

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6371  
www.science.house.gov

February 14, 2011

The Honorable Jane Lubchenco  
Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitution Avenue, NW  
Washington, DC 20230

Dear Madam Administrator:

For several weeks after the Deepwater Horizon explosion in the Gulf of Mexico, the nation looked to the Administration for leadership and basic information about this horrifying disaster.

According to a National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling (Commission) Staff Working Paper released last October:

*By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.<sup>1</sup>*

From April 20 to April 28, the federal government's estimate of the rate of oil flow from the Macondo well was 1,000 barrels per day. At a press conference on April 28, based on an "unsolicited, one-page document emailed to Admiral Landry's Scientific Support Coordinator on April 26, 2010, by a NOAA [National Oceanic and Atmospheric Administration] scientist," that figure was increased to 5,000 barrels a day.<sup>2</sup> This remained the government's official estimate for the next month.

Ultimately, the most realistic numbers appear to have been released in a press conference on August 2, long after the well was capped, indicating that, "at the outset of the spill, the flow rate was 62,000 bbls/day ( $\pm 10\%$ ), but that it had declined to 53,000 bbls/day ( $\pm 10\%$ ) just before the well was capped on July 14."<sup>3</sup>

In addition to my concerns about the federal government's oil flow estimates, I am troubled by information identifying the Office of Management and Budget's (OMB) efforts to *prevent* NOAA scientists from alerting the public to the potential of higher oil flow rates. As the Staff Working Paper notes, "The Commission staff have also been advised that, in late April or early May 2010, NOAA wanted to make public some of its long-term, worst-case oil trajectory models, which were based upon flow rates of up to 50,000 bbls/day, and requested approval to do so from the White House's Office of

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<sup>1</sup> National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, "The Amount and Fate of the Oil - Staff Working Paper No. 3," January 11, 2011, retrieved from: <http://www.oilspillcommission.gov/sites/default/files/documents/Updated%20Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper.pdf> (hereinafter Staff Working Paper 3)

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

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Management and Budget. The Office of Management and Budget did not grant NOAA's request."<sup>4</sup> OMB's actions directly contradict the President's stated position on scientific integrity, as expressed in a March 2009 memorandum to senior level Administration employees when he said, "Political officials should not suppress or alter scientific or technological findings and conclusions."<sup>5</sup>

I am also aware of a letter you wrote on October 7, 2010, explaining that OMB's denial of NOAA's request, as described in the Staff Working Report, is misleading. However, your letter didn't quite address the issue accurately. Neither did OMB, which claimed that it delayed, rather than prevented, release of the NOAA worst case model.<sup>6</sup> The model NOAA wanted to make public in April/May was based on flow rate estimates of up to 50,000 bbls/day. The model NOAA ultimately released on July 2, (presumably with the permission of OMB), was a different model altogether, as it was based on a flow rate estimate of 33,000 bbls/day, and considered oil collection at the wellhead through the Top Hat, which began in June.<sup>7</sup> So the model released on July 2 could not be the "delayed" April/May model.

Much of the information in the Staff Working Paper is attributed to documents and interviews of government officials by the Commission's staff. Therefore, to better serve the American people, I am requesting the release of all documents and records (as described in the attachment) relative to any discussion about flow-rate estimates or models from the Macondo well. Additionally, please address the following inquiries:

- Please provide all documents relating to the development of initial and final flow-rate estimates, as well as any intermediate, working, or draft estimates.
- Please provide a technical justification for why lower flow-rate estimates were made public when greater estimates were known.
- Please provide the technical or scientific rationale that OMB provided to NOAA to justify its decision to prevent NOAA from issuing the result of its long-term, worst-case flow-rate models, in late April/early May?
- Please explain OMB's authority to approve or deny NOAA's request to release worst case oil trajectory models? What was OMB's official role within the National Incident Command (NIC) hierarchy? Did OMB supersede USCG's role within NIC?
- Please indicate which officials at OMB made this decision, and provide all documents related to the development of this decision, as well as its communication. Additionally, please describe those individual's scientific or technical expertise, credentials, degrees, publications, or experience related to oil spill flow-rate modeling.

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<sup>4</sup> *Ibid.*

<sup>5</sup> The White House, "Scientific Integrity Memorandum for the Heads of Executive Departments and Agencies," March 9, 2009, retrieved from: [http://www.whitehouse.gov/the\\_press\\_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09/](http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09/) (hereinafter White House Memo)

<sup>6</sup> Staff Working Paper 3, *supra*, note 1

<sup>7</sup> *Ibid.*

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In responding to these inquiries, please provide all communications and records on oil flow-rates to and from all relevant agencies and offices, including but not limited to: Office of Management and Budget (OMB); National Oceanic and Atmospheric Administration (NOAA); Department of the Interior (DOI); Environmental Protection Agency (EPA); U.S. Coast Guard (USCG); U.S. Geological Survey (USGS); Department of Commerce (DOC); National Institute of Standards and Technology (NIST); and the White House Office of Energy and Climate Change Policy, specifically its Director, Ms. Carol Browner.

On December 17, 2010, Dr. John Holdren, Director of the Office of Science and Technology Policy, issued a memorandum to all agencies that stated:

*Agencies should communicate scientific and technological findings by including a clear explanation of underlying assumptions; accurate contextualization or uncertainties; and a description of the probabilities associated with both optimistic and pessimistic projections, including the best-case and worst-case scenarios where appropriate.<sup>8</sup>*

In his March 2009 memorandum, President Obama directed:

*Except for information that is properly restricted from disclosure under procedures established in accordance with statute, regulation, Executive Order, or Presidential Memorandum, each agency should make available to the public the scientific or technological findings or conclusions considered or relied on in policy decisions.<sup>9</sup>*

Your reply to my letter will go a long way to assuring the public of this Administration's commitment to the principles of scientific integrity, and separation between politics and science. I would appreciate a response, with all my requested documents, by Friday, February 25, 2011. If your staff has any questions, please direct them to contact Raj Bharwani with the Subcommittee on Investigations and Oversight, at (202) 225-6371.

Sincerely,



Rep. Paul Broun, M.D.  
Chairman  
Subcommittee on Investigations  
and Oversight

Attachment

<sup>8</sup> Office of Science and Technology Policy, "Scientific Integrity Memorandum for the Heads of Executive Departments and Agencies," December 17, 2010, retrieved from:

<http://www.whitehouse.gov/sites/default/files/microsites/ostp/scientific-integrity-memo-12172010.pdf>

<sup>9</sup> White House Memo, *supra*, note 5.

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cc: Rep. Ralph Hall  
Chairman  
Committee on Science, Space,  
and Technology

Rep. Eddie Bernice Johnson  
Ranking Member  
Committee on Science, Space,  
and Technology

Rep. Donna Edwards  
Ranking Member  
Subcommittee on Investigations  
and Oversight

## ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.