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*"Our Natural Resources at Risk: The Short and Long Term Impacts of the Deepwater
Horizon Oil Spill"*

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Introduction

My name is Anne Rolfes and I am the Founding Director of the Louisiana Bucket Brigade, a non profit environmental health and justice organization. Since 1999 I have collaborated with communities impacted by the petrochemical industry. Most of my experience is working with people who live next to Louisiana's 17 oil refineries. I spend my time in the neighborhoods and have a solid understanding of what these neighbors experience and how the oil industry conducts itself in this region.

In April of 2010, 47 people were killed because of this nation's reliance on fossil fuels. Seven workers at Tesoro Corp's refinery in Washington state¹, 29 miners in West Virginia² and 11 people on BP's Deepwater Horizon rig in the Gulf of Mexico.³ While the subject of this hearing is the BP Oil Disaster, it is important to recognize the human costs of this country's addiction to fossil fuels. The tragic events of April 2010 should be an inspiration to move toward a future of renewable energy.

The following testimony is in response to the questions posed in the letter from Subcommittee Chair Madeleine Z. Bordallo dated May 28, 2010. I detail a number of problems in this testimony but I believe that these problems can be solved and the response improved.

1) The short and long-term impacts of this oil spill on the local community.

A. BP Exacerbation of Impacts

Both the short and long term impacts of the oil disaster in the Gulf are being exacerbated by BP's conduct in the weeks since the explosion. BP is not just failing to act but is taking steps that make the problems worse both now and in the long term.

All of the information detailed here has been documented since April 20, 2010 during time spent in the impacted coastal communities of Louisiana. In some cases the press has also documented the problem. I encourage Congressmen and women and their staff to go to the Gulf Coast, not as a Congressional entourage with VIP status, but as ordinary citizens looking for information. By being on the ground without fanfare, our representatives can learn the truth.

Many of the residents of the coastal communities are afraid to speak out on these issues for fear of repercussions, including loss of employment from BP.⁴ This fear has been voiced repeatedly to me and to my co workers since April 20.

i. Health

Since the disaster began on April 20th, the following BP activities have been documented.

- a) Clean up workers **are being told by BP that they will be fired if they wear respirators to protect themselves from chemical exposure.**⁵ We have heard these stories since May 14, 2010 from fishermen in Barataria, Lafitte, Grand Isle and Venice. Workers have requested respiratory gear because of the exposure happening while they work. Because BP is the employer, these fishermen will not speak out publicly for fear of losing this chance at making money.

BP has made statements detailing the health protective gear it has provided.

*"We want to ensure workers' health and safety are protected, so we give them Tyvek suits, nitrile gloves, safety glasses, hard hats when working near overhead hazards, rubber boots, plus hearing protection, insect repellent, sunscreen, lip balm, personal floatation devices and steel-toe boots," Curry said.*⁶

This does not mean that all workers are consistently being provided with such equipment.

While BP insists that its air samples have shown no problems, this is at odds with workers' experiences of falling ill after breathing in chemicals. It is also at odds with news reports about hospitalized workers.⁷

- b) On Thursday, June 2nd my co workers Anna Hrybyk and Shannon Dosemagan spoke to a nurse who was stationing the medical tent within the BP zone in Grand Isle, Louisiana. This nurse was part of the official parish response that was advertised as the place that workers and others should go to if they experience health problems from the spill. The nurse was incredibly frustrated. She had arrived on the scene to treat medical emergencies, and her equipment included IV's, suture stitching materials and more. She reported that all of this equipment was taken away from her by BP officials and that she was left with only aspirin and band aids. She reported that **BP is running its own Emergency Medical Service and that the sickest people are being taken there and avoiding the parish emergency center.** This is a concern for three reasons: 1/ BP has a vested interest in minimizing health concerns; 2/ People may not be getting the best care possible and 3/ The company that has caused the problem is controlling the medical records and information. The health problems treated by what the nurse called "BP's EMS" may not ever be part of the public record.
- c) BP CEO Tony Hayward's remark that sick workers ate tainted food was not an aberrant remark but consistent with **BP's response of minimizing health concerns.** "I'm sure they

were genuinely ill, but whether it was anything to do with dispersants and oil, whether it was food poisoning or some other reason for them being ill," Hayward said.⁸

ii. Economy

The problems detailed here can be discovered by spending a day in the impacted communities.

There is not a consistent commitment to hire local fishermen whose livelihood is threatened by this spill. While some fishermen have been hired in the clean up efforts, workers are being brought in from New Orleans and elsewhere.

Local businesses are not being used. BP is contracting with service providers – houseboat owners, catering services - outside of the impacted communities. From the beginning government spokespeople spoke of the need to hire locally during the response, but this is not happening.

BP first insisted that **workers sign waivers** in order to get clean up jobs. While the first round of waivers did not hold up in court, it fell to non profit agencies and local lawyers to challenge this practice. These waivers were declared without effect in U. S. District Court on May 2, 2010 by Judge Berrigan.⁹

Individuals are left on their own to negotiate with BP, including negotiations regarding employment and compensation. Local reports indicate that without a degree of individual power or negotiating skills, locals are likely to be ignored or undercompensated. *"If you are powerful or persuasive or are known as a local leader, you will be hired and generously compensated."*¹⁰ **Established, written, transparent hiring and compensation policies must be developed.**

BP made \$5,000 grants to fisherman but this amount was deducted from the pay of those hired by BP.¹¹ Some of the fishermen did not learn this until they received their pay checks.

According to reports from a local non profit organization called the Bayou Interfaith Shared Community Organizing, **some workers are not being paid or are being paid late.**

iii. Information Control

A comment from a resident of Terrebone Parish on June 7, 2010:

"To me that's one of the most frightening things – BP's control. Their brazen control of the clean up, of the disaster. Putting oil on property doesn't give them the right to control the property. How much power do these people have?"

BP is restricting access to shoreline and marsh areas where there is oil or other apparent damage. Air traffic above the spill is also restricted. **Among those prevented from accessing the sites are the media and scientists working in the public interest.**

Private security forces are hired to keep people off of public beaches. While the public does need to be protected, this protection needs to be within reason. Workers on Grand Isle report that the beach closures, including Elmer's Island, appear not to be about health protection but about preventing residents, the media and others from documenting the oil spill. Security forces deny access even for organizations and institutions with trained professionals working on the spill. Going through official process to get BP approval takes days and usually does not result in access.

Some **workers have been required to sign an agreement not to talk to anyone about the impacts that they have witnessed.**¹² When this issue was raised in a town hall meeting with BP, they replied that this is not their fault, that the agreement is the subcontractors' policy. BP has the power to negotiate whatever it wants in its subcontracts; this clause should be removed.

The long term impact of this short term control of information is that BP is preventing full documentation of the disaster's impacts. The response is thus inhibited as well.

B. Health Impacts

The Oil Spill Crisis Map created by Tulane University and the Louisiana Bucket Brigade has received 86 reports of health complaints.¹³ Media outlets, community organizations and other witnesses on this panel have documented even more community exposure, worker illness and hospitalization.

C. Direct Economic Impacts

The direct impacts to fisherman, oystermen, shrimpers, crabbers and those who work in the seafood industry have been noted in the media. A story from the Oil Spill Crisis Map details the impacts.

Oyster Shucker from New Orleans as detailed on the Oil Spill Crisis Map (www.oilspill.labucketbrigade.org)

"I'm New Orleans and I get called in by people who have parties. I show up – I have my metal grated gloves and my oyster knives and I get all set up for parties. At St. Patrick's Day instead of going to the parade I set up and shucked oysters. I made a pretty nice pay day that day. For the next 5 – 7 years all that shellfish is compromised – it's going to be toxic with dispersant. You can tell people don't eat it but people who are subsisting on it are going to eat it. It's going to affect those communities health wise. Suddenly everybody's going to get cancer, birth defects.

And now, I'm going to be out of work. I've got my gloves for shucking, but I'm going to have to hang them up, so to speak."

D. Indirect Economic Impacts: Taxpayers pay for BP's negligence

While the Oil Pollution Act mandates that BP pay for the clean up, there are additional costs with no system for mandating BP payment. These costs include the burden to the public health care systems in the Gulf Coast as well as the long term impact of individuals' compromised health status. If exposure makes people sick, they may have less earning capacity over the long run. If these people are forced to rely on Supplemental Security Income or long term disability, then the U.S. taxpayers are paying for BP's grievous mistake.

The section below details the Gulf Coast's lack of capacity for indentifying chemical exposure. There are not enough doctors in the region who are trained in chemical exposure and health impacts. If the government stationed such toxicologists along the Gulf Coast, the program would pay for itself in identifying people made sick and incapacitated because of BP. In this scenario, BP - not the U.S. taxpayer - would then pay for the loss of livelihood.

E. Impacts as reported on the Oil Spill Crisis Map

The Oil Spill Crisis Map (www.oilspill.labucketbrigade.org) is a project of Tulane University's Disaster Resilience Leadership Academy and the Louisiana Bucket Brigade. This web based map facilitates community reporting of the disaster via text messaging, on line reporting or e mails. As of June 8, 2010 there are 616 reports that document livelihoods at risk, health problems, injured marine life and oil sightings by Gulf Coast residents. The members of the committee are urged to review this map to see firsthand what is happening on the ground along the Gulf Coast.

Citizen reports as of June 8, 2010:

Odor Complaints: 181	Oil on Other Wildlife: 49
Health Complaints from Exposure: 86	Oil on Shore: 130
Oil on Marine Wildlife: 63	Oil on Water: 111
Oil on Birds: 47	

- 2) The need for prolonged commitment by the Federal government, the States, and the responsible party to mitigate damages.

A. Current problems that prevent effective mitigation

Please note that these problems are detailed as a first step to effective government involvement. This is not an attempt to provide simply a laundry list of complaints; instead, this is an analysis of the problems that prevent effective mitigation. If these problems are addressed then we have a real chance at effective disaster response.

i. Oil Pollution Act

BP's pattern of minimizing the problems and preventing documentation are noted above. According to federal government officials (including EPA Administrator Lisa Jackson¹⁴), the Oil Pollution Act (OPA) stipulates that if BP is to pay for the clean up then it has to also administer the response. This is a clear conflict of interest and is preventing a proper response.

We encourage two responses to the confines of OPA: 1/ Government intervention to the fullest extent allowable under the law. Is the government using all of its powers within the context of OPA? A review should be conducted. 2/ Change the law. Special legislation should be enacted now, to immediately apply the lessons we are learning on the ground. One of the biggest lesson is that BP has too much control.

ii. Louisiana's lack of capacity

The Louisiana health care system does not have the capacity to diagnose and treat people with chemical exposure. We do not have the capacity to clean our shores and marshes, provide alternative employment for the people thrown out of work, or conduct or adequate water, soil and air sampling.

iii. Ineffective federal and state agencies

The situations detailed above demonstrate the government's ineffectiveness in controlling BP. Additional problems with the response are as follows and must be addressed before the government can effectively mitigate damages.

Based on 11 years of experience with the **Louisiana Department of Environmental Quality (LDEQ)**, we have **no confidence that the agency is capable** of taking any steps to protect people or the environment. This agency should be invested with as little responsibility as possible. The good news is that the EPA – not LDEQ - seems to be managing the situation. This should continue.

There should be a robust federal presence on the ground preventing the local communities from being taken advantage of by BP. While various agencies like the EPA and NOAA have been visible, they have not been successful in stopping the worst harms of BP. Agency challenges are as follows.

- OSHA - Workers are prevented from wearing protective gear and air quality information is absent.
- EPA – BP continued to use Corexit even after the EPA asked them to change to a less toxic alternative¹⁵ Air quality is deemed safe despite community members' experiences to the contrary.

- NOAA – BP has consistently underestimated both the amount of oil leaking¹⁶ from the well and the area impacted by the spill.¹⁷
- Law enforcement / federal investigators – BP is overstepping its boundaries in preventing the media and the public from documenting the damages; people on the local level are being cheated by BP via poor health protections and employment issues as detailed above.

iv. History of Accidents in the Oil Industry in the Gulf and in Louisiana

The oil industry in Louisiana has a terrible problem with accidents off shore and on shore. **BP is responsible for this disaster, but federal and state agencies clearly failed in their oversight.** Prolonged government commitment is needed but that commitment has got to be effective.

“Workers plunged dozens of feet through open unmarked holes. Welding sparked flash fires. Overloaded cranes dropped heavy loads that smashed equipment and pinned workers. Oil and drilling mud fouled Gulf waters. Compressors exploded. Wells blew out.”¹⁸

Despite the egregious state of oil rigs, in the five years before the explosion of the Deep Water Horizon, 400 investigations of rigs resulted in only 16 fines.¹⁹ The problem on shore with refineries is just as bad.

According to refinery reports to the state, ten of the largest refineries in the state averaged ten accidents a week from 2005 – 2008.²⁰ Despite these facts – facts reported by the refineries themselves – there has been no comprehensive action taken by the LDEQ or EPA to stop these accidents. Both agencies know about the accidents as the data has been communicated repeatedly to the LDEQ and all levels of the EPA. While we are told by the EPA to go through a process and be patient, the accidents continue and people’s lives are at risk. We don’t want another tragic disaster to take place.

Many of these refinery accidents include preventable accidents that are violations of the Clean Air Act. Proof of the poor state of operations is found in the results of two citizen enforcement cases brought by local residents against Murphy Oil and ExxonMobil’s Chalmette Refining. In both cases the refineries were on the losing end of motions for summary judgment. This excerpt from the citizens suit against ExxonMobil’s Chalmette Refining details a troublesome dynamic in the industry.

“Plaintiffs have alleged, and the documented violations indicate, that Chalmette repeatedly violates the Clean Air Act and that, unless some action is taken to prevent the illegal conduct, there is a real threat that such violations will continue to occur.”²¹

Citizens suits like this one happened because refinery neighbors had to take enforcement into our own hands; federal and state enforcement was and is not happening. The situation is truly desperate. Accidents in the industry are ongoing but the agencies are not enforcing the law. We have been shouting about this problem for years.

These failures do not mean that there is no role for government. Instead, they point out the need for a government that is more active on the ground protecting citizens. Being active means being with people in their communities and conducting investigations. In regard to the oil spill, government officials should not be locked away in a command center or stuck in meetings.

B. Government Steps that should be Taken to Mitigate Damages

Intervening vigorously on the ground to stop the abuses that are taking place is the best way to mitigate the damages, especially in the short term. Additional steps, as follows, should be taken to prevent future accidents.

A many of these steps involve more vigorous federal oversight, the agencies involved – including the EPA and OSHA – should eliminate unproductive staff positions and ramp up its investigation and enforcement division. Fines collected via these activities might help to offset the costs of additional enforcement.

i. Examine the entire oil industry

The preceding section has detailed the problems within the oil industry as a whole. Proper mitigation includes looking at the entire industry.

ii. Information management: create a database of accidents for all sectors of the oil industry

Our expertise at the Louisiana Bucket Brigade is with refinery accidents. Our Refinery Efficiency Initiative is our program to encourage accident reduction at all 17 refineries in the state. Refinery accidents are a serious problem; according to refineries' own reports, from 2005 – 2008, ten of Louisiana's largest refineries averaged ten accidents a week and released significant amounts of pollution: 15.6 million pounds of air pollution and 21.8 million gallons of water pollution.

We know these numbers because we have created a database based on information from the refinery reports to the Louisiana Department of Environmental Quality (LDEQ). The LDEQ also maintains a database, but this database presents reports one at a time. Absent our database, the **state and federal agencies have no mechanism for comprehensively viewing refinery accidents.** This is a surprising situation given that we are a small non profit with far fewer resources than the government.

The situation – lack of information in one place - may be the same for oil rig accidents in the Gulf. Creating publicly accessible databases of information would allow all parties – oil companies, regulators and the public – to understand accident trends over the long term. This understanding is key to prevention.

iii. Conduct a robust review of the oil industry plans for the worst case scenario and mandate that the planning is really for the worst case

In my experience with refineries, the worst case scenario planning usually involves an assumption that the worst case scenario will not happen, and the planning is for a lower level problem. This should be changed.

iv. Pass the Pallone bill to eliminate the liability cap for oil spills

As long as there is a cap there is an incentive to take risks – to drill and to spill.

v. Use of best available technology in all phases of the oil industry, including clean up and accident prevention

This accident has illustrated the oil industry's emphasis on drilling technology at the expense of safety technology. Rules regarding use of best available technology need to be tightened and enforced throughout the industry.

3) The sufficiency of community outreach to disseminate information to and receive information from the public about the environmental impacts of this oil spill.

A. Community outreach has historically been poor

During Hurricane Katrina a million gallons of oil were spilled by Murphy Oil into a residential neighborhood. EPA distributed fliers to those returning to the neighborhood, but the fliers gave no information about the oil; instead the fliers focused on the danger of household cleaning products that might have spilled and failed to mention the oil. This is the level of incompetence that we have historically dealt with.

This EPA is much better and has taken time to meet with community members and NGO's. There remain problems, however, with the veracity of EPA's information and with a meaningful follow up to community suggestions. For example, the EPA air monitoring web site states that

"EPA's air monitoring conducted through June 6, 2010, has found that air quality levels for ozone and particulates are normal on the Gulf coastline for this time of year."²²

There are a number of problems with this statement:

- EPA is not conducting robust hot spot monitoring
- EPA is extrapolating to an entire region based on limited data
- There is no baseline for this time of year so a comparison is impossible

We have communicated these concerns to EPA but nothing has changed. The air sampling that has been conducted by EPA is better than in past years but is still not right. Rapid Response Teams to respond to odor complaints by citizens should be established. Engaging citizens to sample should also take place. And OSHA needs to monitor vigorously; air monitors should be put on the boats with the clean up workers. Both of these agencies as well as BP are reporting that air quality is fine. This does nothing to convince residents who fall sick from odors. Instead, the gap between their experience and the sampling results builds distrust in the government and in BP.

B. Locally based organizations can help with outreach

After ten years of working in communities impacted by the oil industry, we have learned that the best way to solve for these problems is to engage the local communities as equal partners. There has to be tracking to make sure that there is no retribution for those community members who dare to speak critically of the oil industry. They cannot be viewed as less knowledgeable than the oil industry or regulators. The people who live with the impacts of the industry have a special expertise whether they are refinery neighbors or fishermen out of work. They are well positioned to offer solutions.

There are organizations working on the ground in the Gulf Coast that have community connections. These include Bayou Interfaith Shared Community Organizing, Mobile Baykeepers, the STEPS Coalition and the various shrimpers and fishers associations. Locally based organizations – those with a constituency of impacted people - should be the vehicles for information dissemination. If the government or needs these organizations to effectively communicate with the public and with those impacted, then these organizations should be paid for their time.

Thank you for the opportunity to testify. I believe that as terrible as this crisis is, it represents an opportunity to get the response right and show that government is competent. Why can't this time, too, bring forth a Greatest Generation that responds to this disaster in the right way and uses it as a catalyst for a change to renewable energy? But time is of the essence. There is still time to improve on the response and change our fossil fuel future, but we must act quickly. I will help in any way I can.

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