National Commission on the **BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING**

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Richard Lazarus
Executive Director

October 9, 2010

The Honorable Jane Lubchenco
Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

Dear Dr. Lubchenco:

I would like to express my thanks for your letter of October 7, 2010, to the Commission Co-Chairs, Senator Bob Graham and Bill Reilly, as well as my appreciation for the enormously dedicated work of the men and women of the National Oceanic and Atmospheric Administration (NOAA) during the Deepwater Horizon spill response. As your letter states, and as the Commission's draft staff working papers recognize, the spill was an unprecedented event. The federal government's mobilization of resources and expertise to respond to the spill was extraordinary and successful in many respects.

I also very much appreciate that you have taken this opportunity to provide the Commission with information related to issues discussed in draft staff working paper No. 3, "The Amount and Fate of the Oil." As you know, the paper's findings are preliminary, and the staff looks forward to working with NOAA to build upon our understanding of its subject matter.

I would, however, like to respond to your statements that draft staff working paper No. 3 is "misleading" and "mischaracteriz[ed]" a NOAA document. I do not believe that is the case.

In the relevant section, the staff paper notes: "Government responders have repeatedly insisted to Commission staff that low initial flow-rate estimates did *not* impact the response," because responders "scaled their efforts to the 'worst-case' spill scenario rather than to official flow-rate estimates" (p. 8). The staff paper goes on to say: "[D]espite . . . publicly stat[ing] that it was operating under a worst-case scenario, the government never disclosed what its operational scenario was" (p. 9). The paper suggests that the government did not disclose the worst-case assumption regarding the flow rate that it said was guiding its response operations. The paper further notes that Commission staff was informed that, in late April or early May 2010, NOAA sought, but did not receive, permission to make public "long-term, worst-case discharge models" – that is, models based on a worst-case assumption about the flow rate (p. 10).

According to your letter, the paper is "misleading" because it implies that "NOAA's modeling of long-term movement of oil using worst-case scenario analyses" was the same as "the efforts to estimate flow rate." But the paper does not imply they are the same. Rather, its point is that the worst-case scenario analyses were *based on* assumptions about the flow rate.[1] As you explain in your letter, NOAA ran models based on flow rates of 5,000 to 50,000 barrels a day. According to a *Politico* report, a Commerce official similarly noted that the NOAA worst-case scenario models at issue assumed a high-end flow rate of 50,000 barrels a day.[2] Your letter and that comment appear to confirm what, according to the paper, Commission staff had been told: in late April or early May, NOAA ran models of the long-term movement of oil based on a worst-case assumption about the flow rate (apparently, 50,000 barrels a day), which were not publicly released..

Your letter next criticizes the paper for "suggest[ing] that the early low flow-rate estimates might have hampered the federal response." The paper, however, specifically acknowledges that "[f]ederal government responders may be correct in stating that low flow-rate estimates did not negatively affect their operations," and that the Commission staff is still gathering information on this question (p. 1). If your criticism is directed at the staff having raised the possibility that the inaccurate estimates had a negative impact on the federal response, we respectfully disagree. The possible impact of those early, low estimates is an important question for the Commission to consider.

Third, your letter says that "[c]ontrary to suggestions in the Draft Staff Working Paper," the NOAA models were "cleared and released to the public." The paper did not suggest that NOAA never released long-term models. Rather, it reported that, according to what "[s]taff was told," NOAA did not receive permission to release the worst-case scenario models that it had developed in "late April or early May 2010" (p. 10). The fact that NOAA released *different* models *two months* later, on July 2, 2010, does not contradict the statements in the paper. (The July 2, 2010 models appear to be based on flow-rate estimates that were not available until mid-June, and to take account of mitigation efforts that were not occurring in late April or early May, namely collection of oil at the wellhead.)

A last point that bears clarification, but is not mentioned in your letter, relates to the fact that, in a single *CNN* interview on May 2, 2010, Secretary Salazar and Admiral Allen discussed a worst-case scenario involving a total wellhead collapse. Secretary Salazar stated: "The worst-case scenario is we could have 100,000 barrels or more of oil flowing out." Admiral Allen clarified: "Well, if we lost the total wellhead, it could be 100,000 barrels or more a day."[3] This "worst-case" flow-rate figure was for a theoretical possibility that never occurred – total loss of the wellhead. It was not a "worst-case" estimate of the amount of oil actually flowing from the well. Further, it does not appear to have been the government's operational worst-case estimate – again, because the more extreme event that Secretary Salazar and Admiral Allen were discussing

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[1] NOAA's long-term scenario model that was publicly released on July 2, 2010, prominently notes that it is based on "a release rate of 33,000 barrels/day." This confirms the relationship between long-term scenario models and flow rate. NOAA MODELS LONG-TERM OIL THREAT TO GULF AND EAST COAST SHORELINE (July 2, 2010), http://www.noaanews.noaa.gov/stories2010/20100702_longterm.html.

[2] Josh Voorhees, *Politico's Morning Energy*, POLITICO (Oct. 7, 2010), http://dyn.politico.com/members/forums/thread.cfm?catid=22&subcatid=76&threadid=4597626.

[3] Interview with Secretary Salazar and Admiral Allen, CNN (May 2, 2010), http://edition.cnn.com/TRANSCRIPTS/1005/02/sotu.02.html.

did not happen. Thus, the May 2 statements are fully consistent with the paper's suggestion that the government did not disclose the worst-case scenario that was guiding its response operations. Your letter similarly indicates that operational worst-case scenarios were provided to the Unified Command to "aid the response effort" but were not made publicly available.

Finally, to reiterate and emphasize what I stated at the outset: The Gulf oil spill was a challenging time for the country, and the Commission staff has nothing but the highest respect for you and your staff and the extraordinary work you all performed this past summer on behalf of the nation. Our high regard cannot, however, prompt a detour from the unqualified charge the President gave this Commission when he announced its creation this past spring: "I want to know what worked and what didn't work in our response to the disaster[.]" That is our central mission.

We have sought in staff working papers to be fair and objective in our assessments. No doubt we will make mistakes, and we stand ready to acknowledge and to correct them when we do. We do not, however, believe that your letter of October 7, 2010 reveals mistakes in our staff working papers. We look forward to continuing to work closely with NOAA in our shared effort to learn from the Deepwater Horizon oil spill and to make recommendations designed to guard against future spills and to mitigate their impact.

Sincerely,

Richard Lazarus
Executive Director