



TESTIMONY OF

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ON THE PLANNING & RESPONSE: PRELIMINARY LESSONS FROM DEEPWATER HORIZON

BEFORE THE HOUSE COMMITTEE ON HOMELAND SECURITY

SEPTEMBER 22, 2010

Good morning Mr. Chairman and distinguished members of the Committee. I appreciate the opportunity to appear before you to discuss preliminary lessons learned from the federal government's response to the BP Deepwater Horizon Oil Spill.

INITIAL RESPONSE

On the evening of April 20, 2010, the Mobile Offshore Drilling Unit (MODU) DEEPWATER HORIZON, which contained an estimated 700,000 gallons of diesel fuel, exploded 45 miles southeast of Venice, Louisiana. It was owned by Transocean, chartered by BP, and flagged in Marshall Islands.

As nearby boats fought the ensuing fire, others took courageous action to rescue 115 of 126 crewmembers from the water within a few hours. Though searches by public and private sector aircraft and boats continued through April 23, the remaining 11 crewmembers were never found.

The U.S. Coast Guard played a led role in the federal government's all-hands-on-deck response to the BP Deepwater Horizon disaster from the moment the explosion occurred on April 20th. The Coast Guard lead a massive search and rescue operation, initiated spill response for a major environmental disaster and coordinated with state and local governments officials. Within the first 24 hours, the Coast Guard Federal on Scene Coordinator (FOOSC) confirmed that Oil Spill Liability Trust Fund (OSLTF) funds were available to speed the federal response to the threat of an oil spill.

On April 22, the MODU sank to the seafloor, roughly a mile beneath the surface. The following day, remotely operated vehicles (ROVs) located the MODU on the seafloor, and on April 24, as part of an extensive assessment, ROVs spotted two leaks in the riser pipe.

On April 22, following the sinking of the MODU, the Coast Guard activated the National Response Team (NRT). The NRT, led by the Secretary of Homeland Security, consists of 16 federal departments and agencies responsible for coordinating emergency preparedness and response to oil and hazardous substance pollution events—including the Coast Guard, DHS, the departments of Defense, Commerce, Interior, and the Environmental Protection Agency, among others.

On April 23, the Coast Guard established a robust Incident Command System (ICS) response in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). ICS provides a common command and control framework to develop and implement tactical plans to effectively manage a multi-agency response to emergencies. The ICS organization for this response included Incident Command Posts and Unified Commands at the local level and a Unified Area Command at the regional level, and consisted of representatives from the Coast Guard (the FOOSC), other federal, state, and local agencies, as well as BP as the primary responsible party.

As part of this historic response, the Unified Area Command—with support from the National Incident Command and State Department—also leveraged assets, skills and offers of assistance from foreign countries and international organizations. The first of these offers was from Mexico in May. Others included: Argentina, Belgium, Canada, China, Estonia, France, Germany, Greece, Ireland, Japan, Kenya, Mexico, Netherlands, Norway, Qatar, Russia, Spain, Sweden, Taiwan, Tunisia, United Arab Emirates, United Kingdom, the United Nations’ International Maritime Organization, the European Union’s Monitoring and Information Centre, and the European Maritime Safety Agency. All offers of assistance were considered.

SPILL OF NATIONAL SIGNIFICANCE (SONS) DESIGNATION

On April 29, Secretary of Homeland Security Janet Napolitano designated the event a Spill of National Significance (SONS) and appointed Admiral Thad Allen as the National Incident Commander (NIC) to coordinate the response on May 1. The SONS and NIC designations enabled and enhanced operational and policy coordination at the national level. The NIC helped to coordinate strategic communications, national policy and resource support, and to facilitate collaboration with key parts of federal, state and local governments.

The NIC staff consists of subject matter experts from across the federal government, allowing for immediate interagency collaboration, approval and coordination. While the FOOSC maintains authorities for response operations as directed in the National Contingency Plan, the NIC provides national-level support to the operational response—from resources to policy decisions—to secure the source and mitigate the impact of the spill.

On the day that DHS announced the SONS designation, there were already more than 70 vessels in the Gulf of Mexico responding to the spill and approximately 1,100 personnel deployed and on scene to assist.

CHAIN OF COMMAND

Under Homeland Security Presidential Directive-5 and the Homeland Security Act of 2002, the Secretary of Homeland Security is “the focal point regarding natural and man-made crises and emergency planning.” These authorities designate her as the “principal federal official” for all domestic incidents with overall responsibility for coordinating the federal government’s resources in response to, and recovery from, a SONS. During the BP Deepwater Horizon oil spill response these responsibilities included oversight and coordination of the NRT and all elements of the National Response System.

The National Contingency Plan (NCP) set forth the underlying framework and organizational structure for the federal response to this oil spill. The National Response Framework (NRF), its Annexes, and National Incident Management System (NIMS) are complementary and provide flexible and adaptable response frameworks for addressing issues not expressly addressed in the NCP that may arise during the response.

Under the NCP, the 16 federal partners comprising the NRT monitor and evaluate reports from the FOSC. They also: (1) Recommend actions to respond to the discharge or release of hydrocarbons; (2) Request from other federal, state and local governments, or private agencies, resources under their existing authorities to respond to a discharge or release, or to monitor response operations; and (3) Coordinate the deployment of equipment, personnel, or technical advice to the affected region from other regions or districts.

Under the NCP, the FOSC is the incident commander within the Unified Command, which includes representatives from the responsible party as well as federal, state and local governments. The Unified Command coordinates and directs the operational response in coordination with state and local partners in the affected areas. This system implements the requirements of federal law and executive orders relating to the NRF and NIMS.

A critical lesson learned from EXXON VALDEZ articulated in the NCP is that the FOSC is the incident commander. The incident management structure is designed to support the FOSC in carrying out response priorities.

During a SONS incident, the Secretary of Homeland Security or the Commandant of the Coast Guard may name a National Incident Commander (NIC). As mentioned above, the Secretary named Admiral Thad Allen as the NIC. Admiral Allen assumed the FOSC's responsibilities for communicating with affected parties and the public at the national level, and coordinating federal, state, local, and international resources at the national level. The FOSC at the Unified Area Command maintains all other authorities for response operations as directed in the NCP.

BP and the other responsible parties have been and will continue to be responsible for the costs associated with the BP Deepwater Horizon Oil Spill. Under the Oil Pollution Act of 1990, BP and the other responsible parties are required to reimburse the Oil Spill Liability Trust Fund for expenses incurred. Regular invoices are a proactive step to hold BP accountable for obligations related to response and recovery activities to date and ensure American taxpayers are not held responsible for the costs associated with the BP/ Deepwater Horizon Oil Spill. To date, six bills have been sent by the Federal Government to BP and the other responsible parties. These bills provide an important mechanism by which BP reimburses the Oil Spill Liability Trust Fund.

UNIFIED RESPONSE EFFORTS

Throughout the response, a variety of systems, technologies, assets and personnel were employed as part of the largest response to an oil spill catastrophe in U.S. history. This included:

- Roughly four million feet of deployed hard boom.
- More than 40,000 federal, state, local responders including over 6,600 active and reserve Coast Guard members. The Secretary of Defense authorized 17,500 National Guard troops from Gulf Coast states to join the response.

- Four incident command posts across Gulf Coast states.
- A standing Interagency Solutions Group at NIC Headquarters consisting of more than 18 federal agencies determining real-time solutions to far-reaching strategic issues.
- 411 controlled burns have eradicated more than 11 million gallons of oil from the open water.
- 835 oil skimmers operating throughout the Gulf.
- More than 7,000 response vessels including 60 Coast Guard Cutters and more than 3,000 vessels of opportunity.
- More than 120 aircraft, including 22 Coast Guard aircraft.
- Offers of assistance received from nearly two dozen countries. All offers were considered and cataloged for future use.

As of this week:

- After months of extensive operations planning and execution under the direction and authority of the U.S. government science and engineering teams, BP has successfully completed the relief well by intersecting and cementing the well nearly 18,000 feet below the surface.
- More than 3,000 vessels are still on-site, including skimmers, tugs, barges, and recovery vessels to assist in cleanup efforts and sub-surface monitoring—in addition to dozens of aircraft, remotely operated vehicles and multiple mobile offshore drilling units.
- The Unified Command, with partners from NOAA, EPA and other agencies, are engaged in a comprehensive collaborative effort to monitor the fate of the oil and the disbursement sub surface. The subsea monitoring program, conducted under the direction of the Federal On-Scene Coordinator, has produced more than 30,000 samples in near- and offshore waters to date.
- Approximately 25,200 personnel remain engaged in the response to protect the shoreline and wildlife and cleanup vital coastlines.
- Approximately 87 percent of Gulf of Mexico federal waters are now open to fishing.
- More than 34.7 million gallons of oily-water mix have been recovered through skimming.
- 15 staging areas remain to protect sensitive shorelines.
- Roughly 500 miles of shoreline had light to trace amounts of oil; including 231 miles in Louisiana, 90 miles in Mississippi, 62 miles in Alabama, and 114 miles in Florida. An additional 112 miles of shoreline had heavier oil, including 101 miles in Louisiana, 9 miles in Mississippi and 2 miles in Florida.

LESSONS LEARNED FROM PAST RESPONSES

Although the Coast Guard has been combating oil and hazardous materials spills long before the passage of the Oil Pollution Act of 1990 (OPA 90), the most recent experience with a spill approaching the magnitude of DEEPWATER HORIZON involved the EXXON VALDEZ. The EXXON VALDEZ spill triggered significant legislation regarding national pollution preparedness and response.

Prevention, Research & Development

Annual oil spill totals from tanker spills have dropped dramatically since the passage of OPA 90. New prevention technologies have been developed and implemented, such as double-hulled tankers. The EXXON VALDEZ incident prompted the establishment of major research areas – including controlled burning, dispersants, vessel of opportunity skimming systems, and spill fate and behavior modeling – for the 1997 Interagency Oil Pollution Research and Technology Plan. Research conducted in these areas over the past decade has advanced oil spill cleanup techniques and strategies -- advances that have informed and continue to inform the Deepwater Horizon response. Consequently, the 1997 Interagency Oil Pollution Research and Technology Plan has proven to be an important strategic guidance document for oil pollution research.

Section 7001 of the Oil Pollution Act of 1990 (OPA 90) established the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR). The purpose of the Interagency Committee is twofold: (1) to prepare a comprehensive, coordinated Federal oil pollution research and development (R&D) plan; and (2) to promote cooperation with industry, universities, research institutions, state governments, and other nations through information sharing, coordinated planning, and joint funding of projects. The Interagency Committee reports its activities to Congress biennially.

The first Oil Pollution Research and Technology Plan was completed on April 24, 1992 and submitted to Congress and the Marine Board of the National Research Council for their review and comment. The second edition of the Oil Pollution Research and Technology Plan was submitted to Congress on April 1, 1997. The current plan documents the role that oil pollution research plays in reducing the environmental and economic threats posed by oil production and transport. It emphasizes prevention, focuses on the high risk components of the oil production and transportation systems, and advocates continuation of a Federal oil spill research and development program. The Interagency Committee has been working on the third revision of the Oil Pollution Research and Technology Plan. The third revision will include concerns related to Arctic oil pollution prevention and response as well as lessons learned from the Deepwater Horizon Mobile Offshore Drilling Unit accident in the Gulf of Mexico.

Prior to the BP Deepwater Horizon oil spill, the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR) had begun the process of revising the 1997 Interagency Oil Pollution Research and Technology Plan. The ICCOPR will need to closely examine the lessons learned from the current spill to better update the research strategies needed for the next decade. Just as the EXXON VALDEZ pointed to needed research, the BP oil spill will identify new focus areas and response challenges that will guide research and response communities in the future.

The ICCOPR recognizes that progress in oil pollution research occurs best through continued collaboration among academia, industry and government. Although funding was initially authorized and appropriated in the early 1990's for the ICCOPR to award research grants to universities, this is currently not the case. The ICCOPR will continue to develop strategies to promote common awareness and collaboration among universities, industry and the government concerning ongoing research.

Exercises

The response protocols used during response to the BP Deepwater Horizon oil spill were also informed by the exercise regimen the Coast Guard maintains.

Since 2001, the Coast Guard and the Minerals Management Service (MMS), the predecessor to Bureau of Ocean Energy Management Regulations and Enforcement (BOEM), have held nine (9) offshore-related exercises and responded to one actual event. All featured Coast Guard and MMS participation, as well as state and local officials where applicable, and involved offshore oil platforms, pipelines, or MODUs.

In the 20 years since the EXXON VALDEZ spill, the Coast Guard has also conducted SONS exercises every three years. In 2002, the SONS Exercise was held in New Orleans to address the implications of a loss of well control event in the Gulf of Mexico. In that exercise, the SONS team created a vertically integrated organization to link local response requirements to an RRT. The requirements of the RRT were then passed to the NRT in Washington, D.C in order to test the integration of the spill management and decision processes across the federal government.

These functions were tested again during a SONS exercise this past March in the Northeast. Nearly 600 people from 37 agencies participated in this exercise, the scenario for which was a catastrophic oil spill from a collision between an oil tanker and a car carrier off the coast of Portland, ME. The exercise involved response preparedness activities in Portland, ME, Boston, MA, Portsmouth, NH, Portsmouth, Va., and Washington, D.C. The response to the scenario involved the implementation of oil spill response plans, and response organizational elements including two Unified Commands, a Unified Area Command, and the NIC in accordance with the National Contingency Plan and NRF. The exercise focused on three national-level strategic objectives:

1. Implement response organizations in applicable oil spill response plans
2. Test the organization's ability to address multi-regional coordination issues using planned response organizations
3. Communicate with the public and stakeholders outside the response organization using applicable organizational components

The SONS 2010 exercise demonstrated a maturing of oil spill response capabilities, and the importance of national-level interactions to ensure optimal information flow and situational awareness. But we also learned that in future exercises we should expand participation to account for the wide variety of issues that emerged as a result of the BP Deepwater Horizon oil spill. For example, to date our exercise plans had not anticipated the seafood safety and human health impact concerns that have been so clear in this disaster.

The BP Deepwater Horizon oil spill was the first real-world spill designated as a SONS, and the first to activate a National Incident Commander. Within the NIC organization, several elements – including the Interagency Solutions Group – were established to ensure the integrity of communications among the field, the interagency and the FOSC. These organizational structures were a significant improvement over the response used during the EXXON VALDEZ.

Access and Use of the Fund

Although the EXXON VALDEZ spill and subsequent OPA 90 legislation shaped many of the preparedness and response requirements and legislation followed to this day, lessons learned from other significant events since 1989 have also shaped our response strategies. Coast Guard and EPA FOSCs have accessed the Oil Spill Liability Trust Fund to respond to over 11,000 oil spills or significant threats of an oil spill in the 19 years since the establishment of the Fund. The liability and compensation regime contained in Title I to the Oil Pollution Act of 1990 is well-rehearsed and integrated into the FOSC's daily operations. Title I of OPA established new and higher liability limits for oil spills, with commensurate changes to financial responsibility requirements. It substantially broadened the scope of damages, including natural resource damages (NRDs), for which polluters are liable. It also authorized the Oil Spill Liability Trust Fund (OSLTF) up to \$1 billion to pay for expeditious oil removal and uncompensated damages. (The Energy Policy Act of 2005 later raised the limit of the Fund to \$2.7 billion; and the Delaware River Protection Act of 2006, title VI of the Coast Guard and Maritime Transportation Act of 2006, increased the limits of liability.)” Use of the Fund, oversight of responsible parties’ obligation to advertise for and receive claims from those damaged by oil pollution, and cost recovery from the responsible party of all federal funds expended are all part of the pollution response cycle.

PRELIMINARY LESSONS LEARNED FROM THE DEEPWATER HORIZON OIL SPILL

Throughout this unprecedented and evolving event, we have marshaled the largest response to an oil spill in our nation’s history and we have continued to adapt and evolve this response at every turn as the disaster itself has unfolded. We have created redundancy wherever appropriate – from directing BP to employ additional methods to contain its leaking oil, to finding new ways to keep the oil off our vital shores, to using multiple scientific methodologies to gauge the size of this catastrophe. Now that the relief well has been cemented, we will continue to tailor our ever-expanding response to each new challenge that arises until the Gulf is restored.

As with any incident, we must review the lessons learned from the BP Deepwater Horizon oil spill response to inform equipment standards, technology, and preparedness to respond in the future.

These lessons learned will be captured in several ongoing assessments and reviews, including the President’s National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling and a Coast Guard-chartered workgroup to evaluate interagency planning, preparedness and response efforts related to Deepwater Horizon, in addition to the Deepwater Horizon Joint Investigation by the Coast Guard and BOEM.

Notwithstanding the fact that ongoing recovery efforts and assessment of the spill response make it difficult to reach definitive conclusions at this stage, we are beginning to identify areas for improvement.

It became clear early in the spill response that there was a need for a better process to manage and channel an abundance of ideas, creativity and suggestions of citizens and industry for spill response and cleanup technologies. To meet this challenge, the Coast Guard, in collaboration with interagency partners, established the Interagency Alternative Technology Assessment Program (IATAP) to collect and review oil spill response solutions from scientists and vendors on topics such as oil sensing improvements to response and detection, oil wellhead control and submerged oil response, traditional oil spill response technologies, alternative oil spill response technologies, and oil spill damage assessment and restoration. The IATAP provides a useful model to garner and incorporate innovative solutions in future responses. These assets and technologies were evaluated to test their effectiveness and ensure that any resources that were deployed could be done so quickly and effectively. A number of concepts were sent to the Gulf region for consideration in the response effort.

Whereas funds are made available from the OSLTF into an Emergency Fund to carry out removal actions for oil spills under Section 311(c) of the Federal Water Pollution Control Act (FWPCA), the magnitude of the DEEPWATER HORIZON spill required legislative relief to permit additional advances from the Emergency Fund to support removal activities for the response. This legislative relief pertains only to the DEEPWATER HORIZON response and could be required for future response efforts.

Other initiatives and efforts that proved beneficial during the response included establishment of the Interagency Solutions Team within the NIC staff, a unit that consisted of more than 18 federal agencies and organizations working together on solutions embodying a whole-of-government response. Typically, this arrangement produced near-final solutions within hours for what might have otherwise taken days or weeks.

The BP Deepwater Horizon spill response reinforced the importance of involving local-level government officials early in a response to the maximum extent possible.

State and local emergency management and environmental management personnel are members of Coast Guard Area Committees, and states are members of RRTs under the NCP. Continuous engagement with states and local communities in preparedness planning and exercises is paramount, because it accounts for differences in approach among states and properly supports integration of state and local entities in incident response. We continue to actively encourage participation and prioritize inclusion by local leaders as part of this historic response so that we can respond as quickly and effectively as possible to problems that arise on the ground. Going forward, we must continue to engage local government officials in response planning and exercise.

Other mechanisms by which the state and local emergency management systems coordinated with the incident response organization include local emergency operation centers (EOCs), which coordinate with the Unified Incident Command overseeing local operations through the State On-Scene Coordinator (a standing member of the Unified Incident Command) and the incident liaison officer. Moreover, for the BP Deepwater Horizon oil spill, state EOCs coordinated with the Unified Area Command in New Orleans, LA through the State On-Scene Coordinator and the Unified Area Command liaison officer. Each state also coordinated with the NIC through the inter/intra-governmental affairs liaison and during daily Governors' conference calls with the National Incident Commander.

In addition to mechanisms described above, the Coast Guard embedded liaison officers with Parish Presidents in Louisiana, assigned Deputy Incident Commanders at Incident Command Posts, and held daily calls with local officials. These efforts were vital to coordinating efforts from the local

level to the Governors and congressional delegations.

CONCLUSION

In closing, through the National Incident Command, the Coast Guard has worked to ensure that all capabilities and resources—including government, private and commercial—are being leveraged to protect the environment and facilitate a rapid, robust cleanup effort.

Moving forward, the Coast Guard will:

- Assist in transitioning NIC spill response efforts to recovery by those agencies and entities involved in the Post-Spill Restoration and Natural Resources Damage Assessments;
- Work with the interagency to review the NCP and NRF to identify national-level issues to enhance our ability to provide a coordinated, whole of government response to major incidents; and
- Capture lessons learned; identify potential areas for improvement; and implement recommendations to more effectively respond to future spills.

Thank you for the opportunity to testify today. I look forward to your questions.