The Deepwater Horizon Oil Spill: The Politics of Crisis Response (B)

Introduction

As they worked to bring greater cohesion to the Deepwater Horizon response, National Incident Commander Thad Allen and his two top advisors – Rear Admiral Peter Neffenger and Juliette Kayyem, Assistant Secretary for Intergovernmental Affairs at the Department of Homeland Security (DHS) – expended considerable energy trying to coordinate the vast federal interagency. But improving collaboration within the Obama administration was just one piece of the puzzle. In addition, they had to contend with a host of elected officials from across the Gulf Coast who stood, as one local leader put it, at the very “epicenter” of the crisis. With April turning into May and oil continuing to leak unabated into the Gulf, Allen’s team would need to figure out how to coordinate response strategies with these governors, parish presidents, mayors, and city and county council members.\(^1\) Speaking to the grim mood that would complicate federal authorities’ outreach to their state and local counterparts over the next several months, Rear Admiral Neffenger observed, “All the happy talk at the early stages [of a response] goes away pretty fast when real, long-term effects start to hit … There is this general sense of despair that sets in.”\(^2\) (See Exhibits 1 and 2, respectively, for a chronology of events and a list of key actors in this case. See Exhibit 3 for a list of acronyms.)

Competing Legal Regimes: OPA vs. Stafford

Following the discovery of oil leaking from the Macondo Well on Saturday, April 24, Assistant Secretary Kayyem traveled to the Gulf Coast to meet with the region’s governors. Within days of her arrival, an additional leak at the well site was identified; and on Thursday, April 29, the federal government elevated the incident to a Spill of National Significance (SONS) and established a National Incident Command (NIC) to coordinate response efforts. A day later, President Obama sent senior members of his administration – including Homeland Security Secretary Janet Napolitano, Interior Secretary Ken Salazar, Environmental Protection Agency (EPA) Administrator Lisa Jackson, and the Director of the White House Office of Energy and Climate Change, Carol Browner – to join

\(^1\) Louisiana is politically sub-divided into parishes, the rough equivalent of counties in other states.

\(^2\) Telephone interview with Peter Neffenger, August 24, 2011. Unless noted, subsequent quotations from and attributions to Neffenger are from this interview.
Kayyem and other federal officials in the Gulf. There they met face-to-face with an increasingly anxious set of state and local leaders. 3

By then, the Gulf States had started to take emergency response measures of their own. On April 29, with oil slicks advancing to within just three miles of the coast, Governor Bobby Jindal had declared a State of Emergency for Louisiana. He had also begun submitting requests to federal agencies for various types of resources and aid, including support for the fishermen and coastal businessmen who faced substantial losses due to the spill. Following Jindal’s lead, Governors Bob Riley of Alabama, Charlie Crist of Florida, and Haley Barbour of Mississippi had declared their own States of Emergency a day later. 4

For the states to have received extensive federal assistance, the Obama administration would have had to invoke the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). 5 But it instead proceeded to organize the Deepwater Horizon response pursuant to another federal law: the Oil Pollution Act of 1990 (OPA), which – along with the corresponding National Oil and Hazardous Substances Pollution Contingency Plan (NCP) – provided the legal authority and general framework for managing responses to major oil spills. 6

From the very start of the crisis, however, local and state leaders had a difficult time accepting OPA over Stafford. Part of their preference for the latter stemmed from simple familiarity: hurricanes pummel the Gulf Coast on a regular basis, and officials in the region generally adhere to the Stafford Act when responding to these and other major emergencies. Importantly, the law allows states to retain control of the response, even as they benefit from considerable federal aid.

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Mark Cooper, Director of the Louisiana Governor’s Office of Homeland Security and Emergency Preparedness at the time of the spill (and subsequently Senior Director for Emergency Management at Walmart Stores, Inc.), explained the bottom-up nature of a typical Stafford response:

The response is at the local level. And then when the locals can’t handle it, it goes to the state. The state provides support, and when it exceeds [the state’s] capacity, they go to the federal government .... [But] the center of the earth wouldn’t be the unified area command; it would be at the local level.8

Yet with the federal government declining to issue a Stafford declaration, state and local authorities faced an entirely unfamiliar scenario – one that left them feeling alienated from the federally-directed response beginning to take shape in the Gulf. As Cooper said, “The locals felt like they had no role, really. And it was their coastlines and parishes that were being impacted!”

Louisiana’s Lafourche Parish, located along the state’s southeastern coast, was one of the many local jurisdictions that found its waterways, beaches, and marshes under direct threat from the encroaching oil. (See Exhibit 4 for a map of Louisiana, indicating the location of Lafourche.) The parish, like much of the rest of the Gulf Coast, was heavily reliant on the oil and fishing industries, and the Deepwater Horizon spill threatened its residents’ very way of life. As Brennan Matherne, Public Information Officer for Lafourche, vividly put it in the early days of the crisis, “If you drive up Highway 1 up to Lockport, you’ll see fishermen lining the bayou the whole way .... There’re [sic] thousands of people here who make their living off oysters, shrimp, and fish. Oil going up the bayou wouldn’t be good for any of us.”9

Moving to defend their shoreline, parish leaders initially organized their response around the bottom-up principles of Stafford, just as they had done countless times in the past. Especially concerned that breaches along Lafourche’s coastline would allow oil to wash into environmentally fragile marshes, they brought in their own equipment to fill in breaks along the shore. When that effort failed, Lafourche Parish President Charlotte Randolph recounted, “We did as we normally do during an emergency and called in state and national resources in order to assist us.”10 It was then that they were fully confronted by the realities of OPA, discovering that the federal government was for all intents and purposes in control of the entire response – including resources and money. “That,” Randolph declared, “was foreign to us.”

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7 Cooper left his post with the State of Louisiana for Walmart Stores, Inc. in the summer of 2011.
8 Telephone interview with Mark Cooper, August 10, 2011. Unless noted, subsequent quotations from and attributions to Cooper are from this interview.
10 Telephone interview with Charlotte Randolph, November 17, 2011. Unless noted, subsequent quotations from and attributions to Randolph are from this interview.
Adding to their frustrations, local and state officials also determined that OPA entailed excruciatingly slow bureaucratic procedures. Louisiana’s Mark Cooper noted that this, too, stood in sharp contrast to his state’s experience with Stafford-declared emergencies. He pointed out that during Hurricanes Gustav and Ike in 2008, the Federal Emergency Management Agency (FEMA) had worked closely with the state to expedite approvals and quickly answer questions (a marked improvement in relations since the much-maligned response to Hurricane Katrina just three years earlier). But during Deepwater Horizon, Cooper continued, state and local emergency management officials had to work with numerous federal entities with which they previously had little interaction. Among other things, this meant that they suddenly had to figure out how to adjust to and navigate each agency’s administrative procedures and culture. As Charlotte Randolph of Lafourche Parish observed,

It was a prolonged process having to go through all the rules and regulations [of OPA and the NCP]. You know, in an emergency situation, [sometimes] you react and fix the problem after the fact. In this situation, we had to follow all of EPA’s guidelines, the Clean Water Act; we had to follow all the Coast Guard regulations ... It was just one regulation after another!  

Obama Administration officials, however, remained convinced that invoking OPA made enormous sense. Although mindful of the local and state officials’ frustrations, National Incident Commander Thad Allen declared that “unequivocally” OPA and the NCP provided a “sound framework and allowed for needed discretion and freedom of action to address contingencies that arose.” For her part, Assistant Secretary Juliette Kayyem summed up the advantages of OPA in three words: “The polluter pays.” OPA, she clarified, requires the spill’s responsible party (BP in the case of the Deepwater Horizon leaks) to cover all clean-up costs — and pay for up to $75 million in related damages. And on that point, representatives of state and local government agreed with their federal counterparts. “There were certain parts of OPA that I think were beneficial,” Cooper admitted, “[such as] the fact that the responsible party was going to be 100% liable for the cost of the response.”

Yet even the NIC’s own leaders acknowledged that OPA, which Congress had passed in 1990 in the wake of the Exxon Valdez oil spill, was by no means a perfect fit for the Deepwater Horizon response. “Just to tell you how limited it was, [OPA] dealt with surface oil, not with what we were dealing with at 5,000 feet under the ocean,” Kayyem explained. Moreover, the law was based on the premise that the spill would involve a vessel releasing a

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11 Randolph referred specifically to an initiative implemented by BP and federal authorities – the Vessels of Opportunity program – which paid local residents, particularly fishermen who had lost work as a result of the spill, to help skim oil from the water and assist in other ways with the clean-up. But according to Randolph, “In order for the Coast Guard to assign them to these projects, they had to go through a rigorous process of equipping their boats with the proper life saving devices, and they had to secure the proper licenses and things like that — when we could have just sent them out and said ‘we’re sorry’ later.”


13 Presentation by Juliette Kayyem, March 23, 2011, Harvard Business School, Boston, MA. Unless noted, subsequent quotations from and attributions to Kayyem are either from this presentation; another presentation Ms. Kayyem made on April 14 at Harvard Kennedy School, Cambridge, MA; or an interview by the author with Ms. Kayyem on May 18, 2011.
fixed amount of oil into the water, as opposed to the continuous leaking that occurred following the sinking of the Deepwater Horizon. And from a political perspective, Kayyem added, “We had always thought that it would be a one-state spill” – thereby involving a limited set of elected officials and jurisdictions.

Kayyem and Allen stressed one other limitation to organizing the response under OPA: the 9/11 terrorist attacks and Hurricane Katrina, they said, had radically reshaped the public’s expectations regarding the level of government involvement in disaster response and the forms of aid it should provide; but OPA, written years before either event, came nowhere close to meeting those expectations. As Allen put it,

> There is an evolution, devolution, reinventing, whatever you want, of the social contract in this country [of what citizens] expect when one of these things occur …. The public expects a whole of government response. [But these responses] cannot be executed to the same degree that military operations are done …. I’m telling you, there’s a disconnect there!”

Kayyem added: “[OPA’s] not about diversifying Louisiana’s economy … It’s not about the long-term rehabilitation of the Gulf. It’s not about the mental health of the people in the Gulf. The law did not even think of any of that.” Instead, she said, it dealt strictly with the mechanisms, protocols, and funding needed to bring the immediate crisis (the spill) to an end.

Stafford provisions, meanwhile, were much more in line with the growing expectations of the American public; and thus, Lafourche Parish President Charlotte Randolph recalled, local officials urged the Obama administration to invoke the law. According to Joseph Aldy, Special Assistant to the President for Energy and Environment, their requests did not, in fact, fall on deaf ears. The Obama administration, he said, pursued a compromise of sorts, proposing that Congress provide Stafford-like aid, such as unemployment assistance, while allowing federal authorities to continue organizing their response under OPA – thereby keeping BP accountable for compensation and clean-up costs. As Aldy put it, “We wanted Stafford-like authorities, without the Stafford Act, because a Stafford Act declaration could let BP off the hook for compensation of damages from the spill.”

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14 Interview with Thad Allen, September 15, 2011. Unless noted, subsequent quotations from and attributions to Allen are from this interview.
16 Interview with Joseph Aldy, August 9, 2011. Unless noted, subsequent quotations from and attributions to Aldy are from this interview.
Congress eventually approved some additional assistance. All the same, it would come nowhere close to fulfilling the hopes of elected officials from across the Gulf, who were growing increasingly anxious about the spill’s effect on their constituents’ ways of life.  

The Governors

On Sunday, May 2, Secretaries Napolitano and Salazar hosted what was to become a cornerstone of the response—a conference call involving senior federal officials, the governors of the Gulf States, and their chief advisors. Within days, these so-called “Governors’ Calls” had become a daily event, taking place every morning at 9:15.

National Incident Commander Thad Allen participated in the first several calls. But determining that they were not “the best use” of his time, given that they entailed listening to a litany of complaints from the governors, he quickly ceased participating. “You would sit there for 30 or 40 minutes and have people just screaming on the phone,” he remembered.

Still, the calls had important value for the administration, particularly in a political sense. With the 2010 midterm congressional elections just around the corner, and given the widespread belief that several Gulf governors (all Republicans) planned to run for president in 2012, the White House hoped to avoid major conflicts over the management of the Deepwater Horizon response. Consequently, it asked the NIC to continue engaging the governors through the calls. “They didn’t want to become best friends with these folks,” Allen observed, “but they wanted to make sure they were minimizing any potential problems and understood if something was going to become a political firestorm.”

Allen assigned his top two deputies at the NIC, Rear Admiral Peter Neffenger and Assistant Secretary Juliette Kayyem (whom Allen had designated as his chief political advisor during the response), to help moderate the calls. Participating in every one of the almost one hundred Governors’ Calls that took place throughout the remainder of the crisis, Neffenger and Kayyem would walk through the agenda at the start of each morning’s discussion before asking various subject matter experts to provide updates. (NOAA officials, for instance, regularly reported on weather conditions in the Gulf; EPA representatives addressed several environmental issues, such as the use of chemical dispersants to combat the oil slicks; and Coast Guard officers reviewed a host of operational concerns.)

Kayyem captured the importance of the daily call: “[It] was a space in which real concerns were discussed .... [And having] the subject matter experts participating sort of helped calm some of the governors’ concerns.” For his part, Neffenger said that the call served as a key mechanism for both sides to maintain awareness and keep abreast of developments. “I think that there was sort of this mutual desire to be in the loop,” he reflected, “both from the administration’s side and the governors.”

The NIC’s top officials soon determined that the call also had a downside, however. According to Neffenger, each morning’s discussion generated a whole new set of demands, which in turn created some “distortion” and “dysfunction” in the response throughout the remainder of the day. He explained,

There were a number of tactical demands that just couldn’t be met in that timeframe. By the time you got off the phone, organized the tasking, and figured out who in this massive response was going to be responsible for what, a whole day had gone by ... And the very next day you would have nothing more to report, except, ‘Well, at least we got the issues prioritized!’

This, he said, led to some very real frustrations on the part of the governors, who often felt like nothing had been accomplished – or that federal authorities were ignoring their concerns. But, Neffenger emphasized, “You can’t just snap your fingers and have it all work when you’ve got 47,000 people on the ground .... This is a massive undertaking, and it takes a lot of time to move things and get them going.”

Meanwhile, the calls took on an added dynamic when the White House decided to assign hosting duties to Senior Advisor to the President Valerie Jarrett. Assistant Secretary Kayyem remembered receiving word of the arrangement. “Look, there are pros and cons to that set-up,” she said. “But the one reality is that the White House was involved and needed to be involved. Valerie Jarrett’s involvement isn’t something you question, even though it raised the level of attention to the calls.”

Neffenger took a slightly different view. Although agreeing that having Jarrett host the calls lent them significant prestige, he harbored concerns that it erased any remaining boundaries between the governors and the President’s inner circle. “Once you’ve created access at the senior-most levels, then how do you turn it back off?” Neffenger wondered, adding that decisions made by the political leaders during the calls at times undermined the incident command structure that had been established pursuant to OPA and the NCP. As Neffenger put it, “[We] effectively created a shadow command structure that had injects from the very highest levels back into the daily operational events.”

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19 The Governors’ Call was, in fact, just one of the many teleconferences the NIC’s senior leadership took part in over the course of a day. At 7:30 every morning, Admiral Allen, Rear Admiral Neffenger, and Assistant Secretary Kayyem participated in a National Incident Command conference call to review new developments. At 9:00 AM, officials from the National Incident Command and the White House got on the phone to prepare for that day’s Governors’ Call, which typically lasted about an hour. After that, senior federal officials stayed on the line to debrief and begin tasking the many issues raised by the governors. Then, each afternoon, the National Incident Command led conference calls for local officials, senators from the affected states, and Coast Guard officers serving as liaisons to parish presidents and city mayors.

20 Indeed, the federally-led response to the Deepwater Horizon crisis was an unprecedented undertaking in terms of scope, complexity, and size. To deal with the estimated 4.9 million barrels of oil that leaked into the Gulf, the response encompassed a wide array of operations taking place in the air (an Aviation Coordination Center managed the actions of approximately 120 aircraft providing situational awareness on the spread of the spill and location of resources); on the sea (the 6,400 vessels involved in the response were, in the words of Admiral Allen, more “than were used in the D-Day invasion of Normandy”); and on the ground (Allen, National Incident Commander’s Report). For a detailed account of the massive amount of resources and personnel dedicated to response efforts in the Gulf, see Exhibit 5.
But from the governors’ perspective, the daily call was extremely valuable. According to Mark Cooper, then the Director of the Louisiana Governor’s Office of Homeland Security and Emergency Preparedness, “It was a direct point of contact with the President. So I think that it gave those governors an opportunity to express their highest priorities.” And despite his own reservations, Neffenger conceded, “If I were a governor, I would have liked it. I would have been on it.” He identified a broader benefit of the calls as well:

They were exceptionally helpful in understanding the pressures that [the governors] were facing from their constituencies, the people in their states. And that gave me a real appreciation for why the general approach of putting politicians or elected officials in a corner and pulling them out as you need them for press conferences and the like doesn’t really help .... It completely misunderstands the role of elected officials. [They are] as much in charge as you are, but in a very different way.

Demanding and Deploying Boom

Yet despite the administration’s hopes that the Governors’ Calls would minimize political conflict, disagreements between federal and state authorities only escalated as May wore on. One particularly intense point of contention revolved around the use of offshore oil “boom” for protecting the coastline. Although the Coast Guard had begun deploying the material in the earliest days of the spill, it had done so judiciously, placing it in areas where the Guard believed it would have the greatest effect. (According to Coast Guard officials, boom is generally used to deflect oil to places where it can be most easily collected and removed – not for safeguarding an entire coastline.) But determined to protect their shores by any means possible, the governors applied an enormous amount of pressure to increase the amount of boom used in the response.

Soon, an intense back and forth concerning its effectiveness was taking place over the airwaves and on the front pages of newspapers. As early as May 1, Governor Jindal was publicly stating that he had grown tired of waiting for federal officials to agree to plans involving vast amounts of boom. “We are past the point of waiting for any clean up plans from BP or the Incident Commander. We have already begun developing contingency plans for parishes,” he declared. “We are asking for these contingency plans to be approved so [that] we are no longer in the position of requesting boom by the foot for one place or another.” The Governor did not let up, and over the ensuing weeks he made his point time and time again. In late May, he reminded the press that his earlier request for millions of feet of boom remained unfilled. An obviously frustrated Jindal stated, “It is clear that the resources needed to protect our coast are still not here.” He then noted with precision, “643,148 feet of hard boom out of

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21 Made out of plastic and other buoyant material, boom floats in water and is used to collect, redirect, or absorb oil. It is best used in calm waters, as waves can easily pass over or break it apart, a problem that repeatedly complicated response efforts throughout the course of the Deepwater Horizon crisis (Peter Grier, “Containment Boom Effort Comes up Short in BP Oil Spill,” Christian Science Monitor, June 11, 2010; Juliette Kayyem, “The Game Changer,” Boston Globe, April 24, 2011; and Campbell Robertson, “Efforts to Repel Oil Spill are Described as Chaotic,” New York Times, June 14, 2010).

[the total delivered] has been deployed and [a] remaining 143,037 feet of hard boom is sitting in staging areas, while often contractors sit and wait for orders from BP on where to deploy it.”

Although Mississippi Governor Haley Barbour took a different tack, adopting, as the New York Times put it, a “keep-clam-and-carry-on” approach, Jindal was by no means alone in pressing the issue. Governor Bob Riley of Alabama was also determined to procure what he considered his state’s fair share – and he complained bitterly when NIC officials decided to redirect some of the boom originally allotted for Alabama to Louisiana, as oil slicks began moving in the latter’s direction. In early June, after the Obama administration resolved the issue to his satisfaction, Riley publicly thanked the President for his personal involvement in the matter. But, the Governor reiterated, “Boom that was deployed here in Alabama should never have been taken from us in the first place.”

In fact, despite their reservations, federal authorities moved to procure and distribute as much boom as they could find, realizing that the issue had taken on political overtones. Deputy National Incident Commander Peter Neffenger later reflected,

There were certain times when you knew you were doing something just to deal with the very real political problem somebody had. We fought that as much as possible [but] a good example is putting boom in places where boom wasn’t meant to be put, for purposes that boom was never meant to address.

Neffenger added that deploying boom just to placate the governors also had negative consequences for the morale of professional responders. “Well,” he said, “there were a lot of places where islands were wrapped in boom and it was not at all effective. Responders knew that. So the real concern is you have created a whole bunch of cynical responders.” (See Exhibit 6 for an image of islands encircled by boom.)

Louisiana and the Sand Berms

Disputes over the deployment of boom were, however, “relatively civil,” as the National Commission that examined the Deepwater Horizon response put it, in comparison to the debate over another strategy advanced by


27 As noted by National Incident Commander Thad Allen, federal authorities went to great lengths to find enough boom to keep up with the demand in the Gulf. He reported, “We identified every foot of boom in the world .... [and] engaged every domestic boom supplier to boost manufacture from a few thousand feet per week before the spill to over a quarter-million feet of boom per week at the height of the response” (Allen, National Incident Commander’s Report).
Governor Jindal—the construction of sand berms off the Louisiana coast. In early May, the state had requested that the U.S. Army Corps of Engineers grant it an emergency permit to build more than 100-miles worth of berm, arguing that it would serve as an effective barrier against the oil threatening Louisiana’s coastline. After reviewing the proposal, however, the Corps of Engineers, the NIC, and several other federal bodies raised some serious concerns. Expressing worries about its potential environmental consequences and the cost and time involved, as well as doubts as to whether berm was a suitable tool for combating the spread of oil, federal officials were reluctant to approve the massive project.

With the review process dragging on, Governor Jindal again publicly vented his frustrations with his federal counterparts, noting on May 23, “We have [been] waiting on a decision on our dredging/sand-boom plan from the U.S. Army Corps of Engineers for nearly two weeks. We made modifications suggested by the Corps and answered every question they submitted in the same day.” He continued, “Every day we are not given the authorization to move forward and create more of these sand booms is another day where that choice is made for us and more and more miles of our shore are hit by oil.”

Facing mounting pressure from Jindal and local officials in Louisiana—and with President Obama injecting himself into the debate—federal authorities eventually allowed part of the project to move forward. But building the berms indeed proved to be a time consuming and extremely costly process, with just a small portion of the berms completed by the time the leaks were brought under control.

Mark Cooper, however, defended the aggressiveness with which Jindal pushed for resources that he felt might prove effective. “Certainly I think it was in the Governor’s right and his responsibility of protecting the State of Louisiana’s citizens to try any kind of protective measure he possibly could,” he asserted. “Because we were not seeing that spill being plugged … I mean our entire coast was at jeopardy!” Cooper pointed to one other important factor that drove Jindal’s behavior. “You’ve got to keep in mind, too, that everybody well remembers—whether it’s perception or reality—Louisiana’s response to Katrina,” he explained. “And I think he certainly wanted to let the peo-

28 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water.
30 Quoted in Office of the Governor, State of Louisiana, “Governor Jindal Meets with Coastal Parish Leaders.”
31 The President became directly involved during a May 28 meeting with local, state, and federal officials in Grand Isle, Louisiana. After he invited attendees to voice their concerns, Plaquemines Parish President Billy Nungesser and Louisiana Governor Bobby Jindal immediately spoke up, stressing the importance of the berms project. The President then turned to National Incident Commander Thad Allen and asked him to convene a panel of experts to consider the idea—despite the fact that the NIC and other federal bodies had spent a considerable amount of time doing just that. Whether it was meant to or not, the President’s request was interpreted as forcing the NIC’s hand and setting off a chain of events that culminated in the approval of berm construction (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, The Story of the Louisiana Berms Project).
32 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water.
ple of Louisiana know that he was fully engaged in what was going on and in command of as much as he could be in command of.”

*Nullification*

In the eyes of NIC officials, however, differences over the technicalities of response strategies revealed a far deeper problem: the broader “political and social nullification,” as Admiral Allen put it, of the plans and relationships that federal and state authorities had developed to deal with oil spills. 33 As the National Commission that reviewed the response to Deepwater Horizon later concluded, “the Governors and other state political officials participated in the response in unprecedented ways, taking decisions out of the hands of career oil-spill responders.” 34 Assistant Secretary Juliette Kayyem elaborated, “Under [OPA], states were required to work with the Coast Guard and the industry to plan an Area Contingency Plan, a mutual agreement by all parties about what response techniques would be used in the event of a major spill.” But, she continued, during the Deepwater Horizon crisis, “not one of the Gulf governors …. would accept that his own experts had signed off on plans that, essentially, they no longer liked in the harsh light of day.” 35

Federal officials believed that this was especially so in Louisiana. There, they said, even though the governor publicly complained about their response plans and actions, his own representatives had actually agreed to some of these very same measures and strategies. In the midst of the response, Coast Guard Captain Roger Laferriere, who directed federal cleanup efforts organized out of the Incident Command Post in Houma, Louisiana, vented to the *New York Times*, “I told him, when he signs the plan he’s endorsing our projects.” Laferriere concluded, “Louisiana is still learning the process.” 36 For their part, however, Jindal administration officials argued that they had little real influence over federally-driven response efforts. 37

Meanwhile, the NIC’s relationship with the state became particularly strained when federal officials determined that Governor Jindal had marginalized Louisiana’s pre-designated State On-Scene Coordinator (SOSC) – someone with whom the Coast Guard had previously worked closely in developing, exercising, and carrying out contingency plans. At the very start of the Deepwater Horizon crisis, as per the National Contingency Plan, the SOSC – along with his counterparts from Alabama and Mississippi – had reported to the Unified Area Command (UAC) in Robert, Louisiana. Eventually, however, the Jindal administration had relocated the coordinator to the Incident Command Post in Houma, Louisiana, a move that federal officials saw as effectively sidelining him. They

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34 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water.*
35 Juliette Kayyem, “The Game Changer.”
36 Quoted in Robertson, “Efforts to Repel Oil Spill are Described as Chaotic.”
were further frustrated by what they considered the increasingly direct involvement of the governor’s office in his place. This, they said, injected a set of unfamiliar actors into the response and slowed down the decision-making process.

State officials saw things very differently. Emphatically denying that they had sidelined anyone, they instead argued that the SOSC’s relocation was due to the fact that Houma was “where the main emphasis [of the response] was taking place.” Addressing allegations that Jindal had then assumed the duties of the SOSC, his advisors insisted, “The Governor was never named State on Scene Coordinator.”

The Locals

By the end of May, the Deepwater Horizon oil leaks had evolved into a full-blown crisis. In addition to a host of disputes between state and federal authorities, a series of attempts by BP to seal off the Macondo Well had failed; the government had dramatically raised its official flow rate estimate to up to 19,000 barrels a day; and oil had begun washing ashore. State and federal officials had also taken steps to restrict fishing in Gulf waters, disrupting a way of life for the region’s inhabitants (see Exhibit 7 for a map depicting peak fishery closures, as of June 2, 2010). And, in a particularly controversial decision, the Obama administration had imposed a six-month moratorium on oil drilling taking place at more than 500 feet underwater. The moratorium created substantial uncertainty within the oil industry, the region’s main economic engine.

From a political perspective, the situation had become dire. A USA Today/Gallup poll released in late May found that 60% of respondents believed that the federal government was doing a “poor” or “very poor” job of managing the response, while more than half disapproved of President Obama’s handling of the crisis. Criticism

38 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Decision-Making within the Unified Command; National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water; and Testimony by Michael D. Edmondson and Roland Guidry, The Deepwater Horizon Oil Spill Chain of Command.
39 Quoted in The Deepwater Horizon Oil Spill Chain of Command.
41 Throughout May, BP attempted to stop the leaks using a variety of methods. The tactics included trying to reactivate the blowout preventer; placing a containment dome over the leaks; plugging the well with “junk shots” of small objects and debris; and pursuing a “top kill” strategy that entailed filling the well with heavy mud (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water.)
42 Although federal officials cited 19,000 barrels per day (bpd) as the high-end of the government’s May 27 flow rate estimate, some calculations were as high as 25,000 bpd or more (National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water; and U.S. Coast Guard, BP Deepwater Horizon Oil Spill: Incident Specific Preparedness Review [ISPR], January, 2011).
was pouring in from all corners, and the media had begun to openly ask if Deepwater Horizon was now “Obama’s Katrina.”

As leaders of the National Incident Command sought to regroup, they identified several issues that they believed had complicated the response and contributed to the corresponding political fallout. First, they recognized that they had failed to manage expectations and prepare the public for the very worst. Assistant Secretary Kayyem elaborated,

The blowout preventer failed in April. When was the first oil found on shore? It was the last week of May. So we essentially had four weeks of anticipation waiting for this stuff. That means we had four weeks to explain to the American public what was about to happen to them, what was about to happen to the Gulf. We didn’t do it .... I wish we just said every day: ‘look, oil will hit shore.’ Maybe then, when they actually saw it, it wouldn’t have been so shocking to the public.”

In addition, they realized that they had some very real problems relating to and coordinating with local jurisdictions. To start with, a number of localities had openly chafed at having to operate under the direction of federal authorities, who led the response pursuant to OPA and the NCP. Lafourche Parish President Charlotte Randolph explained their point of view:

Taking us out of the picture, out of the decision-making, just frustrated us to no end, because we felt we knew what they should have been doing. Yet this was a federal scene and they were in charge. They were reluctant to seek our input in this. And that perhaps is the overriding issue of it all: not respecting the fact that the locals had a handle on the situation better than trained professionals coming in from outside.

Feeling marginalized, a number of localities established incident command posts to manage their own response efforts (which they undertook independent of the NIC, using funds that BP had provided directly to states and parishes). But according to Rear Admiral Neffenger, these “shadow” commands created an additional headache for the NIC, as they were often “directly at odds with the work of the [federal] responders.”

At the same time, some local officials had taken to the airwaves to pointedly criticize the Obama administration’s leadership of the response. Billy Nungesser, President of Plaquemines Parish, Louisiana, was particularly outspoken and publicly questioned the federal government’s efforts on a regular basis. In late May, with oil now coming ashore in Louisiana, Nungesser deemed the federal response “dysfunctional.” Alleging that “there’s no...

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44 Hall, Jervis, and Levin, “Is Oil Spill Becoming Obama’s Katrina?”
45 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water.
chain of command, no one’s in charge,” he concluded, “the response to this .... has been worse than Katrina.”

Speaking on CNN on May 26, Nungesser had even harsher words for federal authorities – and for the National Incident Commander in particular. “Thad Allen should resign,” he asserted. “He's done absolutely nothing. He's an embarrassment to this country .... It's like [the response is] being run with a bunch of seventh-graders. This is absolutely ridiculous.”

Other local leaders employed slightly different tactics. Although by no means a defender of the administration’s management of the response, Charlotte Randolph made a point of expressing her frustrations away from public view. “My style is to work behind the scenes,” she explained. “I’ve found that the media message is not always succinctly delivered – and it’s more sensational.” Instead of making her case through TV appearances or in the papers, she preferred to meet in-person with federal officials at unified area command. “We felt that having these one-on-one discussions was more effective,” Randolph recalled. “You know, you’ve got to accept the fact that it happened, and then you stop blaming people and start working with the people who can fix it,” she said. “You have to do things that are proactive, and not just yell and scream about them.”

Yet, no matter how many of the Gulf’s political leaders took Randolph’s approach, the public complaints continued to dominate the news. And as the NIC’s leaders considered how to get a better hold on the situation politically, they realized that while they had originally assumed – based on the governing doctrine – that the states were coordinating with their respective local leaders, this was not always the case. Assistant Secretary Kayyem explained,

We fell into the trap of the Oil Pollution Act, which was very state centric. And it meant that if I am working with the governor, then everything’s OK. And then we realized that there were mayors, county commissioners, and parish presidents who had their own hostility towards the state .... We did not do enough early on to get them to the table, to understand what they were seeing, to understand what they needed.

Similarly, Deputy National Incident Commander Peter Neffenger emphasized that the NIC’s early focus on the states at the expense of localities was largely due to biases built into OPA and the NCP. He explained that during routine oil spill responses, “We [the Coast Guard] work in tandem with the states, but we typically don’t plug in to local communities.” The Deepwater Horizon response was of such an extreme scale, however, that standard modes of operation no longer applied. “You can’t simply assume that the state is going to reach down and connect

47 Quoted in Hall, Jervis, and Levin, “Is Oil Spill Becoming Obama’s Katrina?”
49 As detailed in the Coast Guard’s Incident Specific Preparedness Review on Deepwater Horizon, “Under the [Unified Command] construct laid out in the NCP and the Coast Guard’s IMH, it is expected that local issues arising within a State will be addressed by the State On-Scene Coordinator (SOSC) and their staff in the [Incident Command Post]” (U.S. Coast Guard, ISPR).
for you,” Neffenger said. “I think that there was a general expectation that if you were working with the state, you were working with the locals. And that’s not always the case.”

Admiral Allen asserted that this was particularly true in Louisiana, where the reassignment of the state’s long-time oil spill coordinator, coupled with disputes and confusion over previously agreed upon clean-up plans, complicated the engagement of localities in clean-up efforts. The political organization of the state only added to the challenge. Unlike its neighbors, Louisiana is a strong “Home Rule” state, which means that parish leaders enjoy considerable autonomy – something that the state-centric OPA was not well suited for.  

Seeking to address the problem, NIC leaders rolled out in May a newly developed “liaisons’ program,” through which they deployed dozens of Coast Guard officers to stand alongside local officials from across the Gulf. Explaining the benefits of the program for local leaders, Kayyem said, “In a crisis, you just want someone who has authority, who can answer your questions, so as a political person, you don’t look like you don’t know anything.” Admiral Allen added, “There had to be unity of effort [between all levels of government]. And the only way to create a unity of effort is to make sure you understood what everybody was doing. And we had to adapt our structure to do [so].”

For the remainder of the crisis, local leaders could turn to their liaisons to obtain critical information, channel their complaints, and make their needs known to senior response leaders. At the same time, the NIC leadership would benefit from far greater transparency on issues and conditions at the local level. Taking pains to emphasize the importance of the program, Deputy National Incident Commander Neffenger and Assistant Secretary Kayyem traveled together throughout the region, personally introducing parish presidents, county officials, and mayors to their newly appointed liaisons.

According to Lafourche’s Charlotte Randolph, the program proved worthwhile – eventually. “We balked at it initially because of the fact that they [the liaisons] seemed very bureaucratic and not really particularly responsive to events that occurred,” she explained. Ultimately, however, Randolph acknowledged that deploying the liaisons was beneficial to both local leaders and federal authorities. “The introduction of a liaison was very helpful in that we were able to spend quite a bit of time with that particular person explaining the situation and educating them on the territory,” she observed. Mark Cooper, head of the Louisiana Governor’s Office of Homeland Security and Emergency Preparedness at the time of Deepwater Horizon concurred. “[The program] certainly assisted with the frustration at the local level,” he said. “They had somebody right there with them from the Coast Guard that they could communicate with.” He added, however, that the program should have been put in place from the get-go. “I think that that would have helped [alleviate] some of the angst that was created with the information that was being reported.”

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50 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Decision-Making within the Unified Command.

51 For more on the liaison program, see: Allen, National Incident Commander’s Report; U.S. Coast Guard, ISPR; and U.S. Coast Guard, On Scene Coordinator Report, Deepwater Horizon Oil Spill, September 2011, available at http://www.uscg.mil/foia/docs/dwh/fosc_dwh_report.pdf, [accessed August 1, 2012].
Kayyem conceded that it took some time for her and her colleagues to work out the program’s kinks. In particular, she noted, it soon became apparent that some of the relatively junior Coast Guard officers serving as liaisons lacked the requisite experience, skills, and rank. Over time, the NIC corrected the problem by integrating more senior officers into the program. This was an important shift, as the higher ranking officers had far greater authority to move resources and provide answers to the local officials with whom they had been paired. “You have to choose very carefully who you put in those positions,” Rear Admiral Peter Neffenger emphasized. “You need the ability to take a lot of heat, without crumbling. But by the same token, you have to be a diplomat, because if you just fight back, then you’ve lost … You’re working for somebody else, and your job is to figure out why they have a problem and what their issue is – however it’s delivered.” This was by no means an easy task, but Neffenger said of the liaison program:

I think it was probably the most important work that we did. Because ultimately it really did turn, I think, the general comments of the local officials from ‘these guys are incompetent’ to ‘alright, they used to be incompetent, but now they’re doing their jobs.’ And I think the ‘doing their job part’ was ‘now they’re listening to me.’

The Crisis Diminishes

Even as NIC officials fine-tuned their response, vast amounts of oil continued to leak from the Macondo Well; and by mid-June, federal officials were estimating that the flow-rate was somewhere between 35,000 and 60,000 barrels per day. All the same, several key developments began to help turn the tide, slowly raising confidence in the response and diminishing the political fallout.

The presence of Coast Guard liaisons in the offices of parish presidents and city mayors went a long way in minimizing the dysfunction that had characterized intergovernmental relations throughout May. In addition, a dramatic announcement by President Obama at the end of the month marked a more publicly aggressive stance on the part of the federal government. While visiting the Gulf on May 28, the President emphasized that he took full responsibility for resolving the crisis. Underscoring his commitment, he revealed that he was tripling the number of federal personnel and resources dedicated to the response in the Gulf.

NIC leaders perceived the President’s move as a mixed blessing. On one hand, it seriously complicated logistical operations; on the other, they realized that it had significant political benefits. As Assistant Secretary Kayyem observed,

So we were going to triple the resources, and the Coast Guard and the NIC needed to figure out how to do that. It wasn’t easy and it was blunt. But crisis response is not sim-

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52 U.S. Coast Guard, ISPR.
ply the reality of operational elements; it is also the perception of grip. And that was what the president was smartly doing.

Despite the fact that it was far from clear how necessary the added personnel and resources were, the NIC’s leadership considered the President’s announcement an important step in seizing back the narrative.

Just two weeks later, another move orchestrated by the White House helped to reorient the politics of the crisis even more: on June 16, President Obama informed the American public that under pressure from his administration, BP had agreed to pay $20 billion into an escrow account. The funds, which the company was not legally obligated to provide, would be used to compensate people and businesses affected by the spill. (As mandated by OPA, BP would also continue to cover clean-up costs.) “To me,” Kayyem noted, “that was the pivotal moment. It gave the Coast Guard some breathing space, and it was the first moment where BP looked like it was licking its wounds.... The White House showed tremendous leadership and brilliant lawyering.”

Meanwhile, even better news was to come. In mid-July, for the first time since the crisis began, BP managed to fully contain the leaks emanating from the Macondo Well. Although National Incident Commander Allen would not declare the well completely dead until September 19, responders had for all intents and purposes met their immediate goal of bringing the leaks under control.

On October 1, the NIC officially disbanded. As he stepped down as National Incident Commander, Admiral Allen emphasized the great lengths officials had gone to in order to resolve the crisis. “Through the unified efforts of over 47,000 people, we organized and directed a monumental response to remove and mitigate the damages from the estimated 4.9 million barrels of oil discharged into the Gulf,” Allen observed. At the same time, he—along with many other officials intimately involved in the response—readily acknowledged that improvements needed to be made in how the country dealt with crises of this magnitude. Perhaps most significantly, the experience revealed major inadequacies in how the relevant doctrines and plans dealt with the involvement of political leaders. As Special Assistant to the President Joseph Aldy put it, a response can’t simply be shaped around “what-

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55 But tempering this victory was the all too obvious fact that the Deepwater Horizon crisis had a number of far-reaching and long-lasting negative effects. In addition to significantly affecting the reputations of national and regional political leaders, the spill’s economic and environmental consequences were severe. Although scientists generally believed that most of the nearly 5 million barrels of oil released into the Gulf was either gone or dispersed deep underwater within two years of the spill, the full extent of environmental damages would remain unclear for some time; and at the very least, the oil that did wash ashore had inflicted serious damage on marshes and wetlands (“The Big Spill, Two Years Later,” New York Times, April 17, 2012). Meanwhile, economic activity across several sectors—including energy, fishing, and tourism—had experienced significant disruptions as a result of the spill. (For more on the Deepwater Horizon’s economic effects, see: Aldy, “Real-Time Economic Analysis and Policy Development.”)

56 National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water.

57 Allen, National Incident Commander’s Report.
ever plan or set of rules had been established in the past” if those plans and rules are silent on the role of the senior-most political leaders, who inevitability play a key role during a crisis.

Allen fully agreed. Based on his experience as National Incident Commander, he concluded, “If you don’t have a structured, relevant role for political leaders, they will create one .... The doctrine has to include the political environment, because it is the sociological ecology of the response. And you cannot do a large response without it. That’s the bottom line.”
Exhibit 1
Chronology of Events in the
Response to the 2010 Deepwater Horizon Oil Spill

Tuesday, April 20
An explosion rocked the Deepwater Horizon oil drilling rig, located in the Gulf of Mexico off the Louisiana coast, sparking an intense fire and killing 11 workers.

Thursday, April 22
The Deepwater Horizon sank to the seafloor.

Saturday, April 24
Leaks emanating from the Deepwater Horizon’s riser pipe were discovered.

Thursday, April 29
Homeland Security Secretary Janet Napolitano designated the event a “Spill of National Significance” (the first such designation in U.S. history).

Louisiana Governor Bobby Jindal declared a State of Emergency. He subsequently submitted a series of letters to various federal agencies requesting a range of resources and other forms of aid and assistance.

Friday, April 30
Senior federal officials, including Secretary Napolitano, Interior Secretary Ken Salazar, EPA Administrator Lisa Jackson, and Carol Browner, Director of the White House Office of Energy and Climate Change, met with state and local leaders at Unified Area Command, located in Robert, Louisiana.


Saturday, May 1
The Obama administration appointed Admiral Thad Allen National Incident Commander for the Deepwater Horizon response.

Allen subsequently named Rear Admiral Peter Neffenger as Deputy National Incident Commander and DHS Assistant Secretary for Intergovernmental Affairs Juliette Kayyem as his chief political liaison.
Sunday, May 2
Secretaries Napolitano and Salazar hosted a conference call with the governors of the Gulf States. These calls subsequently took place on a daily basis, hosted by the White House and facilitated by Assistant Secretary Kayyem and Deputy National Incident Commander Neffengner.

Thursday, May 27
USA Today and Gallup released a poll in which 60% of adult respondents indicated that the government was doing a poor job managing the response to the spill.

Friday, May 28
Declaring that he took full responsibility for bringing the crisis to an end, President Obama announced the tripling of resources and manpower for the federal response in the Gulf.

Mid-June
Federal officials estimated that the flow-rate was somewhere between 35,000 and 60,000 barrels per day.

Wednesday, June 16
President Obama informed the American public that BP had agreed to pay $20 billion into an escrow account in order to cover damages from the spill.

Sunday, September 19
Admiral Allen declared the Macondo Well completely dead.

Friday, October 1
The National Incident Command disbanded.
Exhibit 2
Key Actors in the Response to the 2010 Deepwater Horizon Oil Spill

Federal Officials
• Joseph Aldy, Special Assistant to the President for Energy and Environment, the National Economic Council and the White House Office of Energy and Climate Change
• Admiral Thad Allen, National Incident Commander for the Deepwater Horizon Oil Spill Response and former Commandant, U.S. Coast Guard
• Juliette Kayyem, Assistant Secretary for Intergovernmental Affairs, U.S. Department of Homeland Security
• Janet Napolitano, Secretary, U.S. Department of Homeland Security
• Rear Admiral Peter Neffenger, Deputy National Incident Commander for the Deepwater Horizon Oil Spill Response, and former Commander, Ninth District, U.S. Coast Guard
• Barack Obama, President, United States of America

State and Local Officials
• Haley Barbour, Governor, State of Mississippi
• Mark Cooper, Director, Governor’s Office of Homeland Security and Emergency Preparedness, State of Louisiana (and subsequently Senior Director for Emergency Management at Walmart Stores, Inc.)
• Charlie Crist, Governor, State of Florida
• Bobby Jindal, Governor, State of Louisiana
• Billy Nungesser, President, Plaquemines Parish, State of Louisiana
• Charlotte Randolph, President, Lafourche Parish, State of Louisiana
• Bob Riley, Governor, State of Alabama
**Exhibit 3**
List of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DHS</td>
<td>U.S. Department of Homeland Security</td>
</tr>
<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>FEMA</td>
<td>Federal Emergency Management Agency</td>
</tr>
<tr>
<td>NCP</td>
<td>National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan)</td>
</tr>
<tr>
<td>NIC</td>
<td>National Incident Command</td>
</tr>
<tr>
<td>NOAA</td>
<td>National Oceanic and Atmospheric Administration</td>
</tr>
<tr>
<td>OPA</td>
<td>Oil Pollution Act</td>
</tr>
<tr>
<td>SONS</td>
<td>Spill of National Significance</td>
</tr>
<tr>
<td>SOSC</td>
<td>State On-Scene Coordinator</td>
</tr>
</tbody>
</table>
Exhibit 4
Map of the State of Louisiana with Parishes


NOTE: Arrow indicates location of Lafourche Parish, Louisiana. Plaquemines Parish is located to the right of the arrow.
### Exhibit 5
Deepwater Horizon Oil Spill Response Statistics

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total estimated amount of oil spilled</td>
<td>4,928,100 barrels</td>
</tr>
<tr>
<td>Total amount of oil recovered directly from wellhead</td>
<td>689,934 barrels or 17%</td>
</tr>
<tr>
<td>Total amount of oil burned</td>
<td>246,405 barrels or 5%</td>
</tr>
<tr>
<td>Total amount of oil skimmed</td>
<td>147,843 barrels or 3%</td>
</tr>
<tr>
<td>Total amount of oil chemically dispersed</td>
<td>394,248 barrels or 8%</td>
</tr>
<tr>
<td>Total amount of oil naturally dispersed</td>
<td>788,496 barrels or 16%</td>
</tr>
<tr>
<td>Total amount of oil evaporated or dissolved</td>
<td>1,232,025 barrels or 25%</td>
</tr>
<tr>
<td>Total amount of oil residual</td>
<td>1,281,306 barrels or 26%</td>
</tr>
<tr>
<td>Total number of response vessels</td>
<td>345 vessels</td>
</tr>
<tr>
<td>Total number of responders</td>
<td>48,200 personnel</td>
</tr>
<tr>
<td>Total number of Coast Guard personnel</td>
<td>7,000 active duty and reserve</td>
</tr>
<tr>
<td>Total number of Coast Guard assets</td>
<td>60 vessels and 22 aircraft</td>
</tr>
<tr>
<td>Total number of vessels of opportunity</td>
<td>3,200 vessels</td>
</tr>
<tr>
<td>Total amount of hard boom deployed</td>
<td>3.8 million feet</td>
</tr>
<tr>
<td>Total amount of soft boom deployed</td>
<td>9.7 million feet</td>
</tr>
<tr>
<td>Total amount of dispersants used</td>
<td>1.8 million gallons</td>
</tr>
<tr>
<td>Total number of in-situ burns conducted</td>
<td>411 burns</td>
</tr>
<tr>
<td>Total number of surveillance aircraft used</td>
<td>127 aircraft</td>
</tr>
<tr>
<td>Total number of incident command posts</td>
<td>4 command posts (TX, LA, AL, and FL)</td>
</tr>
<tr>
<td>Total number of subordinate branches</td>
<td>17 branches</td>
</tr>
<tr>
<td>Total number of equipment staging areas</td>
<td>32 staging areas</td>
</tr>
<tr>
<td>Total number of aviation coordination centers</td>
<td>1 aviation coordination center (Tyndall AFB)</td>
</tr>
<tr>
<td>Total amount of liquid waste collected</td>
<td>1.4 million barrels of liquid waste</td>
</tr>
<tr>
<td>Total amount of solid waste collected</td>
<td>92 tons of solid waste</td>
</tr>
<tr>
<td>Total number of international offers of assistance</td>
<td>47 offers of assistance</td>
</tr>
</tbody>
</table>

Exhibit 6
Oil Boom around New Harbor Island, Louisiana


NOTE: This photo depicts oil containment boom positioned around New Harbor Island, Louisiana, during the Deepwater Horizon crisis.
Exhibit 7
Gulf of Mexico Fishery Closures, as of June 2, 2010