



Upholding our human right to live in a healthy environment

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July 28, 2010

Admiral Thad Allen
National Incident Commander
Deepwater Horizon Response
USCG Headquarters
2100 2nd Street, S.W.
Washington D.C. 20593
Via Facsimile: 202.372.1933

Mr. Michael R. Bromwich
Director
Bureau of Ocean Energy Management,
Regulation, and Enforcement
1849 C Street, N.W., Mail Slot 5438
Washington D.C. 20240
Via Facsimile: 202.208.7242

Ms. Ignacia S. Moreno
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415
Via Facsimile: 202.514.0557

Ms. Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue
Ariel Rios North Building, Room 3400
Washington D.C. 20460
Via Facsimile: 202.501.1450

Dear Admiral Allen, Mr. Bromwich, Ms. Moreno, and Ms. Jackson:

Advocates for Environmental Human Rights, a human rights law firm dedicated to upholding our human right to live in a healthy environment, urges you to ensure the right to full recovery in the wake of the BP oil drilling disaster. We ask that each of you bring all of your resources to bear in quickly and unequivocally establishing that BP has unlimited liability for all damages resulting from this catastrophe pursuant to the Oil Pollution Act of 1990 (“OPA”).

As you are aware, OPA is the primary federal law that imposes liability for damages resulting from an incident like the BP oil drilling disaster in the Gulf of Mexico which began on April 20, 2010 off the coast of Louisiana. BP has been deemed the “responsible party” for the damages caused by this continuing disaster. Under OPA, with respect to an offshore facility the general rule is that the total

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liability for a responsible party is limited to \$75 million. However, there are five exceptions to this cap on liability.

As set forth in 33 U.S.C. 2704 (c), the five exceptions are: 1. gross negligence or willful misconduct; 2. violation of an applicable Federal safety, construction, or operating regulation; 3. failure to report the incident as required by law; 4. failure to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; and 5. failure to comply with an order issued under subsection (c) or (e) of 33 U.S.C.1321 (pertaining to federal authority over unlawful discharges of oil and other hazardous substances from a vessel or facility) or the Intervention on the High Seas Act (33 U.S.C. 1471 *et seq.*).

We ask that you aggressively pursue a determination that one or more of these five statutory exceptions in OPA that remove the liability cap of \$75 million has been met as a result of the actions taken by BP leading up to the explosion and/or in the oil removal work.

We look forward to timely hearing from you regarding this matter, and we are available for meetings and further discussion.

Very truly yours,

Handwritten signatures of Nathalie Walker and Monique Harden in blue ink.

Nathalie Walker
Co-Director & Attorney

Monique Harden
Co-Director & Attorney