

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

IN RE:	OIL SPILL by the OIL RIG	:	MDL No. 2179
	“DEEPWATER HORIZON” in the	:	
	GULF OF MEXICO, on	:	Section: J
	APRIL 20, 2010	:	
		:	Judge Barbier
<b>This Document Relates to</b>		:	Mag. Judge Shushan
<b>All Cases</b>		:	

.....

**MEMORANDUM IN SUPPORT OF  
EX PARTE MOTION FOR EXPEDITED HEARING ON  
PETITIONERS’ MOTION FOR PROTECTIVE ORDER**

The Blow Out Preventer (“BOP”) for the *Deepwater Horizon* is expected to be recovered from the ocean floor, perhaps as early as sometime this week. The Department of Interior (“DOI”), on behalf of the Joint Investigation Board (comprised of the U.S. Coast Guard and the Bureau of Ocean Management, Regulation, and Enforcement), indicated that it will take exclusive control over the BOP. The DOI established that it intends on transporting the BOP stack to the Michoud (NASA) site and that it would then unilaterally contract to have forensic testing and analysis performed. While the DOI has solicited the interested parties’ input regarding the forensic testing protocol, the DOI has not explained how it would either consider or adopt such input.

Yet, as noted more fully in Petitioners' Motion, there are significant, legitimate concerns from many of the interested parties regarding various issues with the retrieval process, transport, selection of the testing facility, and purported plans for forensic testing and analysis of the BOP stack. Petitioners submit that these issues should be fully assessed by this Honorable Court and all interested parties before the BOP stack is removed from the ocean floor and transported anywhere.

Since it is expected that the BOP will be retrieved from the ocean floor as early as sometime this week, which is before the next available hearing date on this Honorable Court's calendar, Petitioners' pray that their Motion be considered on an expedited basis so as to allow adjudication of the matters raised in the Petitioners' Motion before the BOP can be retrieved. Moreover, Petitioners respectfully submit that advance adjudication of the numerous concerns expressed in their Motion for Protective Order is in the interest of judicial economy by preventing further protracted motion practice concerning the numerous issues regarding the preservation, maintenance, and testing of the BOP stack.

Thus, Petitioners respectfully pray that their Ex Parte Motion for Expedited Hearing be granted, and that their Joint Motion for Protective Order be considered on an expedited basis on Thursday, August 26, 2010, before the DOI recovers the BOP from the ocean floor and transports the BOP anywhere to begin unilateral testing.

Respectfully submitted,

PREIS & ROY, PLC

/s/ Carl J. Herbert

EDWARD F. KOHNKE, IV, T.A. (#07824)

CARL J. HEBERT (#06724)

601 Poydras Street, Suite 1700

New Orleans, Louisiana 70130

Telephone: (504) 581-6062

Facsimile: (504) 522-9129

Email: [ekohnke@preisroy.com](mailto:ekohnke@preisroy.com)

and

KERRY J. MILLER (#24562)

FRILOT, L.L.C.

1100 Poydras Street, Suite 3700

New Orleans, Louisiana 70163

Telephone: (504) 599-8194

Facsimile: (504) 599-8145

**COUNSEL FOR  
TRANSOCEAN OFFSHORE  
DEEPWATER DRILLING INC.**

DEBORAH D. KUCHLER (#17013)

JANIKA D. POLK (#27608)

ROBERT E. GUIDRY (#28064)

KUCHLER POLK SCHELL WEINER &  
RICHESON, LLC

1615 Poydras Street, Suite 1300

New Orleans, Louisiana 70112

Telephone: (504) 592-0691

Facsimile: (504) 592-0696

and

James J. Dragna

BINGHAM McCUTCHEN LLP

355 South Grand Avenue, Suite 4400

Los Angeles, California 90071-3106

Telephone: (213) 680-6436  
Facsimile: (213) 680-8636

Warren Anthony Fitch  
Ky E. Kirby  
Michael B. Wigmore  
BINGHAM McCUTCHEN LLP  
2020 K. Street, NW  
Washington, DC 20006-1806  
Telephone: (202) 373-6000  
Facsimile: (202) 373-60001

Peter C. Neger  
BINGHAM McCUTCHEN LLP  
399 Park Avenue  
New York, New York 10075  
Telephone: (212) 705-7226  
Facsimile: (212) 702-3616

**COUNSEL FOR ANADARKO  
PETROLEUM CORPORATION,  
ANADARKO E&P COMPANY, LP,  
AND MOEX OFFSHORE 2007, LLC**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing pleading has on this 23rd day of August, 2010, been served on the following counsel of record in this proceeding by:

- |  |  |
|--|--|
| <input type="checkbox"/> Hand Delivery   | <input type="checkbox"/> Prepaid U.S. Mail |
| <input type="checkbox"/> Federal Express | <input type="checkbox"/> E-Mail            |
| <input checked="" type="checkbox"/> ECF  |  |

/s/ Carl J. Herbert  
CARL J. HEBERT