



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

May 13, 2010

Dr. David I. Rainey
Vice President, Gulf of Mexico Exploration
BP America, Inc.
Post Office Box 3092
Houston, TX 77253-3092

Dear Dr. Rainey:

We are in receipt of your May 11, 2010 response to our inquiry about the unprecedented use of subsea dispersants as one of the tools being used to combat the growing volume of oil in the Gulf of Mexico. Also, I want to thank you for taking the time to participate in the multi-agency meeting yesterday at the Governor's Office of Homeland Security. It is evident from your letter and our discussion that there are simply no answers to the questions we raised. While we do appreciate any steps being attempted to mitigate the impact of this spill on our coast, we cannot simply concur with the trade-off you are suggesting we make as it relates to our underwater wildlife without knowing what that trade-off is. And, I must strenuously dispute your assertion that if Louisiana cannot agree with this approach, it is no longer "BP's spill". To be plain, nobody in our meeting had any interest in casting blame, nor is that helpful. We want to solve the problem. But we want to understand the implications of decisions being made.

Some examples of words seemingly carefully chosen in your response give us pause, and perhaps even demonstrate that our fragile wildlife area has become a laboratory for testing the use of these chemicals. For instance, statements like "...potential damage to the environment may be reduced by dispersing the oil in the water column..."; "...a level that is less likely to affect the environment..."; and "...human studies suggest that humans are relatively resistant...", without the science to back them up, are nothing more than educated guesses.

It is noted in your letter that one of the dispersant ingredients is used in hand cleaners applied to humans. We agree—but people do not ingest hand cleaner, and if they do, most hand cleaner recommends calling a physician or poison control when it is ingested. One of our concerns lies in the potential for Gulf species to ingest these chemical ingredients combined with oil product, what consequences are associated with ingestion, and most importantly, what risks exist for people who ingest this exposed seafood. Perhaps the answer is none. All we are asking is for us to have a better understanding of this. Further, we do not understand what impact these dispersants will have on the sustainability of the ecosystem beneath the surface when they have been ingested.

Your letter also suggests the half-life of dispersants is “days or weeks”. While we understand you have science to support this claim for surface use, we are clearly without data to support this assumption for use deep beneath the surface, where temperature, pressure and the physics are entirely different. If you maintain that the half-life is days or weeks at those depths, there should be evidence to support it.

We want to again be clear that we are asking for this information specifically so we can ensure the public our seafood product is safe, and to ensure the continued viability of our ecosystem – which our state’s economy relies upon.

As we discussed in our meeting, what testing has been done has not addressed the issues we have raised, and further, the samples are collected from and tested on water from no deeper than 550 meters below the surface. That’s roughly one-third of the way to the sea floor, where the dispersants are being applied at much greater depths. This potential lack of depth in testing has been acknowledged. For instance, on page 4 of the document titled “Summary of EPA’s Dispersant Monitoring and Assessment Directive,” which can be accessed at <http://www.epa.gov/bpspill/dispersant-plume-monitoring-for-may11.pdf>, the EPA correctly stipulates that “sampling in the deep sea may pose challenges due to equipment limitations and malfunctions.” We are very interested in understanding the barriers BP faces in getting accurate water samples at various depths where dispersant has been used. If BP can only collect water samples in a fraction of the area, how does the company truly understand the properties of the dispersant at those depths? Given that this underwater ecosystem is perhaps the richest in the world, we strongly urge you to consider why we have grave reservations about the trade-offs you ask us to make in your letter.

With regard to the “trade-offs” we reference, the statement below in your letter says:

As noted above, one of the primary reasons to use dispersants is to reduce the potential acute effects of the oil on wildlife. Consequently, for wildlife, any potential risks from the dispersant chemicals should be considered in the context of reduced risk from contact with the oil.

When being asked to make trade-offs, we normally understand what we are trading. In this case, the state is being asked to trade one type of ecological damage for another that effectively resides behind “door number 2” – in effect, taking a gamble. Again, your assertion may be correct, but without data, we cannot affirm it.

We have no doubt you take personally the issues that are playing out, and we certainly respect the difficulty of the circumstances we all find ourselves in. But the decisions we make now will have implications far beyond our respective tenures, and we must ensure we have done everything we can to consider all the issues.

We must have science to support our claims that our seafood is safe, and we expect nothing less than for BP to make a commitment to ensure this happens. The Louisiana Departments of Health and Hospitals, Environmental Quality, Agriculture, Economic Development, Wildlife and Fisheries and our partners

are in the process of developing a robust long-term seafood safety program that will be submitted to BP. We hope to receive a swift commitment from BP that it will support this initiative.

Sincerely,



Alan Levine
Secretary, Louisiana Department of Health and Hospitals



Peggy Hatch
Secretary, Louisiana Department of Environmental Quality



Robert Barham
Secretary, Louisiana Department of Wildlife and Fisheries

cc: Tony Hayward, BP
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