

ONE HUNDRED ELEVENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

September 28, 2010

The Honorable Bob Graham  
The Honorable William K. Reilly  
Co-Chairs  
Bipartisan National Commission on the  
BP Deepwater Horizon Oil Spill and Offshore Drilling  
One Thomas Circle, N.W. 4<sup>th</sup> Floor  
Washington, D.C. 20005

Dear Chairmen Graham and Reilly:

I write regarding the Commission's investigation into the manner in which BP reported on and planned its response to the flow rates of oil spewing from its Macondo Well. As you both are reported<sup>1</sup> to have pointed out during yesterday's Commission hearing, these estimates were consistently low-balled by BP. The Energy and Environment Subcommittee's investigations into this matter demonstrates that at the same time that BP was providing these low estimates, its internal documents show that they knew all along what the likely flow rate was. As you know, accurate flow-rate estimates – that turned out to bear a striking resemblance to BP's internal estimates - were only publicly released following extensive modeling by the Federal Flow Rate Technical Group. I hope that your work will include an investigation into just what BP knew, when it knew it, and what consequences its failure to be fully forthcoming may have had.

I share your concern that BP's actions may have misled both the public and those charged with responding to the spill. I also note that the true flow rate of the well will have substantial financial implications for the company. Under current law, BP would have to pay a fine of at least \$1,100 and up to \$4,300 per barrel of oil spilled, with the higher figure in the case of gross negligence being found against the company. So for every 10,000 barrels of oil spilled per day at \$4,300 per barrel over the more than 80 days of oil spilled into the ocean, the fine would be more than \$3.5 billion. The total size of the spill will also determine damages BP would have to pay for the spill's effect on natural resources in the Gulf of Mexico.

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<sup>1</sup> <http://thehill.com/blogs/e2-wire/677-e2-wire/121105-oil-spill-panel-chiefs-say-low-oil-flow-estimates-were-harmful>

As you may know, the Subcommittee conducted numerous oversight hearings, briefings and other activities related to this matter. During the course of our investigation, we obtained numerous documents and other statements from BP that demonstrate its awareness of the likely flow rate of the well, even at the same time that it was asserting much lower flow rates publicly. I enclose a timeline of the Subcommittee's investigation, which has links to the pertinent documents.

Thank you for your attention to this important matter. My staff stands ready to assist your staff in any way possible.

Sincerely,

A handwritten signature in blue ink that reads "Edward J. Markey". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Edward J. Markey  
Chairman, Subcommittee on Energy  
and Environment

Cc: The Honorable Henry A. Waxman  
Chairman  
House Energy and Commerce Committee

The Honorable Joe Barton  
Ranking Member  
House Energy and Commerce Committee

The Honorable Fred Upton  
Ranking Member  
Subcommittee on Energy and Environment

### Flow rate timeline

- April 24 BP initially asserted that the flow rate from the Macondo well was 1,000 bpd.
- April 27 BP internal document showed an estimated flow rate in the range of 1,063-14,266 bpd
- April 28 Coast Guard and NOAA publically estimate the flow rate to be at least 5000 bpd, which BP initially disagreed with.
- May 4 BP, in a briefing to the House Energy and Environment Subcommittee Members, say that the worst-case flow rate could be 60,000 bpd.
- May 24 BP provided internal documents to Markey confirming the 60,000 bpd estimate.
- May 27 The Federal Flow Rate Technical Group released its first preliminary estimate of flow rate with a low-end of 12,000-19,000 bpd
- June 10 The Federal Flow Rate Technical Group revised its flow rate estimate upwards to 20,000 - 40,000 bpd.
- June 15 The Federal Flow Rate Technical Group and DOE scientists revise the flow rate estimate upwards to 35,000 - 60,000 bpd.
- July 6, 11 BP internal dispersant documents indicate that dispersant application decisions were made using a flow rate assumption of 53,000 bpd.
- August 2 The Federal Flow Rate Technical Group and DOE scientists revise their flow rate estimate upwards to 53,000 bpd (with 10% error) for mid-July and 62,000 bpd at the beginning of the spill.