

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

In re: DEEPWATER HORIZON

CIVIL ACTION

NO: 10-1156

This order applies to all cases.

SECTION: J(1)

ORDER

This Court, having issued the Order Protecting Confidentiality (**Rec. Doc. 269**), hereby **ORDERS** that pursuant to the Interim Case Management Order (**Rec. Doc. 134**), the attached document is to be filed as **Exhibit A** to the Interim Case Management Order.

New Orleans, Louisiana, this 13th day of July, 2010.



CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

LISKOW & LEWIS

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EXHIBIT A

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June 11, 2010

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VIA E-MAIL

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Mr. Stephen J. Herman
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New Orleans, LA 70113

Re: Deepwater Horizon Litigation
Our File No.: 10451.084

Dear Jim & Steve:

In your role as joint Interim Liaison Counsel for the plaintiffs before Judge Barbier, I am following up on our productive phone conversations of this week concerning the parameters of a document depository for BP-produced documents. I believe we have an agreement on the following points:

1. BP will create an electronic database consisting of the documents it has already produced to the Marine Board of Inquiry ("MBI") and various committees of Congress.
2. BP's database of documents will be accessible by July 6, 2010. Everything that BP has produced to those entities as of June 18 will be uploaded and available for downloading and printing by July 6. Any documents that BP has produced or will produce to those entities after June 18 will be uploaded and available for downloading and printing within three weeks of the production to the MBI or Congress.
3. BP will withhold from this database documents it considers to be privileged. After an MDL is established, BP will provide a F.R.C.P. privilege log with a listing of those documents it has withheld in accordance with the case management orders entered in that proceeding.



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4. The BP document depository will be available to all plaintiff counsel in all lawsuits in all federal jurisdictions, provided those lawyers agree to the conditions of this agreement. BP will be in the sole position to grant access to the database, but such access will not be unreasonably withheld so long as the conditions set forth here are met. Any disputes regarding the scope of documents posted or access to such documents will be resolved, after good faith consultation between counsel, by the court handling the case where the dispute arose. except that once created by the JPML, the MDL transferee court shall decide all such disputes.
5. As a condition of access to the document database, interested plaintiff counsel must adhere to the terms of a Confidentiality Agreement to be entered by the court. A draft agreement has been exchanged. All parties reserve their right to seek modification of the terms of such an agreement after the MDL panel consolidates the pending cases.
6. As a condition for the creation of this document depository, Plaintiffs agree that this production will serve in lieu of all other discovery to BP until such time as (a) the MDL panel consolidates these Deepwater Horizon cases and (b) the transferee court enters some sort of discovery plan or case management order. The same agreement would apply to other plaintiff counsel who seek access to the depository.¹
7. BP acknowledges that this agreement does not constitute a waiver by plaintiffs of their right to seek any and all appropriate discovery under F.R.C.P. 26, *et seq.*, after the MDL panel consolidates the pending cases.

Both sides understand that the document depository – at this time – will not include documents that address environmental, health, and safety issues that affect response workers. These documents will be the subject of a stand-alone agreement, which is currently under discussion among counsel.

¹ This limitation on formal discovery pending the ruling of the MDL Panel notwithstanding, the parties are continuing to cooperate with respect to the sharing of documents and information regarding environmental, health and safety issues, referenced below.

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There remains one point of disagreement between the parties. Liaison counsel prefer that the terms of this letter agreement be memorialized in the form of a court order. BP prefers to operate in the form of a letter agreement to preserve the jurisdictional neutrality of the agreement.

Thank you for your help in concluding this discovery issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Keith Jarrett". The signature is written in a cursive, slightly slanted style.

R. Keith Jarrett

RKJ/efp

cc: Don K. Haycraft, Esq.