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December 6, 2012

The Honorable Carl Barbier
Judge, U.S. District Court
500 Poydras Street, Room C-151
New Orleans, LA 70130

Dear Judge Barbier:

I realize that I've worn out my welcome over the last few months. However, the health and care of my patients supersedes my reluctance to annoy you any further.

Following the recent BP-PSC hearing on the proposed Deepwater Horizon settlement, I began doing some research on Dr. Michael Harbut.

I was fascinated when I realized that he is an exceptional clinician and genuine "Good Guy," who is a formidable presence in our profession and in his medical specialty.

I further obtained several articles authored by him and I downloaded and personally transcribed a talk that he gave to doctors who were treating victims of the spill on the Gulf Coast. The talk was dated August 5, 2010 and the oil spill was ongoing at the time of his talk.

In my last communication with you I pointed out the flaws that I felt existed in the medical portion of the settlement (regarding CHRONIC ILLNESSES) and listed the most common and the most serious symptoms being experienced by victims of the oil spill.

The following page contains the symptoms that are serious, long term, debilitating and life threatening when considered from the perspective of malignancies anticipated to be experienced in the future.

The following information was taken from my previous letter to you:

**(THE “CHRONIC CONDITIONS” MENTIONED IN THE BP-PSC AGREEMENT
ARE CAPITALIZED AND ENLARGED IN THE DATA PRESENTED BELOW)**

Patient Complaints (113 Patients)

Headaches

93

Memory Loss

89

Fatigue

85

Irritable

63

Vertigo

60

Nausea

49

Vision Blurred or Decreased Vision

43

GERD (Gastro-Esophageal Reflux Disease)

29

Insomnia

28

COUGH

There were about 25 victims with Persistent Cough

(In no cases were the coughs debilitating)

There were about 15 victims who only coughed for a while after the spill

RASHES

21

Abdominal Pain

20

Joint Pain

14

Muscular Pain

12

NASAL COMPLAINTS

8

ECZEMA

3

CORNEAL OR EYE DAMAGE

0

The following are the comments of Dr. Harbut with regard to the problems caused by exposure to petroleum products and dispersants:

This talk is available in an audio format at the following site:

http://www.sciencecorps.org/Harbut_consult/DrHarbut.mp3

6:41 these are in the realm of scientific cascade, a cause and effect that can be seen. Another thing that is also troublesome in patients who present at the exposure to this group of agents – is there will be memory loss, or mental confusion, or bad dreams. We know that this family of exposures can cause neuropsychological effects, all sorts of emotional instability in susceptible patients. And the simple Mini Mental status exam where you ask “what day is it.....you know the presidents.....it may not be enough and they will require referral to neural-psychological evaluation.

8:18 Another problem that we see because of the exposure of the patients to these agents is neuropathy. We do know that in many of the petroleum products there is an n Hexane. N-Hexane is associated with Wallerian Degeneration of the peripheral nerves. It's a dying back degeneration. The myelin sheath disintegrates. Testing for this one of sort's pearls I would like to leave you with is “Remember that EMG is not abnormal in neuropathy until about one third of the nerve has been essentially killed off.

8:55 So if a patient comes in with some sort of mild neuropathy but you get no EMG, you still need to consider the role of petroleum exposure in the diagnostic differential and treatment process.

(Mike Robichaux:) Dr. Harbut is making the precise point that I tried to make in my previous letter. The CHRONIC illnesses being experienced by these patients will probably be with them for the rest of their lives. While he acknowledges the presence of skin and pulmonary issues, these are far removed in severity, at least in my patient population, from the significance of the neurological manifestations of these disorders.

The last issue that I would like to mention underscores the severity of the problems being experienced AND suggests other major problems in the future:

Dr. Harbut predicts a significant rise in cancer in the next five to ten years. Additionally, he acknowledges some of the other major problems that I have observed.

A large percentage of the patients that I have seen with these illnesses have experienced what I describe to my patients as “Multiple Endocrinopathies.”

These disorders have resulted in disruption of menses in women, impotence in many of the men, wide fluctuations of blood sugar, and disruption in the function of the adrenal glands.

Dr. Harbut describes these problems as resulting from the activities of what he calls “Endocrine Disrupters.”

11:46 In terms of mutagens, and what I call Endocrine Disrupters. Many of the chemicals that go to make up the petroleum mixture have been implicated as being Endocrine Disrupters. Meaning that they are recognized by the body as being

hormones, and most often female hormones.

There is discussion and there is information in the literature that says that the ingestion of agents which cause the creation of these endocrine disrupters, may contribute to the actual epidemic in the U.S. of the early onset of Menses, precocious puberty and probably some of the testicular abnormalities that are seen in animal life.

12:31 Nobody knows for sure but it's certainly the 900 pound gorilla in the room along with the 2 other 900 pound gorillas being the Mutagens and Carcinogens!!

Dr. Harbut and Dr. Kathleen Burns have co-authored two articles regarding the dangers of being exposed to crude oil. One is designed for the public, the other for workers. These two flyers are available below and contain some very interesting information.

PLEASE NOTE:

If you will refer to the flyer that was designed "FOR WORKERS," you will note that all of the workers exposed to crude oil should wear "masks and respirators."

BP specifically prohibited the wearing of these devices and made clear to boat owners and employees that they would be fired if they were found wearing these protective devices!

Out of all of the reading and research I have done in this area, I have never seen a picture of a worker wearing a mask. I know for a fact that LEAN (The Louisiana Environmental Action Network) purchased over \$20,000 worth of boots, gloves, respirators and Tyvec suits and distributed them to the workers early after the spill occurred. The individuals who attempted to wear the respirators were told that if they were caught wearing any breathing protection they would be fired as would the boat owner or any other person responsible for their jobs.

I would like to believe that Dr. Harbut had nothing to do with implying that the only chronic problems that should be compensable were those mentioned by Ms. Greenwald in her sworn affidavit. His comments in his talk clearly contradicts this assertion.

In my research I also came across an interview with Dr. Harbut that you might find of interest.

It was a hard hitting bit of reality from his vantage point.

http://www.huffingtonpost.com/jerry-cope/no-safe-harbor-on-gulf-co_b_698338.html

The following comments were taken from this 9-2-10 interview with Jerry Cope and printed in The Huffington Post:

MH: First you have to remember the setting -- this is New Orleans and the Gulf Coast; there is a history and a context in which things need to be placed. In my specialty, which is occupational and environmental medicine, there are not many of us who are board certified who actually take care of patients. The bulk of the physicians in our specialty are medical advisors or medical directors to large corporations, and many have never met a chemical they didn't like. Sort of like Will Rogers. Part of

the context is there is a physician whose name is Victor Alexander who was a specialist in my field. He worked in New Orleans at the Oxnar clinic and was seeing a lot of patients who worked for the petroleum companies and was reportedly fired for all of the work he did for his patients as opposed to the petroleum companies -- what a doctor is supposed to do. So Victor Alexander then goes into private practice and the New Orleans police came and arrested him for robbing a bank.

JC: Seriously?

MH: Yea, it gets way crazier. This is a guy who was doing very well personally, economically -- it came out in trial that he had a half a million dollars in the bank and was making plenty of money. It is unlikely in terms of motive that he would rob a bank for 2,500 dollars. The video from the bank was analyzed by the retired chief of criminal identification for the FBI; he said there was no way it could have been Dr. Alexander robbing this bank. He went to trial twice, the judge threw out a lot of evidence that would have exonerated him and he was sent to prison for robbing a bank. The Louisiana State Medical Society refused to take away his license. Many physicians who do work or potentially could do work or have knowledge of the area in New Orleans know the story about Victor Alexander. The message is quite clear: Don't mess around with the petroleum industry.

(FOR WORKERS)

Crude Oil and Your Health

Are you working directly with oil-contamination?

Crude oil contains highly toxic chemicals such as benzene and n-hexane that can cause cancer, birth defects, and permanent nerve damage.

Even brief exposure to crude oil can irritate and damage skin, cause headaches, dizziness, nausea, confusion, difficulty breathing and other health problems.

Inhaling crude oil mist can cause chemical pneumonitis, a serious lung disease. Serious harm from crude oil that may not be recognized quickly includes liver, kidney, respiratory, reproductive, blood, immune, and nervous system damage.

Especially Vulnerable Workers include: Those with respiratory conditions (asthma, COPD, etc) Women who may be pregnant Those with nervous system, liver, kidney, or blood disorders

Protection Wear gloves, *masks, respirators*, and water repellent clothing if you work with crude oil. Avoid exposure to air, water, mist, dust, sand, and other media contaminated with crude oil. Review the OSHA guidance on protective gear and

practices - link is at websites below.

There is no way to predict who will suffer health problems, so minimize exposure whenever possible.

This handout does not provide medical advice. If you are experiencing any health problems, obtain local medical care as soon as possible.

Additional information and resources is available at

www.sciencecorps.org/crudeoilhazards.htm www.waterkeeper.org

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(FOR THE PUBLIC)

Crude Oil and Your Health

Crude oil contains highly toxic chemicals that can evaporate and blow in from the ocean, across neighborhoods and towns. You may smell the odor of these chemicals.

Children and the Elderly are Especially Vulnerable

Exposure to crude oil in the air can cause difficulty breathing, headaches, dizziness, nausea, and confusion. Even brief exposure can cause health problems for people with asthma, COPD, and other respiratory problems. Direct contact with contaminated water can cause skin damage.

Delayed effects of crude oil exposure can include liver, kidney, respiratory, reproductive, blood, immune system and nervous system damage, cancer and birth defects. The occurrence and nature of harm will depend on exposure and individual factors, but some people are more susceptible:

Children are at higher risk for many reasons. **Pregnant women** are also at higher risk, and so are their babies. **Elderly & those with health problems** may be at higher risk.

Protection

Preventing exposure is the best way to prevent health problems. Be aware of odors and pollution alerts that warn of air pollution. Avoid contact with oily sand, soil, animals, plants or other materials. Vulnerable people in high pollution areas can consult their health care providers about ways to reduce their exposure and remain healthy.

For additional information and resources see:

www.sciencecorps.org/crudeoilhazards.htm www.waterkeeper.org

This handout does not provide medical advice. If you are experiencing any health problems, obtain local medical care as soon as possible.

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For the above reasons, it is my most sincere belief that the proposed agreement between BP and the Plaintiff Steering Committee has been severely corrupted and should be

rejected.

Any further hearings on the fate of the victims of this tragedy should allow the actual victims to tell their own stories and describe their own versions of the illnesses that they have been suffering.

In 1991, there were over 175,000 American Heroes who returned from the Gulf War with what became known as "Gulf War Syndrome." These valiant young men and women had served their country with great valor and were recognized and glorified for the magnificent job they had done for their country and for the free world.

Unbeknownst to the public, about 175,000 of the soldiers that returned home from the war developed a series of unusual and debilitating symptoms that became known as Gulf War Syndrome. These American Heroes were called malingerers, malcontents, etc. and were treated as second-class citizens by third-class bureaucrats.

Their illnesses went untreated and mostly unacknowledged until 2008, when a congressional report titled "Gulf War Illness and the Health of Gulf War Veterans" was published.

http://www.va.gov/RAC-GWVI/docs/Committee_Documents/GWIandHealthofGWVeterans_RAC-GWVIRreport_2008.pdf

I have read this 446 page document several times and it is as informative as it is depressing.

The following information is found on page one of this document and includes the following:

***GULF WAR ILLNESS AND THE HEALTH OF GULF WAR VETERANS
FINDINGS IN BRIEF (Page 1)***

Gulf War illness, the multisymptom condition resulting from service in the 1990-1991 Gulf War, is the most prominent health issue affecting Gulf War veterans, but not the only one. The Congressionally-mandated Research Advisory Committee on Gulf War Veterans' Illnesses has reviewed the extensive evidence now available, including important findings from scientific research and government investigations not considered by earlier panels, to determine what is known about the health consequences of military service in the Gulf War. This evidence identifies the foremost causes of Gulf War illness, describes biological characteristics of this condition, and provides direction for future research urgently needed to improve the health of Gulf War veterans.

Gulf War illness is a serious condition that affects at least one fourth of the 697,000 U.S. veterans who served in the 1990-1991 Gulf War. This complex of multiple concurrent symptoms typically includes persistent memory and concentration problems, chronic headaches, widespread pain, gastrointestinal problems, and other chronic abnormalities not explained by well-established diagnoses. No effective treatments have been identified for Gulf War illness and studies indicate that few veterans have recovered over time.

The point to be made at this time is that the illnesses STILL being suffered by these veterans are IDENTICAL to the symptoms being experienced by the victims of the Deepwater Horizon debacle, and I have taken the privilege of referring to the symptoms being experienced by my patients as BP Syndrome.

This complex of multiple concurrent symptoms typically includes persistent memory and concentration problems, chronic headaches, widespread pain, gastrointestinal problems, and other chronic abnormalities not explained by well-established diagnoses.

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More than seventeen years have passed since the United States and its international allies liberated Kuwait from the grip of Saddam Hussein's Iraqi military forces in the 1990-1991 Gulf War. Despite the swift and decisive victory achieved in Operation Desert Storm, at least one fourth of the nearly 700,000 U.S. military personnel who served in the war have experienced a complex of difficult and persistent health problems since their return home. Illness profiles typically include some combination of chronic headaches, cognitive difficulties, widespread pain, unexplained fatigue, chronic diarrhea, skin rashes, respiratory problems, and other abnormalities. This symptom complex, now commonly referred to as Gulf War illness, is not explained by routine medical evaluations or by psychiatric diagnoses, and has persisted, for many veterans, for 17 years. While specific symptoms can vary between individuals, a remarkably consistent

illness profile has emerged from hundreds of reports and studies of different Gulf War veteran populations from different regions of the U.S., and from allied countries.

If you will compare the symptoms expressed in the above document with the symptoms I list as being experienced by my patients, you will see that they are almost identical!!

While we have finally acknowledged the existence of this disorder, we have still not formally treated a single victim of this tragic event, although a few of us are dreaming about providing treatment for these forgotten heroes.

The bottom line is as follows:

There are a LARGE number of formerly healthy American Citizens who have suffered life-altering illnesses as the result of exposure to chemicals released by a foreign corporation in American waters. To the best of my knowledge, there has not been a penny paid out for the care of these individuals by this corporation and this corporation has been successful, to date, in obscuring the severity and extent of the illnesses being suffered by our fellow countrymen.

American taxpayers are currently paying for the health care and for the meager living expenses of our fellow citizens who were injured by an arrogant and greedy foreign corporation.

The courts have, to date, have allowed the interest of this foreign corporation to smother the rights of American Citizens, and we are on the cusp of a decision that will decide whether or not our brethren are justly compensated for their losses and rightly acknowledged as being harmed by the past and present arrogance, belligerence and dishonesty of this British owned and based company.

WE CANNOT AND WE MUST NOT ALLOW WHAT HAPPENED TO OUR SOLDIERS IN 1991 HAPPEN TO OUR FELLOW CITIZENS IN 2012.

No matter what it takes, we MUST INSIST that JUSTICE be applied and HONESTY prevail in this matter.

This is the ONLY legal, moral, and just decision that is acceptable.

Judge Barbier, I appeal to you on behalf of the people that I represent to take all of these facts into consideration before you make your final decision on this matter.

Sincerely yours,

Michael Robichaux, MD