

## Upholding our human right to live in a healthy environment

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## CONGRESSIONAL BLACK CAUCUS ENERGY AND ENVIRONMENT BRIEING "The Deepwater Horizon Oil Spill and Environmental Justice: What Has Been Done and Where Are We Going?"

Washington, DC July 22, 2010

Good morning and thank you for inviting me to speak. My name is Michele Roberts and I am the Campaign and Policy Coordinator for Advocates for Environmental Human Rights ("AEHR"). AEHR is a human rights law firm dedicated to upholding our human right to live in a healthy environment. We provide legal assistance and advocacy support to environmental justice communities. AEHR is headquartered in New Orleans, Louisiana and the campaign and policy office where I work is in Washington, DC.

The recovery of the Gulf Coast cannot be achieved if environmental justice and human rights continue to be disregarded and undermined by governmental decisions. I want to take a moment to share some of the governmental decisions that put the people and environment of the Gulf Region in harm's way.

First, the decision by Congress to enact the Clean Air Act, Clean Water Act, and other environmental laws without adequate public health precautions and safety standards has pushed the burdens of toxic pollution and hazardous developments onto people of color and the poor. For example, in Louisiana five historic African American communities that were founded in the 19<sup>th</sup> century no longer exist as a result of toxic industrial pollution that was permitted by government. In addition, oil and gas companies are given permits for coastal operations that have caused significant land erosion which threatens the way of life for indigenous peoples and other people of color. The Congressional Black Caucus should assess how current environmental permitting standards undermine the right of all people to live in a healthy environment and recommend legislative corrective action that is protective of our human rights.

Second, the decisions by Congress and federal agencies to either disregard or inadequately address the hazardous consequences of regulated projects turn the communities where these projects are located into sacrifice zones. The Congressional Black Caucus should survey federal laws and implementing regulations pertaining to the hazards that are inherent in regulated industries and projects. This survey should include community forums around the nation to solicit comments on the practical

Headquarters: 650 Poydras Street, Suite 2523 New Orleans, LA 70130 USA Tel. 504-799-3060 Fax 504-799-3061 www.ehumanrights.org Campaign & Policy Office: 1730 M Street, NW, Suite 412 Washington, DC 20036 USA Tel. 202-775-0055 Fax 202-293-7110 www.ehumanrights.org effect of these laws and regulations on preventing and responding to a wide array of incidents involving oil spills, industrial accidents, and failed infrastructure.

The BP oil drilling disaster is born from the flaws in our standards that permit hazardous operations and disregard precautionary safeguards to prevent hazards. These hazards can be lethal. We must never forget that 11 people were killed on April 20, 2010 when the oil rig under contract to BP exploded. We should also recognize that what is unfolding after the explosion also has dire consequences that have been linked to what caused a fisherman to kill himself on a boat last June, and another fisherman, according to Congressman Anh ("Joseph") Cao (D-LA), to attempt to commit suicide. The deaths, mental trauma, being cut off from your culture and way of life, lost earnings for an indefinite period, and the human health and environmental damage related to the oil disaster are very real. We must ensure that a full and just recovery is equally as real.

We are appreciative of the leadership demonstrated by Congressmen John Conyers (D-MI) and Charles Melancon (D-LA) with the support of the Congressional Black Caucus and the House of Representatives to introduce H.R. 5503, the *Securing Protections for the Injured from Limitations on Liability Act* (SPILL Act). This legislation focuses on fixing loopholes in liability statutes so that the victims of the oil rig explosion can recover. It passed by a voice vote in the House on July 15<sup>th</sup> and is now in the Senate.

The Gulf Region needs Congress to go further in ensuring full recovery. BP has exerted a level of control over the Gulf of Mexico and coastal communities that makes us all wonder if we are still living in America. It is hard for us to distinguish BP's goal of limiting its liability from the actions taken by federal agencies. We need the support of the Congressional Black Caucus in pushing our federal agencies to exercise an abundance of caution regarding health and safety in the removal and containment of the oil. This includes effective safety training that is language accessible for all involved in the oil clean up work, the provision of respirators and protective gear for all involved in or living in close proximity to oil clean up work and containment, and a prohibition on the use of toxic chemical dispersants. We need you to ensure that regulatory agencies and the Department of Justice aggressively pursue a determination that one or more of the five statutory exceptions in the Oil Pollution Act<sup>1</sup> 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 know from our experiences in the aftermath of Hurricane Katrina and subsequent storms, as well as our work in litigating and advocating for environmental justice that when recovery is not a legal right, communities, in particular people of color and poor communities, become destabilized.

We are interested in working with the Congressional Black Caucus and other interested members of Congress to ensure a human rights-based recovery that places the Gulf Region on a sustainable path.

Thank you.

<sup>&</sup>lt;sup>1</sup> As set forth in 33 U.S.C. 2704 (c), the five exceptions are: gross negligence or willful misconduct; violation of an applicable Federal safety, construction, or operating regulation; failure to report the incident as required by law; failure to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; and 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.*).