

Statement by Equity and Inclusion Campaign, Oxfam America, Louisiana Disaster Recovery Foundation, The Gulf Coast Fund for Community Renewal and Ecological Health and Steps Coalition

Ensuring Accountability and Protecting Livelihoods, Ecosystems and Communities after the BP Horizon Disaster

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Introduction

The BP Horizon Disaster has transformed from a maritime accident to an ecological, economic, and social disaster. Coastal communities across Alabama, Louisiana and Mississippi are home to some of our nation's most fragile estuaries, wetlands and marshes. Families still recovering from the hurricanes of 2005 and 2008 are now faced with a new disaster further compromising their communities, workplaces and way of life. The region's ecological health and the families that depend on it remain threatened not only by this disaster, but also decades of environmental degradation and unsafe practices by BP and others in the oil and gas industry. The region, home to some of the nation's most socially vulnerable communities, is left to collectively bear the societal costs of these hazards. Its people consistently have been excluded from political and industry choices that impact the health and welfare of their families, communities and ultimately the continuation of their unique culture. Federal authorities must fully investigate this disaster and develop plans to effectively and proactively mitigate not only its current environmental and economic impacts, but to ensure the long term social health and resiliency of vulnerable Gulf Coast communities.

Coastal livelihoods threatened

Tens of thousands of families across America's Gulf Coast rely on healthy wetlands, marshes and fisheries either directly or indirectly for their livelihood. Annually commercial fishing in the Gulf of Mexico produces over 1.29 billion pounds of fish and shellfish with a dockside value of over \$659 million. Additionally, 3.2 million individuals travel to the Gulf Coast each year to participate in recreational fishing. Like the fisheries, the tourism industry also generates revenue for the region. Millions travel to the Gulf Coast each year, annually, investing more than \$100 billion across the region. Visitors come for the pristine beaches, fresh seafood and unique coastal culture that are now at risk as a result of the oil spill. Across the region, the economic well-being of communities reliant on providing services to maritime and tourism industries are under immediate threat. As oil continues to spill into the Gulf of Mexico and more federal waters are closed to fishing, workers are unable to work at a time that is traditionally the height of their earnings. Numerous low income families who depend on subsistence fishing to add protein to their diets now face food insecurity.

Lack of boom to protect fragile, economically vital eco-systems

As of May 15th, BP and the Coast Guard have deployed 1.6 million feet of boom to protect the approximate 9 million feet of coastline. Boom was therefore limited and left many areas unprotected, including oysterbeds, vital shrimping and fishery locations in Alabama. In Louisiana, as oil heads west of the Mississippi Delta, the Barataria-Terrebonne (BT) Estuary, home to 80% of Louisiana's commercial fisheries, remains vulnerable with little boom to protect this vital and fragile estuary. With few barrier islands left to protect this eco-system and its marshes, future species and the nation's fishing industry are severely impacted. The health of the marshes and wetlands are further vital to stemming continued land loss and protecting the region from increasingly deadly climate related hazards like hurricanes and flooding.

Uncertainty in claims process

Many fishermen have expressed concern that BP and the federal government do not have an adequate disaster contingency plan for supporting fisherman and related industries that have been economically impacted by the oil spill. While BP has begun to pay claims to workers and business owners, local leaders have noted inconsistency in claim pay-outs. Potential discrepancies in amounts of claim checks varying by date and location of payouts have drawn initial concerns. Currently BP primarily accepts claims via telephone, but some BP agents have denied claimants' requests for documentation of their claim interview. Additionally, families who have received a claims check remain concerned that language included in claim receipts state that check acceptance is also acceptance of partial payout of eventual settlement. Claimants, many who desperately need these funds to make ends meet, fear that accepting this money may unfairly impact potential future settlement. Those who have received claims have been notified by BP that subsequent claims will require additional paperwork to verify their right to future settlements. Due to the informal nature of maritime industries and waivers in US tax law, deck crew often do not receive paperwork such as a W-2 necessary to verify such earnings. Given their lack of paperwork, workers are unsure about their ability to verify claims moving forward. This uncertainty, confusion and economic stress on maritime workers and their families has combined to promote a predatory environment; reports of lawyers offering services to represent fisherman in exchange for as much as forty percent of eventual settlements have become rampant. An adequate disaster contingency plan would greatly help to alleviate some of the anxiety and confusion that currently plague this process.

Lack of local hiring

BP has not taken adequate steps to employ the unemployed maritime workers, despite locals' familiarity and expertise with local waterways and estuaries. While BP has advanced its "Vessel of Opportunity Program" as a model program for locally impacted workers, sources such as the *New Orleans Times Picayune* indicate that as of May 5th only 100 such workers in Louisiana were employed by BP. At a May 8th meeting of organizations representing maritime workers from Alabama, Florida, Louisiana and Mississippi, a non-scientific survey found less than 5% of fishermen were directly involved in employment related to the response. Local officials have expressed anger that BP contractors have chosen to hire out-of-state boat owners and migrant laborers instead of struggling local workers who have actively sought such work, while companies such as

3R Inc. of Spartanburg, South Carolina are reportedly hiring “thousands” of workers according to local news sources.

Challenges facing Low English Proficiency (LEP) and Native American communities

The Gulf Coast is home to a number of communities of Vietnamese, Cambodian, Laotian and Spanish-speaking immigrants, many who with little opportunity for higher education found work in maritime related industries as fisherman, shrimpers and seafood processors. It is estimated that more than one third of all fishing boats along the Gulf Coast are Vietnamese or Cambodian owned and operated. In a number of meetings convened by BP, local, state and federal officials, adequate translation for these communities has not been provided. Information from Unified Command has not been regularly issued in these languages. Additionally, contracts issued by BP’s Vessel of Opportunity Program were not initially issued in Vietnamese. While the Department of Homeland Security has taken steps to encourage such sensitivity to LEP communities in reform efforts after Hurricanes Katrina, Rita, Gustav and Ike, Unified Area Commands and BP have not put these lessons into practice.

Similarly in Native American communities, where until the Civil Rights Act most children were only provided the equivalent of a 7th grade education, many citizens have noted difficulty accessing assistance and claims processes.

Exploitative contracts

In order to be eligible for BP’s Vessel of Opportunity Program, workers have to sign a contract known as the Master Charter Vessel Agreement. This document initially included language that required workers to sign away rights to free speech and future liabilities against BP, as well as allow BP to recuse itself of responsibility for any harm caused by environmental hazards encountered during work in the response. Subsequently, and due to two successful legal battles, these portions of the agreement were declared void. BP’s inclusion of such exploitative requirements in these agreements has raised questions about its ability to protect the well-being of Gulf Coast communities during the cleanup process.

Worker training and safety

OSHA law requires workers to complete hazardous materials trainings, known as HAZWOPER in order participate in oil spill clean-up and response activities. Typically, these classes include as many as 40 hours of training for workers likely to come into contact with hazardous materials. BP has sponsored and publicized a handful of trainings, sometimes in partnership with local, state and/or federal government officials, across the Gulf Coast primarily consisting of what is billed as a four hour training session. After the courses, workers sign documentation agreeing to work in response efforts. In some cases, attendees have noted that these classes only last 1.5 hours, a notable difference from typical training requirements. In others cases, workers who have completed the training have not received documentation certifying their completion. In some instances workers with Low English Proficiency attended the trainings, but were not provided translators to properly convey safety information, nor were they provided translations of any final agreement. Without adequate training, those who do get these jobs could face unknown

long-term health consequences. The region's healthcare system has further not been provided resources to adapt to growing needs for occupational health specialists.

Unknown safety of chemical dispersant

Coastal communities have concerns about the unknown effects of dispersant on their ecosystems and potentially on their livelihoods. Environmental Protection Agency (EPA) officials have announced that the contents of the dispersants used are proprietary information and cannot be released to the public. While communities remain committed to ensuring the oil slick does not encroach on marshes and wetlands, some experts have questioned the use of toxic dispersants in such great quantities, especially in untested sub-sea applications, for fear of its unknown impact on plankton, other sea life, and consequently the entire seafood chain. Acute and chronic exposure by humans remains a significant concern as well.

There are no good options for cleaning or containing this onslaught of oil. However, it is not clear how effective the dispersants have been at dispersion of oil or its protection of coastal areas. BP should therefore desist in dispersant usage until more is understood about its toxicity, particularly when mixed with Gulf crude oil, on marine species. Further, EPA and the National Oceanic Atmospheric Administration (NOAA) should monitor the long term impacts of the over 800,000 gallons of dispersants that have already been released on marine life for the next ten years or more, to measure bioaccumulation of chemicals. Options such as the caged mussel technique utilized in Alaska should be further explored.

Impaired flow of information

Numerous agencies, including the U.S. Coast Guard, EPA, NOAA and the Department of Interior (DOI) have joined with BP in creation of a Unified Command to jointly respond to the spill. However, community leaders throughout the Gulf Coast do not believe that the responsible party for this significant threat to our security should be allowed to play a leadership role in the response. Since the explosion, reports have emerged of BP actively withholding data obtained in their response and hazard mitigation efforts. While EPA and NOAA have sent a letter to BP directing them to post their data on BP's disaster response website, BP has to date failed to do so. There are numerous examples of the company choosing secrecy over transparency. In Alabama, community organizations invited to participate in Unified Command by the Coast Guard were ejected by BP employees. BP has minimized the rate of flow coming out of the well-head and for 20 days BP withheld video of the well-head that would have allowed government scientists to determine the true rate of oil flowing in to the Gulf of Mexico.

It is understandable that BP would try to minimize their liability by withholding incriminating information. It is not understandable that federal agencies would allow BP to hide incriminating information. While BP should focus on capping the well, federal partners should implement short term relief and long term recovery plans.

Community-based organizations on the frontlines

Community and faith-based organizations have been on the front-line of response to this disaster as they have in the past, by informing their communities, rallying volunteers and implementing solutions to protect their shores. They remain a critical but under-utilized source of expertise and knowledge at all stages of response and recovery. New efforts by the Obama Administration to conduct community meetings with community-based organizations have gone a long way towards improving information sharing and promoting collaboration, but these partnerships should be formalized to continue the capacity of grassroots organizations in conducting the work.

Lack of federal oversight on oil and gas activity

The impact and costs of oil and gas activity on Louisiana, Mississippi and Alabama are extensive. For example, in part because of early dredging by the oil and gas industry, Louisiana is experiencing land loss at a rate of a football field of land every 30-38 minutes. Over 2,300 square miles of land and marsh have disappeared from the Louisiana coast line since the 1930's.

The lack of strong federal oversight has had an enormous long-term environmental impact on coastal areas of Louisiana, Mississippi and Alabama, increasing the vulnerability of communities to hurricanes, tropical storms, pollution and other hazards resulting from activities of the oil and gas industry. Dredging of the approximately 10,000 miles of canals for oil and gas infrastructure allowed salt water to flow into brackish and fresh water marshes devastating the hydrology of local ecosystems while compromising fragile fisheries, estuaries and marshlands.

Although the oil and gas industry has created an economic base for many workers and their families throughout the Gulf Coast, it has come at high environmental and social costs for local communities. The healthy barrier islands in all three Gulf Coast states that once helped to break up storms, as well as vast systems of marsh in Louisiana that worked to absorb storm surge before it reached residents, are at a critical stage. As a result the hurricanes of 2005 and 2008, although natural occurrences, created unnatural effects on communities and caused much greater damage than they would have if natural lines of defense had been in place.

The oil and gas industry has consistently been permitted by regulators to move forward with drilling technologies still in the exploratory stages of development, without creation of adequate safety technology or effective oversight to ensure the safety of the environment and people. The role of the Mineral Management Service (MMS) as both regulator and collector of federal royalties has created a conflict of interest that many experts cite as leading to insufficient levels of regulation and oversight of activities with significant potential impact to our national security. Splitting the agency up into three different agencies is an excellent first step; more should be done to ensure that revenue collecting responsibility is far removed from regulatory and leasing functions.

The President's moratorium on deepwater drilling until safety is reasonably established is a positive effort, although six months is a negligible amount of time for such a crucial determination, making extension of the moratorium a much-needed potential option. Any

lift of the moratorium must include a permitting process contingent upon documentation of worst-case scenario plans that exceed the inadequate thirty day limit for environmental analysis.

Increased risks with minimal rewards for coastal communities

The Gulf Coast is home to more than thirty percent of our nation's domestic energy production, generating billions of dollars annually in offshore oil and gas revenues for the U.S. Treasury. While the Gulf of Mexico Energy Security Act of 2007 (GOMESA) has mandated a percentage of offshore drilling revenues to states along the Gulf of Mexico, such revenue sharing mechanisms do not begin until 2017. While oil and gas production in the Gulf of Mexico clearly negatively impacts coastal states, to date nearly all of this revenue goes to the U.S. Treasury. Immediate revenue sharing from GOMESA would assist Gulf of Mexico states in restoring and protecting their vulnerable coast lines. In Louisiana, voters amended the state constitution in November 2005, thus dedicating 100 % of any increased revenue sharing from Gulf of Mexico royalties to hurricane protection and coastal restoration. GOMESA timelines should be accelerated to offset the true costs of oil and gas production on coastal states.

Further, projects such as beneficial use of dredging and dredge materials, as well as expedition of Coastal Impact Assistance Program (CIAP) funds should be incorporated into the immediate federal response.

The federal response

The BP Horizon Disaster requires federal leadership to ensure that the oil and gas industry assumes adequate responsibility and will pay its fair share to properly protect the well-being of the Gulf Coast's most vulnerable people and places. The federal government must ensure that effective clean up, recovery and prevention policies rebuild lives, restore the environment, mitigate against future hazards, and uphold human rights.

We urge the Obama Administration and U.S. Congress to:

Ensure Accountable and Responsive Federal Policies and Regulations

1) Investigate the causes of the BP Horizon Disaster

Pursue both Congressional and independent investigations of the causes of the BP Transocean Deepwater Horizon disaster with the goal of improving regulation, oversight, and safety technologies before new deepwater drilling continues. Such an investigation should include a review of the dual role of the MMS in issuing permits as well as developing and enforcing regulations. Local community experts and leaders should be included in any investigatory panels and bodies. Congress and the Administration should move quickly to enact the recommendations of such investigations to guarantee the public health and safety of coastal communities and workers. Until the investigation is completed, a moratorium on new offshore drilling should remain.

2) Amend the Oil Pollution Act to:

- **Lift Liability Caps to Cover Full Damages.** Ensure that compensation of full damages, including any expenses incurred by federal, state, local, tribal or private entities to mitigate environmental, economic and social impacts, including the programs outlined below, are quickly paid by the responsible party;
- **Protect Vulnerable Communities.** Ensure contingency plans meet and prioritize the needs of socially vulnerable communities in mitigation, restoration and recovery efforts. These communities, which include residents with disabilities, low income, racial and ethnic minority, Native American, and immigrant populations face disproportionate challenges in disaster response and require policies with appropriate targeting and cultural competency to bridge gaps. Additionally, responsible parties should be required to provide adequate translation to Low English Proficiency communities and avoid discriminatory practices;
- **Ensure Local Hiring.** Require national and local contingency plans to include promotion of local hiring and training of impacted workers and local contracting throughout response and recovery efforts;

3) Citizen Advisory Councils and Community Partnerships

Mandate participation and partnerships with community and faith-based stakeholder organizations in all levels of pre-disaster planning, response and recovery. Funding from the Oil Spill Trust Fund or responsible party should support capacity building, social service and case management grants to assist community based organizations in adequately responding to social impacts of the disaster. Authorizing a Gulf Coast citizen's advisory council similar to that mandated after the Exxon Valdez crisis would be a critical step towards ensuring a formal seat at the table for leaders of Gulf Coast community-based organizations in protecting their communities.

Protect Coastal Workers and Businesses:

4) Protect fishermen and other maritime workers

Authorize and fund a federally administered claims program for compensation of maritime and related industry workers impacted by the oil spill and subsequent shutdown of federal waters. Workers effected by damaged or destroyed natural resources must receive fair and expedited payment for short term claims that do not preclude long term liability on the part of BP. Compensation programs must recognize the seasonal and informal nature of maritime related industries and provide livable compensation for all impacted workers.

5) Protect clean-up workers and volunteers

Hazardous material trainings for volunteers and workers should be thorough enough to protect participants from long term health effects. Congressional oversight and increased Department of Labor monitoring and enforcement of federal hazardous materials training regulations and other occupational safety and health, equal opportunity, and wage and hour regulations should aim to ensure federal standards are upheld. Conflicting information and experiences on the ground demonstrate that to date such standards are not strictly enforced.

6) Fund retraining and economic development

This disaster will have long term economic impacts on industries essential to coastal communities. Additional funding is needed to retrain workers for both jobs in recovery and other growth industries. Many affected maritime workers are small business owners who will be interested in developing new businesses. Congress should fund accessible assistance, resourcing community development institutions and community-based organizations to create living wage jobs and help individuals transition to new economic opportunities in industries including ecosystem services.

7) Provide loan forbearances

Without work, many low income workers face the threat of home foreclosure. Current rules in the Home Affordable Unemployment Program (HAUP) require eligibility for unemployment insurance payments to receive a home loan modification. Workers who lose work due to the BP Horizon Disaster should automatically be made eligible for such forbearances. Additionally, the Small Business Administration (SBA) should ensure all impacted workers and business owners with existing SBA loans receive immediate forbearance.

8) Create and fund assistance centers and partnerships

Assistance to individuals should consist of one-stop, wrap-around assistance, including access to case management, occupational and mental health services, as well as unemployment, workforce and business development assistance, forbearance on loans, and foreclosure prevention. Community-based non-profits or consortiums of non-profits should be eligible for such funding. Additionally, funding should be provided to community-based nonprofits for technical assistance including outreach, translation and other related services, particularly to vulnerable populations. This assistance should provide flexibility and cover administrative costs of such beneficial programs.

Protect Coastal Communities:

9) Authorize and fund community-based research on the impacts of oil and dispersants

Communities along the Gulf of Mexico are deeply concerned about the toxicity of dispersants and the potential impacts of both oil and dispersants on families, communities and fisheries. The potential impacts of chronic and acute exposure to seafood and humans remain unknown, while data available to communities is insufficient. A federally funded institute with a guaranteed long-term funding stream, such as the Oil Spill Recovery Institute authorized after the Exxon Valdez spill, is recommended to ensure access of independent information on the long-term effects of oil and dispersants on communities, ecosystems, fisheries and seafood. Community-based research initiatives and citizens advisory bodies should be incorporated into the Institute to ensure the knowledge generated is fully benefiting locally impacted communities. Hiring should prioritize local residents, especially economically impacted individuals and workers from vulnerable communities. Training funds should be made available to create opportunities for impacted and local residents to take part in monitoring work.

10) Food assistance

Given the impacts of the BP Horizon Disaster on subsistence fishing, federal funding for Supplemental Nutrition Assistance Program (SNAP) should be increased. While a preference should be given to SNAP over in-kind assistance, in order to allow recipients greater choice, community based organizations should be eligible and funded to participate in any in-kind assistance programs.

11) Ensure timely and accessible air, water, soil and fish tissue sampling data as well as necropsy results

Provide immediate funding for increased EPA and NOAA monitoring of air, water, soil and fish tissue sampling to ensure timely, accurate and community accessible monitoring of public health and ecological impacts of the spill. Congress should use its oversight authority to ensure any data collected by BP or federal agencies is made public in a transparent and timely manner, in partnership with the work of independent investigations.

Protect Coastal Eco-Systems:

12) Support energy security and climate change legislation

Congress should support legislation that encourages the development and production of alternative, clean energy sources such wind and solar power. Any plan should support the economic viability of communities now dependent on traditional fuel extraction and ensure employment security.

13) Accelerate GOMESA royalties for coastal restoration and protection

The Gulf of Mexico Energy Security Act of 2006 revenue sharing timeline should be accelerated to 2011. All revenues generated through offshore drilling royalties should be dedicated to hurricane protection and coastal restoration in all Gulf Coast states.

Coastal Impact Assistance Program (CIAP) grants should further be released for immediate use, as well as permanent authorization of beneficial uses of dredge material.

14) Ensure oil and gas industry pays for its impacts to fragile eco-systems

Congress should introduce legislation for community-based eco-system restoration across the Gulf Coast region to restore fisheries, wetlands and barrier islands destroyed as a result of oil and gas industry activities, promoting local economic and community development and hazard mitigation. Projects should focus on promoting the resiliency of socially vulnerable coastal communities. Such projects could be funded by assessing an additional \$.005 tax on a barrel of oil or through civil fines assessed on the responsible party through the Clean Water Act. Such a fund would provide additional millions in revenue towards coastal restoration, ensuring that the oil and gas industry adequately contributes resources towards restoring fragile eco-systems destroyed by decades of oil and gas industry related activity. The projects should be guided by stakeholder input from representatives of community-based organizations, fisheries and local government officials, building on the model of the Environment Protection Agency Gulf of Mexico Program. Additionally, any program should support first source local hiring and local contracting to further promote community resiliency.