

**MEMORANDUM OF UNDERSTANDING BETWEEN BP EXPLORATION &
PRODUCTION INC. AND THE FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES**

WHEREAS, on or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon experienced an explosion, fire and subsequent sinking in the Gulf of Mexico ("the Oil Spill");

WHEREAS, the Department of Agriculture and Consumer Services ("DACS") is charged with safeguarding the public and supporting Florida's agricultural economy by ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs, as well as assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products;

WHEREAS, BP Exploration & Production Inc. ("BP") and DACS (collectively, "the Parties") recognize the importance of the seafood industry to Florida;

WHEREAS, the Parties recognize the importance to the seafood industry of assuring the general public that Gulf seafood is safe;

WHEREAS, the Parties support the testing of Gulf seafood and the communication of those results to provide assurance to the public;

WHEREAS, as of the date of this Memorandum of Understanding, all of Florida's fisheries are open to commercial and recreational harvesting;

WHEREAS, the Parties nonetheless believe that continued testing of seafood and communication of those test results are appropriate measures to take to provide the public with assurance that Gulf seafood is safe to eat;

The Parties agree as follows:

1. DACS will develop and implement a seafood safety testing program ("Testing Program") which includes the parameters outlined in Section 1, herein:

- 1.A. Scope

- 1.A.1 Seafood Groups - The Testing Program will include finfish and shellfish seafood groups.

- 1.A.2 Sample Locations - Samples may be collected from state waters, seafood processors, or dockside locations.

- 1.A.3 Sample Sizes - Sample sizes and frequency of sample

collections from state waters, seafood processors, or dockside locations will be at a level determined by DACS to verify the safety of seafood.

1.A.4 Components of Concern - The Testing Program will include tests for oil, polycyclic aromatic hydrocarbons ("PAH") and dispersants, and for a portion of samples, heavy metals (nickel and vanadium).

1. B. Data Collection and Sharing

1.B.1 Data Collection Protocols - The Parties agree that all data collection will comply with generally accepted data collection protocols applicable to the collection of data, including maintaining proper chain of custody.

1.B.2 Production of Data - DACS agrees to provide BP with all data generated under the Testing Program, including sampling protocols, sampling locations, sample numbers and types, testing protocols, test results, raw data packages and chain of custody documents. DACS shall provide this data to BP on a monthly basis, in an electronic format. The Parties agree that BP is not required to submit a public records act request to obtain the data.

1.C. Testing Methods

1.C.1 Polycyclic Aromatic Hydrocarbons - The Testing Program will include the Federal Food and Drug Administration ("FDA") approved LC-Florescence method for polycyclic aromatic hydrocarbons, with confirmation testing by gas chromatography/mass spectrometer ("GCMS") consistent with FDA protocols.

1.C.2 Dispersants - When the method is available, the testing program will include FDA approved methods for dispersant testing in seafood.

1.C.3 Heavy Metals - A portion of the samples will be tested for heavy metals (nickel and vanadium) using method(s) identified by FDA as appropriate for response to the Oil Spill.

1.D. Reporting of Results

1.D.1 Reporting of Results – Results will be reported as below limit of detection (<LOD), trace (TR), or as a numeric value. An indicator of "Pass" will be used for all results which fall under levels of concern for seafood safety in humans established by the FDA. The indicator of "Fail" will be used for

all results which fall above levels of concern for seafood safety for human established by the FDA.

1.D.2 Levels of Concern - Levels of concern for polycyclic aromatic hydrocarbons, dispersants and heavy metals will be made available to the public to aid in interpretation of reported results.

1.E. Length of Testing Program

1.E.1 Length of Testing Program - The Testing Program will run for three (3) years from the date of execution of this Memorandum of Understanding. The Testing Program may be extended in accordance with Paragraph 7.

1.E.2 Funding - BP agrees to provide \$10,000,000 to fund the Testing Program. Prior to the expiration of the program, the Parties agree to work together in good faith to determine if additional monitoring of potential impacts from the Oil Spill are warranted, and if additional funding is required; provided, however, that nothing in this Memorandum of Understanding shall oblige BP to extend the testing program beyond the length of the term of this Memorandum of Understanding, except as provided in Paragraph 7.

1.F. Final Scope, Budget and Total Cost

1.F.1 Final Scope of Testing Program - DACS will develop more detailed scopes of work for each of the sections 1.A. through 1.E. which will attach to this Memorandum of Understanding as appendices.

1.F.2 Final Budget - DACS will prepare a preliminary budget for review and comment. The agreed upon final budget for the Testing Program will be included as a separate appendix to this Memorandum of Understanding. DACS may alter the budget if the expenses are within the overall scope of approved work.

1.F.3 First Twelve Months of Spending - The Testing Program budget for the first twelve months shall include the funding of all capital outlays for facility improvement, initial staffing, and training. The remaining funds shall be used for in-State testing.

1.F.4 Total Cost - Total cost for the Testing Program is not to exceed \$10,000,000.

2. DACS will develop and implement a seafood safety marketing program ("Marketing Program") which includes the parameters

outlined in Section 2, herein:

2.A Scope - DACS will develop and implement a Marketing Program which raises consumer awareness of the Testing Program and its results. The Marketing Program will utilize the terms "Florida Gulf" and/or "Florida Gulf Safe."

2. B. Marketing Program Reports - DACS agrees to provide BP with quarterly updates of its Marketing Program activities and results pursuant to this Memorandum of Understanding. DACS agrees to provide BP with aggregate retail, wholesale, industry and trade association data which will help to determine historical and current market performance for Florida seafood, including but not limited to sales volume and price.

2.C. Length of Marketing Program

2.C.1 Length of Marketing Program - The Marketing Program will run for three (3) years from the date of execution of this Memorandum of Understanding. The Marketing Program may be extended in accordance with Paragraph 7.

2.C.2 Funding - BP agrees to provide \$10,000,000 to fund the Marketing Program. Prior to the expiration of the Marketing Program, the Parties agree to work together in good faith to determine if additional marketing of Florida seafood as a result of the Oil Spill is warranted, and if additional funding is required; provided, however, that nothing in this Memorandum of Understanding shall oblige BP to extend the Marketing Program beyond the length of the term of this Memorandum of Understanding, except as provided in Paragraph 7.

2.D. Final Scope, Budget and Total Cost

2.D.1 Final Scope of Marketing Program - DACS will develop more detailed scopes of work for each of the sections 2.A. through 2.C. and attach to this Memorandum Understanding as appendices.

2.D.2 Final Budget - DACS will prepare a preliminary budget for review and comment. The agreed upon final budget for the Marketing Program will be developed and included as a separate appendix to this Memorandum of Understanding. DACS may alter the budget if the expenses are within the overall scope of approved work.

2.D.3 Total Cost - Total cost for the Marketing Program not to exceed \$10,000,000.

3. General Terms

3.A Invoices - DACS will provide BP with detailed invoices on a monthly basis; BP will review the invoices promptly after submission. All expenses that are valid, within the scope of the Testing Program or Marketing Program and consistent with the final Testing Program and Marketing Program budgets will be paid by BP (or BP will cause to be paid) to DACS, according to any payment instruments that DACS may provide, within 30 days of invoice submission. In addition, if DACS fails to provide the data it is required to provide under Paragraphs 1.B.2 and 2.B. of this Memorandum of Understanding, BP may delay payment of invoices for the Testing Program and Marketing Program until DACS provides the required data.

3. B. When DACS is purchasing equipment or contract services in excess of \$ 5,000, DACS will submit a copy of the contract to BP. BP will review the contract promptly, and if the proposed expenses are within the scope of the Testing Program or Marketing Program, BP will pay the amount of the contract price to DACS within thirty days. DACS will provide BP with confirmation of the payment of the purchase or contract amount when it pays for the purchase or contract.

3.C. Dispute Resolution - If there is a dispute over an invoice, the Parties shall attempt to resolve the dispute through good faith informal negotiations. In the event that the dispute is not resolved informally, DACS reserves its right to seek reimbursement from BP for any disputed sum through any means available, including judicial enforcement of the terms of this Memorandum of Understanding. If DACS is successful in obtaining payment of a disputed invoice, BP shall pay, in addition to the amount of the disputed invoice, all reasonable costs and attorneys fees incurred by DACS to obtain resolution of dispute.

3.D.. Use of Data/Reservation - DACS and BP will both have authority to utilize any data generated under the Memorandum of Understanding for any and all purposes consistent with applicable law and regulations. Each Party reserves its right to produce its own independent interpretation and analysis of any data collected pursuant to this Memorandum of Understanding. Nothing in this Memorandum of Understanding in any way modifies or limits DACS' discretion to make management decisions in accordance with applicable statutory and regulatory authorities, including Florida's public records law, Chapter 119, F.S.

3. E. Reservation of Rights - Except as set forth in paragraphs 4 and 5 of this agreement, DACS reserves all claims it may have against BP arising out of the Oil Spill, including, without limitation, any causes of action or requests for relief, either administrative or judicial, under either

State or federal laws, or any other claims process related to the Oil Spill.

3.F. No Third Party Beneficiaries - Nothing in this Agreement is intended to, nor shall be interpreted to, benefit any third party not a signatory hereto.

4. In exchange for BP's agreement to provide \$20,000,000 to fund the Testing Program and Marketing Program, as set forth herein, DACS agrees to not assert a claim against BP for, or otherwise request, additional funding for either seafood safety testing or seafood marketing conducted during the three year term of this Memorandum of Understanding. Except as otherwise provided in this Memorandum of Understanding, BP shall have no obligation to reimburse DACS for seafood safety testing or seafood marketing efforts incurred during the three (3) year term of this Memorandum of Understanding, or any extension thereof.
5. The Parties agree and acknowledge that the Testing Program and the Marketing Program may restore or increase human uses of Florida's natural resources, including the use of fish, invertebrates, shellfish, and related recreational and tourist amenities. BP reserves its rights to seek an appropriate credit or set-off for the Testing Program, Marketing Program, or any restoration that these achieve, in response to any claim for natural resources damages asserted against it.
6. Nothing in this Memorandum of Understanding shall be construed as an admission or concession of any issue of fact or law.
7. Reopening and Extension - DACS asserts that additional oil from the Oil Spill may appear during, or after the completion of, the three (3) year term of this Memorandum of Understanding. In the event of a closure of either Florida state waters or Federal waters contiguous with Florida state waters resulting from the Oil Spill, the Parties agree to reopen the Memorandum of Understanding under the same terms, except that the total costs to be paid shall reflect the testing and marketing required to address the presence of the newly discovered oil, and extend the Memorandum of Understanding to run for three (3) years from the last date of reopening of either Florida state fisheries or Federal waters resulting from the Oil Spill. The costs shall again be based on reimbursement for such testing and marketing.

This Memorandum of Understanding shall become effective as of the date of its signing, shall remain in effect for three (3) years, and may be revised, modified or terminated only on written agreement of the Parties. The Party recommending the revision, modification or termination shall provide the other Party with 30 days' written notice of the proposed change.

Any notice contemplated or required by this Memorandum of

Understanding shall be sent, in writing, to:

For DACS, as to Testing: Marion Aller, Director, Division of Food Safety, Florida
Department of Agriculture and Consumer Services, 3125 Connor Boulevard,
M.S. C18, Tallahassee, FL 32399-1650

For DACS, as to Marketing: Larry Amison, Division of Marketing, Florida
Department of agriculture and Consumer Services, 407 South Calhoun Street,
Tallahassee, FL 32399-0800.

For BP, as to Testing: Jeff Morgheim, Director of Planning and Economics, Gulf
Coast Restoration Organization, BP Exploration & Production, Inc., 501 Westlake
Park Boulevard, Houston, TX 77079

For BP, as to Markeing: Jeff Morgheim, Director of Planning and Economics,
Gulf Coast Restoration Organization, BP Exploration & Production, Inc., 501
Westlake Park Boulevard, Houston, TX 77079

Agreed to this ___ day of October 2010.

For the Florida Department of Agriculture Consumer Services:

Charles H Bronson

Charles H. Bronson
Commissioner of Agriculture

For BP Exploration & Production, Inc.:

D. I. Rainey

10.22.10

David I Rainey
Vice President Science, Technology, Environment and Regulatory Affairs
Gulf Coast Restoration Organization
BP Exploration & Production, Inc.

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10/22/10