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August 17, 2010

Dr. Jane Lubchenco
NOAA Administrator
Under Secretary of Commerce for Oceans and Atmosphere
1401 Constitution Avenue, NW
Washington, DC 20230

Re: Seafood Testing

Dear Administrator Lubchenco,

Thank you for your ongoing commitment to protecting the people and resources of the Gulf Coast from environmental hazards, including those associated with the BP oil disaster. We appreciate the National Oceanic and Atmospheric Administration's (NOAA's) commitment to conducting scientific evaluations and monitoring of wildlife and environmental conditions in the Gulf of Mexico.

We have concerns about the monitoring and assessment tools currently being used to evaluate the safety of commercial and recreational fisheries. Due to the unprecedented scale of this environmental disaster, it is essential NOAA utilize the most comprehensive and public health protective measures to gauge the extent of contamination and estimate the risk to vulnerable populations.

The public should have more information on the basis on which NOAA is reopening areas of the Gulf to fishing, and NOAA should be doing more to protect vulnerable populations, such as pregnant women and children. NOAA should also review its protocols for reopening areas of the Gulf to make sure that consumers are not being unwittingly exposed to toxicants that could damage their health over the long term, especially if their diets are highly dependent on seafood.

Specifically, we make the following recommendations:

Ensure Comprehensive Monitoring of Seafood Contamination

To ensure long-term safety and confidence in Gulf seafood, it is essential that there be a robust and comprehensive monitoring program that evaluates the presence of all known contaminants and that includes adequate sampling density in all areas under consideration for reopening and in all areas that have been reopened. NOAA has only made public a limited amount of information describing the sampling protocols being used to evaluate the safety of Gulf seafood. To increase transparency and improve public confidence in the monitoring program, all the sampling protocols and methods should be made available on the NOAA website. Based on the limited information available, we are concerned that the following elements are missing from the monitoring plan:

- Evaluation for the presence of subsurface oil in addition to surface sheens

The use of chemical dispersants has greatly increased the presence of oil below the surface making the determination of the presence of oil in a given area more difficult. Monitoring for the presence of oil in the water column should be conducted. The criteria for re-opening of oil impacted areas should be amended to take into consideration the concentration of subsurface oil.

- Analytical testing for metals found to be present in the crude oil

Cadmium, copper, lead and mercury have all been detected in studies of crude oil. Given the public health threat of exposures to low levels of these metals and their potential to bio-accumulate in seafood, chemical analyses of seafood should include metals. This monitoring should be initiated as soon as possible to track this threat going forward and enable year-by-year comparisons of contaminant levels.

- Comprehensive assessment of the potential for contamination of seafood by dispersant chemicals

The BP oil disaster clean-up has involved the unprecedented use of chemical dispersants. A comprehensive assessment of the potential for dispersant chemicals to contaminate seafood and the degree to which dispersants can enhance the uptake of oil contaminants, such as polycyclic aromatic hydrocarbons (PAHs), is needed.

- Representative sampling protocols that ensure adequate coverage of highly exposed areas

Due to the immense quantity of oil spilled and the complexity of the oil dispersion patterns, sampling needs to be conducted in a manner that will assure adequate coverage of sensitive areas. The potential for localized differences in contaminant concentrations should be factored into the sampling protocol and extensive monitoring of shoreline areas is needed to ensure the detection of any hotspots. The minimum sampling frequency cited in the NOAA

protocol of “6 sub-samples per species (3 sub-samples for oysters) from each sampling location” seems inadequate unless the sampling locations are very numerous.

Ensure Public Disclosure of Monitoring Data and Methods

The results of NOAA’s monitoring of seafood contaminant levels in response to the BP oil disaster are not all publicly available. Public access to this data, and the sample collection methods, would greatly improve transparency and public confidence in the monitoring program. It is not sufficient to release this data only in conjunction with a decision to re-open an area. A useful model would be the way the Environmental Protection Agency (EPA) has made public the results of its monitoring of air, water, and sediment.

Ensure that Fishery Re-Opening Criteria Protect the Most Vulnerable Populations

The NOAA protocol for determining the conditions under which a fishery can be re-opened relies on an FDA risk assessment that fails to consider risks to the populations most vulnerable to seafood contamination such as pregnant women, children, and subsistence fishing communities. The flaws in this risk assessment are summarized below and outlined in more detail in the attached letter to FDA. NOAA should request that the FDA revise the risk assessment to adequately protect vulnerable communities.

- Solely using an adult average body weight of 80 kg (176 lbs) does not adequately protect children, or even many women

The average body weight of a 4-6 year old child is 47.6 pounds and 50% of American women weigh less than or equal to 155 pounds.¹ Using a single value clearly doesn’t protect the smaller bodies of children or smaller adults, including many women.

- Failing to account for the increased vulnerability of the developing fetus and young children

Children are particularly vulnerable to contaminants in seafood because their bodies are still developing. They ingest a larger portion of contaminants relative to their size, and they don’t process chemicals as well as adults. Toxicological and epidemiologic studies of PAHs have found evidence for the increased vulnerability of the developing fetus and children.

- Using national seafood consumption rates rather than a survey of local conditions

Studies conducted in the wake of other oil spill disasters, such as the *Exxon Valdez*, demonstrated that the use of national consumption rates dramatically underestimated exposure to contaminants in seafood for local populations. National consumption surveys,

¹ McDowell MA, Fryer CD, Ogden CL, Flegal KM. 2008. Anthropometric Reference Data for Children and Adults: United States, 2003-2006. National Health Statistics Reports; no 10, Hyattsville, MD: National Center for Health Statistics.

such as those relied on by the FDA, fail to adequately capture local seafood consumption patterns and quantities. In addition to subsistence fishing communities that rely solely on Gulf seafood, the cuisine of the Gulf Coast is disproportionately reliant on seafood compared to the national diet.

- Assuming a 5 year retention period of contaminants in seafood when studies from other oil spills have documented elevated contaminants in seafood six to seven years following the event.^{2 3}

Although there are many uncertainties in how long seafood may be contaminated in the Gulf, the quantity of oil would suggest that contamination could persist for some time, and that warrants precautionary estimates. The FDA risk assessment did not provide a scientific rationale for the choice of a five-year exposure duration.

Given the scope of this disaster, we understand the challenges your staff face, and we appreciate the ongoing hard work to collect information on the impacts of the disaster. The recommendations included in this letter, if enacted, would greatly improve the monitoring and transparency of information related to health risks. Thank you for your commitment to scientific evaluations of the environmental conditions in the Gulf Coast, and we look forward to continuing to work with you to ensure the protection of all communities.

Sincerely,

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² Berthou F., Baloet G., Bodennec G., Marchand M. 1987. The Occurrence of Hydrocarbons and Histopathological Abnormalities in Oysters for Seven Years Following the Wreck of the Amoco Cadiz in Brittany (France). *Marine Environmental Research*. 103-133.

³ Field, LJ et al. Evaluating and Communicating Subsistence Seafood Safety in a Cross-Cultural Context: Lessons Learned from the Exxon Valdez Oil Spill. Technical Publication of SETAC. 1999.

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