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July 2, 2010

Via Federal Express & email

Mr. Daniel W. Dooher
Justice Department Environmental Division Environmental Enforcement
1425 New York Ave. NW
Washington, DC 20530

Via Federal Express & email

Mr. Mark McIntyre
Assistant US Attorney
Terrorism & National Security, Suite 1500
919 Milam Street
Houston, Texas 77002

Re: *U.S. v. BP Products North America, Inc.*; Criminal No. 4:07-cr-434
U.S. District Court for the Southern District of Texas, Houston Division

Dear Mr. Dooher and Mr. McIntyre:

Thank you very much for the invitation to meet with the two of you and the representatives from the EPA last Tuesday, June 22, 2010, to discuss the present status of the BP criminal plea of guilty. This letter is to document the requests which I and my co-counsel made at that time on behalf of our victim-clients.

As you are well aware, BP's criminal plea of guilty and the related plea agreement were accepted by Judge Rosenthal on March 12, 2009. The charges arise out of the March 2005 explosion which killed 15 and injured hundreds of others. We intervened on behalf of our clients, victims of the explosion, to object that the plea agreement was excessively lenient and not in the public interest. The plea agreement was accepted by the Court over our objections.

The plea agreement and the sentence ultimately imposed placed BP on probation. One of the terms and conditions of probation was compliance with the Agreement which BP had made with OSHA dated September 22, 2005, by which BP agreed to take certain actions to remedy the unsafe conditions in the plant. Another

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of the conditions of probation is to commit no Federal offenses during the term of probation.

One of the major objections which we raised was based upon our evidence that BP was already in violation of its OSHA Agreement. We urged that the existing violation of the OSHA Agreement rendered placing BP on probation contrary to the public interest.

However, BP assured the court that it was in full compliance with the OSHA Agreement, and the prosecution did not dispute that assurance.

Another provision of the plea agreement to which we objected immunized BP p.l.c. and all other BP entities from prosecution. In our objections, we noted that the Chemical Safety Board had compiled substantial evidence showing that the March 2005 tragedy resulted from the refusal of BP p.l.c. to provide its local subsidiary with funding to bring the plant into compliance with the law. For this reason, we urged BP p.l.c. be prosecuted for its conduct or, at the very least, be required to guarantee compliance with the OSHA Agreement and sufficient funding for compliance. Our position was rejected and the immunity provision remains in force so long as the plea agreement remains in force.

A third objection which we made to the plea agreement was to the minimal amount of the \$50 million fine. BP operated the plant illegally for years. Its profit from only one year of illegal operation, the one year immediately preceding the explosion, was over \$1 billion. We argued that the fine was no more than a slap on the wrist to BP and that the prosecution should honor the old adage that "crime does not pay" by removing BP's profit from its criminal conduct.

Approximately six months after the plea agreement was accepted and BP sentenced to probation, OSHA publicly announced that BP was in serious violation of that agreement. OSHA has now announced that the settlement agreement expired on September 22, 2009, at a time when BP had actually failed to comply with its agreement to such an extent that OSHA has now assessed willful violations with proposed penalties of over \$87 million against BP.

OSHA has now issued 439 willful violation citations to BP. Almost all of these are based on hundreds of specific findings of three types of unsafe conditions in the plant:

- 1) That specific pressure relief valves were not providing acceptable function;
- 2) That over pressure protection on vessels was not provided; and
- 3) That correct safe operating procedures were not being used.

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These are the same types of major violations that caused the March 2005 explosion; the deaths of 15 persons, including my clients' family members; and severe injuries to hundreds, including irreparable, life-long incapacity to my clients. In its Agreement with OSHA, BP had promised to give special, priority attention to eliminating these types of dangers. Yet, five years after the disaster, it has not done so.

On September 24, 2009, I wrote, on behalf of my clients, asking that BP's probation be revoked since compliance with the OSHA Agreement was specifically made a condition of probation and since the clear facts published by OSHA are that BP did not fulfill that condition of probation.

Since that time, you extended the courtesy to discuss the matter with me on the phone as part of providing a briefing to my clients early this year and have likewise extended the courtesy to me and my clients by inviting us to meet with you last Tuesday, June 22, 2010. We appreciate those courtesies.

However, you have not reported that any action of any kind is being taken to revoke BP's probation and to enforce the sentence of the court.

In our meeting, we urged upon you that revocation of probation and prosecution is absolutely necessary to serve the public interest. BP Texas City is, literally, a serial killer. In the five years that have elapsed since the explosion that killed 15 persons, four additional employees have been killed in the Refinery. In preceding years, fatalities were an almost annual occurrence. The violations found by OSHA are the same types of unsafe conditions which led directly to the 2005 explosion and which were specified to be given priority for correction by BP in its agreement with OSHA.

By failing to comply with its OSHA Agreement, and failing to fulfill its conditions of probation after pleading guilty to a Federal felony knowing that its violations have killed 15 people, BP shows the utmost contempt for the court and for its obligations under Federal law. BP demonstrates that it holds itself above the law and scoffs at its legal obligations without fear of repercussions. In allowing BP to continue on probation, the Federal authorities make a mockery of our criminal justice system while failing to protect the public.

We were offered no reason why BP is being afforded the remarkable leniency being extended to it by Federal prosecutors in the face of the multiple deaths that it has caused and clear violation of probation.

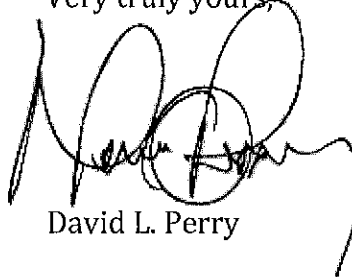
On behalf of my clients who were permanently injured and whose family members were killed, I want to place in writing our request that the Department of

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Justice and the United States Attorney move promptly to revoke BP's probation and to institute an immediate prosecution of BP for its original criminal conduct to which it has pled guilty. We would like to also urge that any new sentence or plea agreement include the following elements:

1. Charges should be brought against, and a guilty plea should be required of, BP p.l.c. and BP America, Inc. as well as the local subsidiary. BP p.l.c., the ultimate parent, is both the financial beneficiary of the criminal conduct, an active participant in the criminality and the controlling entity; it should be prosecuted.
2. There must be a plan to bring the Texas City plant into full compliance with the Occupational Safety Act and the Clean Air Act and their regulations. This must include a schedule of required actions and dates leading to full compliance by a date certain. BP has clearly shown that in the absence of a schedule of needed action which will be enforced and a date certain for full compliance, it will delay and ultimately never comply with the law.
3. There must be independent monitoring for timely compliance actions by an expert who is selected by and reports to the court rather than to BP, although, the cost of such monitoring should be paid by BP as part of its punishment.
4. BP p.l.c. must guarantee full funding for all necessary actions and a guarantee of full compliance.
5. The amount of the fine should be increased to \$1 billion to remove a large part of the profit which BP has made from its criminal conduct.

Very truly yours,

A handwritten signature in black ink, appearing to read "David L. Perry", with a large, stylized flourish extending from the end of the signature.

David L. Perry

DLP/sdg

cc: Brent Coon
Edward Mallett
Rene Haas