventer. Then we can delineate and reduce risk for the next set of interventions.

So, unfortunately, we are as frustrated as anyone. It has taken time. But, believe me, the risk analysis around every single intervention is extremely important, and we are being diligent about that. It is transparent as well. So everyone is seeing exactly what we are doing.

So I would say we are not scrambling around. No, I cannot say there was a plan to hit all these different intervention methods. But those were triggered from day one, pretty much, to get going on all these parallel paths as quickly as we possibly can.

Senator COLLINS. Now, BP did file a Regional Response Plan for the Gulf of Mexico, and in that plan, the worst-case scenario that you present for offshore drilling is when a highest capacity well experiences an uncontrolled blowout volume of 250,000 barrels per day. So that is way more even than this terrible blowout. So what is different? Is it the depth of the water? And this plan, although it envisioned even greater volume, was it in shallow water? What is the difference?

Mr. MCKAY. Well, the response plan that you mention contemplates worst-case scenarios, and the planning itself envisions what resources are available in the Gulf Coast region, how would they be organized, how would they be deployed, details about who would be called when, and how the resources would be brought to bear. That plan, that model, is the foundation, whether it was a higher-rate volume or the current one, and we are enacting that plan with the Coast Guard and Homeland Security and other agencies, NOAA, as you have heard.

That plan has formed the basis of what we are doing, and that plan has been robust, and I think it is the largest effort ever mounted. And I think it is having a big impact on what is happening with the spill.

Senator COLLINS. But did that plan speak to how you contain the oil once it is spilled as opposed to how you stop the oil?

Mr. MCKAY. No. I am sorry. That particular plan under current regulation is more a Surface Spill Response Plan. You are correct, yes.

Senator COLLINS. That is my point, because it seems like we are now in a scenario that was not envisioned.

Mr. MCKAY. I think what I would say is we are learning a lot through this, and I do think we are going to have to revisit what plans mean in terms of intervention and the ability to contain or deal with something when it happens.

Senator COLLINS. I am told that two countries, at least—Norway and Brazil—require a back-up mechanism to communicate with blowout preventer that is known as an acoustic switch and that is not required by U.S. regulations. One, would that have helped in this case? And, two, should it be required?

Mr. MCKAY. I think in answer to the first question, we do not think so because we had three triggering systems for the blowout preventer and then manual intervention. So the acoustic device is essentially another triggering device.

Obviously, it will need to be looked at through the investigations to see if that could add some positive redundancy into the system. I do not know, but I do not believe in this case it would have made a difference.

Senator COLLINS. Do you think that U.S. regulations should be reformed to require this as a back-up, even if it would not have helped in this situation?

Mr. MCKAY. I think the regulations should be looked at, and anything that would make this a lower probability event and safer should be looked into.

Senator COLLINS. There has been a report that the battery on the blowout preventer was dead. Have you confirmed that to be the case?

Mr. MCKAY. Well, the blowout preventer, the rig, the riser, the drill pipe, and all of treatment equipment are property of Transocean, so I am not familiar with the condition of the batteries. Obviously, I think multiple investigations will look into that.

Senator COLLINS. So you do not know whether or not that is accurate?

Mr. MCKAY. I do not know.

Senator COLLINS. Are there other special requirements that MMS should impose on companies that are drilling in deep water that are different from the requirements for shallow-water drilling?

Mr. MCKAY. There are extensive regulations around deep water, very extensive.

Senator COLLINS. But are there additional ones that you think we should take a look at?

Mr. MCKAY. Well, we are, of course, learning with this, and we are going to share everything we learn with industry and the government. But I do think some of the topics that should be looked at we have already talked about, sub-sea intervention capability and plans, testing blowout preventers in enhanced ways, maybe extra redundancy, as we mentioned, in various systems. Those are the questions that are being asked, and the investigations will, of course, help us understand what happened. And I am confident we will figure out what happened. That is a very important thing, and I am confident of that.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins. Senator Pryor.

Senator PRYOR. Thank you, Mr. Chairman.

First, I would like to, if I may, Mr. Chairman, submit Senator Landrieu's questions for the record. She had to slip out.

Chairman LIEBERMAN. Without objection, we will forward them to the witnesses. Thank you.

Senator PRYOR. Thank you, Mr. Chairman.

I do have some questions, Mr. McKay, and if you covered this in your opening statement, I missed it. But does BP yet have an estimate of the cost to the company?

Mr. MCKAY. No.

Senator PRYOR. And the law says that BP is the responsible party, and you have confirmed that today, and I appreciate that. And you mentioned that you will pay for the clean-up and all legitimate claims. That sounds good and I love that, but a year from now, will we be sitting here either in this Committee or through constituent services like Senator Landrieu has, and learn of industries that are not covered by this indirect losses, things like that? Tell me your intention.

Mr. MCKAY. Our intention is to cover all legitimate claims associated with this incident. We have been very clear that BP resources are behind this. We have been clear in writing to accept our duties as a responsible party. We have formally accepted that. We intend

to fully live up to that. We intend to stick with this. We are being what I think is fair, responsive, and expeditious about how we are addressing claims now. We intend to continue that. So our intention is exactly as stated.

Senator PRYOR. Let me ask about what might be the definition of a legitimate claim, but it also might be subject to argument, and that would be, say, a seafood restaurant that gets its food from the Gulf. If this is so disruptive to them, would they qualify for a legitimate claim?

Mr. MCKAY. We would look to the guidance under the Oil Pollution Act, and the Coast Guard has acted for years in terms of determining legitimacy of claims and the reach of claims, and we will look to that for guidance.

Senator PRYOR. And I understand that the way these drilling platforms work out in the Gulf is that BP's name is the big name, but there are lots of subcontractors and lots of other companies involved with this operation. Will BP be looking to those companies as well or the individuals look to those companies separately? Tell us how that works.

Mr. MCKAY. Well, let me just say very clearly: We are concentrating on two things. First is to get this leak stopped and get it cleaned up; and, second, we as a responsible party are going to deal with economic impacts. We will put blame, liability, and those kind of things over to the side. That is not our concern right now.

Senator PRYOR. And let me ask about the environmental damage that this spill will cause. Like Senator Lieberman said a few moments ago, there are these reports about plumes of oil underwater. To me, that is counter intuitive because I thought oil was lighter than water and it would go to the surface. Can you tell us about that?

Mr. MCKAY. Well, I am not familiar with the details of the claims. I do understand NOAA put out a press release today questioning exactly what that means. Let me just explain. This oil does disperse naturally as it is rising in the water column, so not all of it makes it to the surface, and it does disperse. Those particles are very small, and they disperse through the currents and through the water column and gradually dissipate.

So I think what we are interested in is if someone has data on a plume in terms of extent, density, or anything else, we want to get that data. But right now I think we ought to be cautious in terms of defining what plumes are out there and how they are behaving.

Senator PRYOR. Right. You mentioned something just in passing in your testimony about sonar. Can you actually use sonar to determine where the oil is in the water?

Mr. MCKAY. To a certain extent. We have used it at the sub-sea leak point, and it has been indicative and instructive in terms of when we put the sub-sea dispersant in, and you can tune it to different sizes of particles, and, yes, it is helpful.

Now, I do not know in a dispersed system, but certainly right at the leak point it has been helpful, yes.

Senator PRYOR. And also the dispersing agents you are talking about, there have been some reports that these might be more toxic than the oil. Could you comment on that?

Mr. MCKAY. The dispersants that are being used on the surface and sub-sea—the surface ones were pre-approved and the sub-sea ones are very similar. Those are biodegradable. They are less toxic than the oil itself. And just to let everyone know, one of the good things about sub-sea, we believe the efficiency of the dispersant, the amount of dispersant used per volume of oil contact, it is quite a bit lower than surface dispersant use.

Senator PRYOR. I do have a concern—and I know a lot of others do as well—about the impact this will have on sea creatures, things like coral and sponges that apparently are filters for the ocean, and apparently these will not survive in an oil-type environment. Do you have any estimate yet on what we are looking at here?

Mr. MCKAY. No, we do not, but there is a process to understand that, and that is through NOAA as the lead Federal trustee, which does the study that we pre-fund and are participating in to understand what is called the Natural Resources Damage Assessment, and that includes baselining as well as potential damage assessment.

Senator PRYOR. It is easy for us to think of oil that washes up on the shore, and on the beaches. But is that the way oil does down on the sea floor? Does it cling to the sea floor?

Mr. MCKAY. Some oil, as I understand it—and I am not an expert, but some of the oil will drop to the bottom and be biodegraded. Some will potentially make it to the shore. This particular oil is a very light oil, so as it is weathered either on the surface or in the currents, it goes to an emulsion, then it can turn into tar balls. So what we have seen, where we have seen anything at all, are emulsions, or tar balls.

Senator PRYOR. And are there ways to collect those out on the water?

Mr. MCKAY. In the water? I cannot say. I do not know.

Senator PRYOR. But is it safe to say that the environmental consequences of this spill may go on for years?

Mr. MCKAY. I think we do not know the length of the consequences, but what we do know is we will be working with the Federal agencies to understand, monitor, and deal with those consequences.

Senator PRYOR. I do hate to ask this next question, but I think we need to ask it, and that is, what would the effects of a hurricane be? What would happen to all this oil in a hurricane?

Mr. MCKAY. Well, we are obviously aware of when hurricane season is upon us, and we are doing everything we can to obviously get this stopped before then. Should a hurricane occur, it is difficult to project, but we will be dealing with it in the best way we can with moving resources out of the way and dealing with any of the impacts if oil was put ashore.

Senator PRYOR. Mr. Chairman, I have one last question in this round.

Chairman LIEBERMAN. Go right ahead.

Senator PRYOR. But it sort of follows with that last question, and that would be: To date, what percentage of the oil has been recaptured? Do you have a chart here that shows different ways to either get rid of the oil or recapture the oil? What percentage of it have we been successful in getting rid of to date?

Mr. MCKAY. I do not have a number, but I think it is a relatively small percentage.

Senator PRYOR. OK.

Chairman LIEBERMAN. Thanks, Senator Pryor.

Mr. McKay, thanks. I appreciate your testimony. I appreciate all you are trying to do. I must say that in terms of big lessons learned here, I end up this hearing where I began it, which is that oil companies have been doing a lot more deep-water drilling, and you are doing it to respond to a demand, and in a real sense, our economy and people individually are all benefiting from the production of oil from offshore, in American territory; but that we went ahead and did that without proper preparation for how to respond if there was an accident that deep under the water. And this has been—to call it a wake-up call just understates it. It is a horrific wake-up call for the country, for the Gulf, and for you as a company. And I wish that you had done more to prepare for this, but I must say, as a Member of the U.S. Senate, I hold the Federal Government responsible for continuing to issue permits for deep-water drilling without demanding that the companies who receive those permits be prepared to deal with the effects of an accident, an explosion, to be better prepared to stop the leak underwater than obviously you are now because you never had to do this before, and also to deal with the environmental consequences and be prepared not only to stop the leak but to deal with the accumulation of oil at those depths in a way that it is not clear to me that we are able to do.

So those are the big lessons learned. They are painful lessons for everybody, including your company. I must say, just to restate what I said before, I hope and pray that everything you are trying to do to stop this oil well from pouring oil into the Gulf works. I hope one of those things works so we do not have to wait the 3 months until the relief well hopefully will work.

Senator Collins.

Senator COLLINS. Mr. Chairman, I just wanted to make one final comment. All of us have raised some tough questions today. We are obviously extremely concerned about the crisis and the long-term implications. But in the interest of fairness, I do want to acknowledge that BP and Mr. McKay have fully cooperated with our inquiry, and have not tried to get out of testifying today. And, sadly, that stands in sharp contrast with the government agency, the MMS, which refused to come testify today. So I think it is only fair to acknowledge, unhappy though we are with the situation we are in with the Gulf, that Mr. McKay has fully cooperated with our inquiry. Thanks for bringing that up, Senator Collins. I agree. I appreciate your cooperation, and I do not appreciate the failure of MMS to come.

Secretary Salazar will testify tomorrow before the Senate Energy Committee. I understand the prerogative the agency has to go before its Committee of jurisdiction first. I hope the Committee Members will ask him some of these questions about the conduct of the Minerals Management Service in issuing permits and what kinds of demands they make for Oil Spill Response Plans. I also want to restate the intention of Senator Collins and me to call the Minerals Management Service before our Committee at some appropriate

time in the not too distant future to answer those questions if they are not answered tomorrow.

In the meantime, I thank you.

Mr. MCKAY. Thank you.

Chairman LIEBERMAN. The record of this hearing will remain open for 15 days for the submission of additional statements and questions.

With that, the hearing is adjourned.

[Whereupon, at 4:54 p.m, the Committee was adjourned.]

# APPENDIX

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**Gulf Coast Catastrophe: Assessing the Nation's Response to the Deepwater Horizon Oil Spill**
**Homeland Security and Governmental Affairs Committee**
Chairman Lieberman
May 17, 2010

We convene today to assess the private and public sector response to what is rapidly and ominously becoming the worst oil spill in America's history. We do so as part of this Committee's responsibility to oversee the operations of government and, in this case, the incident management operations led by the Department of Homeland Security.

We are not here to determine how the explosion of the oil rig Deepwater Horizon happened. Nor do we seek to determine which elements of the well failed and when, or who is responsible for the chain of equipment malfunctions that have prolonged this disaster. Those are critically important questions, but other Congressional committees, Executive Branch agencies and private groups have already begun to explore them.

Our focus today is on the response of our government and the businesses involved to the accident and spill once they occurred. Were the oil companies and government prepared for a deep water blowout like this one and how have they performed in response?

We owe it to the American people to learn from this catastrophe not only so that we can do everything we can to prevent anything like it from happening again but so that we can guarantee that if it does happen again, the oil companies and the government will not be left to scurry about trying to figure out how to stop the oil gushing into the Gulf, like firefighters trying to extinguish fires already consuming a building or neighborhood. Instead, they will have learned lessons from this spill and will be much better prepared to respond.

Under the Homeland Security Act and Homeland Security Presidential Directive 5, the Secretary of Homeland Security is charged with coordinating the federal response to major disasters when a federal agency requests assistance; when more than one federal agency is substantially involved; when the resources of state and local authorities are overwhelmed, and local authorities request assistance; or when the Secretary has been directed to assume responsibility by the President. All four criteria have been met in this case.

The Secretary of Homeland Security is further charged with coordinating the activities of the private sector and non-governmental players in response to a disaster and must ensure that disaster information is gathered and disseminated to the public, and public and private sector officials. The United States Coast Guard is specifically responsible for managing a marine oil spill clean up.

A host of other agencies - the Minerals Management Service (MMS) within the Department of Interior, the National Oceanographic and Atmospheric Administration (NOAA),



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and the Environmental Protection Agency (EPA) - also have critical responsibilities in this kind of crisis.

And, of course, the private sector companies involved have enormous obligations under law. In fact, much of the actual clean-up is being conducted by contractors BP has hired to respond to the spill. The law also provides that the private companies responsible for the spill will pay for the clean-up, regardless of who is actually carrying out the response.

This afternoon, we will ask whether BP had adequate incident management and response plans in place ahead of time to guide their response efforts. Did the plans specifically cover the consequences of a blowout and oil gushing 5,000 feet underwater?

We know that the oil companies' spill response plans must be filed and approved by MMS for wells and the U.S. Coast Guard for drilling vessels before any drilling can begin. Were those plans, as approved, adequate to the crisis we are now facing?

We also want to know what plans were in place to guide the Coast Guard and other federal agencies involved in the response. What capabilities did the Department of Homeland Security, the Department of Defense, and other agencies make available in the early days of the oil spill? Did they act quickly enough? And what response capabilities will be made available as the disaster continues?

We will also ask whether our government was forced to over-rely on the oil company's expertise. Did the government have any knowledge of the disaster independent of what BP was telling it? Finally, what exactly is the government's role – if any, directly - in trying to stop the oil pouring into the Gulf?

I have spent some time studying what the law requires of the oil drilling companies and our government, and the response plans that were filed and approved for the Deepwater Horizon well. And I emerge with a tentative conclusion I will ask the witnesses today to respond to. I regret that MMS has chosen not to appear before our Committee today because they must be asked these same questions - since they approve or reject the oil spill response plans for wells before they can be drilled. The Secretary of the Interior, in which the MMS is housed, will first appear tomorrow before its committee of original jurisdiction, the Energy and Natural Resources Committee. If appropriate, our Committee will ask the Secretary and or the MMS to appear before us.

Here in brief is my tentative conclusion and the questions that I believe need to be answered by our witnesses. BP was required to submit an oil spill response plan to the MMS. Under the law, this plan can be regional or specific to a particular well and rig. Almost 10 years ago, in December 2000, BP filed only a regional response plan, and the MMS did not ask for more. That regional plan was mostly recently revised on June 30 of last year.

So my first question is: should the government have been satisfied with only a regional response plan instead of one for each well?



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Second, and more important, did our government, through MMS, require an oil spill response plan adequate to the widest range of possible dangers, including the failure of a blowout preventer?

The response plan which BP filed and which was approved by MMS included, as required, an appendix which identifies worst case spill scenarios and proposed methods for responding. Under MMS regulations, the plan must address an uncontrolled blowout at a well's highest capacity for at least 30 days. And in its plan, BP foresaw such a worst case scenario for a deep water blowout resulting in more than 250,000 barrels of crude oil being discharged every day. That is much more than is actually being discharged in the Gulf today, with the estimates ranging from a low of 5,000 barrels daily to a high of 100,000 barrels daily.

In its proposed response plan, BP said it could use booms and skimming vessels and dispersants to counter or collect more than 490,000 barrels a day mostly from the surface. But as far as I can tell, those methods don't effectively deal with the enormous accumulation of oil under water now in the Gulf, reportedly as large as10 miles long, three miles wide, and 300 feet thick. Was that a foreseen consequence of a deep water well blowout? Why didn't MMS require that oil companies have a better plan for responding to that consequence?

And perhaps most important in the approved BP response plans, there appears to be total reliance on the blowout preventer, and no plans filed for what to do to control and stop a spill if a blowout preventer fails in deep water, as it did in the current case. Why not?

Finally, what can be done to prevent another failure of a blowout preventer in deep water, or control the spill more quickly and effectively, if it does?

Until those questions are answered satisfactorily, I don't see how our government can allow any new deepwater wells to be permitted and drilled. I say that with regret because I know how important offshore American oil is to our nation's energy independence. But the U.S. government has a responsibility to the public safety that is more important, and that responsibility, I fear, was not fulfilled in this case. The result is the human, environmental, and economic catastrophe we are witnessing in the gulf today.



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Statement of
Ranking Member Senator Susan M. Collins

**Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill**

U.S. Senate Committee on Homeland Security and Governmental Affairs

May 17, 2010

★ ★ ★

**Eleven workers died after an explosion rocked and then sank the Deepwater Horizon oil drilling platform nearly four weeks ago in waters 45 miles off the Louisiana coast. I offer my deepest sympathies to those who lost loved ones in this horrific accident.**

**We know when this catastrophe began, but none of us knows when it will end. Today, 27 days after the fatal explosion and fire, oil continues to gush from the well-head nearly a mile below the surface of the Gulf of Mexico.**

**Despite recent successful efforts to siphon off a portion of the oil spewing from the broken pipe, the waters of the Gulf are slowly becoming a sea of crude oil. The expanding plume is menacing the fragile ecosystems in the Gulf, potentially damaging a vast array of sea life, the environment, and the futures of Americans who live and work along the Gulf Coast.**

**NOAA has estimated that each day some 5,000 barrels of oil are flowing into the waters of the Gulf, but recent estimates by other experts place that number as high as 70,000 barrels. Hundreds of federal officials, Coast Guard personnel, scientists, engineers, and officials from British Petroleum search for solutions to fix the urgent problem: How do we turn off this faucet of oil that is stuck open, nearly a mile under the water?**

**We have learned much about the explosion, fire, and challenging response efforts, but there are still too many unanswered questions.**

**At today's hearing, we will ask what the government and industry could have done differently to avoid this catastrophe. We will ask how the continuing damage to the Gulf of Mexico can be mitigated and how the spill can eventually be stopped.**

**As the Coast Guard Commandant has noted, the technological feats and ingenuity needed to stop the leak have parallels to the April 1970 rescue**



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mission for Apollo 13. It took urgent, coordinated, and creative actions to bring Apollo 13's three astronauts safely home to Earth.

In responding to this catastrophe, our nation faces a similar Herculean engineering task—but this time in a deep ocean environment that is dark, cold, and unforgiving.

There are some 90 rigs drilling in the Gulf of Mexico right now, providing 1.7 million barrels of oil a day, or nearly one-third of total U.S. production.

According to the federal Minerals Management Service (MMS), only 0.7 percent of active drilling platforms are searching for oil in waters deeper than 1,000 feet, yet 52 percent of all leases are in those deep waters. Clearly, companies believe there is much promise in deepwater drilling; therefore, there could be a rapid expansion in this area in coming years. In light of the Deepwater Horizon disaster, we must examine whether we need special requirements for drilling operations in these challenging conditions.

MMS has the responsibility for reviewing and approving oil spill response plans for drilling conducted on offshore rigs like the Deepwater Horizon. I would like to know what level of preparedness MMS requires of companies seeking to drill in this hazardous deepwater environment.

For the Coast Guard to effectively perform its statutory role in marine environmental protection, it must work closely with MMS and the private sector in order to be prepared for a worst case scenario.

To that end, I was surprised to learn that there currently exists no requirement for MMS to share oil spill response plans with the Coast Guard.

How can that be? It seems to me that mandating concurrent Coast Guard approval of these plans is a commonsense change that the government should make immediately.

Today, we will hear more about the Department of Homeland Security's coordination of the response to the ongoing spill. The federal government and private sector have committed substantial resources to respond to this oil spill, and these efforts will certainly continue. Concerns have been raised, however, regarding the adequacy and timeliness of resources committed to this effort in the initial days of the blowout.

Furthermore, with the Administration's proposed $75 million cut to the Coast Guard's budget, it is questionable whether the Coast Guard can maintain sufficient capabilities to respond to this and future disasters, along with performing its myriad other missions. Surely, this catastrophe should prompt the Administration to reconsider that ill-conceived budget cut.

Finally, the private sector must accept responsibility for this failure of modern engineering.

This oil spill, when it finally concludes, will be recorded as an epic catastrophe, whose impacts are likely to be felt for a long time to come.



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**The Honorable Janet Napolitano**

**Secretary**
**United States Department of Homeland Security**

**Testimony before the**
**United States Senate**
**Committee on Homeland Security and Governmental Affairs**

**on**
**"Gulf Coast Catastrophe: Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**

**May 17, 2010**



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Chairman Lieberman, Senator Collins, and members of the Committee: Thank you for this opportunity to testify about the Department of Homeland Security's role in the Administration's response to the BP Deepwater Horizon oil spill in the Gulf of Mexico.

Since day one, the Administration has engaged in an all-hands-on-deck response to this event — and DHS has played a significant role. We planned for a worst-case scenario from the moment the explosion occurred and now, almost four weeks later, we are continuing to sustain a strong and effective response. Every step of the way, the Administration has closely coordinated its efforts with the states and local communities affected by the spill.

As of this writing on May 14[1], there are more than 17,000 personnel at the federal, state and local level and thousands of trained volunteers responding to protect the shoreline and wildlife. More than 550 vessels have been deployed across the Gulf region, including skimmers, tugs, barges, and recovery vessels — in addition to dozens of aircraft, remotely operated vehicles, and multiple mobile offshore drilling units. More than 1.2 million feet of containment boom have been deployed, and we have deployed more than a half million gallons of dispersants in addition to using controlled burns and skimming techniques to contain the oil slick, recovering more than 5 million gallons of an oil-water mix. We have established 14 staging areas across the Gulf Coast states and three regional command centers. The Department of Defense has approved the activation of up to 17,500 National Guard troops and more than 1,300 are deployed.

While this spill is still continuing, DHS and all of our partners throughout the federal government will continue to do everything in our power to ensure that BP stops the leaks, contains the spill, and mitigates the spill's impact on the environment, the economy, and public health.

[1] All statistics in this statement are as of Friday, May 14.



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Today, I would like to offer the Committee a brief overview of DHS' response, as part of the coordinated, government-wide effort and how we plan to address the challenges in the days and weeks ahead.

**DHS Response Since Day One**

At 10:30 p.m. on Tuesday, April 20, the Coast Guard received notification of an explosion on the Mobile Offshore Drilling Unit Deepwater Horizon. The President was alerted and began actively monitoring the situation, and a large-scale search-and-rescue operation began out of concern for the 126 people on the rig at the time of the explosion. Two Coast Guard cutters and aircraft were deployed and arrived on the scene as the first response vessels and the Coast Guard stood up a command center to address environmental impacts and begin coordinating with state and local governments. Search-and-rescue operations continued through Friday, April 23 – 115 crew members were accounted for the morning after the explosion and 11 crew members remain missing.

On Wednesday, April 21, Coast Guard Rear Admiral Mary Landry was named the Federal On-Scene Coordinator; the Regional Response Team, which allows federal, state, and local representatives to exchange information and coordinate technical advice, equipment, or manpower to assist with a response, was activated; and an interagency investigation into the incidents was launched. On the morning of Thursday, April 22, the oil rig sank, with 700,000 gallons of diesel fuel on board. This prompted the immediate activation of the National Response Team (NRT) – which includes leadership from across the federal government, including the White House, DHS, the U.S. Coast Guard, the Environmental Protection Agency, and the Departments of Defense, Commerce, and Interior, among others, led by the Secretary of



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Homeland Security as the principal federal official responsible for coordinating the federal response. That same day, President Obama convened a principals meeting about the event. At this time, there were no apparent oil leaks, but 100,000 gallons of dispersants were prepositioned. We also initiated intergovernmental calls to provide updates on the situation to potentially affected communities along the Gulf Coast.

On Friday, April 23, the sunken rig was found on the ocean floor, with an oil sheen estimated at 8,400 gallons nearby. No oil leak was apparent, but the NRT convened in order to plan ahead in case the situation deteriorated – continuing to pre-position response assets in preparation for a worst case scenario

The next day, Saturday, April 24, BP found the first two leaks and alerted the federal government. The first three equipment staging locations were quickly stood up across the Gulf Coast, and additional personnel and vessels were deployed to the area. We began to deploy boom the next day. On Wednesday, April 28, the first controlled burn operation was conducted, and was successful. Controlled burning is a strategy designed to minimize environmental risks by removing large quantities of oil, concentrated and collected in fire boom, in the Gulf of Mexico. Later that day, BP discovered an additional leak from the oil well. The President was notified, and we further bolstered our response while directing BP to leverage all additional resources to stop the leaking oil.

On Thursday, April 29, I designated the events a Spill of National Significance, which built on the operational and policy coordination already underway from the beginning of this response and enabled us to appoint a National Incident Commander to coordinate resources and communication at the national level. BP established a toll-free hotline for claims on April 30, while the Coast Guard set up a process to resolve any claims issues. The President dispatched



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several Cabinet officials, including myself, to the Gulf Coast to inspect response operations. On May 1, we announced that Admiral Thad Allen, the outgoing Commandant of the Coast Guard, would serve as the National Incident Commander, continuing to lead and coordinate ongoing federal actions to mitigate the oil spill. On May 2, the President traveled to the Gulf to examine response activities. Since then, a number of Cabinet members, including myself, have traveled to the Gulf Coast many times to oversee ongoing response activities.

**Current Response**

Undersea, at the surface, and at the shoreline, we are continuing our response operations with the goal of reducing, mitigating, removing, and disposing of the spilled oil. Our priorities are 1) stopping the leaks; 2) reducing the spread of oil; 3) protecting the shoreline; and 4) clean-up and recovery. The Coast Guard, in conjunction with EPA and other federal agencies, has conducted six Spill of National Significance Exercises since 1994 that have provided valuable experience for this response.

*Stopping the Leaks*

The Administration's first priority has been overseeing BP's efforts to stop the leaks. Frankly, the federal government has limited capability and expertise in responding to wellhead incidents on the seafloor. Nonetheless, the federal government has mobilized scientists and industry experts to collaborate with BP to identify and execute the best strategies for sealing the well, and the President has tasked the Department of Energy to participate in providing any possible expertise on that front. Ultimately, the permanent solution to stop this leaking is to drill a relief well, which will relieve pressure and permanently stop the flow of oil. BP began drilling



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this well two weeks ago and, absent special circumstances, anticipates this will be a 90-day process. BP also continues to pursue other possible methods to seal the well. These include clogging the blowout preventer with selected materials in a technique known as a "junk shot;" a method known as "top kill," where a piece of equipment sitting at the top of the wellhead is reconfigured so that heavy fluids can be pumped into the well and stop the flow of oil outward; and improving past attempts to collect the flow of oil with a containment dome, the latest iteration of which is often called a "top hat."

*Reducing the Spread of Oil and Protecting the Shoreline*

We continue surface and shoreline response operations to reduce, mitigate, remove, and dispose of the spilled oil. These include burning oil on the water's surface, blocking the oil's progress toward shore with boom, mechanically removing oil by skimming it from the surface, and applying chemical dispersants.

These mitigation efforts are run out of a Unified Area Command in Robert, La. We have also stood up three Incident Command Posts in Mobile, Ala., Houma, La., and St. Petersburg, Fla., beneath the Unified Area Command. In addition, we have established 14 staging locations in strategic locations in the Gulf Coast states that could be affected by this spill, from where equipment such as boom is deployed. This method of organization has supplied a clear structure for the response.

Each of the command posts includes state and local government partners, and liaison officers are embedded in each state's emergency operations center. This structure helps us to continue to coordinate closely with state and local governments, as we have done since the beginning of this spill. This command structure also allows for close coordination across federal



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agencies. Members of the Cabinet continue to be extensively involved in overseeing the response, and as I mentioned, several of us have traveled to the Unified Area Command, the Incident Command Posts, and the staging locations since they were set up.

We are also dedicating resources to the clean-up of locations where oil from this spill makes landfall. As of this writing, there have been several reports of tar balls from the spill washing onto beaches. Once tar balls make landfall, shoreline cleanup assessment teams evaluate the situation to determine how best to remove them, which is done either by hand with protective gloves, or with beach cleaning machinery. An analysis of the tar balls may also occur to determine whether they did, in fact, originate from the BP spill. The U.S. Coast Guard has dedicated a toll-free line to take reports of new tar balls from residents. Thousands of volunteers have also been trained to potentially help in beach clean-up.

We have been conducting activities to mitigate the impact of the spill for weeks now, and we continue to dedicate more resources to this effort as the spill continues. As of last week, all shipping channels and ports remain open in the Gulf Coast region and there are no reported delays or closures to shipping.

*Recovery – Claims Processing*

As a responsible party for these leaks, BP is legally charged with sealing the leaks, as well as paying for the cost of the response and damages that result from the spill. BP has acknowledged these responsibilities, and we will hold them accountable while continuing to deploy every available resource to assist in stopping the leaks and containing the damage. BP has established a toll-free claims hotline to receive and process claims of economic market damages, property damage, and personal injury. As of May 14, BP reported that it had opened nearly



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11,000 claims, disbursed over $6.6 million, and has not yet denied a claim. The Administration continues to closely monitor BP's claims process and the Coast Guard has a website and toll-free number for claims resolution. These resources are available to help claimants connect with the BP processing system, and to assist them in the event that they encounter difficulties adjudicating their claims with a responsible party. We have also assigned senior leadership with experience in resolving Katrina claims to oversee this process to ensure claims by impacted individuals and communities are addressed quickly and fairly. Further, the National Incident Command (NIC) is taking the lead in coordinating the human service and small business response effort. The NIC has tasked FEMA with the role of coordinating the delivery of benefits.

Last week, the President sent Congress a legislative proposal that would help individuals manage the claims process and enable the federal government to speed assistance in the event that the spill gets worse and if the responsible parties are not paying claims to affected individuals quickly and fairly. The legislation provides states with additional help to provide one-stop services for those affected by the oil spill, including assistance in filing claims with BP and seeking other assistance that may be available, such as Small Business Administration Disaster Loans. The Administration's proposal enables the President to trigger and mobilize, in partnership with states, new forms of assistance – such as Unemployment and Nutrition Aid – if the claims process established by the Oil Pollution Act is not sufficient to meet the needs of affected individuals. It also enables the government to recoup the expenses of providing these services from the responsible parties.

*Investigation*

Together with the Department of the Interior (DOI), we are conducting an interagency



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investigation into the causes of the explosion and spill, and we held the first formal public proceedings of that investigation last week. In addition, DHS is working along with Interior and the Department of Justice to ensure that all records and evidence that may be relevant to the ongoing investigation to identify the cause of the well blowout and any future litigation are preserved, including monitoring the removal of equipment and debris from the spill site. In the interest of transparency, we have established a website for sharing information on the investigation with the public at www.deepwaterinvestigation.com.

**Conclusion**

Looking ahead, the Administration will continue the strong response we have sustained since April 20, mobilizing every available resource to protect the environment, the economy, and public health in the Gulf region. Individuals, communities, businesses have suffered as a result of this spill. DHS and this Administration have responded – and will continue to respond – to this unprecedented and unique problem with all hands on deck.

Chairman Lieberman, Senator Collins, and members of the Committee: Thank you for this opportunity to testify. I am happy to answer your questions.



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**United States Senate Committee on Homeland Security and Governmental Affairs**
**Lamar McKay**
**Chairman & President, BP America**
**May 17, 2010[1]**

Chairman Lieberman, Ranking Member Collins, members of the committee, I am Lamar McKay, Chairman and President of BP America.

We have all experienced a tragic series of events.

I want to be clear from the outset that we will not rest until the well is under control. As a responsible party under the Oil Pollution Act, we will carry out our responsibilities to mitigate the environmental and economic impacts of this incident.

We — and, indeed, the entire energy sector — are determined to understand what happened, why it happened, take the learnings from this incident, and make the changes necessary to make our company and our industry stronger and safer. We understand that the world is watching and that we and our industry colleagues will be judged by how we respond to these events.

Nearly one month ago, eleven people were lost in an explosion and fire aboard the Transocean Deepwater Horizon drilling rig, and seventeen others were injured. My deepest sympathies go out to the families and friends who have suffered such a terrible loss and to those in Gulf Coast communities whose lives and livelihoods are being impacted.

This was a horrendous accident. We are all devastated by this. It has profoundly touched our employees, their families, our partners, customers, those in the surrounding areas and those in government with whom we are working. There has been tremendous shock that such an accident could have happened, and great sorrow for the lives lost and the injuries sustained. The safety of our employees and our contractors and the safety of the environment are always our first priorities.

Even as we absorb the human dimensions of this tragedy, I want to underscore our intense determination to do everything humanly possible to minimize the environmental and economic impacts of the resulting oil spill on the Gulf Coast.

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[1] The data described throughout this testimony is accurate to the best of my knowledge as of 8am Sunday, May 16, 2010, when this testimony was prepared. The information that we have continues to develop as our response to the incident continues.



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From the outset, the global resources of BP have been engaged. Nothing is being spared. We are fully committed to the response.

And from the beginning, we have never been alone. On the night of the accident, the Coast Guard helped rescue the 115 survivors from the rig. The list of casualties could easily have been longer without the professionalism and dedication of the Coast Guard.

Even before the Transocean Deepwater Horizon sank on the morning of April 22nd, a Unified Command structure was established, as provided by federal regulations. Currently led by the National Incident Commander, Admiral Thad Allen, the Unified Command provides a structure for BP's work with the Coast Guard, the Minerals Management Service and Transocean, among others.

Immediately following the explosion, in coordination with the Unified Command, BP began mobilizing oil spill response resources including skimmers, storage barges, tugs, aircraft, dispersant, and open-water and near shore boom.

Working together with federal and state governments under the umbrella of the Unified Command, BP's team of operational and technical experts is coordinating with many agencies, organizations and companies. These include the Departments of Interior, Homeland Security, Energy, and Defense, National Oceanic and Atmospheric Administration (NOAA), US Fish & Wildlife Service (USFW), National Marine Fisheries Service (NMFS), EPA, OSHA, Gulf Coast state environmental and wildlife agencies, the Marine Spill Response Corporation (an oil spill response consortium), as well as numerous state, city, parish and county agencies.

"BP has been relentless and we've been relentless in our oversight because we all understand the stakes here," said Adm. Allen on May 14. "This has never been done before. This is an anomalous, unprecedented event."

The industry as a whole has responded in full support. Among the resources that have been made available:

- Drilling and technical experts who are helping determine solutions to stopping the spill and mitigating its impact, including specialists in the areas of subsea wells, environmental science and emergency response;
- Technical advice on blowout preventers, dispersant application, well construction and containment options;
- Additional facilities to serve as staging areas for equipment and responders, more remotely operated vehicles (ROVs) for deep underwater work, barges,



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support vessels and additional aircraft, as well as training and working space for the Unified Command.

**The actions we're taking**

As Chairman and President of BP America, I am part of an executive team that reports directly to our Global CEO, Tony Hayward. I am BP's lead representative in the US and am responsible for broad oversight and connectivity across all of our US-based businesses.

BP itself has committed tremendous global resources to the effort. Including BP, industry and government resources – over 17,000 personnel are now engaged in the response. Among many other tasks, our employees are also helping to train and organize the more than 15,000 citizen volunteers who have come forward to offer their services.

Indeed, we have received a great many offers of help and assistance, and we are grateful for that. The outpouring of support from government, industry, businesses and private citizens has truly been humbling and inspiring. It is remarkable to watch people come together in crisis.

Our efforts are focused on two overarching goals:

- Stopping the flow of oil; and
- Minimizing the environmental and economic impacts from the oil spill.

**Subsea efforts to secure the well**

Our first priority is to stop the flow of oil and secure the well. In order to do that, we are using four vessels and nine Remote Operated Vehicles (ROVs) working on several concurrent strategies:

- **Riser Insertion Tube:** Our immediate focus is on a riser insertion tube option. This involves placing a tapered riser tube into the end of the existing, damaged riser and drill pipe, the primary source of the leak, until a watertight closure is achieved. The gas and oil would then flow under their own pressure up the riser tube to the *Enterprise* drillship on the surface.

- **Containment Recovery System:** Initial efforts to place a large containment dome over the main leak point were suspended as a build up of hydrates, essentially ice-like crystals, prevented a successful placement of the dome over the spill area. A second, smaller containment dome, measuring four feet in diameter and five feet high, called a "top hat," is being readied to lower over the main leak point, if needed. The small dome would be connected by drill pipe and riser lines to a drill ship on the surface to collect and treat the oil. It is



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designed to mitigate the formation of large volumes of hydrates. It is important to note that this technology has never been used at this depth and significant technical and operational challenges must be overcome.

- **Dispersant injection at the sea floor:** We have conducted a third test round of injecting dispersant directly at the leak site on the sea floor using ROVs. Dispersant acts by separating the oil into small droplets that can break down more easily through natural processes before it reaches the surface. Sonar testing and aerial photographs show encouraging results. The Unified Command, supported by the Environmental Protection Agency and other agencies, has approved additional subsea application subject to ongoing protocols.

- **Drilling relief wells:** We have begun to drill the first of two relief wells to permanently secure the well. These wells are designed to intercept the original MC252 #1 well. Once this is accomplished, a specialized heavy fluid will be injected into the well bore to stop the flow of oil and allow work to be carried out to permanently cap the existing well. On Sunday, May 2nd, we began drilling the first of these wells, and as of May 16, the well had reached approximately 9,000 feet below sea level. A second drillship has been mobilized to the area and will begin drilling a second relief well on May 16. This relief well operation could take approximately three months.

- **"Top kill":** An additional effort is known as a "top kill." It is a proven industry technique for capping wells and has been used worldwide, though never in 5,000 feet of water. It uses a tube to inject a mixture of multi-sized shredded fibrous materials directly into the blowout preventer. The objective is for the material to travel up the BOP and clog the flow of the well at the pinch point. Once the pressure is controlled, heavy fluids and cement will be pumped down the well to kill it. We have completed the first part of this operation using an ROV to remove the BOP control pod, which was taken to the surface and refurbished with electronics. Re-installation of the control pod will allow us to control the BOP lines needed to inject from the surface. Manifold and bypass lines are in place to provide access to valves on the BOP. This procedure is ongoing and this attempt could take two or three weeks to accomplish.

- We have succeeded in stopping the flow from one of the three existing leak points on the damaged well. While this may not affect the overall flow rate, it should reduce the complexity of the situation to be dealt with on the seabed.

**Attacking the spill**

We are attacking the spill on two fronts: in the open water and on the shoreline, through the activation of our pre-approved spill response plans.

- **On the water**



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On the open water, more than 600 response vessels are available, including skimmers, storage barges, tugs, and other vessels. The Hoss barge, the world's largest skimming vessel, has been onsite since April 25. In addition, there are 15, 210-foot Marine Spill Response Corporation Oil Spill Response Vessels, which each have the capacity to collect, separate, and store 4000 barrels of oil. To date, over 150,000 barrels of oil and water mix have been recovered.

Also on the open water, we are attacking the spill area with Coast Guard-approved biodegradable dispersants, which are being applied from both planes and boats. Dispersants are soap-like products which help the oil to break up and disperse in the water, which, in turn, helps speed natural degradation.

Thirty-eight aircraft, both fixed-wing and helicopters, are now supporting the response effort. Over half a million gallons of dispersant have been applied on the surface and more than a quarter of a million gallons are available. Typically, about 2,100 gallons of dispersant is needed to treat 1,000 barrels of oil.

To ensure that adequate supplies of dispersant will be available for surface and subsea application, the manufacturer has stepped up the manufacturing process, and existing supplies are being sourced from all over the world. The cooperation of industry partners has been superb and that is deeply, deeply appreciated.

- **Actions to protect the shoreline**

Near the shoreline, we are implementing with great urgency oil spill response contingency plans to protect sensitive areas. According to the Coast Guard, the result is the most massive shoreline protection effort ever mounted.

To ensure rapid implementation of state contingency plans, we have made grants of $25 million to Louisiana, Mississippi, Alabama, and Florida.

To date, we have about 1.5 million feet of boom deployed in an effort to contain the spill and protect the coastal shoreline, and another one million feet are available. The Department of Defense is helping to airlift boom to wherever it is needed across the Gulf coast.

The Area Unified Command Center has been established in Robert, LA. Incident Command Centers have been or are being established at Mobile, AL; St. Petersburg, FL and Houma, LA.

Fifteen staging areas are also in place to help protect the shoreline:



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- **Alabama:** Theodore, Orange Beach and Dauphin Island;
- **Florida:** Pensacola and Panama City.
- **Louisiana:** Amelia, Grand Isle, Venice, Port Fourchon, Shell Beach, Slidell, Cocodrie;
- **Mississippi:** Pascagoula, Biloxi and Pass Christian;

Highly mobile, shallow draft skimmers are also staged along the coast ready to attack the oil where it approaches the shoreline.

Wildlife clean-up stations are being mobilized, and pre-impact baseline assessment and beach clean-up will be carried out where possible. Rapid response teams are ready to deploy to any affected areas to assess the type and quantity of oiling, so the most effective cleaning strategies can be applied.

A toll-free number has been established to report oiled or injured wildlife, and the public is being urged not to attempt to help injured or oiled animals, but to report any sightings via the toll-free number.

Contingency plans for waste management to prevent secondary contamination are also being implemented.

Additional resources, both people and equipment, continue to arrive for staging throughout the Gulf states in preparation for deployment should they be needed.

**Communication, community outreach, & engaging volunteers**

We are also making every effort to keep the public and government officials informed of what is happening and are regularly briefing Federal, state, and local officials.

On the ground, in the states and local communities, we are working with numerous organizations such as fishing associations, local businesses, parks, wildlife and environmental organizations, educational institutions, medical and emergency establishments, local media, and the general public.

BP is leading volunteer efforts in preparation for shoreline clean-up. We have helped and will continue to help recruit and deploy volunteers, many of whom are being compensated for their efforts, to affected areas.

Volunteer activities at this time are focused on clearing the beaches of existing debris and placing protective boom along the shoreline. Our "adopt a boom" program is proving very successful in engaging local fishermen in the response. Over a thousand fishing vessels are signed up to deploy boom and assist with the response.



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There are seven BP community-outreach sites engaging, training, and preparing volunteers:

- **Alabama:** Mobile;
- **Florida:** Pensacola;
- **Louisiana:** Venice and Pointe a la Hache;
- **Mississippi**: Pascagoula, Biloxi and Waveland.

A phone line has been established for potential volunteers to register their interest in assisting the response effort.

**Coping with economic impacts**

We recognize that beyond the environmental impacts there are also economic impacts on many of the people who rely on the Gulf for their livelihood. BP will pay all necessary clean up costs and is committed to paying legitimate claims for other loss and damages caused by the spill. We are already expediting interim payments to individuals and small business owners whose livelihood has been directly impacted by the spill - the men and women who are temporarily unable to work. We have already paid approximately 12 million dollars out to claimants, mostly in the form of these lost income interim payments. We intend to continue to replace this lost income for those impacted men and women for as long as the situation continues to prevent them from returning to their work.

We have been responding to these claims by individuals and small businesses that have had losses caused by injury to their property or to natural resources as quickly and efficiently as possible. We have a call center that operates 24 hours a day, 7 days a week. Starting this week, we will have an on-line claims filing system. We have nearly 700 people assigned to handle claims, with almost 350 experienced claims adjusters working in the impacted communities. We have 10 walk in claims offices in Louisiana, Mississippi, Alabama and Florida and we will open 7 more this week. We will continue to add people, offices and resources as required.

We are striving to be efficient and fair and look for guidance to the established regulations and other information provided by the US Coast Guard, which frequently handles and resolves these types of claims.

**Commitment to investigate what happened**

BP is one of the lease holders and the operator of this exploration well. As operator, BP hired Transocean to conduct the well drilling operations. Transocean owned and was responsible for safe operation of the Deepwater Horizon drilling rig and its equipment, including the blowout preventer.



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The question we all want answered is "what caused this tragic accident"?

A full answer to this and other questions will have to await the outcome of multiple investigations which are underway, including a joint investigation by the Departments of Homeland Security and Interior (Marine Board) and an internal investigation that BP is conducting.

BP's investigation into the cause of this accident is being led by a senior BP executive from outside the affected business. The team has more than 40 people. The investigation is ongoing and has not yet reached conclusions about incident cause. We intend to share the results of our findings so that our industry and our regulators can benefit from the lessons learned.

Investigations take time, of course, in order to ensure that the root cause of the failure is fully understood. But let me give you an idea of the questions that BP and the entire energy industry, are asking:

- What caused the explosion and fire?
- And why did the blowout preventer fail?

Only seven of the 126 onboard the Deepwater Horizon at the time of the incident were BP employees, so we have only some of the story, but we are working to piece together what happened from meticulous review of the records of rig operations that we have as well as information from those witnesses to whom we have access. We are looking at our own actions and those of our contractors, as is the Marine Board.

**Conclusion**

BP is under no illusions about the seriousness of the situation we face. In the last three weeks, the eyes of the world have been upon us. President Obama and members of his Cabinet have visited the Gulf region and made clear their expectations of BP and our industry. So have members of Congress, as well as the general public.

We intend to do everything within our power to bring this well under control, to mitigate the environmental impact of the spill and to address economic claims in a responsible manner.

Any organization can show the world its best side when things are going well. It is in adversity that we truly see what they are made of.

We know that we will be judged by our response to this crisis. No resource available to this company will be spared. I can assure you that we and the entire industry will learn from this terrible event, and emerge from it stronger, smarter and safer.



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Lieberman Foster 1

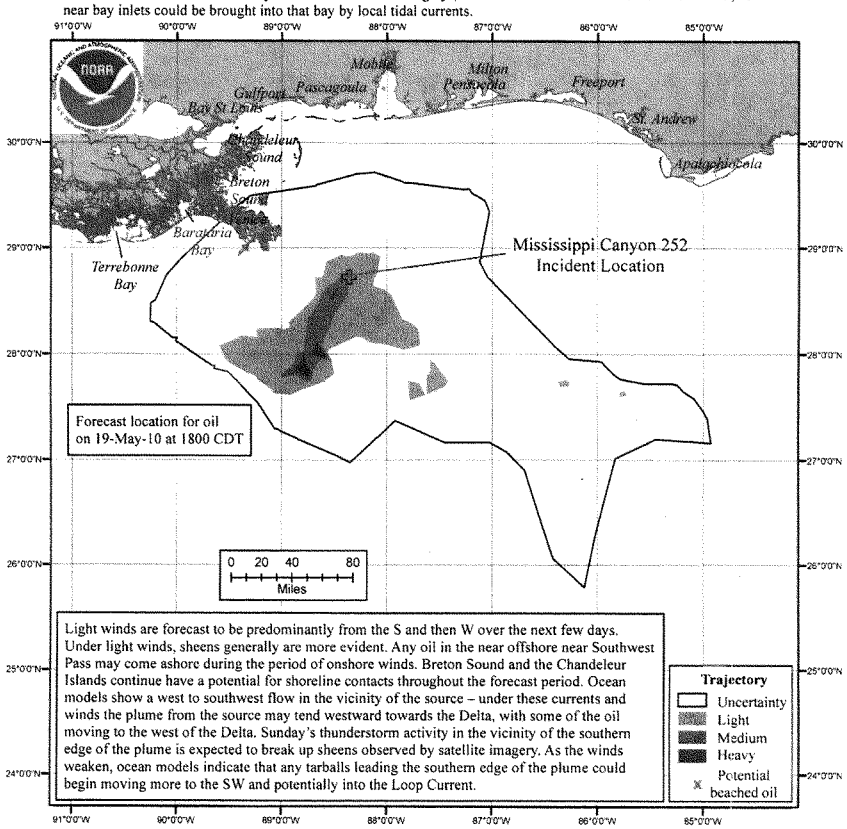
# Trajectory Forecast Mississippi Canyon 252

**NOAA/NOS/OR&R**

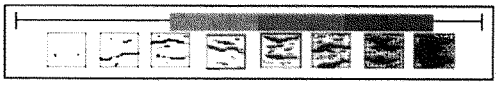
Estimate for: 1800 CDT, Wednesday, 5/19/10

Date Prepared: 2100 CDT, Sunday, 5/16/10

This forecast is based on the NWS spot forecast from Sunday, May 16 PM. Currents were obtained from several models (NOAA Gulf of Mexico, West Florida Shelf/USF, Texas A&M/TGLO, NAVO/NRL) and HFR measurements. The model was initialized from Saturday morning satellite imagery analysis (NOAA/NESDIS). The leading edge may contain tarballs that are not readily observable from the imagery (hence not included in the model initialization). Oil near bay inlets could be brought into that bay by local tidal currents.




Light winds are forecast to be predominantly from the S and then W over the next few days. Under light winds, sheens generally are more evident. Any oil in the near offshore near Southwest Pass may come ashore during the period of onshore winds. Breton Sound and the Chandeleur Islands continue have a potential for shoreline contacts throughout the forecast period. Ocean models show a west to southwest flow in the vicinity of the source – under these currents and winds the plume from the source may tend westward towards the Delta, with some of the oil moving to the west of the Delta. Sunday's thunderstorm activity in the vicinity of the southern edge of the plume is expected to break up sheens observed by satellite imagery. As the winds weaken, ocean models indicate that any tarballs leading the southern edge of the plume could begin moving more to the SW and potentially into the Loop Current.



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Next Forecast: May 17th PM

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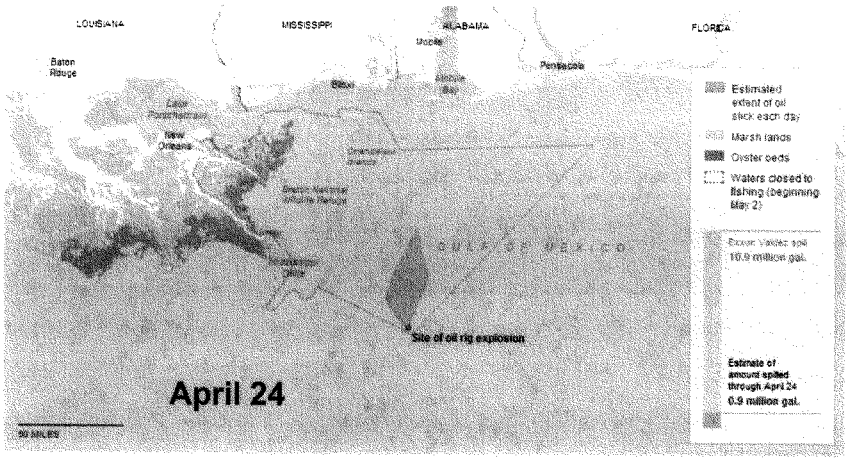
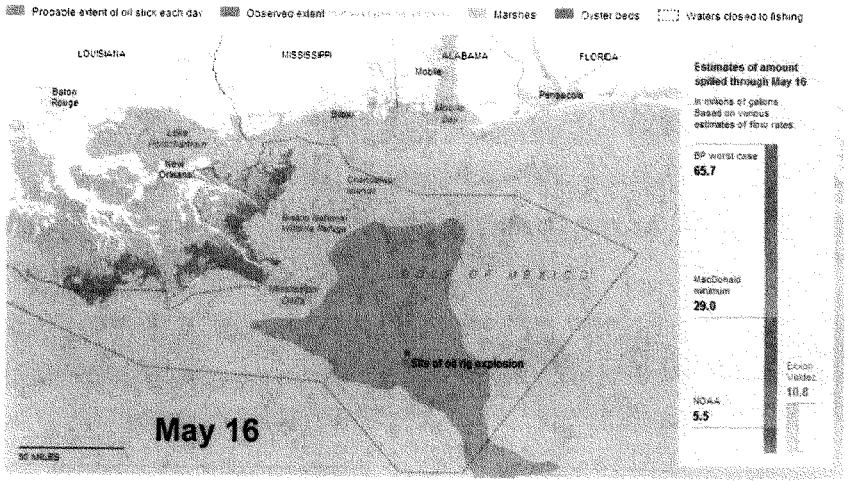
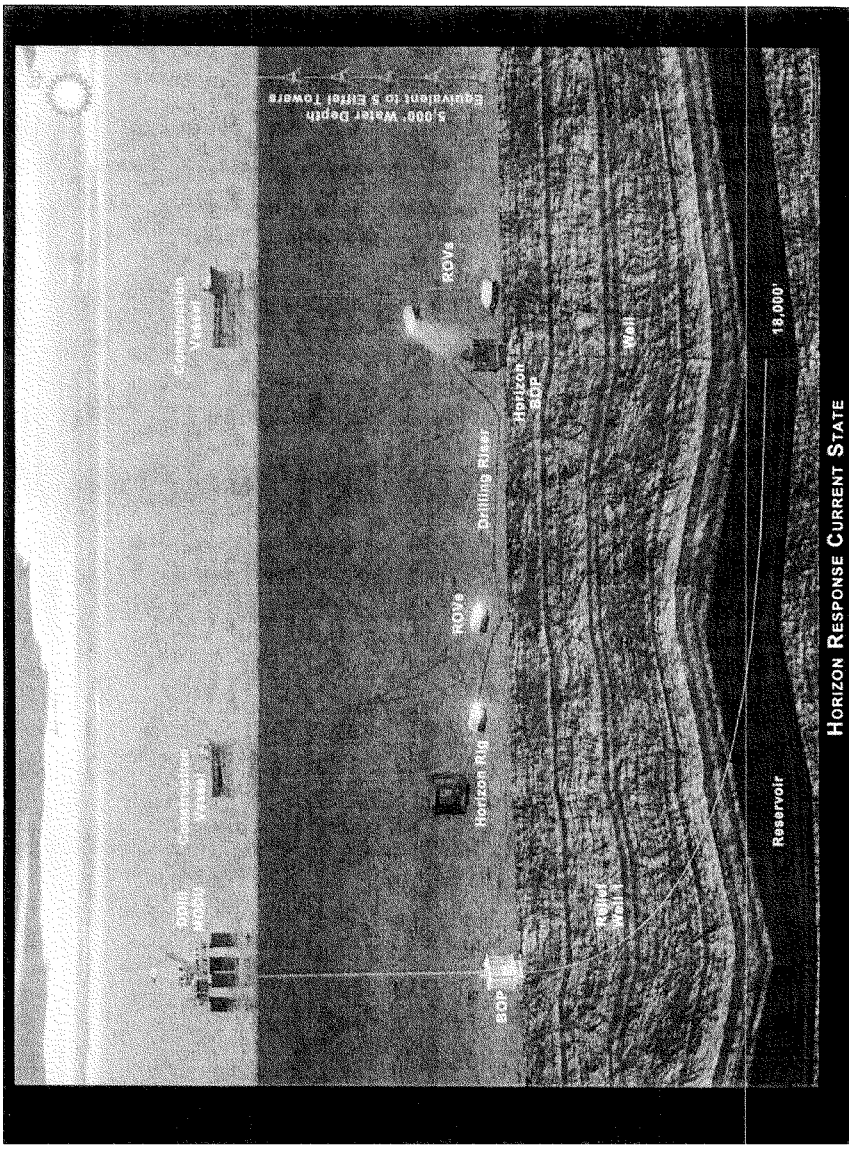


Lieberman Poster 3




HORIZON RESPONSE CURRENT STATE

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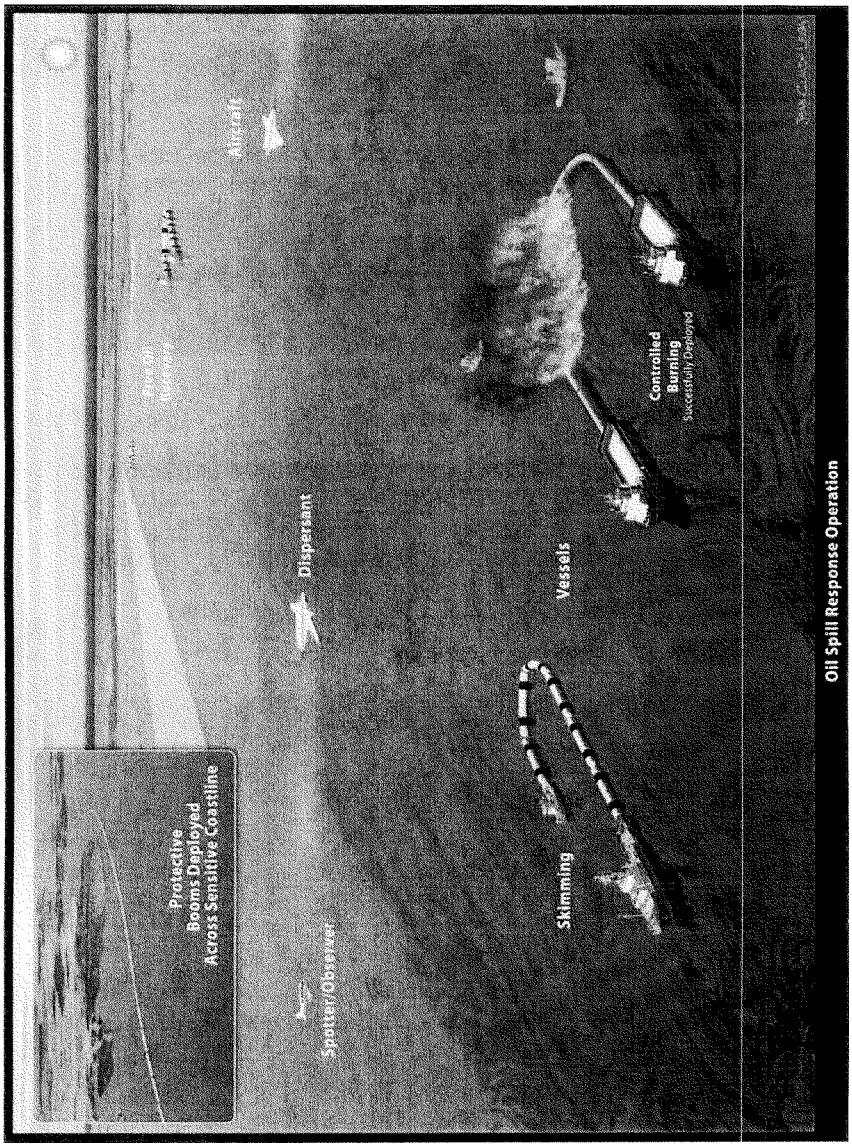

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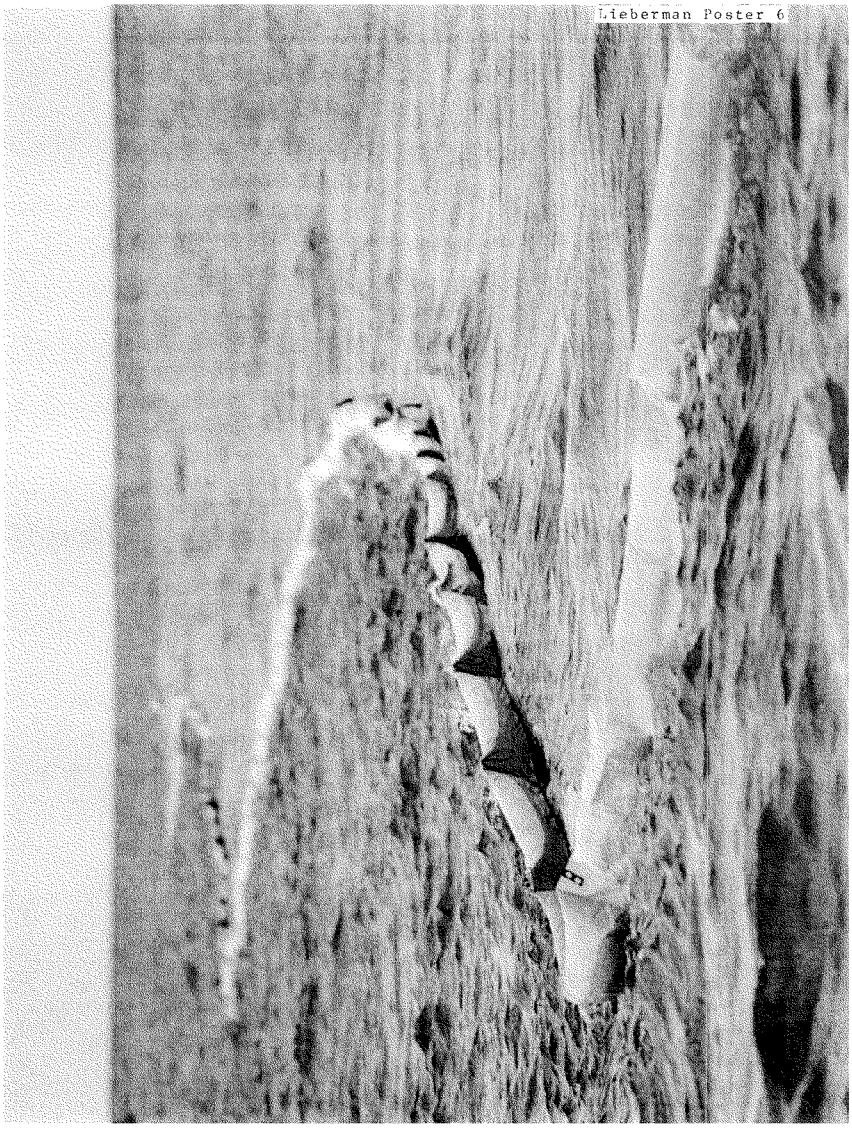
Lieberman Poster 6

May 14, 2010

Dr. Anthony Hayward
Group Chief Executive
BP
1 St. James's Square
London SW1Y 4PD
United Kingdom

Dear Dr. Hayward:

The BP Deepwater Horizon oil spill may prove to be one of the most devastating environmental disasters this nation has ever faced. As one of the responsible parties for this event, BP is accountable to the American public for the full clean up of this spill and all the economic loss caused by the spill and related events.

We recognize that, to date, BP has undertaken to promptly pay the damages associated with the Deepwater Horizon events, in addition to all removal costs. In an interview with Reuters on April 30, 2010, you stated that, "We are taking full responsibility for the spill and we will clean it up, and where people can present legitimate claims for damages we will honor them. We are going to be very, very aggressive in all of that."

Mr. Lamar McKay, Chairman and President of BP America, in his May 11, 2010 testimony before the Senate Energy and Natural Resources Committee, also acknowledged BP's responsibility for clean up and compensation associated with the oil spill: "[W]e are the responsible party. Our obligation is to deal with the spill, clean it up and make sure the impacts of that spill are compensated and we are going to do that." Mr. McKay further noted in his testimony, "BP will pay all necessary clean up costs and is committed to paying legitimate claims for other loss and damages caused by the spill." Finally, we note that Mr. McKay in his Senate testimony also agreed that BP will pay all claims even if they exceed what he described as an "irrelevant" statutory cap of $75 million per incident.

On May 10, 2010, BP reiterated this point in a letter from its U.S. General Counsel, John E. Lynch, Jr., to the Attorneys General of the five Gulf Coast states: "[I]t is BP's position that the cap on liability under the Oil Pollution Act is not relevant; BP will pay necessary clean up costs associated with the spill and legitimate claims for other loss and damage."



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Dr. Anthony Hayward
Page 2

Based on these statements, we understand that BP will not in any way seek to rely on the potential $75 million statutory cap to refuse to provide compensation to any individuals or others harmed by the oil spill, even if more than $75 million is required to provide full compensation to all claimants, and BP will not seek reimbursement from the American taxpayers, the United States Government, or the Oil Spill Liability Trust Fund for any amount.

The public has a right to a clear understanding of BP's commitment to redress all of the damage that has occurred or that will occur in the future as a result of the oil spill. Therefore, in the event that our understanding is inaccurate, we request immediate public clarification of BP's true intentions.

Thank you for your prompt attention to this matter.

Sincerely,

Ken Salazar
Secretary of the Interior

Janet Napolitano
Secretary of Homeland Security

cc: Lamar McKay, Chairman and President, BP America



57939.030

Tony Hayward
Group Chief Executive

BP p.l.c.
1 St. James's Square
London
SW1Y 4PD
United Kingdom

May 16, 2010

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Secretary Ken Salazar
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretaries Napolitano and Salazar,

Thank you very much for your letter of May 14, 2010.

As one of the responsible parties under the Oil Pollution Act, the obligation of BP Exploration & Production Inc. is to deal with the spill, clean it up, and make sure the impacts of the spill are compensated. In regard to the economic damages cap of $75 million contained in the Oil Pollution Act, we believe the claims related to this event will exceed the limit. We are prepared to pay above $75 million on these claims, and we will not seek reimbursement from the U.S. Government or the Oil Spill Liability Trust Fund. Of course, we reserve our rights to recover what we pay from other parties.

BP has stated throughout that it intends to pay all legitimate claims. We will expeditiously, responsibly and fairly pay those claims described by Congress in the OPA statute. We will be guided by the standards that the Coast Guard applies when it pays claims from the Oil Spill Fund.

Where individuals and businesses substantiate claims for damages or loss, we will honor them. To date, we have done just that and will continue to work as hard as we can to respond to the needs of those affected by this incident.

Thank you for the opportunity to confirm our position on these important issues. Should you have further questions, please feel free to contact Lamar McKay or me.

Yours sincerely

Tony Hayward

cc: Lamar McKay
James Dupree

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**Post-Hearing Questions for the Record**
**Submitted to the Honorable Janet A. Napolitano**
**From Senator Joseph I. Lieberman**

**"Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**
**May 17, 2010**

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| **Question#:** | 1 |
| **Topic:** | NRF NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** The National Response Framework (NRF), which was developed pursuant to the Homeland Security Act and Homeland Security Presidential Directive 5 and which was updated in the wake of Hurricane Katrina, is supposed to be the document that guides the national response to incidents of all kinds, whether natural or man-made. Among other things, the NRF delineates the roles and responsibilities of the various federal agencies in responding to different types of incidents.

The National Contingency Plan (NCP), developed earlier pursuant to the Oil Pollution Act of 1990 and the Federal Water Pollution Control Act, specifically addresses the preparations for and response to oil spills, but it appears to have been last substantially revised in 1994 – before the development of the NRF or the creation of the Department of Homeland Security. As a result, the NCP still refers to the 1987 version of the Federal Response Plan (a predecessor document to the NRF) and makes no mention of DHS or its role at all.

In the response to the Deepwater Horizon incident, how have you dealt with the fact there are at least two different documents that govern the federal response to the spill? Has any confusion about roles arisen because there is more than one plan for the response? Where there are differences, how have you reconciled the two plans?

The NRF includes an Emergency Support Function – ESF-10 – which specifically governs Oil and Hazardous Materials Response. ESF-10 also notes the role that the NCP plays in the response to oil spills. However, according to the Coast Guard, ESF-10 has not been activated for the Deepwater Horizon incident. Given that the NRF is supposed to embody a comprehensive, all-hazards approach to domestic incident management, why



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| **Question#:** | 1 |
| **Topic:** | NRF NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

has the NRF's ESF-10 not been activated? If the NCP and not the NRF governs, why have an ESF that specifically addresses oil spills? Under what circumstances would ESF-10 be activated?

Section 504(a) (6) of the Homeland Security Act requires that the FEMA Administrator consolidate existing federal emergency response plans into a single, coordinated national response plan. Looking forward, do you think that more needs to be done to ensure the NRF and NCP are fully coordinated? Do you think the NCP needs to be updated to take into account the changes that have come about since 1994?

**Response:** The Homeland Security Act of 2002 created DHS to act "as a focal point regarding natural and manmade crises and emergency planning". 6 USC 111(b) (1) (D). This authority enables DHS to coordinate and harmonize the Federal response to all-hazards, including the Deepwater Horizon event.

The National Response Framework (NRF) is the over-arching interagency coordination structure for both Stafford and non-Stafford Act incidents. The National Oil and Hazardous Substances Pollution Contingency Plan, more commonly known as the National Contingency Plan or NCP, implements the NRF for Spills of National Significance and hazardous substance releases, and is the Government's blueprint for responding to such incidents.

The first NCP was developed and published in 1968 in response to a massive oil spill off the coast of England. U.S. officials developed the NCP to cope with potential spills in U.S. waters. Congress has broadened the scope of the NCP over the years, including in the Federal Water Pollution Control Act, as amended.

DHS has dealt with the fact that there are several documents pertinent to the federal response to the spill by recognizing the hierarchical relationship between those documents. Immediately after the initial Deepwater Horizon release, DHS officials analyzed relevant authorities, coordinated with all other involved Federal agencies, and recommended strategies for ensuring harmonized operations. Consequently, we have not experienced any confusion regarding which doctrine or policy that applies to the response.

Because the NCP expressly governs Spills of National Significance and provides thorough response architecture for such incidents, Emergency Support Function-10 (ESF-10), Oil and Hazardous Materials Response has not been required or activated. Instead,



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| **Question#:** | 1 |
| **Topic:** | NRF NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

ESF-10 is employed when the oil or hazardous materials response is not the dominant event, but a subset of a broader incident, like a hurricane. DHS may elect to activate ESF-10 in the future, however, as the current incident evolves. Upon activation, ESF-10 would provide a "gap filler" should issues not expressly addressed in the NCP arise during the response.

Looking forward, DHS intends to employ lessons learned from the Deepwater Horizon event to work with other appropriate federal agencies to update and fully integrate both the NCP and the NRF.

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| **Question#:** | 2 |
| **Topic:** | NOC |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** The National Response Framework details the roles of the Department of Homeland Security and its components in preparing and responding to a large-scale incident that affects the Nation.

The NRF provides that the National Operations Center (NOC) "is the primary national hub for situational awareness and operations coordination across the Federal Government for incident management," and that the Director of Operations Coordination (who oversees the NOC), is "the Secretary's principal advisor for the overall departmental level integration of incident management operation." Please explain the role that the NOC and the Director for Operations Coordination are playing in responding to the Gulf oil spill, including the role they are playing in coordinating incident management across the federal government.

**Response:** The DHS Office of Operations Coordination and Planning (OPS) integrates DHS and interagency planning and operations at the strategic-level. The Director of OPS is the Secretary's principal operations advisor for the overall departmental level integration of incident management operations.

Throughout the Deepwater Horizon spill, the OPS Director has:

- Continued oversight of all National Operations Center's (NOC) activities
- Provided oversight of the DHS crisis action process as it relates to the Deepwater Horizon Response
- Facilitated national-level integrated reporting
- Briefed the Secretary daily on strategic operational issues
- Coordinated the Secretary's participation in interagency conference calls
- Facilitated DHS senior leadership conference calls for coordination

In addition to overseeing the NOC, the Director of OPS coordinates the overarching DHS Headquarters-level crisis action process. The crisis action process assists the Department's most senior leadership with maintaining situational awareness of complex operations, monitoring the execution of federal strategic plans, and providing decision support material and advice to the Secretary of DHS. The NOC is augmented during an



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| **Question#:** | 2 |
| **Topic:** | NOC |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

incident so that the NOC can continue to properly monitor and provide situational awareness on all threats and all hazards for the country.

Supporting the Secretary and under the direction of the Director of OPS, the NOC serves as the national hub for strategic-level situational awareness and operations coordination. The NOC provides an essential capability enabling the Secretary to meet her responsibilities under federal law and presidential directives, to include the Homeland Security Act of 2002 and Homeland Security Presidential Directive-5. As the Department's principal operations center, Congress assigned the NOC two key responsibilities. First, the NOC shall provide situational awareness and a common operating picture for the entire federal government, and for state, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster. Second, the NOC shall ensure that critical terrorism and disaster-related information reaches government decision-makers. During the Deepwater Horizon oil spill and the follow-on federal response, the NOC's role included:

- Initial notification of the explosion to all homeland security partners
- Telephonic notification to the federal operations centers
- Developing, maintaining, and communicating focused situational awareness
- Providing daily decision support material to the Secretary and other senior leaders
- Preparing routine and "as needed" products for DHS leadership, the White House/National Security Staff, and other response partners
- Posting spill-related information on the Homeland Security Information Network (HSIN) for use by all homeland security partners
- Deploying HSIN outreach teams to provide support to the U.S. Coast Guard in Louisiana and Alabama
- Maintaining an accurate Common Operating Picture (COP) during a rapidly evolving crisis
- Processing Secretary, White House/NSS, DHS Components, Federal Departments and Agencies, and state and local governments requests for information (RFI)
- Coordinating the daily conference calls between DHS Secretary/Deputy Secretary and the National Incident Commander (NIC)
- Coordinating the daily conference calls for the Deputy Secretary with Parish President Liaison Officers and the County and State Liaison Officers



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| **Question#:** | 2 |
| **Topic:** | NOC |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

- Capturing and sharing information presented during the daily conference calls
- Receiving and integrating reports from the National Incident Command and other Homeland Security partners in order to produce three Senior Leadership Briefings daily
- Integrating the NIC reporting structure into the national-level reporting structure and crisis action process (e.g., National Response Team conference calls)
- Ensuring NIC and DHS information is processed through the NOC to the Secretary, White House and homeland security partners

In addition, during the Deepwater Horizon oil spill, the Interagency Remote Sensing Coordination Cell (IRSCC) was instrumental in supporting the NOCs responsibility to provide situational awareness and a common operating picture for the federal government:

- Provided situational awareness of daily imagery collection of the spill to address the priority information requirements of the Unified Area Command and the Incident Command Posts responding to the spill.

- Identified and reported the forward edge of the oil slick, composition of oil, direction of movement, and estimated time of landfall.

- Determined the location, quantity in feet, and type of oil containment booms deployed off the gulf coast; analyzed gaps in boom coverage; and reported areas of improper boom placement.

- Helped direct oil skimming vessels into the appropriate areas of the slick to maximize their effectiveness.

- Working with CBP and USCG to add Guardian and Predator aircraft to the aircraft already collecting in response to the spill. The Guardian and Predator will provide a live video feed to the NOC and many other organizations supporting the effort, improving situational awareness across the board.



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| **Question#:** | 3 |
| **Topic:** | title V |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Title V of the Homeland Security Act provides that the FEMA Administrator is the principal advisor to the President, the Secretary of Homeland Security and the Homeland Security Council for emergency management and is to lead the nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against both natural and man-made disasters (including events not traditionally covered by the Stafford Act) – roles reflected as well in the NRF. The NRF also provides that FEMA's National Response Coordination Center (NRCC), which is a component of the NOC, is "the focal point for national resource coordination." Please explain the role that FEMA and the NRCC are playing in the response to the Gulf oil spill.

**Response:** At the request of the National Incident Command, led by the United States Coast Guard (USCG) operating under the authority of the NCP, DHS is leading the Deepwater Integrated Services Team, with support from FEMA at both the national and field level. One of FEMA's primary roles is to support the National Incident Command, led by the U.S. Coast Guard, by coordinating the Deepwater Integrated Services Team's development and implementation of an interagency Social Service and Small Business Assistance Coordination Plan.

The Deepwater Integrated Services Team's mission is to develop and oversee a unified approach for coordinating supportive services to families, individuals, and small businesses impacted by the Gulf oil spill. For example, the Team worked to update DisasterAssistance.gov to include a page on the oil spill that in addition to directing people to the BP claims process links visitors to other available services. The Deepwater Integrated Services Team will also support ongoing efforts of the National Incident Command and will coordinate with the on-ground efforts supporting claims and supportive services at the Unified Area Command in the Gulf area. A key element of this plan is the establishment of an Integrated Services Field-Based Team, led by a designated Federal Resource Coordinator, for each of the States directly affected by the impacts of the Deepwater Horizon Oil Spill. The Federal Resource Coordinators are supported by Federal agency representatives for each State representing their respective services and programs (USDA, DOL, SBA, HHS, HUD, IRS, etc.) The field-based teams are designed to help resolve issues at the local level.

The Response Watch Center at FEMA Headquarters, which is a component of the NRCC, and the Region IV and Region VI Regional Watches are closely monitoring oil spill activities. In addition, FEMA has provided personnel and communications support to various states and federal agencies, to include radios to the USCG and the States of Louisiana, Mississippi and Alabama; External Affairs personnel to support the Federal On Scene Coordinator; and an emergency management subject matter expert to support the National Incident Command (NIC).



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| **Question#:** | 4 |
| **Topic:** | IGA |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** According to DHS press releases and the DHS web site, the Office of Intergovernmental Affairs' (IGA's) mission is to "promote and integrated national approach to homeland security by ensuring, coordinating and advancing federal interaction with state, local, tribal and territorial governments." This is also consistent with the role outlined in the Homeland Security Act for the predecessor Office for State and Local Government Coordination.

Please explain the role that IGA is playing in the response to the Gulf oil spill.

My staff have been told that IGA is coordinating the Department's response to the Gulf oil spill, including managing the Department's coordination with other federal agencies.

Is this accurate?

What role has IGA, or the Assistant Secretary for Intergovernmental Affairs, played in coordinating with other federal agencies in responding to the Gulf oil spill?

Please explain how IGA's role in the response to the Gulf oil spill is consistent with the assignment of roles in the Homeland Security Act and the NRF, including the responsibilities assigned to the Director of Operations Coordination and the FEMA Administrator.

Please explain how IGA's role in the response to the Gulf oil spill relates to the respective roles of the NOC, FEMA, and the U.S. Coast Guard.

To the extent that IGA's role involves coordinating across the federal interagency community, please explain how this is consistent with the announced (and statutorily-based) mission of IGA to coordinate with state, local and tribal government, or why you have chosen to expand that mission.

Over the past several years, in response to Hurricane Katrina and the enactment of the Post-Katrina Emergency Management Reform Act, DHS has taken significant actions to revise both its internal structures and the NRF in an effort to provide for a more effective response to national incidents. To the extent that you have assigned to IGA roles that have been assigned to other Departmental components, such as the NOC and FEMA,



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| **Question#:** | 4 |
| **Topic:** | IGA |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

why are you ignoring the procedures so recently put in place for a major national incident such as this? Do you believe that either the Post-Katrina Act or the NRF need to be further revised to provide for more effective response mechanisms?

**Response:** The primary role of the Department of Homeland Security Office of Intergovernmental Affairs (IGA) in the Deepwater Horizon Response is very distinct in that it is to lead the Department's intergovernmental affairs coordination—our communications with state and local elected and appointed officials. IGA does not coordinate the Department's response or lead the response coordination with other Federal agencies. IGA's role in this response has included hosting daily calls with Governors and Mayors to provide briefings from officials leading the response, organizing key meetings between State/local officials and senior administration officials, and serving as the first point of contact for questions from state and local officials about the response efforts.

As part of the Federal government response, DHS IGA coordinates daily with the other federal intergovernmental partners working on the response. This coordination includes fielding any inquiries from the state and local governments, and discussing how the federal interagency can partner to provide resources and answers. Early in the response efforts, it was determined that interagency coordination was critical—ensuring that everyone was working with the same information, that responses requiring more than one agencies authorities or issues were coordinated and acceptable, and to ensure transparency with our partners in the homeland.

Similarly, other offices within DHS including the Office of Public Affairs, Office of Legislative Affairs, and the Office of General Counsel have also partnered and coordinated with their counterparts in other federal agencies to provide a unified federal response. These roles are consistent with their roles under the National Response Framework (NRF).

Under National Incident Commander (NIC) Thad Allen, an Interagency Solutions Group (IASG) was established to bring together representatives from 17 federal agencies to ensure interagency coordination on the key policy questions arising from the field. The IASG also serves as a coordinating body for the 15 National Response Team agencies to further coordinate with DHS and the NIC and provide real time support to the NIC and the Federal On-Scene Coordinator. Co-locating agency representatives has proven invaluable in quick resolution of issues and problems through a multi-agency staffing, coordination, and response.



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| **Question#:** | 4 |
| **Topic:** | IGA |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

Under the National Incident Command Structure, Assistant Secretary Kayyem was assigned to be the Director of Intergovernmental & Interagency Affairs. In this role, Assistant Secretary Kayyem oversees a staff who run the IASG. This is separate and distinct from Assistant Secretary Kayyem's role as Assistant Secretary for Intergovernmental Affairs, however she was chosen for this position as many of the questions or concerns addressed by the IASG originate with state and local officials.

IGA is working with many different offices within DHS to help coordinate the unified response effort including the U.S. Coast Guard and the National Operations Center.

The Interagency Remote Sensing Coordination Cell, which comprises 17 Federal departments and agencies, provides critical management and coordination of Federal remote sensing assets and capabilities during a natural or man-made disaster.



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| **Question#:** | 5 |
| **Topic:** | NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** The Federal government has what is supposed to be a comprehensive set of plans for responding specifically to major oil spills. There is the National Contingency Plan (NCP), which is supposed to provide the overarching structure and procedures for the federal government's preparations for and response to oil spills. In addition, the Coast Guard, in conjunction with other federal agencies, has developed both area plans and regional plans for how to respond to spills in specific geographic regions. There is even a "One Gulf" Plan that rolls up all the plans for all the areas in the Gulf of Mexico. The Coast Guard regularly exercises these plans – and at least once every three years, the Coast Guard conducts an exercise specifically aimed at a "Spill of National Significance."

Yet for all these planning efforts, there seem to have been few plans directed at the specific challenges posed by a deepwater oil spill. No one appears, for example, to have anticipated the difficulty of capping a well in deepwater or required that companies engaged in deepwater drilling account for this possibility. Nor does it appear that there had been any substantial evaluation of the safety and effectiveness of using dispersants below the sea in deepwater, rather than spraying them on the surface as has been conventionally done so that EPA has had to engage in this assessment in the midst of the current crisis. The NCP appears not to have been substantially revised since 1994, before the recent proliferation of deepwater drilling.

What, if anything, had the federal government done to plan and prepare for the possibility of a deepwater oil spill before the Deepwater Horizon incident?

**Response**: The Coast Guard reviews and approves vessel response plans and onshore facility response plans. The vessel response plans include Mobile Offshore Drilling Units (MODU) while they are transiting, and the worst case discharge scenario for a MODU while transiting is limited to the fuel on board the vessel. The Coast Guard also has a lead role on Area Committees and Regional Response Teams, which meet on a regular basis to discuss pollution preparedness and pollution response plans. These plans are the Regional Contingency Plans and Area Contingency Plans. The Coast Guard regularly exercises these plans and addresses the methodology used to respond to large and complex spill scenarios. During the 2002 Spill of National Significance Drill, the Coast Guard and its partner agencies and industry conducted an oil spill exercise which



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| **Question#:** | 5 |
| **Topic:** | NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

involved an uncontrolled discharge from a well blow out, like the Deepwater Horizon oil spill, in the Gulf of Mexico.

Many of the response activities that occur during a deepwater oil spill also occur during spills from other sources. Some of these activities include skimming the oil, shoreline protection, dispersant use, overflights, shoreline assessments and many others. The Coast Guard and the response community exercise, train and undertake these activities during actual spills every year.

The Bureau of Oceans Energy Management, Regulations and Enforcement reviews and approves response plans for offshore facilities, including fixed platforms and Mobile Offshore Drilling Units actively engaged in drilling, but excluding deepwater ports.

**Question:** Do any of the Coast Guard's area, regional or "One Gulf" plans address the specific challenges of responding to a deepwater oil spill? Have any of the Coast Guard's oil spill exercises involved a scenario in which the spill was in deepwater?

**Response:** The One Gulf Plan and Regional Response Plans for Region VI do not specifically address challenges of responding to a deepwater oil spill. During the 2002 Spill of National Significance exercise, the US Coast Guard and its partners conducted an oil spill exercise that involved an uncontrolled discharge from a well blow out in the Gulf of Mexico.

**Question:** Up to now, has the federal government required that oil companies have any additional plans in place to address the risks specific to deepwater drilling?

**Response:** The plans required to be reviewed and approved by the U.S. Coast Guard are vessel response plans and onshore facility response plans that address oil spills in general, they are not specific to deepwater drilling. The vessel response plans include Mobile Offshore Drilling Units while they are transiting as vessels. These plans do not address an oil spill from a well blow out in deep water. However, the Area Contingency Plan and Regional Contingency Plans like The One Gulf Plan address the methodology used to respond to large and complex spill scenarios. The Minerals Management Service reviews and approves response plans for offshore facilities seaward of the coast line in accordance with 40 CFR 112 Appendix A, including fixed platforms and Mobile Offshore Drilling Units actively engaged in drilling but excluding deepwater ports.

**Question:** What changes need to be made going forward to ensure that both the federal



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| **Question#:** | 5 |
| **Topic:** | NCP |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

government and the private companies involved in oil drilling are adequately prepared for the new risks and challenges that come with deepwater drilling?

**Response:** The Coast Guard recommends a comprehensive analysis of the risks involved with deep water drilling. The risk analysis should include a mechanism to better calculate a worst case discharge. Understanding the worst case discharge potential is critical for planning a response effort and identifying the resources needed to perform the response. Additional planning and coordination with worse case natural disasters in the development of the worst case scenarios will also factor into the risk assessment. This risk analysis should build off of the past risk analyses prepared by the Bureau of Oceans Energy Management, Regulations, and Enforcement.



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| **Question#:** | 6 |
| **Topic:** | plans |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** The Coast Guard reviews vessel spill plans while the Minerals Management Service is responsible for reviewing spill plans for the actual wells. While the Coast Guard or the Minerals Management Service might have an opportunity to informally review a response plan submitted by BP (or others) to the other agency, neither has much formal authority when reviewing a plan submitted to the other agency. In your view, should the current process be revised to give the Coast Guard, the Minerals Management Service, or another appropriate agency the ability to formally review and assess all the various spill plans since these agencies are all critically involved in the response process?

**Response:** Because the Coast Guard is the lead Federal agency for marine environmental response in the coastal zone, the Coast Guard should have a role in the review and approval of all marine facilities and vessel response plans, including off-shore facilities.



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| **Question#:** | 7 |
| **Topic:** | efforts |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** A variety of response efforts have been deployed to contain the oil spilling into the Gulf of Mexico, including booms, skimming, controlled burns and aerial dispersants. With the exception of recent attempts to test the subsea application of dispersants at the source of the leak, most of the response efforts are the same ones that have been used for the past few decades.

In the wake of this spill, is it necessary to focus more research and development on alternative response capabilities, particularly those for deepwater spills?

**Response:** The Coast Guard and the interagency working groups are currently collecting lessons learned from the Deepwater Horizon BP Oil Spill – Gulf of Mexico. These lessons learned will include the alternative response capabilities used during this event (i.e., dispersants, in-situ burning, protection berms, etc.) and will be considered when the Coast Guard and interagency working groups are setting research and development project priorities in the future.

**Question:** Should the federal government have an active role in this research and development or should the federal government mainly regulate and oversee private sector efforts?

**Response:** Yes, the federal government needs to have an active role in oil spill research. The Coast Guard (CG) Research, Development, Testing and Evaluation (RDT&E) Program has been involved with oil spill research starting in 1969 as a result of two major pollution incidents: the 1968 grounding of the tank vessel TORREY CANYON and the 1969 offshore well blowout near Santa Barbara, CA. The National Oil Spill Response Research & Renewable Energy Test Facility has also been testing new oil spill response technology for many years. The Coast Guard's RDT&E role includes developing and executing programs that address requirements and capability gaps from the following items:

- Lessons learned,
- Knowledge and experience gained through activities performed collaboratively by teams of experts from Coast Guard programs that identify possible technologies and research opportunities that are reviewed and then ranked using a team approach,



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| **Question#:** | 7 |
| **Topic:** | efforts |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

- Through coordination with other government agencies and private industry through participation in various workshops and conferences.

The Coast Guard also chairs the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR). Section 7001 of the Oil Pollution Act of 1990 (OPA 90) established the ICCOPR for two primary purposes: (1) to prepare a comprehensive, coordinated Federal oil pollution research and development plan; and (2) to promote cooperation with industry, universities, research institutions, State governments, and other nations through information sharing, coordinated planning, and joint funding of projects. The ICCOPR was commissioned with 13 members representing independent Agencies, Departments, and Department Components and submits a biennial report to Congress on its activities.

**Question:** To what extent has the Coast Guard done research and development on oil spill response issues – deepwater or otherwise? Is this something the Coast Guard Research and Development Center could be doing more of?

**Response:** The Coast Guard Research, Development, Testing and Evaluation (RDT&E) Program has been involved with oil spill research starting in 1969 as a result of two major pollution incidents: the 1968 grounding of the tank vessel TORREY CANYON and the 1969 offshore well blowout near Santa Barbara, CA. More recently, the EXXON VALDEZ spill in 1989 focused the CG's oil pollution R&D efforts in four primary research areas: (1) Prevention, Salvage, and On-Board Countermeasures; (2) Spill Planning and Response Management; (3) Spill Detection and Surveillance; and (4) Oil Containment & Recovery / Alternative Countermeasures

During the past decade the RDT&E program focused on various high priority research areas including procedures for fast water response, in situ burning, dispersant research, enhanced chemical prediction models, and improved response guidance for the National Strike Force. The National Oil Spill Response Research & Renewable Energy Test Facility has also been testing new oil spill response technology for many years. As a result of the Deepwater Horizon spill and lessons learned, the RDT&E Program will reassess priorities, areas of emphasis, and to support research in all high risk environments, including Deepwater and Arctic regions. Future focus areas are expected to include:

- Continued work on submerged oil detection and collection;
- Development of capabilities to detect, contain and recover spills in ice-choked waters (Arctic and Great Lakes);
- Enhancement of remote sensing capabilities to detect other hazardous materials which the DHS Remote Sensing Board offers a venue to address.



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| **Question#:** | 8 |
| **Topic:** | hotlines |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Two hotlines were established in response to the Deepwater Horizon spill—one to allow individuals or companies to submit alternative response technologies to assist with the spill and another for those offering products, equipment, or services. BP is in charge of these hotlines and assesses these offers of assistance in cooperation with the Coast Guard or other federal officials as appropriate, following a structure laid out under the National Contingency Plan. By contrast, under the National Response Framework, FEMA coordinates and manages offers of assistance, though it closely coordinates with the subject matter experts as necessary. Does it make sense to have two different processes for coordinating offers of assistance? Would there be any advantage to using the same systems for different types of disasters?

**Response:** Offers of assistance by the Federal Emergency Management Agency (FEMA) and offers of assistance to BP are distinct processes. FEMA offers of assistance are offers by the government to assist individuals and small businesses impacted by an emergency or disaster. The processes established by BP and the Coast Guard are mechanisms established by the private sector and the government to receive offers of assistance by individuals and businesses.

With regard to alternative response technologies, BP is receiving offers of alternative response technologies, products, equipment, and services.

The Coast Guard is also receiving offers of alternative response technologies though the recently established Inter Agency Technology Assessment Program (IATAP). This program allows any interested individual or company the opportunity to submit their technology for review and potential use in the response.



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| **Question#:** | 9 |
| **Topic:** | offers |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** More than thirteen foreign countries and the United Nations have offered the U.S. assistance with the oil spill. Which departments or agencies are collecting and evaluating these offers of assistance? Have we accepted any of these offers to date?

**Response:** As of June 8, 2010, The Unified Area Command has received, through the U.S. State Department, 21 offers of assistance from 17 countries and four international organizations. All of the offers were examined by the Unified Area Command. All qualifying offers of assistance have been accepted. These included:

- Canada's offer of 3,000 meters of containment boom;
- Netherland's offer of three sets of Koseq Sweeping Arms;
- Mexico's offer of two skimmers and 4,200 meters of boom;
- Norway's offer of eight skimming systems;
- International Maritime Organization's offer to assist in information dissemination to shipping interests;
- European Union's Monitoring and Information Center offer to serve as a conduit to the EU for sources of sweeping arms and fire boom.

The Unified Area Command currently has 15 contracts for resources with other countries.



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| **Question#:** | 10 |
| **Topic:** | plumes |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** There have been a number of reports concerning giant deep sea plumes of oil in the Gulf. If true, the environmental consequences of this could be devastating, as the plumes may sharply reduce underwater oxygen levels and kill off sea life.

What steps have been taken to evaluate this problem, and how serious does it appear to be?

Has this type of problem been encountered before? Are responders capable of addressing it? And how will it complicate the response?

**Response:** Since the beginning of May, 2010, the National Oceanic and Atmospheric Administration (NOAA) has been conducting and coordinating sampling of the sub-surface region around the well-head and beyond. The sub-surface search involves the use of sonar, ultra-violet (UV) instruments called fluorometers, which can detect the presence of oil and other biological compounds, and collection of water samples from discrete depths using a series of bottles that can be closed around a discrete water sample. The "gold standard" for determining the presence of oil and specifically the Mississippi Canyon 252 (MC-252) oil is the use of gas chromatography/mass spectrophotometry in the laboratory from returned water samples. These investigations also include measuring the dissolved oxygen content of the water column, to help assess any reduction in oxygen levels caused by microbial degradation of sub-surface oil.

Most recently, NOAA undertook, through a certified testing laboratory, an independent analysis of 25 water samples provided from the cruise of the R/V WEATHERBIRD II during its mission to sample for hydrocarbons associated with the MC-252 incident. Samples processed by NOAA were collected from three stations: Station 01 was 142 nautical miles southeast of the MC-252 incident; Station07 was 45 nautical miles northeast of the incident, and the Station labeled "slick1" was 40 nautical miles northeast.

NOAA's analysis of the presence of subsurface oil determined that the concentration of oil is in the range of less than 0.5 parts per million, and PAH levels in range of parts per trillion. This analysis found that the PAH levels in all samples were below eco-toxicological benchmarks for marine waters. Along with the analysis for the presence of oil and PAHs, NOAA's tests to "fingerprint" these oil samples to the BP oil spill concluded that:



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| **Question#:** | 10 |
| **Topic:** | plumes |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

- Oil found in surface samples taken 40 nautical miles northeast from the well head were consistent with the BP oil spill,
- Trace oil found in samples 45 nautical miles northeast from the well head—at the surface, at 50 meters and at 400 meters were in concentrations too low to confirm the source, and
- Oil found in samples taken 142 nautical miles southeast of the well head, at 100 meters and 300 meters were not consistent with the BP oil spill.

NOAA assets, in addition to considerable numbers of BP and academic assets, are devoted to this activity with more being proposed daily. The GORDON GUNTER was deployed on May 27 and the THOMAS JEFFERSON was deployed on June 3 to continue the water column sampling effort in the region around the well-head. Additional missions are being developed to continue to evaluate sub-surface oil in the region. These missions will provide updated information on the distribution and concentration of sub-surface oil, as well as provide additional information on impacts to dissolved oxygen levels.

While a spill of this magnitude has not occurred in U.S. waters, smaller events have occurred where releases of oil have mixed within the water column. Dispersant use is one of several tools that may be employed to minimize consequences of an oil spill. Dispersed oil forms a "cloud" of oil droplets just below the water surface. The dispersed oil mixes vertically and horizontally into the water column and is rapidly diluted. Bacteria and other microscopic organisms are then able to act more quickly than they otherwise would to degrade the oil within the droplets. Dispersants are generally less toxic than oil.

When this crisis occurred, U.S. Coast Guard and the U.S. Environmental Protection Agency (EPA) granted BP authorization to use an approved dispersant on the surface of the water in an effort mitigate the impact of the spill. Results indicate that subsurface use of the dispersant is effective at reducing the amount of oil from reaching the surface—and can do so with the use of less dispersant than is needed when the oil does reach the surface.

**Question:** Scientists evaluating the plumes have suggested that the use of dispersants undersea may have contributed to the creation of this problem. Does this appear to be the case? Will undersea dispersants continue to be used?

**Response:** Oil released at depth as a high-speed stream flowing from a pipe into the water



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| **Question#:** | 10 |
| **Topic:** | plumes |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Joseph I. Lieberman |
| **Committee:** | HOMELAND SECURITY (SENATE) |

column will disperse just from the natural forces involved. It is estimated that up to 30% of the oil being released in association with the Deepwater Horizon spill will either dissolve into the water column before it reaches the surface or disperse into droplets that are so small that their buoyancy has difficulty overcoming friction as they try to rise through the water column. These very small droplets stay behind at depth as the larger drops and globules rise to the surface where they accumulate to form the surface slick.

The small droplets that cannot rise to the surface stay at depth and are moved about by deep currents. They are also subject to mixing forces that dilute the oil as it moves from the source much as the wind moves and disperses smoke coming out of a chimney.

Chemical dispersants, applied at the sea bed source of oil flow is expected to increase the formation of small droplets that will not rise to the surface. This is done to reduce the volume of oil that rises to the surface and becomes available to affect wildlife and shallow water species, and to potentially come ashore into sensitive wetland habitats if it cannot be skimmed, burned, or otherwise recovered. The use of chemical dispersants at the sea bed is a trade off that is made to reduce the volume of oil reaching the surface by increasing the volume of oil at depth.

As of June 10, 2010, about 368,000 gallons of dispersant have been injected into the oil discharge at the point where the oil leaves the riser pipe. The rate of application of dispersant near the vent is 8.9 gallons per minute. This application increases the amount of oil dispersed in the water column above the 30% produced by natural processes.

Recently, a NOAA-lead group of experts met in Baton Rouge, LA to discuss issues associated with continuing dispersant application as one of the tools used in the Deepwater Horizon response. After two days of deliberations, the experts identified no major issues or concerns that would argue against continuing sea bed dispersant use, although some specific recommendations were made about the importance of monitoring and continuing to do studies to understand the effects of this practice. In accordance with the National Contingency Plan, whether dispersant use continues will be decided by the Regional Response Team where appropriate Federal and State agencies can participate in the decision.



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**Post-Hearing Questions for the Record**
**Submitted to the Honorable Janet A. Napolitano**
**From Senator Mary L. Landrieu**

**"Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**
**May 17, 2010**

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| **Question#:** | 11 |
| **Topic:** | limit |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Madame Secretary, you and Secretary Salazar sent a letter to BP on Friday asking whether they intend to stop paying economic damages once they reach the $75 million liability limit under the law. BP responded yesterday in writing, and indicated that it expects to pay claims in excess of that threshold and does not have plans to tap the Oil Spill Liability Trust Fund or burden the U.S. Treasury with covering any of the claims that result from this incident. Are you satisfied with BP's response?

**Response:** The written response provided by BP is consistent with conversations with BP officials.



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| **Question#:** | 12 |
| **Topic:** | OPA |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** My reading of the Oil Pollution Act regulations indicates that the Oil Spill Liability Trust Fund may not reimburse claimants for the costs they incur in preparing and filing their claim, collecting documentation, or paying accountants to verify lost wages or property damages. There are also a lot of government assistance programs being activated in conjunction with the claims process, in addition to the potential to collect proceeds from private insurance. It's important that the thousands of affected fishermen, oystermen, shrimpers, food service industry workers, restaurant owners, and tourism-based businesses have access to a knowledgeable, well-trained, single point of contact that can provide them with the best information available about different options for assistance, and to ensure that their claims are sufficiently documented so they won't be denied. Can you comment on the availability for technical assistance under the existing claims regime?

**Response:** The Claimants Guide on the national Pollution Fund Center (NPFC) web site provides information to claimants on how to prepare an Oil Pollution Act (OPA) claim. The Guide provides contact information for the NPFC claims adjudication staff for questions not answered in the Guide. It is also important to note that OPA damages expressly include the claimant's cost of assessing the damage which OPA claims regulations describe as the cost of estimating the damage.

**Question:** The Stafford Act authorizes funding for case managers to assist survivors of Presidentially declared disasters in identifying and applying for private, state, and federal assistance, to help them recover from the impacts of the disaster and regain their self-sufficiency. The Oil Pollution Act does not specifically provide for such a regime. Do you think a similar case management function would be helpful for this particular disaster?

**Response:** This type of assistance has typically not been necessary in application of the OPA regime. The unprecedented nature of the Deepwater Horizon response merits consideration of this type of case management function for events that are spills of national significance.



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| **Question#:** | 13 |
| **Topic:** | programs |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Your testimony indicates that FEMA may play a role coordinating federal assistance to people affected by the spill. The SBA recently announced the availability of Economic Injury Disaster Loans to affected business owners, and last week the President submitted a $118 million request to Congress for spill relief. The Administration has chosen to declare a Spill of National Significance under the Oil Pollution Act, instead of a Major Disaster under the Stafford Act, and to my knowledge no FEMA programs have been activated thus far in response to this incident. Please elaborate on FEMA's role in coordinating federal assistance programs.
As this effort continues, does the Administration plan to implement a program to provide technical assistance to Gulf Coast residents to navigate the complex claims process and other government assistance programs?

**Response:** DHS is leading the Deepwater Integrated Services Team, with staff support from FEMA at both the national and field level. The Deepwater Integrated Services Team's mission is to develop and oversee a unified approach for coordinating supportive services to families, individuals, and small businesses impacted by the Gulf oil spill. One of FEMA's primary roles is to support the National Incident Command, led by the U.S. Coast Guard, by coordinating the Integrated Services Team's development and implementation of an interagency Social Service and Small Business Assistance Coordination Plan.

The agencies participating together on the Integrated Services Team are working to ensure that families, individuals, and small businesses affected by the oil spill are able to access assistance easily. The concept of "No Wrong Door" ensures that all entry points for assistance are accessible given identified needs in the affected area; public outreach and information in multiple formats, alternate languages, and literacy levels directs families, individuals, and small businesses to the appropriate entry point for the assistance they need; and active assistance at all entry points to guide them to the right place to receive assistance as efficiently as possible.

A key element of this plan is the establishment of an Integrated Services Field-Based Team, led by a designated Federal Resource Coordinator, for each of the States directly affected by the impacts of the Deepwater Horizon Oil Spill. The Federal Resource Coordinators are supported by Federal agency representatives for each State representing their respective services and programs (USDA, DOL, SBA, HHS, HUD, IRS, etc.) The



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| **Question#:** | 13 |
| **Topic:** | programs |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

field-based teams are designed to help resolve issues at the local level. To the extent there are concerns specific to claims, the Federal Resource Coordinators will work to resolve them at the state level with the representatives that BP has designated for each state and the US Coast Guard liaisons in the parishes/counties. The Integrated Services Team has also created two "fact sheets" detailing how individuals and businesses file claims with both BP and the National Pollution Funds Center for distribution throughout the affected communities. Both fact sheets are being translated into Spanish and Vietnamese in order to meet the needs of different communities affected.

This week the National Incident Command is deploying Community Relations Outreach Teams staffed by FEMA and integrated into the Unified Area Command and Incident Command Posts along the Gulf Coast, to support local communities during both the response and recovery phase of the Deepwater Horizon oil spill. The functions of the outreach teams are designed to ensure the needs of the community are met by the Responsible Parties. The teams will also work in partnerships with community groups and local officials and agencies to reach impacted families, individuals, and small businesses. These teams will provide valuable feedback to the Command leadership, including the Federal Resource Coordinators, regarding the impact of the oil spill and efficacy of the claims process and other assistance programs and services in helping families, individuals, and small businesses. Recognizing that no state or jurisdiction is the same, the outreach teams have the flexibility to implement community outreach activities responsive to particular communities' unique needs.



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| **Question#:** | 14 |
| **Topic:** | microbes |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Oil naturally biodegrades in the environment as a result of bacteria that consume and break down its chemical compounds. Among the many technical proposals submitted to the BP hotline to cap the well and remediate damage, several have included the use of microbial processes to attack the dispersed oil at sea and reduce the volume that makes it ashore. While this may be a question more appropriately suited to EPA or NOAA, do you have any information about whether the administration has begun testing microbes that may remediate damage, and whether there are any plans to utilize them within the maritime environment?

**Response:** The Coast Guard does not have specific expertise in biological remediation. Our understanding is that the introduction of microbes is a long-term solution. It is not anticipated to affect immediate damage.

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| **Question#:** | 15 |
| **Topic:** | Jones Act |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** I am proud to say that the vessel which happened to be on the scene at the time of this deadly accident, and was responsible for saving the lives of 115 crewmembers of the Deepwater Horizon, was the U.S. vessel Damon B. Bankston. The heroic rescue effort by the Bankston crew was a positive aspect of this entire disaster. This very much puts into perspective one of the many reasons why we must have a viable domestic maritime industry in the U.S. I know that you are familiar with the Jones Act, which provides that the movement of goods between U.S. points must be on vessels built in the United States, owned by U.S. citizens and crewed by U.S. citizens. However, as I have noted in the past, I am concerned by the lack of enforcement by the Department when it comes to this Act. Given your experience over the past few weeks working on this response, is there anything that has made you believe that U.S. companies lack the ability to design, build and operate the most sophisticated vessels in the world?

**Response:** No, U.S. companies do not lack the ability to design, build and operate the most sophisticated vessels in the world.

**Question:** Does this committee have your commitment that DHS will direct the U.S. Customs and Border Patrol to properly and effectively enforce the Jones Act going forward?

**Response:** Yes, CBP is committed to the enforcement of any Jones Act or Passenger Vessel Service Act (PVSA) violations. CBP takes its Jones Act responsibilities very seriously.

As an example, CBP periodically receives requests for waivers of the Jones Act. It gives such requests extremely careful scrutiny and review. As part of this review, CBP solicits the recommendation of other government entities, including the Department of Defense, the Department of Energy, the Maritime Administration of the Department of Transportation, and the Coast Guard. Such waivers requests are reviewed by numerous offices within CBP before being sent to the Department with CBP's recommendation. CBP carefully reviews the availability of coastwise-qualified vessels in its consideration of these waiver requests.



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| **Question#:** | 15 |
| **Topic:** | Jones Act |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

CBP also consults regularly with the Maritime Administration as to the availability of U.S.-built, U.S.-owned, and U.S.-documented vessels in specific situations where it has not received a waiver request.

CBP has a rulings process whereby it issues rulings concerning the Jones Act and the other coastwise statutes. It gives rigorous scrutiny to these Jones Act ruling requests. After issuance of its rulings, CBP publishes them in an electronic database where they can be reviewed by the public.

CBP Headquarters frequently interacts with and provides advice to its field offices concerning the enforcement of the Jones Act.

All potential violations of the Jones Act or Passenger Vessel Service Act (PVSA) are required to be forwarded from the Ports of Entry to CBP OFO HQs for vetting prior to issuance to ensure uniformity in assessments and application. No violations have been recorded since 2007.



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**Post-Hearing Questions for the Record**
**Submitted to the Honorable Janet A. Napolitano**
**From Senator John McCain**

**"Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**
**May 17, 2010**

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| **Question#:** | 16 |
| **Topic:** | OSRO |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable John McCain |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** It is my understanding that the clean-up efforts in the Gulf have been relegated to various oil spill response organizations ("OSROs") who are subcontractors to BP. Which Federal agency or agencies have jurisdiction and oversight responsibilities over OSROs?

**Response**: The Coast Guard executes the Oil Spill Response Organizations (OSROs) classification program. The OSRO classification program is a strictly voluntary process in which OSROs can participate and that plan holders can utilize for planning purposes. An OSRO does not have to be classified and plan holders do not have to limit their response resources to Coast Guard-classified OSROs.

The Coast Guard conducts Preparedness Assessment Visits of OSROs. A Preparedness Assessment Visit is the primary mechanism for assessing a region's environmental emergency response capabilities.

The Coast Guard also conducts site visits for other-than-Classified-OSROs.

**Question:** Do federal agencies require OSROs to develop a spill plan that defines protocols for the uses of different technologies during different stages of a spill?

**Response:** The Coast Guard does not have any regulatory requirements for Oil Spill Response Organizations (OSROS) to develop spill plans. However, Area Contingency Plans address response efforts including appropriate procedures for mechanical recovery, dispersal, shoreline clean-up, protection of sensitive environmental areas and protection, rescue and rehabilitation of fisheries and wildlife. These plans may identify various



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| **Question#:** | 16 |
| **Topic:** | OSRO |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable John McCain |
| **Committee:** | HOMELAND SECURITY (SENATE) |

technologies be used at different stages of a spill. For example, a plan may state that while oil is offshore, dispersants, fire boom and skimmers may be used. The plan may also state that if the oil reaches the shoreline, they may use skimmers, booming strategies and sorbent material to collect the oil. Facility and Vessel response plans must be consistent with the NCP (*40 CFR 300*) and ACP covering the area in which the facility or vessel operates.

**Question:** Please provide an accounting of the Federal mechanisms in place that ensures that the OSROs are exploring, testing, and implementing the latest oil spill clean-up technologies to ensure this disaster is cleaned up in the most efficient and effective manner possible.

**Response**: Oil Spill Response Organizations (OSROS) capability is driven by response plan holder requirements. The regulations specify minimum amounts of equipment which the plan holder must identify and ensure are available to remove a worst case discharge. OSROs are not required to explore, test, and implement the latest clean up technologies. However, OSRO's generally maintain reliable and varied capabilities to ensure they retain their approved classifications in accordance with the US Coast Guards OSRO classification program.

**Question:** What assistance can Congress provide to ensure the OSROs and the oil companies are utilizing the latest technologies in oil spill clean-up technologies?

**Response**: Oil Spill Response Organizations (OSROS) capability is driven by response plan holder requirements. The regulations specify specific minimum amounts of equipment the plan holder must identify and ensure are available to remove a worst case discharge. OSROs are not required to explore, test, and implement the latest clean up technologies. However, OSRO's generally maintain reliable and varied capabilities to ensure they retain their approved classifications in accordance with the Coast Guard's OSRO classification program. OPA 90 authorized member agencies to use the OSLTF, subject to an appropriation, to fund spill related Research and Development.



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**Post-Hearing Questions for the Record**
**Submitted to the Rear Admiral Peter V. Neffenger**
**From Senator Mary L. Landrieu**

**"Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**
**May 17, 2010**

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| **Question#:** | 1 |
| **Topic:** | One Gulf Plan |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** Admiral Neffenger, the Coast Guard has established a One Gulf Plan for the Gulf of Mexico region, to coordinate response efforts when a spill affects more than one Port zone. The Ports of New Orleans, Morgan City, Mobile, Corpus Christi, and Houston-Galveston all rely upon the One-Gulf Plan as part of their coordination and response efforts. The One Gulf Plan was published in July 2005 and last updated in May 2008. It is also exercised annually. I am concerned that spill response plans included procedures to retrieve spilled oil but not to cap a well.

Does the One Gulf Plan address the potential for well blowouts in addition to vessel discharges?

Did BP's regional spill response plan, which the Coast Guard approved, address the potential for a blowout?

**Response:** The One Gulf Plan does not specifically address an oil spill from a well blow out in the entire Exclusive Economic Zone (EEZ). However, the Area Contingency Plan and Regional Contingency Plans like the One Gulf Plan address the methodology used to respond to large and complex spill scenarios. The Coast Guard does not review or approve response plans for off shore facilities. The Bureau of Ocean Energy Management, Regulation and Enforcement is responsible for the review and approval of response plans for offshore facilities seaward of the coast line in accordance with 40 CFR 112 Appendix A, including fixed platforms and Mobile Offshore Drilling Units actively engaged in drilling.

**Question:** I have read reports that the "In-Situ Burn" plan produced in 1994 called for the immediate use of fire booms when responding to an oil spill. But 8 days passed



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| **Question#:** | 1 |
| **Topic:** | One Gulf Plan |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

before officials purchased fire boom from a company in Illinois. Please explain why this important piece of equipment was not acquired prior to the event, as recommended by the 1994 plan.

**Response:** Fire boom is maintained by Oil Spill Removal Organizations (OSROs) for rapid deployment in areas where pre-authorization exists for In-Situ burning, which includes Coast Guard District Eight (Gulf region). The Coast Guard is not specifically mandated or otherwise required to have fire boom on hand or readily available.

That said, fire boom was on scene within the first days of this event. Controlled burns are impacted by a number of factors, including weather. In this case controlled burns took place on the first day that proper weather and oil conditions existed.



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| **Question#:** | 2 |
| **Topic:** | Oil Pollution Act |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Mary L. Landrieu |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** In 2003, Congress amended the Oil Pollution Act to authorize the advance of up to $100 million of the funds in the Oil Spill Liability Trust Fund, to be set-aside for emergency response. The Fund's current balance is $1.6 billion. It is my understanding that BP is reimbursing the Coast Guard on an ongoing basis for response costs.

Can you comment on the daily burn rate within this emergency response fund and the frequency with which BP disburses payments to the Coast Guard for response costs?

Does the Coast Guard need authority from Congress to increase the amount that can be programmed for response beyond the current $100 million limit?

**Response:** The daily response costs for the response remain dynamic, and do not offer a consistent "daily burn rate".

BP and other responsible parties are responsible for the costs associated with the BP Deepwater Horizon Oil Spill. Under the Oil Pollution Act of 1990, responsible parties are required to reimburse the Oil Spill Liability Trust Fund for expenses incurred. Regular invoices are a proactive step by the Administration to hold responsible parties accountable for obligations related to response and recovery activities to date and ensure American taxpayers are not held responsible for the costs associated with the BP/ Deepwater Horizon Oil Spill. The first bill to responsible parties was sent on May 27, 2010 for $1.8 million. The fourth bill, sent on July 13, 2010, was for $99.7 million. BP has paid the first three bills, totaling $122.3 million to date.

On June 15, 2010, the President signed into law – Public Law 111-191, which amended the Oil Pollution Act of 1990 to authorize advances up to $100 million each from the Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill. No additional authority is needed.



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**Post-Hearing Questions for the Record**
**Submitted to the Rear Admiral Peter V. Neffenger**
**From Senator Claire McCaskill**

**"Gulf Coast Catastrophe:**
**Assessing the Nation's Response to the Deepwater Horizon Oil Spill"**
**May 17, 2010**

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| **Question#:** | 3 |
| **Topic:** | JIC |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** The Deepwater Horizon Unified Command has been operating a Joint Information Center (JIC) since the first days of the spill. The JIC has and continues to receive submissions for alternative response technology, services or products. How many submissions has the JIC received? How many submissions have been responded to? What is the JIC's process for vetting these submissions, and how many submissions have been brought to the attention of JIC leadership?

**Response**: In an effort to ensure that the best available methods are used in the administration's ongoing response to the Gulf oil spill, the National Incident Commander (NIC) established an Interagency Alternative Technology Assessment Program (IATAP) working group to solely collect and review oil spill response solutions from scientists and vendors. The Coast Guard's Research and Development Center, in collaboration with interagency partners, issued a Broad Agency Announcement (BAA) on www.FedBizOpps.gov (Announcement HSCG32-10-R-R00019). This announcement called for the submission of white papers addressing: oil sensing improvements to response and detection; oil wellhead control and submerged oil response; traditional oil spill response technologies; alternative oil spill response technologies; and oil spill damage assessment and restoration. The IATAP and the Coast Guard's Research and Development Center screen submissions based on technical feasibility, potential effectiveness and deployment capability. The IATAP is separate from, and independent of BP's review process. Therefore, if persons wish to have their idea evaluated by the Federal government, they should submit it using the process articulated in the Broad Agency Announcement.

As of June 27, 2010, eighteen (18) IATAP BAA submissions (of 2,708 total received) have been forwarded, or are in the process of being forwarded, to the Unified Area



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| **Question#:** | 3 |
| **Topic:** | JIC |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

Command (UAC) for consideration and operational evaluation. The processing time for these ideas averaged 12 days from receipt to forwarding, but the last four forwarded to the UAC averaged nine days total.

In addition, individuals may also submit ideas directly to BP (horizonsupport@oegllc.com) for consideration. This site evaluates ideas and proposals for alternative technology as well as vendor offers of response services, products, and equipment.



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| **Question#:** | 4 |
| **Topic:** | alternative response |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** It is my understanding that Louisiana officials have met with and reviewed alternative response technologies, including those proposed by Show Me Energy. How closely is the JIC working with state and local governments in reviewing alternative response technologies?

**Response:** Technologies that are deemed promising or feasible are presented to the Unified Area Command for consideration. State and local representatives are part of the Unified Area Command.

On June 4, 2010, to facilitate more timely evaluation of ideas, the Coast Guard issued a Broad Agency Announcement (BAA) to establish an Interagency Alternative Technology Assessment Program (IATAP) under the provisions of the Federal Acquisition Regulation, Subparts 6.102(d)(2) and 35.016, to provide for the submission of White Papers (written description of the idea) in support of the Deepwater Horizon Response. The IATAP was designed to establish a well defined, documented, systematic, and fair government-managed process to solicit, screen, and evaluate vendor/other government agencies/academia-suggested technologies in support of ongoing response activities.

All submitted White Papers meeting the requirements of the BAA will be reviewed and evaluated as they are received. Each White Paper will undergo an initial screening. The initial screening will result in a determination that either: (1) the White Paper has a potential for immediate benefit to the spill response effort; (2) the White Paper submission needs more detailed investigation or evaluation and will be forwarded to the appropriate Government Agency overseeing that portion of the Deepwater Horizon Response (EPA, BOE, NOAA, or USCG); or (3) the White Paper submission does not support this event. A Contracting Officer will provide a response to all properly submitted papers.

Should a White Paper show reasonable and timely application to the response efforts, the work group will forward it to the Federal On-Scene Coordinator (FOSC) for the Deepwater Horizon response, for further consideration by the appropriate members of Unified Command.

**Question:** What process is in place to share information and ideas with state and local governments?



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| **Question#:** | 4 |
| **Topic:** | alternative response |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Response:** The National Contingency Plan (NCP) sets forth the framework and organizational structure for the Federal response to an oil spill. In accordance with the NCP, the Unified Command coordinates and directs response efforts through an integrated and flexible structure that emphasizes cooperation and coordination in local, state, and federal responses to complex multi-jurisdictional, multiagency incidents. The Federal On-Scene Coordinator (FOSC) serves within the Unified Command, which includes representatives from Responsible Parties, Federal, State and local governments. Information sharing takes place through the Unified Command.

As the response to the Deepwater Horizon response evolved the National Incident Command has improved coordination with state and local entities through a number of liaison functions.

Coast Guard Liaisons are placed throughout Florida, Alabama, Mississippi, and Louisiana. Within the states, liaisons are located with Governors Offices, County Emergency Operations Centers, Parish Presidents and Deputy Incident Commanders. In addition, Community Outreach Teams are working throughout impacted communities and reporting local concerns to Deputy Incident Commanders.

All liaisons provide a critical means of communication with the public, and state and local officials. Feedback from the communities' directly informs the objectives, strategies and tactics of the response to the Deepwater Horizon.



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| **Question#:** | 5 |
| **Topic:** | tar balls |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** As you know, the Coast Guard has detected the presence of dozens of "tar balls" approaching the Florida coast suggests that the Gulf Coast oil spill has traveled throughout the Gulf Coast region. How do you plan to determine whether these tar balls are indeed a product of the Deepwater Horizon spill? In light of the failed remediation strategies that have been tried this far, how does the Unified Command plan to prevent this eastward expansion of the spill?

**Response:** There are over 6,000 vessels and over 36,000 personnel responding to this event, actively involved in skimming, controlled burns, booming, as well as beach cleanup.

Oil has a finger print. When a tar ball is found, it is sent for lab analysis to see if there is crude oil in the tar ball, which typically takes 24 hours. If analysis reveals there is crude in the tar balls, they are analyzed to see if it is related to the MC252 spill; this typically takes up to 3 days. Of the tar balls analyzed, some have been determined as originating from the Deepwater Horizon while others have been from other sources.

The Unified Area Command's primary strategies are to skim the oil, perform in-situ burning and dispersing at the leading edge of the main mass of the oil in order to contain the spill. These techniques are used in various combinations dependent upon the existing on-scene weather conditions each day.



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| **Question#:** | 6 |
| **Topic:** | U.S. ports |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** As you know, six of the 10 leading U.S. ports are located in the Gulf of Mexico region, hosting some of the largest tonnage ships in the nation. At this time, the oil spill has yet to impact barge traffic on the Mississippi River, although the spill is approaching the river's mouth. How does your agency plan to prevent the spill from reaching the mouth of the river, thereby maintaining the ability to continue normal levels of barge traffic along the Mississippi?

**Response:** The U.S. Coast Guard will continue ongoing protection strategies using booming, skimming, in-situ burning (where possible) near the mouth of the Mississippi River to contain the leading edge of the oil spill. Additionally, a vessel decontamination station will be set up near the mouth of the river, to clean tugs and barges after they transit through any part of the spilled oil.



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| **Question#:** | 7 |
| **Topic:** | contracting |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

**Question:** As you know, the government response to Hurricanes Katrina and Rita included the contracting of services to private firms. The Government Accountability Office, in their review of contracting activities following these disasters, noted a lack of clearly communicated responsibilities across agencies and jurisdictions and insufficient numbers and inadequate deployment of personnel to provide for effective contractor oversight.

What specific activities will your department be seeking to contract out or are you already relying on contractors to carry out? Please explain why each activity is appropriate for a contractor to handle

**Response:** The Unified Command is providing resources and oversight using trained staff, contractors, subject matter experts and others from around the world with the required skill sets appropriate for the work to be carried out and managed effectively.

An example of contractor activities include the use of nationally recognized response management firms. The firms are responsible for onshore cleanup activities through an established network of subcontractor specialists for cleaning, removal and disposal. Many of these subcontract firms are recognized by the Coast Guard as Oil Spill Removal Organizations (OSROs). The response management firms have expertise in many aspects of spill response and management and can provide sustainable management positions including accountability, subcontractor performance management, quality control, cost and schedule reporting to a Unified Command designated Contract Accountable Manager.

**Question:** What are the preliminary cost estimates for contracted out response activities?

**Response:** As of June 1, 2010, the removal costs funded from the Oil Spill Liability Trust Fund for contractors were $7,301,271.

**Question:** How does your agency intend to work with other agencies to prevent the issues we experienced during the Katrina response from arising in this instance?

**Response:** The National Incident Commander established the Interagency Solutions Working Group (IASG) to provide actionable "whole of government" recommendations for consideration. The IASG is comprised of subject matter experts from the National



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| **Question#:** | 7 |
| **Topic:** | contracting |
| **Hearing:** | Gulf Coast Catastrophe:<br>Assessing the Nation's Response to the Deepwater Horizon Oil Spill |
| **Primary:** | The Honorable Claire McCaskill |
| **Committee:** | HOMELAND SECURITY (SENATE) |

Response Team and other federal agencies who research and coordinate across all affected agencies to address a broad spectrum of issues, including effective contractor oversight.

**Question:** How many personnel have been deployed to the Gulf Coast to ensure that contractor abuses are prevented and that there is adequate oversight of contractor performance?

**Response:** The Coast Guard has deployed 146 Federal on Scene Coordinator Representatives (FOSCRs) to the Gulf region to direct/monitor operations. All FOSCRs are empowered with contractor oversight authority in their assigned area. There are an additional 40 members who graduated from FOSCR training on June 6, 2010, and will be prepared for assignment.

The Interagency Remote Sensing Coordination Cell (IRSCC) was formed in response to uncoordinated and duplicative remote sensing operations during the federal disaster response to Hurricanes Wilma, Rita, and Katrina. The IRSCC is a virtual community of 17 Federal departments and agencies that provide an integrated and transparent remote sensing (imagery) process in support of natural or man-made disaster response and recovery operations. When activated, the IRSCC coordinates customer's remote sensing requirements and provides cost-effective strategies to satisfy those requirements.



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POST-HEARING QUESTIONS FOR THE RECORD
U.S. SENATE COMMITTEE ON HOMELAND SECURITY & GOVERNMENTAL AFFAIRS
MR. LAMAR MCKAY, CHAIRMAN AND PRESIDENT, BP AMERICA, INC.
GULF COAST CATASTROPHE: ASSESSING THE NATION'S RESPONSE TO THE DEEPWATER HORIZON OIL SPILL
HEARING HELD ON MAY 17, 2010

ANSWER SET
JULY 9, 2010

QUESTIONS FROM CHAIRMAN LIEBERMAN

1. **Many of the response efforts employed to date, such as booms, skimming, controlled burns and aerial dispersants, are the same efforts that have been used for decades. In response to this spill, BP—in cooperation with federal officials—began testing subsea application of dispersants and received approval.**

   a. **Given the proliferation of deepwater wells in recent years, why hadn't BP tried to test the subsea use of dispersants previously?**

The Environmental Protection Agency ("EPA") identifies and maintains the list of dispersants that may be used to remove or control oil discharges. *See* 40 CFR §300.900 *et seq*. The current Product Schedule discusses surface use, which is the customary method of use. Prior to the *Deepwater Horizon* incident, BPA was not aware of any situations in which EPA had approved dispersants on the Product Schedule for subsurface use. Due to the unique set of challenges presented by this spill, however, the EPA authorized the injection of dispersants at the source of the spill, and a rigorous monitoring plan has been put in place to analyze the effectiveness of the subsurface use of dispersants and any impacts on the environment, water and air quality, and human health.

   b. **What research and development for oil spill response has BP conducted, funded, or otherwise fostered?**

BP does not separately account for specific kinds of research and development spending. In 2009, BP spent approximately $587 million on research and development, and approximately 40 percent of that money funded research related to advanced exploration and production technologies and techniques. Those funds supported, among other things, several programs focused on safety and reliable offshore operations and drilling.



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c. **Does BP have a responsibility to fund research and development for new and alternative oil spill responses, particularly R&D for deepwater spills and their unique characteristics?**

In response to the *Deepwater Horizon* incident, BPA is already devoting significant resources to researching, developing, and testing new oil spill response capabilities. Going forward, BPA will incorporate the valuable lessons learned during these response efforts into future best practices, and BPA expects to continue investing in oil spill response research and development, particularly with respect to deepwater spill response. On May 24, 2010, BPA committed up to $500 million over a 10-year period to create a broad independent research program called the Gulf of Mexico Research Initiative ("GRI") to study the impact of the incident, and the associated response activities, on the marine and shoreline environments in the Gulf. BPA hopes that the research conducted under the GRI will assist in the development of improved remediation technologies.

2. **BP is managing two hotlines to field offers of assistance—one for alternative response technologies and another for products, equipment, or services. We have received reports that a number of individuals have contacted these hotlines and received no response.**

a. **How does BP manage these hotlines and the process for collecting offers of assistance?**

b. **How well is the process for fielding and evaluating offers of assistance working? How do you think it could be improved?**

BPA has received thousands of suggestions from the public describing potential ways to stop the flow of oil and gas or to contain the spill on and off the Gulf coast shoreline, and since the beginning of June, the number of suggestions has significantly increased, with BPA's Houston Call Center now receiving, on average for the month of June, about 2,700 suggestions a day. These suggestions have originated from across the world and from a variety of people, ranging from members of the general public to oil industry professionals.

Anyone with an idea may contact the Call Center at (281) 366-5511, but there is also an online form for Alternative Response Technology ("ART") located at http://www.horizonedocs.com/artform.php. The online form requires a user to list the materials, equipment, and skills required for the idea to work, and, when the information is submitted, it undergoes a review by members of a team consisting of 70 technical and operational personnel, including personnel from the U.S. Coast Guard. The team reviews the idea's technical feasibility and classifies it in one of three categories: (1) not possible or feasible under these conditions, (2) already considered or planned for, or (3) feasible.

As of June 28, 2010, BPA had received over 117,000 ideas from telephone calls and email. Of the ideas that have been submitted, over 101,000 have been reviewed by the technical



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team. Over 360 ideas have been advanced to a higher-level review in order to determine which ones fill an operational need and may require testing in the field. And BPA has 22 ideas tested or planned for field testing, including:

- An idea submitted by Clean Beach Technologies for a solution that is designed to mechanically separate oil from sand. A sample taken from an oiled beach in Louisiana was lab-tested to verify this solution's efficacy. It appears that use of this solution may be feasible, so it is being prepared for field testing.

- Another idea, presented by Ocean Therapy Solutions, relates to centrifuge equipment technology that can effectively separate oil from water within an oil spill scenario. This idea is also undergoing field tests.

- BP is currently looking for potentially viable technologies to combat the oil saturated in the sargassum, or seaweed, along the Gulf Coast and is evaluating information related to such methods.

During the course of the response efforts, the process of reviewing and testing the numerous suggestions has improved dramatically. For example, BPA recently expanded its internal team and combined with a new working group established by the U.S. Coast Guard. This Interagency Alternative Technology Assessment Program working group, which was announced on June 4, includes representatives from the Bureau of Ocean Energy Management, Regulation, and Enforcement (formerly the Minerals Management Service), the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, the United States Army Corps of Engineers, the United States Department of Agriculture, and the Maritime Administration. Of course, BPA continues to look for opportunities to improve or streamline further the procedures in place.



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## QUESTIONS FROM SENATOR LANDRIEU

1. **It is my understanding that every well drilled in the Outer Continental Shelf must be permitted by MMS, and that operators must submit to the Coast Guard a Certificate of Financial Responsibility as well as a spill response plan to show that they have considered the worst case scenario and are prepared to handle it. In your testimony, you highlight the four concurrent strategies BP is undertaking to get the well flow stopped. One strategy, the containment dome, was built after the accident, leaving me to believe this containment dome, was not part of the "worst case scenario" plan BP submitted to MMS. Can you please speak to that plan and whether the plan BP submitted to MMS included the containment dome? If it wasn't part of the plan, please explain why.**

The Oil Spill Response Plan ("OSRP") was formulated, in part, to address the resources that would be needed to respond to a worst-case discharge of oil, consistent with applicable Minerals Management Service ("MMS") regulations, the federal National Contingency Plan, and applicable Area Contingency Plans. The measure of required resources outlined in the Plan is determined based on the estimated worst-case discharge amounts, as well as an analysis of the potentially impacted land areas, as required by MMS regulations. Neither MMS regulations nor the applicable National or Area Contingency Plans contemplated a containment dome. The containment dome was used to address the unique circumstances of the *Deepwater Horizon* incident.

a. **Did BP's regional plan address the potential for a wellhead blowout or just a vessel discharge?**

The OSRP provided for a worst-case discharge scenario based on, among other things, the volume from an uncontrolled blowout. MMS regulations specified that the OSRP must determine the volume of the worst-case scenario according to specific calculations. See 30 C.F.R. § 254.47(b). These regulations specify that the worst-case discharge must be based on the "well flowing for 30 days." *Id.*

b. **Have the number of response assets deployed by BP for this incident matched the level originally pledged by BP in its regional plan?**

The OSRP has been the foundation from which the U.S. Coast Guard, other government agencies, and BPA have implemented the response across the Gulf on the surface, at the shoreline, and in the subsea environment. The number of response assets that have been deployed has exceeded the levels set forth in the OSRP. As of July 5, 2010, more than 45,000 personnel were involved in responding, and the following resources had been deployed: (1) more than 6,920 active response vessels, (2) more than 3.85 million feet of boom, (3) and approximately 1.7 million gallons of dispersants (subsea and surface).



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2. **As you are well aware, Gulf Coast fishermen, shrimpers, oystermen, deckhands, docks, and seafood processing facilities are potentially facing catastrophic economic losses as a result of this spill. I appreciate what you are doing with the Vessel Opportunity Program to hire local fishermen and provide them with a paycheck during this difficult time. While we do not yet know how extensive the damage will be, can you please explain how BP plans to ensure that Gulf Coast fisheries are replenished and that our fishermen can go back to work?**

The National Oceanic and Atmospheric Administration runs a Damage Assessment, Remediation and Restoration Program ("DARRP") that is designed to restore natural resources after oil spills. BP Exploration & Production Inc. ("BPXP"), which has been designated as one of the "responsible parties" under the Oil Pollution Act ("OPA"), is working along with DARRP and other natural resource trustees to collect pre-assessment and assessment information on potential impacts to fish and other sensitive resources, as well as their habitats. Lost human uses of these resources—fishing, for example—are also being assessed. These data will be critical for informing a natural resource damage assessment, the purpose of which is to determine the appropriate type and amount of restoration that is needed. Ultimately, BPXP and other OPA responsible parties—Transocean Ltd., Anadarko Petroleum Corp., and MOEX Offshore 2007 LLC—will be liable to the applicable natural resources trustees for damages resulting from the incident that cause injury to, destruction of, loss of, or loss of use of, natural resources.

Separately, BPA has committed up to $500 million over a 10-year period for the GRI program, which will study the impact of the incident, and the associated response activities, on the marine and shoreline environments in the Gulf.

a. **Please explain what you mean by "legitimate claims?"**

BPXP has been guided by the OPA, U.S. Coast Guard regulations and guidance, and relevant precedent. The intent in handling claims has been to be efficient, practical, and fair, and to pay all legitimate claims for damages resulting from the oil spill as well as necessary response costs. In the company's view, "legitimate" is a legally valid claim in which the oil spill caused the loss; the loss is not remote or speculative; the loss is substantiated; the claim is honest (no fraud); and the claim represents the amount of the claimant's net loss.

On June 16, 2010, President Obama announced that BP will establish an independent claims facility that will handle individual and business claims resulting from this incident and that will be led by Ken Feinberg, who previously directed the September 11, 2001 claims process. Mr. Feinberg has begun evaluating the current claims process and, during this transition period, he is making independent determinations about how the process should work going forward. He is currently in the process of meeting with key stakeholders, including the Department of Homeland Security and the governors of affected states.



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3. **Globally, according to data presented in Offshore Magazine, there were 530 wells drilled in water deeper than 1,000 feet in 2005 alone. 114 of these were in water 6,000 feet or deeper. In 2006, there were 478 deepwater wells drilled; 108 were in ultra-deep water. On average, over the past 5 years, there were 120 wells drilled in water deeper than 6,000 feet. Therefore, it seems that this operation should have been "routine." Could you comment on the risks involved in this kind of operation?**

Oil companies have been drilling wells in the deepwater Gulf of Mexico for twenty years. Each well is different, and the risks associated with each well can vary depending on the individual circumstances of the well. With respect to the specific circumstances involved in the *Deepwater Horizon* incident, the scenario was regarded as an extremely low probability and one that could be prevented by the blowout preventer. BPA clearly recognizes in light of recent events that all future risk assessments must plan for such low-probability, but very high-impact, scenarios.

a. **In other "Loss of Well Control" incidents that occurred in the Gulf or elsewhere, have there been significant spills? Why or not?**

The Bureau of Ocean Energy Management, Regulation, and Enforcement ("BOEMRE"), formerly the Minerals Management Service, requires that all Losses of Well Control be reported, and the agency maintains statistics and incident summaries on their website at http://www.mms.gov/incidents/blowouts.htm. For the sake of illustration, the latest BOEMRE report indicates that, in Calendar Year 2009, there were six different Loss of Well Control incidents, all of which occurred in the Gulf of Mexico. Three of the 2009 incidents occurred at water depths of greater than 1,000 feet, and their spill volumes ranged from 75.6 gallons to 8,400 gallons. The incidents are otherwise described in the BOEMRE report.



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## QUESTIONS FROM SENATOR LEVIN

1. **Was an E-Drill and IntelliServe data system, or similar system to provide real-time monitoring of drilling activities and remote diagnostics of drilling equipment operations and malfunctions, installed on the Deepwater Horizon oil rig? If so, please answer the following questions about that system.**

   a. **When was the system installed on the oil rig?**

   b. **Who manufactured and who installed the system on the oil rig?**

   c. **Please describe the capabilities of the system and the purposes for which it was used.**

   d. **Did the system transmit, at any time, data about the oil rig's activities or its equipment's operations or malfunctions? If so, please describe the nature of the information transmitted and to whom the information was sent.**

   e. **Was the system functioning at the time of the blowout and explosion? If so, please describe whether it transmitted information about the explosion and subsequent collapse of the oil rig, and to whom that information was sent.**

   f. **Has any attempt, or plans for an attempt, been made to recover the physical data system from the oil rig? If so, have those efforts been successful?**

   g. **Please provide the name and job title of the oil rig personnel responsible for operating the system.**

   h. **Please identify which government agencies, if any, have been give access to any data from the system, and when access to that data was provided.**

Any computer systems performing real-time monitoring and remote diagnostics of the *Deepwater Horizon*'s drilling operations would have been owned and operated by BP's contractors, who would be best positioned to answer specific questions about the systems' capabilities and functionality, the manufacture and installation of the systems, the personnel responsible for operating the systems, and/or any recovery efforts.

With respect to the specific systems referred to above, IntelliServ was not being utilized on the MC 252 # 1 well, and BPA is not aware if E-Drill was installed on the *Deepwater Horizon* rig.

BPA did contract with Halliburton Sperry Sun to provide real-time onsite monitoring of various drilling parameters, as well as to transmit real-time surface data remotely via the Internet using Halliburton's INSITE Anywhere service. The data were available to Transocean,



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Halliburton, and BP personnel on the rig, as well as to members of the BP MC 252 #1 drilling team in Houston. The real-time data available at the rig and transmitted via Halliburton's INSITE included mud logs, Logging While Drilling/Measurement While Drilling ("LWD/MWD"), and surface data (from rig sensors that capture flow-in, flow-out, pit volume, and pressure data). Surface data were produced to the Marine Board Investigation ("MBI") Panel on May 8 and May 21, 2010. Mud logs and LWD/MWD data, as well as additional surface data, were produced to the MBI Panel on June 25, 2010.

2. **In recent years, the Permanent Subcommittee on Investigations of the Homeland Security and Governmental Affairs Committee has devoted resources to examining how energy prices are set through commodity markets, including the New York Mercantile Exchange (NYMEX), now part of the CME Group, and the Intercontinental Exchange (ICE). In recent years, crude oil futures prices have been on a roller coaster, moving from $70 to $80 to $90, even $140 per barrel, with no apparent explanation and little correlation to supply or demand. The Commodity Futures Trading Commission (CFTC) has recently proposed establishing position limits for oil traders to prevent excessive speculation and market manipulation. Please indicate whether BP supports or opposes the CFTC's proposal to establish position limits for energy commodities, including crude oil, and explain why.**

BPA elected not to submit comments on the proposed rule to the U.S. Commodity Futures Trading Commission. As a general matter, BPA supports the Commission's commitment to improve market transparency and efficiency, and BPA understands the above-referenced concerns about oil market volatility. At this time, however, BPA has no comment on this specific proposed rule.

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