

## U.S. House of Representatives

### Committee on Natural Resources

Washington, DC 20515

May 10, 2013

Mr. Robert Dudley  
Chief Executive Officer  
BP  
501 Westlake Park Boulevard  
Houston, Texas 77079

Dear Mr. Dudley,

I am in receipt of the March 6, 2013 letter drafted by your attorney, Theodore M. Hester, in response to my letter of February 20, 2013. While I appreciate the timely response to my letter, I am disappointed that BP feels that it cannot provide a more substantive response to my questions.

It is vital that Congress and the American people gain a full and complete understanding of how BP allowed itself to engage in the felony of obstruction of Congress. As I stated in my February 20, 2013 letter,

The guilty plea and felony information reveal that BP's response to Congress' investigation of Deepwater Horizon was flawed at its core, and I am concerned that BP still has not provided Congress all the information to which it was entitled. It is imperative that BP produce to Congress all documents related to the spill and provide a full accounting of how and why BP's responses to Congress' investigation were flawed and when BP became aware that all documents had not been given to Congress. BP must take these steps so that the American people can be confident that any mistakes will not be repeated in the future. Until BP gives a full accounting of its internal processes for communicating with the government broke down and the steps it has taken to prevent similar errors in the future, BP should remain barred from being able to profit via contracts with the federal government.

To that end, I made several requests for information and documents. Some of these requests were for information that I had not previously requested, such as my request for information about the "reforms [BP has] instituted internally to ensure that it will not provide Congress or the American people with false or inaccurate information again in the future." Yet, I also again requested documents that I asked for initially back during the 111<sup>th</sup> Congress nearly three years ago, documents that should have already been provided to the Department of Justice during your negotiations for a guilty plea. And I also asked for information that BP should have provided me long ago, such as "why did BP not ever inform me that it had provided false or misleading information in response to my letter of May 14, 2010."

Mr. Robert Dudley  
Chief Executive Officer, BP  
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Regrettably, your March 6, 2013 is a wholly inadequate response. The letter mentions vague remedial policies that BP has instituted, such as “organizational changes within the company to provide a greater emphasis on accountability, attentiveness, and diligence,” but practically no details are provided about these policies. Your March 6, 2013 letter states that the guilty plea requires that BP retain a process safety monitor and ethics monitor approved by the Department of Justice, but does not disclose anything about how the position will function in practice.

The greatest revelation in the letter is that your “Ethics and Compliance (“E&C”) function” has been “strengthened through improvements to the Code of Conduct.” But you have provided no details about these reforms aside from the fact that your company “maintains an Open Talk program, which allows the anonymous reporting of safety, ethics, regulatory, or other operational concerns” and that you offer training programs regarding the code. Yet, based on your letter, I have no way of knowing if these programs existed before Deepwater Horizon exploded, and I know next to nothing about them. At best, you have informed me that some reform programs have been devised, but you have told me practically nothing aside from their name.

Given BP’s admitted inability to provide full, factual information to Congress, it would be irresponsible to trust that these few reforms are a sufficient response to the Deepwater Horizon disaster.

Of course, I understand that you feel conflicted about providing a full response to me at this time. As you state at the end of your letter, “Respectfully, given pending litigation, BP believes that it would not be appropriate for it to respond to your February 20, 2013 letter beyond what is set forth above.” I appreciate that your March 6, 2013 letter admits that BP has not fully responded to my February 20, 2013 letter. And I am sensitive to your concern about disclosing potentially sensitive information to me given pending litigation.

As a result, I am willing to allow BP to wait until the end of the pending litigation for a full response to my letter on one condition: that BP remain barred from federal contracts until I have received that full response. To that end, I have written the Environmental Protection Agency to inform them that you feel you cannot respond to my letter due to the pending litigation and that you should remain barred until I receive that response. A copy of that letter is attached to this letter. If you feel that this accommodation to your legal efforts is unfair, you have the power to provide the requested information to me at any time.

Mr. Robert Dudley  
Chief Executive Officer, BP  
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If you have any questions or concerns, please feel free to contact Justin Slaughter on my staff at 202-225-6065.

Sincerely,



Edward J. Markey  
Ranking Democratic Member  
Natural Resources Committee

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

May 10, 2013

The Honorable Robert Perciasepe  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Acting Administrator Perciasepe,

I write to you once again today regarding BP's ability to profit from federal contracts. As you know, BP is currently barred from profiting from federal contracts, a decision made by the Environmental Protection Agency last November following the announcement of BP pleading guilty to numerous criminal charges, including obstruction of Congress, arising from the Deepwater Horizon disaster.<sup>1</sup>

Nearly three years after the Deepwater Horizon exploded, we still lack critical information about what BP knew during the spill and why BP's leadership allowed the company to engage in obstruction of Congress by providing false and misleading information to me in my capacity as Chairman of the Energy and Commerce Committee's Subcommittee on Energy and the Environment. While I have frequently requested information and documents about those subjects, BP has yet to fully satisfy all the requests I made back when oil was still flooding into the Gulf of Mexico in spring 2010. To that end, I wrote BP's Chief Executive Officer, Bob Dudley, on February 20<sup>th</sup> again asking for those documents, information about why BP's congressional response protocols failed, and what steps BP has taken to ensure that these failures of congressional response never happened again. To ensure that these critical questions are answered, I wrote to now-former Administrator Lisa Jackson on February 20<sup>th</sup> to "request that you not lift the debarment until BP provides me with a full and complete response to my letter, along with all the requested documents."

While I have received a response to my letter from BP, I am sorry to report that it does not answer any of my questions in detail or provide the requested documents. The letter, which was prepared by BP's outside counsel "on behalf" of the company and is attached to this document,

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<sup>1</sup> For a more fulsome discussion of the background of this subject, please see the letters I sent BP CEO Dudley and Former Administrator Jackson late last month, available at [http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/2013-02-20\\_Markey\\_BP\\_.pdf](http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/2013-02-20_Markey_BP_.pdf) and [http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/2013-02-20\\_EPA\\_BP.pdf](http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/2013-02-20_EPA_BP.pdf)

states that BP “voluntarily began to put additional procedures in place to enhance its overall ethics and compliance and which were designed to prevent future criminal and ethical violations, well before it entered into the plea agreement.” The letter goes on to mention that BP has strengthened its “Ethics and Compliance (‘E&C’) function” and its “Code of Conduct” and is now required to retain a process safety monitor and an ethics monitor approved by the Department of Justice. Unfortunately, no additional details are provided about those reforms, leaving me unclear as to what the strengthening of those internal processes actually entailed, and rendering these few meager statements an inadequate response to my request for information about “the reforms . . . BP instituted internally to ensure that it will not provide Congress or the American people with false or inaccurate information again in the future.”

The letter declines to fulfill any of my document requests, including the documents that “BP has admitted it withheld . . . from the Committee on Energy and Commerce’s Subcommittee on Energy and the Environment during the 111<sup>th</sup> Congress.” The letter also declines to answer any of my questions about BP’s previous actions, including my questions about when BP became aware that it had provided false information to Congress and the steps BP took “to rectify this problem.” According to BP’s letter, responses to these and other questions “would not be appropriate” at this time due to the ongoing status of the civil trial against BP in the United States District Court for the Eastern District of Louisiana.

I disagree that BP is unable to respond in a more fulsome manner at this time; much of the information I am seeking has already been provided to the Department of Justice prior to the announcement that BP would plead guilty to obstruction of Congress. As a result, I have written to BP today to suggest that it can make an effort to provide additional information to me immediately. A copy of that letter is attached.

However, if BP continues to take the position that it cannot provide additional information as long as the civil trial is active, I request that the Environmental Protection Agency continue to bar BP from federal contracts until BP is willing to provide the requested documents and information to my satisfaction. As cases are typically not deemed resolved until all appeals are finished, this means that BP may have to remain barred for several years. Indeed, the litigation over the 1989 spill of the Exxon Valdez was not fully resolved until the Supreme Court issued a decision on the scope of punitive damages in 2008, nearly 20 years later.

BP has requested that the American people not gain additional information about the worst spill in the Gulf of Mexico until the civil trial on the matter is concluded. It is only fair that BP remain barred until we gain a full and fair accounting of BP’s obstruction of Congress and the reforms that have been instituted since. If BP feels this situation is unfair, it has the power to provide more information at any time.

The Honorable Robert Perciasepe  
U.S. Environmental Protection Agency  
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Thank you very much for your attention to this important matter. I request that you respond to this letter by June 3, 2013. If you have any questions or concerns, please have your staff contact Justin Slaughter at 202-225-6065.

Sincerely,

A handwritten signature in blue ink that reads "Edward J. Markey". The signature is written in a cursive style with a large initial "E".

Edward J. Markey  
Ranking Democratic Member  
Natural Resources Committee