

Enforcement actions (4)

● Calculation of penalties:

- Savings benefit to the company derived from non-compliance
- Willful disregard of regulations/warnings/best practices
- Failure to use common sense
- First offense vs. repeat offender
- Extent of damage/quality/effectiveness of company response
- Costs incurred by the company under remediation plan and losses (but not if willful disregard)

Regulatory Defense – end game

- **Repair damage (relationships, physical, reputation)**
- **Neutralize negative impact of enforcement**
- **Minimize fines and penalties**
- **Avoid long-term sanctions or restrictions**
- **Survival of the company and management**
- **Everybody saves face**

Media Training for Crisis Management Situations

Julian Hilton-Johnson Vice President, General Counsel, McDonald's UK

Nicola Walter Palmieri General Counsel, Parmalat SpA

Armando Tirado General Counsel, LA&C, Tyco International Inc.

Simon C. Markham Assistant General Counsel, BP Legal

- *The importance of managing a crisis and the overall approach*
- *Dealing with the media*
- *Dealing with a regulator*
- *Case Study*

The importance of managing a crisis
and the overall approach

Julian Hilton-Johnson

Vice President, General Counsel

McDonald's, United Kingdom

What is reputation?



John Lewis



- *Attitudes, associations and expectations*
- *Most organisations' biggest asset*
- *Rarely properly understood/managed*
- *Long term investment to build – easily lost*
- *Complex risks – globalisation, scrutiny, perception*

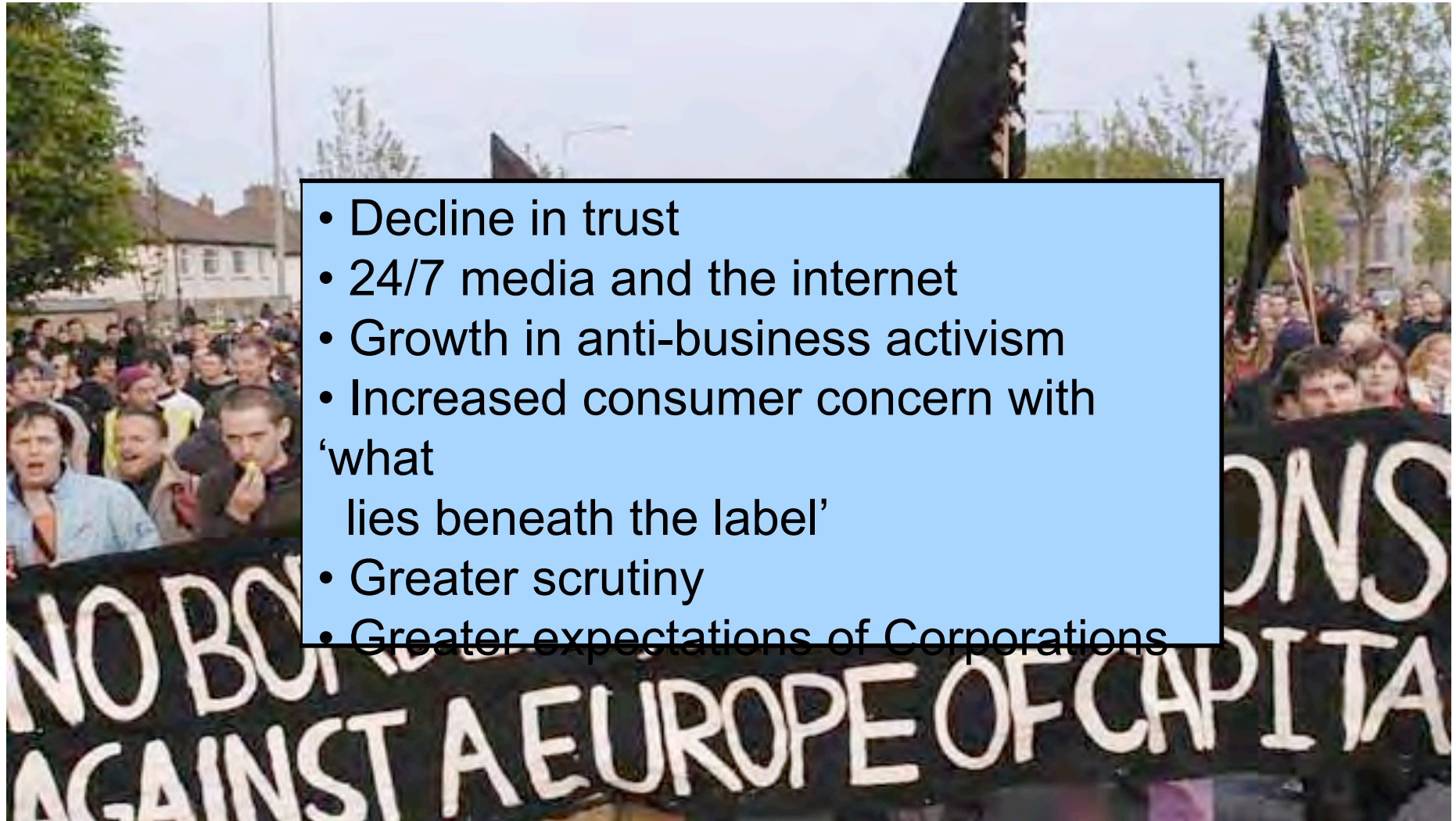


An insurance policy in times of



- *You can only influence, not control, your reputation*
- *“You are what people think you are”*

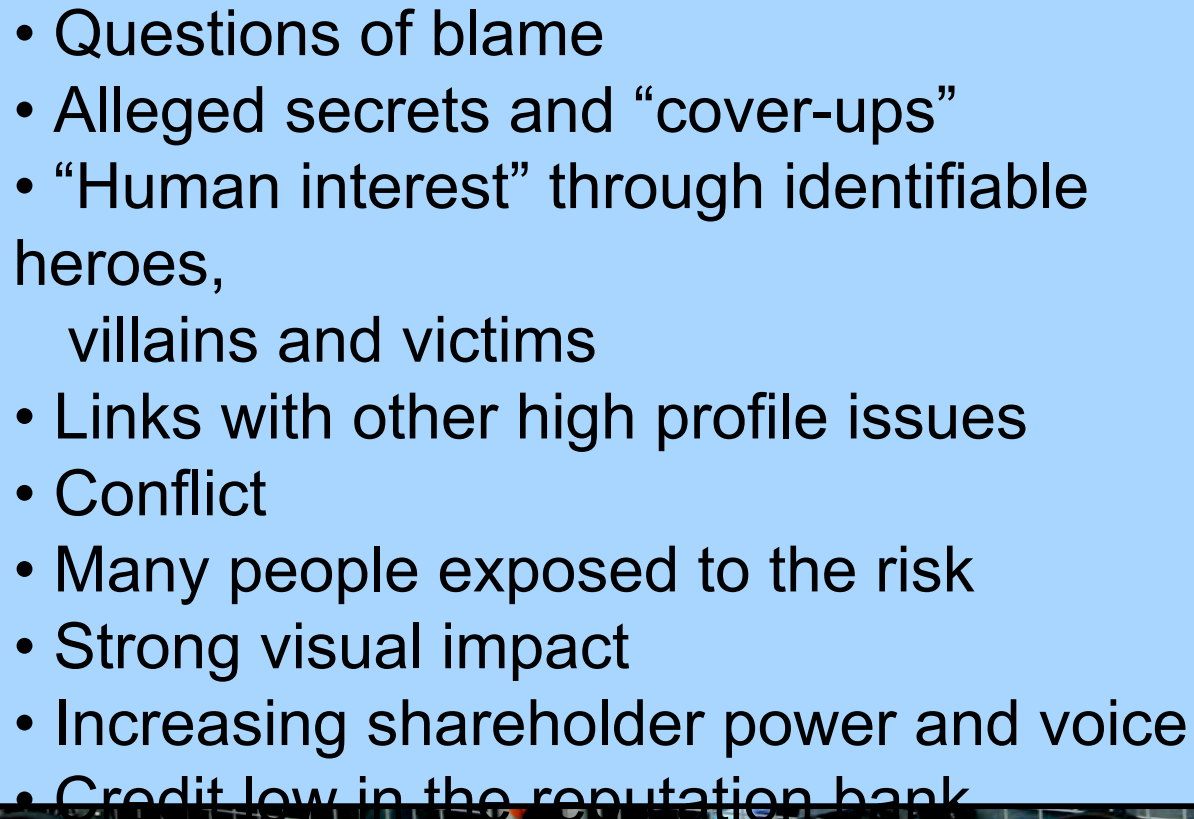
What's changed?




Defining a crisis and issues



Fuelled by Media Triggers.....

- 
- Questions of blame
 - Alleged secrets and “cover-ups”
 - “Human interest” through identifiable heroes, villains and victims
 - Links with other high profile issues
 - Conflict
 - Many people exposed to the risk
 - Strong visual impact
 - Increasing shareholder power and voice
 - Credit low in the reputation bank

The impact of getting it
wrong.....

- 
- Product boycotts/abandonment
 - Loss of confidence
 - Unwanted/costly legislation
 - Loss of market share
 - Brand value write-off
 - Merger/takeover

“Your 15 minutes are over!!”





Crisis Policy and Process

Overriding Principles

Crisis Manual



Crisis Management Team



Stress Reduction Kit



Directions:

1. Place kit on **FIRM** surface.
2. Follow directions in circle of kit.
3. Repeat step 2 as necessary, or until unconscious.
4. If unconscious, cease stress reduction activity.

DEALING WITH THE MEDIA

NICOLA WALTER PALMIERI
GENERAL COUNSEL, PARMALAT SpA

MUNICH, 3-5 JUNE 2007
PANEL SESSION 401

BASIC CONCEPTS

- **MICROPHONES & CAMERAS**
- **THE POWER OF THE MEDIA**
- **HOW TO HANDLE THE MEDIA**
- **OPPORTUNITY OF RELATIONSHIP**
- **IDENTIFY & HELP MEDIA**
- **NEVER LIE TO THE MEDIA**
- **THE ROLE OF THE MEDIA**

THE TEAM

- **HAVE A TEAM**
- **TEAM RESPONSIBILITIES**
- **SELECT THE COMMAND POST**
- **HAVE A PLAN**
- **PREPARE YOUR MESSAGE**
- **THE SPOKESPERSON**

DISSEMINATION OF INFORMATION

- GLOBAL INFORMATION
- SAY WHAT YOU KNOW
- THE MESSAGE TO CONVEY

THE PUBLICS

- **REVIEW THE PUBLICS**
- **SELECT THE PUBLICS**
- **COMMUNICATE WITH THE PUBLICS**

POST MORTEM

- TRACK PUBLIC OPINION
- ASSESS & EVALUATE

TIPS

- USE IMAGERY
- NO OFF THE RECORD COMMENTS
- NO STONEWALLING
- NO SPECULATION
- NO “LEGAL” ANSWERS
- CORRECT UNPRECISE STATEMENTS

EXAMPLES

- **TYLENOL**
 - **J & J's INGREDIENTS**
- **GEISMAR LOCKOUT**
 - **COORDINATED WORLDWIDE CAMPAIGN**
- **BABY BENZ**
- **PEPSI**
- **THREE MILE ISLAND**

EXXON VALDEZ

- INEFFECTIVE COMMUNICATION
- FINGER POINTING
- ALIENATING THE PUBLICS
- INSULTING THE PUBLICS
- COMMAND POST IN VALDEZ

DAMAGE THE DAMAGE

CERMIS TRAGEDY- FEBRUARY 3, 1998

- **EVENT**
- **THE GENERAL**
- **THE PILOT**
- **LOSING CREDIBILITY**
- **MISINFORMATION**
- **MILITARY JUSTICE**
- **THE RIGHT WAY TO HANDLE**

THE U.S. MAP

Lambert Conformal Conic Projection
Standard Parallels 41°20' and 46°40'
Convergence factor 0.69491

CAUTION

AIR INFORMATION CURRENT THROUGH
14 AUGUST 1992
Consult NOTAMS and Flight Information
Publications for the latest air information; the
DWA Aeronautical Chart Publishing Manual or
MOD (UK) Aeronautical Chart Amendment
Document for other chart revision information.

LINE OF EQUAL MAGNETIC VARIATION FOR 1990
(Annual Rate of Change - 4' increase easterly)
5' decrease westerly)



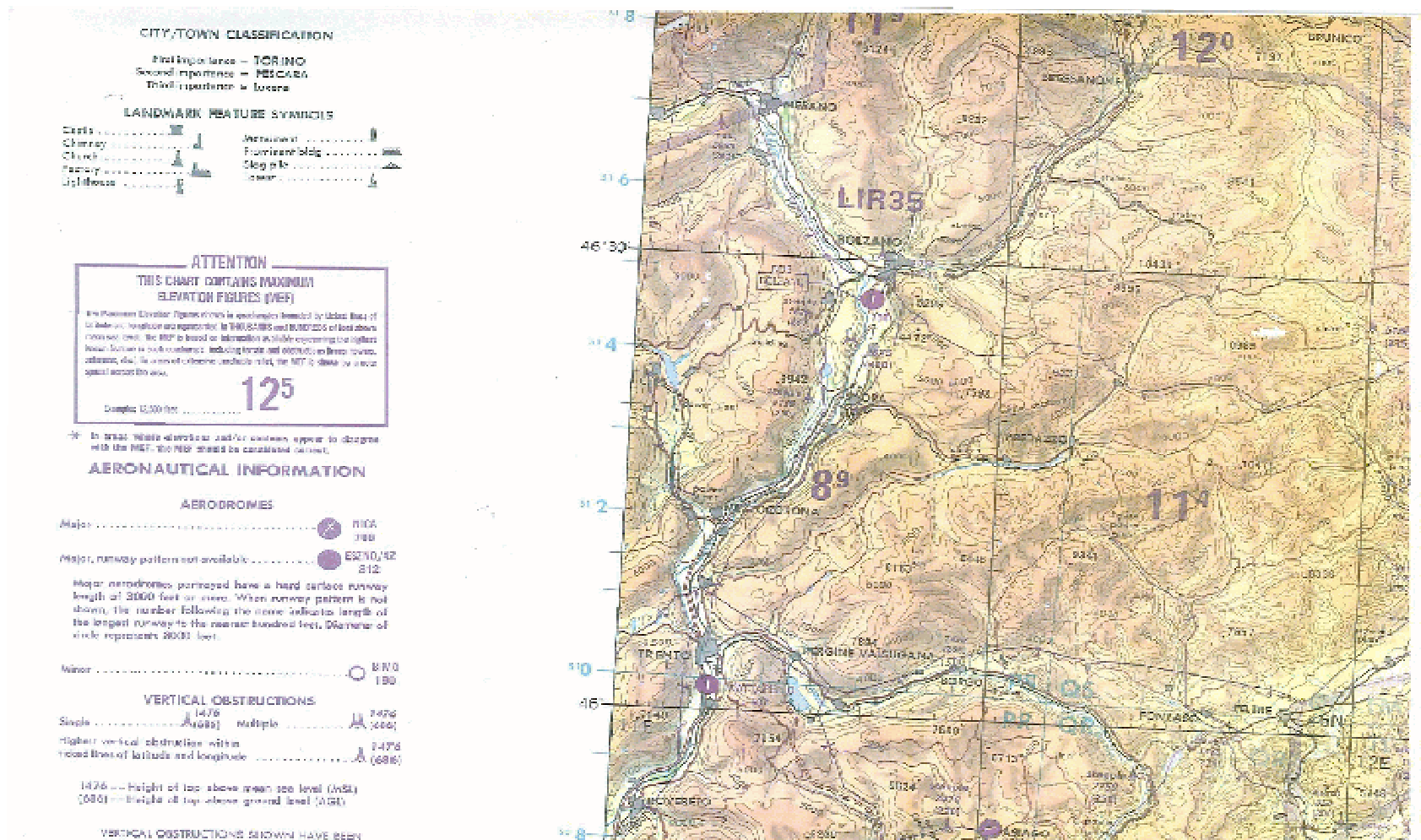
TPC F-2B

AUSTRIA, BOSNIA AND HERCEGOVINA, CRO
CZECHOSLOVAKIA, FEDERAL REPUBLIC OF
GERMANY, HUNGARY, ITALY, SERBIA, SLOV
SCALE 1:500,000

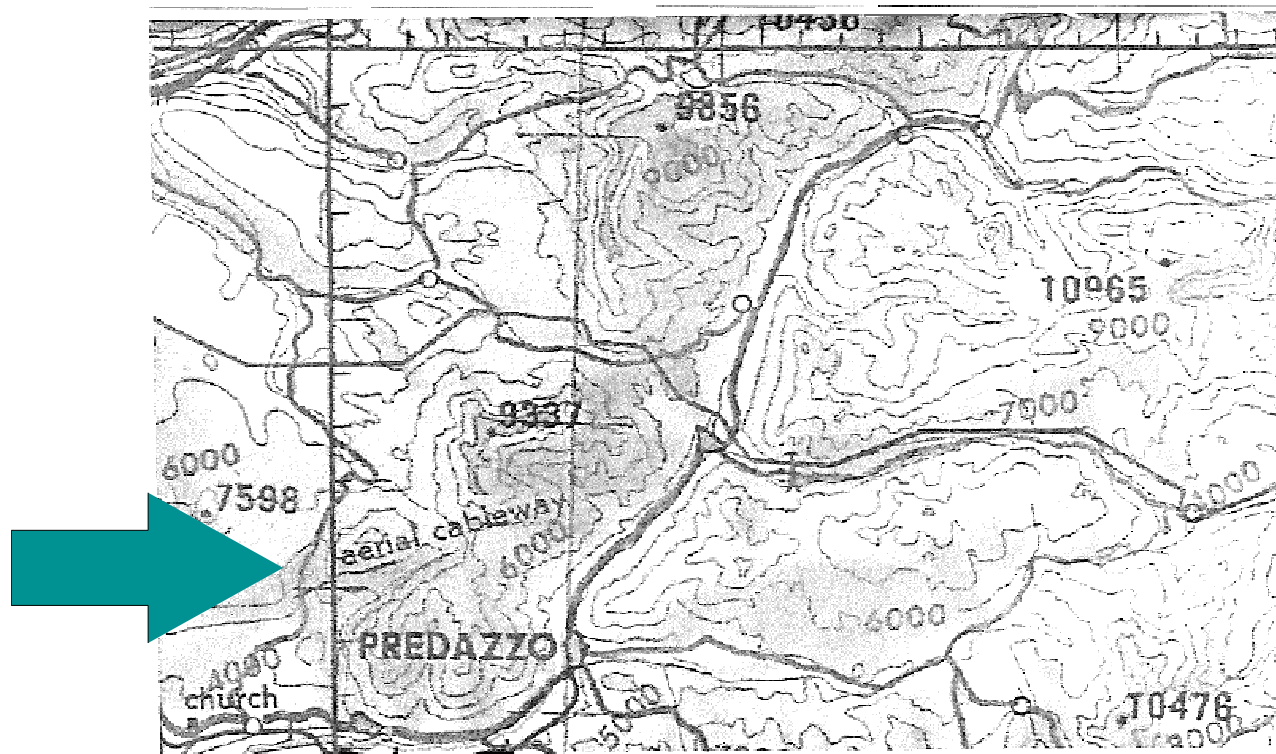
Prepared and published by the Defense Mapping
Agency Aerospace Center, St. Louis, Missouri.
Compiled March 1968, Revised March 1992.
(Revision limited to aeronautical information and
correction of CHUA conditions.)

Printed by DWA/DSC

SERIES	TPC
SHEET	F-2B
EDITION	9



SHOWS THE CERMIS AERIAL CABLEWAY



IMPACT ZONE

VMC

**KILLER PROWLER FLYING AT
358 FT AT IMPACT POINT**

**CABLEWAY RUNNING AT 358 FT AT
IMPACT POINT**

Texas City Refinery Incident Case Study

Simon Markham

Assistant General Counsel

Refining & Marketing Central Region

Texas City Refinery Incident

- BP's largest and most complex refinery, employing 1600 and covering 1200 acres
- Explosion and fire at the Isomerization Unit at 1.20pm on March 23, 2005
- 15 fatalities, 170 injured
- Large scale emergency response effort underway swiftly
- Almost immediate TV coverage using helicopters
- Other media on scene within 10 minutes



**ACC Europe 2007 Annual Conference: The Growing Role of In-house
Counsel: Lawyers as Business Partners**



**3-5 June 2007 Bayerischer Hof Hotel
Munich, Germany**

Characteristics of a Crisis

- Surprise
- Panic
- Rapid flow of events
- Lack of sufficient information
- Public and government involvement
- Internal conflict and confusion
- Social ramifications
- Intense press scrutiny
- Siege mentality

Lessons learned

- Access to the scene will be very difficult
- The communications resources required are substantial
- Ensure clarity around reporting fatalities
- Not having background facts –eg, safety and training data – increases pressure
- Information flow is the key to the communications response – be clear on internal process
- “Pier” website assisted in reducing number of external calls and internal information flow

Pier – Public Information Emergency Response



PIER SYSTEM - Microsoft Internet Explorer provided by BP Group Digital Business

Address: https://www.piersystem.com/logon/index.cfm?fuseaction=logon.frameset

BP America
Texas City Response Site - #946

Home | **Inquiries** | Content | Contacts | Reporting | Administration

Inquiry Status

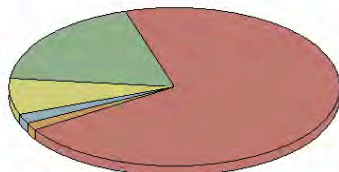
Type	Unanswered	Answered	Total	
Media	2	193	195	edit
Government Officials	0	4	4	edit
Community	3	48	51	edit
Responding Agencies	0	7	7	edit
BP Internal	0	0	0	edit
Employee	0	19	19	edit

Unanswered Inquiries

Topic	Type	Contact	Date v
BP COMMITMENT	Community	JOE ZRNCHIK	22-Apr-05 09:22 PM
BP COMMITMENT	Community	JOE ZRNCHIK	22-Apr-05 09:21 PM
Unit Safety Verification Checklist	Media	TJ Aulds	12-Apr-05 11:46 AM
COMMUNITY PARTICIPATION	Media	TJ Aulds	12-Apr-05 11:34 AM
Octane Boosters	Community	Matt Westwood	03-Apr-05 09:22 PM

Inquiries by Database

Media	195(71%)
Community	51(18%)
Employee	19(7%)
Responding Agencies	7(3%)
Government Officials	4(1%)
BP Internal	0(0%)



PIER SYSTEM - Microsoft Internet Explorer provided by BP Group Digital Business

Address: https://www.piersystem.com/logon/index.cfm?fuseaction=logon.frameset

BP Crown Landing
Crown Landing Informational Website - #569

Home | **Inquiries** | Content | Contacts | Reporting | Administration

Document Status

Document Type	Unposted	Posted	Archived	
About Us	0	4	0	edit
Legal Information	0	2	0	edit
Crown Landing	1	34	0	edit
Resource Appendices (H)	0	62	0	edit
About LNG	0	13	0	edit
Press Releases	2	14	6	edit
Notifications (H)	1	9	0	edit
Community Info	0	1	0	edit
Community Events	0	0	0	edit
Community Newsletter	0	0	0	edit
Project Info	0	1	0	edit
Safety and Shipping	3	0	0	edit
Re-gas Terminals	1	0	0	edit
Regulatory Affairs	0	0	0	edit
Background	1	17	0	edit
LNG Video	1	1	0	edit
Internal Information	0	0	0	edit
Messages (I)	0	0	0	edit
Meeting Minutes (I)	5	1	0	edit
Site User Guides (I)	0	1	0	edit
Site Design Information (I)	0	0	0	edit
Images for Documents (I)	1	1	0	edit

Posted Documents

- Enquiry management system helps keep track of responses
- If-asked 'library'
- Statement approval & collaboration, document tracking, enquiry and issue statistics

Lessons learned

- Web overtakes other media for news source
- Have a strict shift system – make people go home
- Technology helps and hinders – the response is dependent upon individuals
- Have a single freephone number for HR issues and ensure it is being answered

Lessons learned

- You will get credit for admitting your mistake
 - So far, BP has handled the emergency openly and well. It will need to show that it does not compromise safety to save investment and that Texas City is not the company's true face. (Times, 25 March 2005)
 - “We would not be talking to BP at this stage if I did not think that they were recognizing the full magnitude of the injury and damage that they have caused,” said Houston lawyer Richard Mithoff
 - “They are not handling this in the usual way,” said Jamail, who represents 13 injured or killed workers. “They are very open and understanding and have acknowledged the seriousness of it. They really are trying to compensate the workers and the survivors.”

Lessons learned

- Make good use of senior management
 - In moving swiftly, Lord Browne has avoided the negative fall-out that hit ExxonMobil when its tanker ran aground in Alaska. Many bristled at the perceived arrogant tone of ExxonMobil whose chairman left subordinates to deal with the crisis. In contrast, Lord Browne has been suitably humble. (FT, 26 March 2005)
- Make sure you use the right terminology
 - “In speaking about the report, we have sometimes described the immediate critical factors as root causes,” BP Products North America, the subsidiary which operates the refinery, said in a statement. “This has caused some confusion, for which we apologise.”