

## NOAA Inaction in the Gulf of Mexico

Nils E. Stolpe  
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FishNet USA  
(<http://www.fishnet-usa.com>)

For over a decade the precautionary principle has been the mantra used by anti-fishing “conservation” organizations and federal fisheries managers in their relentless efforts to get recreational, commercial and party/charter fishermen off the water. Most simply, the precautionary principle states that when there is any doubt about the accuracy of the data propping up a proposed management action, assume the worst and manage accordingly. Thus, if the estimate of a stock of fish is in the range of 75,000 to 125,000 metric tons (plus or minus 25% would be doing really well considering the average stock assessment), the managers should assume that the lower figure is accurate and set catch parameters as if it were. No allowance for fishermen’s on-the-water observations, no allowance for common sense or intuition, no allowance for “anecdotal” observations; just go with the lowest possible estimate regardless of the costs to the affected fishing communities.

Needless to say, this forced and arbitrary conservatism has unnecessarily cost fishermen and the businesses that depend on them untold millions of dollars and untold thousands of jobs (lest there be any doubt about this, the current “realignment” in the management of the New England groundfish fishery and the imminent closure of all bottom fishing off the coasts of Northeast Florida and Georgia - and the billions of dollars of direct and indirect economic impacts of these arbitrary actions on fishermen and fishing related businesses - have many people on the East Coast on the verge of active revolt against today’s fisheries management regime.)

Jane Lubchenco was one of the outspoken proponents of the precautionary principle, at least when applied to fishing and used to punish fishermen, in her past employ as a foundation subsidized researcher and “conservation community” leader and now in her role as the head of the National Oceanic and Atmospheric Administration, the federal agency in charge of regulating fisheries in federal waters.

Yet when it comes to non-fishing activities, or at least to non-fishing activities involving Big Oil, Ms. Lubchenco’s commitment to the precautionary principle is nowhere near as well developed. In fact, it appears that it is virtually non-existent.

### **Lubchenco’s/NOAA’s role in the Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015**

In her September 21, 2009 twenty-six page response to Lisa Birnbaum, Director of the Mineral Management Service on the Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program for 2010-2015. Ms. Lubchenco precedes her comments with a rundown of the federal laws that give her and NOAA specific responsibility in the areas covered by the draft proposal. These are “*the Coastal Zone Management Act, the National Marine Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Oil Pollution Act of 1990, and the Coral Reef Conservation Act as well as NOAA’s statutory roles under the Outer Continental Shelf Lands Act, the Ocean and Coastal Mapping Integration Act, and the Hydrographic Services Improvement Act.*”

Ms. Lubchenco then brings up a series of issues that were not adequately or accurately addressed in the proposal. Clearly she and NOAA had the ability, the foreknowledge and the duty to intercede in those issues. But did they? Anywhere from 10,000 to 100,000 barrels of oil still spewing into the Gulf of Mexico -we still don’t know how much - every day attest to how effective that intercession was.

### **And then there are the subsurface oil plumes**

A growing group of independent researchers (independent of NOAA and BP, that is) have been reporting huge plumes of subsurface oil at various depths scattered about the Gulf. Understandably, BP has been denying their existence since their discovery was announced almost a month ago.

“(BP CEO) Hayward said that oil's natural tendency is to rise to the surface, and any oil found underwater was in the process of working its way up. ‘The oil is on the surface,’ Hayward said. ‘There aren't any plumes.’” (Associated Press, May 31)

But what's a little more difficult to understand is Ms. Lubchenco's continuing attempts to call into question the presence and the significance of these plumes.

“Media reports related to the research work conducted aboard the R/V Pelican included information that was misleading, premature and, in some cases, inaccurate,” (Deepwater Horizon Response website, Statement from NOAA Administrator Jane Lubchenco on Ongoing Efforts to Monitor Subsea Impacts of the BP Oil Spill, 05/17/10)

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“But the samples have not been analyzed,” Lubchenco said. “They have taken good samples. And we need to make sure that we're not jumping to conclusions.... And that's part of the -- the normal process that science has. We want to make sure that we have good information.”

“We have seen something irregular. But, you know, science is a process. We're in the very early stages of understanding what it is that they saw. It's clear that there is something at depth, but we don't even know that it's oil yet. That's -- that's a good possibility.”(G. Ifil interview, PBS Newshour, 05/17/10)

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But to Lubchenco, the Obama appointee running the National Oceanic and Atmospheric Administration, all the accumulated evidence is just “circumstantial.” And what others call oil, she calls “anomalies.” “I can tell you that there have been a number of anomalies identified by a number of different cruises,” she told reporters in a conference call. “Those anomalies are features at various different depths in the water column that may be oil, they may be other features. It is quite possible that there is oil beneath the surface,” Lubchenco finally acknowledged under repeated questioning. “I think there is reason to believe that may be the case.” But that's as far as she would go.

“I am not at all in denial,” she insisted. (D. Froomkin, The Huffington Post, 06/02/10)

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“We are all served best by proceeding in a careful, thoughtful, and quantifiable manner.” Lubchenco appeared to be referring to her previous criticisms that the initial claim of a plume was premature. In her presentation, Lubchenco highlighted new results from a NOAA research vessel, emphasizing that concentrations of oil in a plume fell off quickly and were undetectable 20 kilometers from the leaking well. “Even in a fairly short distance, the signal is becoming significantly diminished.” (E. Stokstad, Science Insider, 06/04/10)

What happens to the precautionary principle when Ms. Lubchenco is addressing what is being claimed to be the worst environmental disaster that has ever been inflicted on the United States? Why is it that the lack of scientific certainty elicited from a marine scientist, one who has often been described by her supporters as “world class,” and whose job it is to protect our coastal and offshore waters, is awfully hard to look at as anything other than knee jerk deniability regarding subsurface oil plumes regardless of her claim to the contrary? How did the precautionary principle play into her deliberative processes regarding these now confirmed subsurface plumes when so much more was at stake than getting some more fishermen off the water?

And she maintained this deniability for three weeks, in the face of mounting scientific evidence to the contrary. It wasn't until June 8, at the point at which other researchers had conclusively proven the existence of the plumes, that she finally admitted “there is definitely oil subsurface” though she continued in her attempts to minimize its signifi-

cance, saying the oil was present “*in very low concentrations*” - tell that to the critters that are trying to survive in it - and adding the world class weasel words “*that does not mean it doesn't have significant impact.*”

### **However, in the words of another researcher, one with extensive experience in the Gulf of Mexico...**

*“It's an infusion of oil and gas unlike anything else that has ever been seen anywhere, certainly in human history,” said Samantha Joye of the University of Georgia, the expedition leader. Bacteria are breaking down the oil's hydrocarbons in a massive, microorganism feeding frenzy that has sent oxygen levels plunging close to what is considered “dead zone” conditions, at which most marine life are smothered for a lack of dissolved oxygen. (P. Quinlan & J. Voorhees, NY Times, 06/08/10)*

Irregularities and anomalies? For sure, but they're not emanating from the BP well head.

### **And what about research support?**

*The administration acknowledges that its scientific resources are stretched by the disaster, but contends that it is moving to get better information, including a more complete picture of the underwater plumes. “We're in the early stages of doing that, and we do not have a comprehensive understanding as of yet of where that oil is,” Jane Lubchenco, the NOAA administrator, told Congress on Wednesday. “But we are devoting all possible resources to understanding where the oil is and what its impact might be.” (J. Gillis, NY Times, 05/19/10)*

On May 13 the NOAA research vessel the R/V Bell M. Shimada, set sail from Key West. On May 18, the day before Ms. Lubchenco's above statement to Congress, the Shimada was locking through the Panama Canal. As the most recent addition to the NOAA research fleet, the Shimada is equipped with state-of-the-art instrumentation, and this instrumentation - according to NOAA - was at least partially operational (the Shimada had undergone acoustic trials prior to its Key West departure).

As another indication of its readiness, once in the Pacific on its way to its home port in Oregon, the Shimada would be “*engaged in trials en route to the West Coast, including acoustic mapping of the Shimada Seamount, a young, isolated volcanic feature located off the coast of Baja California.*”

Considering NOAA's and Ms. Lubchenco's lack of a comprehensive understanding of something as critical as the location and characteristics of the underwater oil plumes at that time, a lack that we're still contending with a month later, and considering Ms. Lubchenco's assurances that “*all possible resources*” would be devoted to adding to that understanding, why after leaving Key West did the Shimada make such rapid tracks for the Panama Canal rather than turning North and contributing to the Gulf spill research effort.

*“It seems baffling that we don't know how much oil is being spilled,” Sylvia Earle, a famed oceanographer, said on Capitol Hill. “It seems baffling that we don't know where the oil is in the water column” (J. Gillis cited above). Perhaps it wouldn't have seemed so baffling to Dr. Earle if she had known that NOAA's newest and presumably most capable research vessels was getting out of the Gulf of Mexico as quickly as possible to survey a sea mount that has been off Baja and not doing much of anything since the Miocene epoch, which ended 5 million years ago.*

### **Faithful to the bitter end?**

C-Span's video library archives televised updates on the Gulf oil spill. In her response to a question about the availability of video from BP in the update on June 8, Ms. Lubchenco said “*there were problems early on. We have directed BP to give everything they have and that has been forthcoming*” (starting at 16 minutes into the video, which is available at <http://www.c-spanvideo.org/program/293950-1>).

In a letter on the same day to Lamar McKay, President and CEO of BP America, Senator Ed Markey wrote “*it has come to my attention that the Flow Rate Technical Group (the panel of scientists and engineers tasked with determining the rate of oil release from the Deepwater Horizon) has not yet received archived video data for this period (after*

the riser was severed and before the cap was installed). *Since I have previously requested that you archive all video, I expect that you have stored a copy of all the chronological video feeds. Any efforts on your part to prevent experts from determining the size of the spill is unacceptable. I request that you immediately release the archived video to the Flow Rate Technical Group and to me so that the size of this spill can be determined.*” Senator Markey is the Chairman of the Energy and Environment Subcommittee of the Energy and Commerce Committee.

One has to assume that the Chairman of the Senate subcommittee that is and has been most directly involved in the BP provided and NOAA permitted environmental atrocity that is still happening in the Gulf of Mexico knows what materials are and aren't available to a federally convened panel of experts. So why would Ms. Lubchenco be asserting on the same day that he made his request to BP that *“everything has been forthcoming”* from BP? This seems to be another of Ms. Lubchenco's irregularities and anomalies, but it appears that none of them are random in nature, all seeming to fall on the BP side of the fence.

So why is Ms. Lubchenco so ready, willing and able to invoke the precautionary principle when it comes to saving a relative handful of fish from U.S. fishermen, fishermen who are unquestionably among the most highly regulated in the world, but becomes totally disinclined to do so when it comes to dealing with the worst environmental catastrophe that has ever been inflicted on us? And what has her disinclination cost thousands of Gulf fishermen and tens of thousands of other people on the Gulf and elsewhere whose lives have been totally disrupted by this ongoing disaster?

Her past ties to Big Oil, both as a researcher and as a highly placed official in the world of Environmental Non-Governmental Organizations, are a matter of public record, as are her bona fides as one of the leaders in the foundation-funded “blame it all on fishing” campaign. At this point we'd like to think that she is starting to realize where the blame really belongs.

Fishing industry leaders have long debated whether the anti-fishing ENGO's goal has been to destroy all of the fisheries or just most of them, retaining only those whose participants are willing to toe the ENGO line and parrot the right ENGO phrases. Whatever the case, on the Gulf and East Coasts they're a lot closer now than they were before Ms. Lubchenco was put in charge of our oceans.