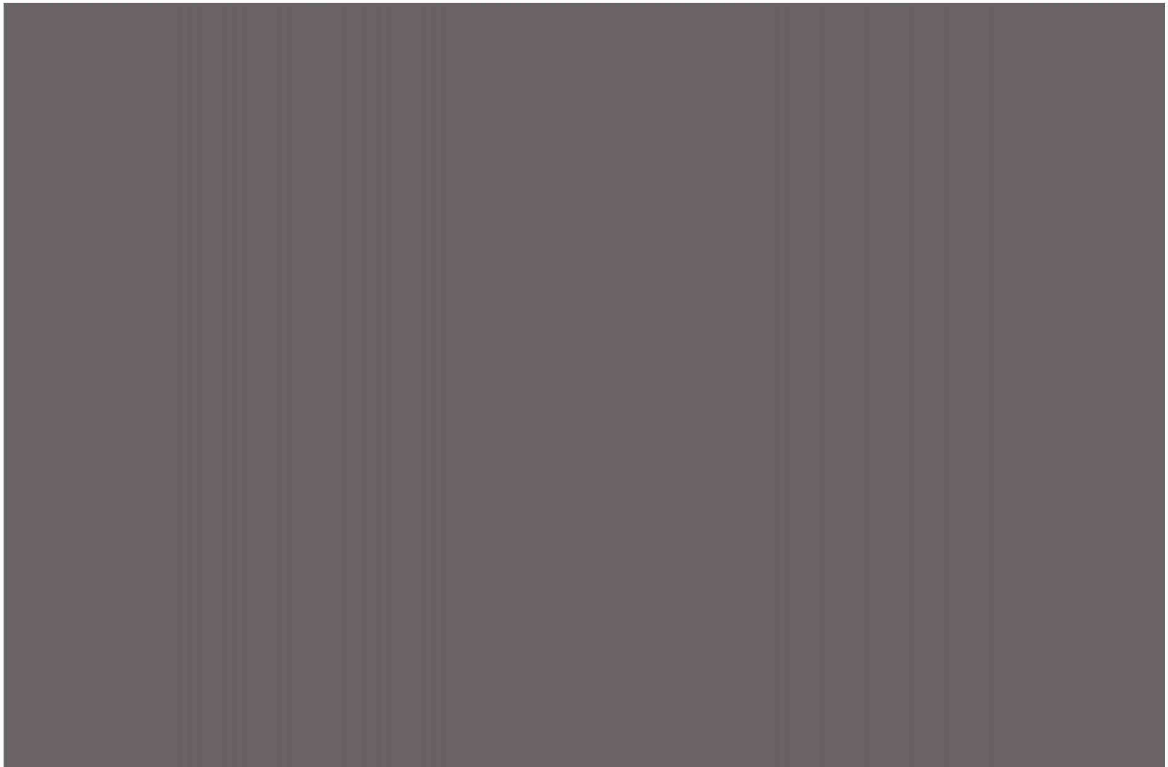


Originally Released October 6, 2010
Updated January 11, 2011

National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling
THE AMOUNT AND FATE OF THE OIL¹

Staff Working Paper No. 3

Staff working papers are written by the staff of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling for the use of members of the Commission. They do not necessarily reflect the views of the Commission or any of its members. In addition, they may be based in part on confidential interviews with government and non-government personnel.



¹ Since this staff working paper was originally released in draft form on October 6, 2010, Commission staff have received comments on the paper from government agencies, non-government scientists, and industry; conducted additional interviews with government officials, non-government scientists, and industry representatives; reviewed more than 9,000 emails and documents produced by the National Oceanic and Atmospheric Administration (NOAA) pursuant to a FOIA request; examined new reports issued by the government and non-government scientists; and received additional information from BP. Staff have updated the paper to reflect the knowledge gained from these sources.



Pages 2 through 18 redacted



The emerging consensus among government and independent scientists is that roughly five million barrels of oil were released by the Macondo well, with over four million barrels pouring into the waters of the Gulf of Mexico. Using different methods, these different groups of scientists arrived at the same approximate figure.

BP, however, disputes these estimates.¹¹⁷ While it has not released its own figures, BP has suggested that the government's estimate of the total amount of oil released from the



¹¹⁷ BP has a strong financial incentive to challenge the government's final flow-rate estimate. Under the Clean Water Act, BP can be fined up to \$37,500 per day for unpermitted discharges of oil, or up to \$1,100 per barrel of oil.

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Macondo well—4.9 million barrels—is overstated by 20 to 50%.¹¹⁸ According to BP: “[T]he August 2 [government estimate] and other similar estimates . . . rely on incomplete or inaccurate information, rest in large part on assumptions that have not been validated, and are subject to far greater uncertainties than have been acknowledged.”¹¹⁹ BP’s basic argument against the government’s final estimate is that it fails to take into account “significant flow impediments,” such as objects in the BOP, that would have eroded over the course of the spill. BP therefore asserts that the government is incorrect in concluding that the flow rate decreased over time from 62,200 bbls/day in the first days of the spill down to 52,700 bbls/day just before the well was capped. In BP’s view, the flow rate likely increased over time, reaching a maximum just before the capping.¹²⁰ BP also contends that the government’s 52,700 bbls/day estimate for the last day of the spill is itself too high.¹²¹



If BP’s discharges are found to be the result of gross negligence or willful misconduct, it will be fined not less than \$140,000, and not more than \$4,300 per barrel of oil. 33 U.S.C. § 1321(b)(7); 40 C.F.R. § 19.4.

¹¹⁸ Meeting with BP, Washington, D.C. (Oct. 22, 2010).

¹¹⁹ BP’S PRELIMINARY RESPONSE TO THE FLOW RATE AND VOLUME ESTIMATES CONTAINED IN STAFF WORKING PAPER NO. 3 (Oct. 21, 2010).

¹²⁰ Id. at 4-5.

¹²¹ Id. at 3-4.

Pages 21 through 34 redacted
